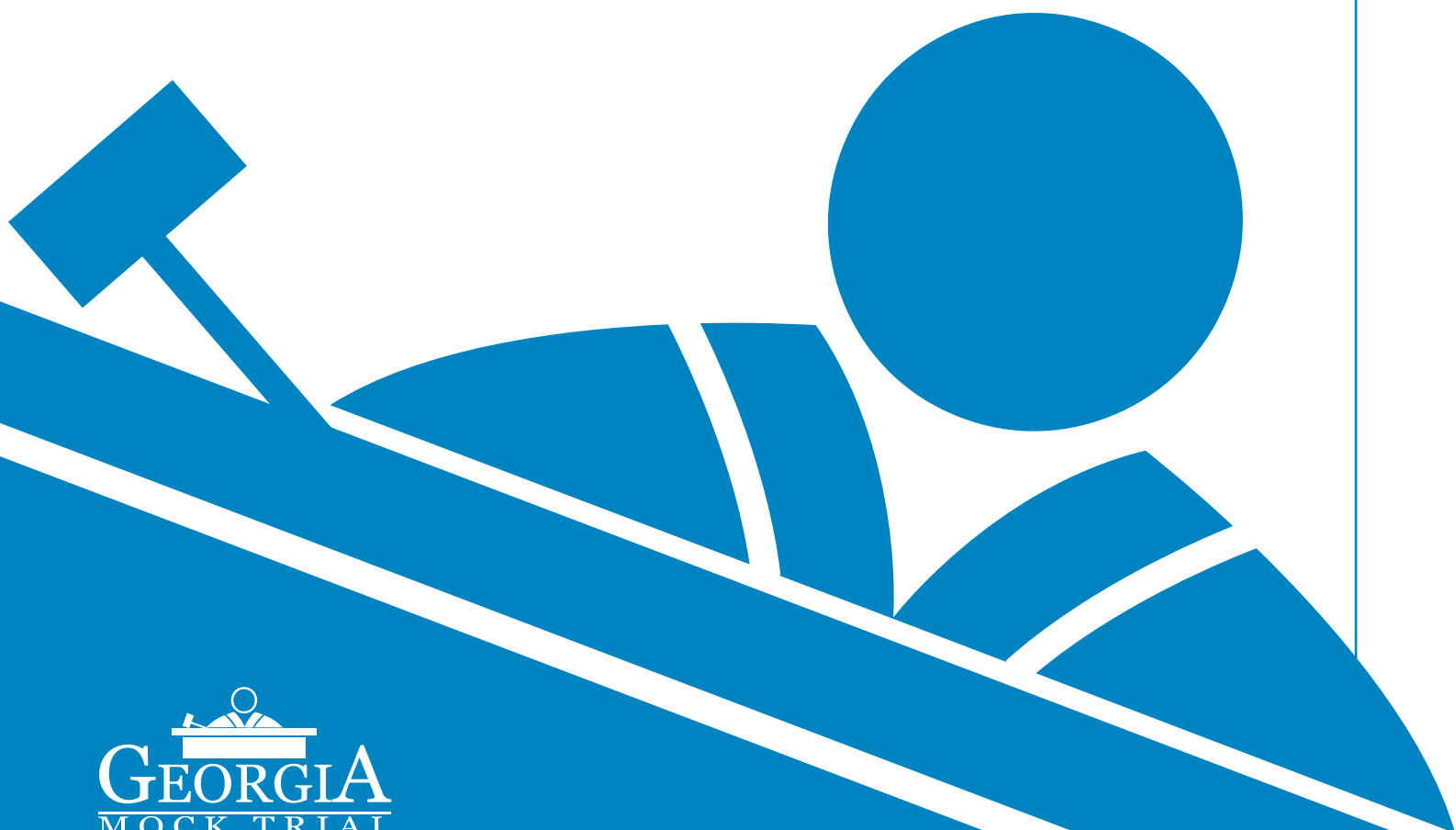


TEAM MANUAL & CASE MATERIALS

2022 MOCK TRIAL SEASON



**The Georgia High School Mock Trial Competition is a project of the
Young Lawyers Division of the State Bar of Georgia**



**State Bar
of Georgia**

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404/527-8779 ♦ Fax: 404/527-8717

www.georgiamocktrial.org ♦ mocktrial@gabar.org

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Michael Nixon, *Director/State Mock Trial Coordinator*

2022 Mock Trial Case Manual

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All manuals, competition forms, and timekeeper information may be found behind the password protected portion of the TEAM INFO page of the Mock Trial website (www.georgiamocktrial.org).

NOTICE OF THE MOCK TRIAL PROGRAM'S COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT REQUIREMENTS

If any team member has a disability and requires special assistance, special services, or printed materials in alternative formats in order to participate in the Georgia Mock Trial Competition, the Teacher Coach should contact the Mock Trial State Coordinator at 404/527-8779 or mocktrial@gabar.org well in advance of the case release date or as soon as the student joins the mock trial team. There may be some delay in delivery of case materials in an alternative format if a coach does not inform the Mock Trial office of this request in a timely manner and well in advance of the case release date. At competition, it is not the intention of the High School Mock Trial Committee to disclose unnecessarily the special circumstances of any students; however, in some cases, limited disclosure is necessary to assure competition fairness. In such cases, disclosure will only be made to the extent necessary to assure fairness. Coaches with questions concerning the existence of any special circumstances should contact the Mock Trial office well in advance of competition day.

REMINDER OF DUE DATES

Team Member List, 4-Year Participants List, Supplemental CoachJanuary 26, 2022

- The Team Member List lists **all** students on your team, including additional/non-competing members and timekeepers.
- The Four-Year Participants List identifies students who have been a part of the team for all four years of high school.
- The Supplemental Team Coach Form identifies any new coaches added to the team since registration in October.

These online forms are linked under the Forms link in the Team Info section of the website and are to be submitted by the due date.

Code of Ethical Conduct &

Competing Team DeclarationPrior to each Level (Region, District, & State Finals)

The Competing Team Declaration identifies which students are the team's competing team members. It also gives a place for the coach to attest that the Code of Ethical Conduct has been discussed with the team. It is an online form and must be submitted by the due date for each level. This form is linked under the Forms link in the Team Information section of the website.

Trial RostersCompetition Date (Region, District, & State Finals)

These Rosters list Prosecution and Defense teams separately, identifying the roles played by competing team members. It must be prepared according to instructions and submitted by the due date for each level. This form is located under the Forms link in the Team Information section of the website.

Attorney Coach CLE Form March 15

*All attorney coaches wishing to receive CLE credit for coaching during the **2022** mock trial season must submit this form to the Mock Trial office. An attorney coach must coach at least 10 hours in order to be eligible for the credit. Contact the Mock Trial office with any questions. This form is located both under the Forms section on the Team Information and Volunteer pages of the Mock Trial website.*

Outstanding Coach Award NominationsApril 15

Information about nominating a coach for an Outstanding Coach award may be found on the Mock Trial website on the Team Information page.



Honor Roll of Georgia's State Champion Mock Trial Teams

- 1988 – Jonesboro High School, *Jonesboro* Dallas, TX (*placement unknown**)
- 1989 – Brookstone School, *Columbus* Louisville, KY (*placement unknown**)
- 1990 – Brookstone School, *Columbus* Portland, OR (7th place—tie)
- 1991 – South Gwinnett High School, *Snellville* New Orleans, LA (4th place)
- 1992 – Brookstone School, *Columbus* Madison, WI (11th place)
- 1993 – Crisp County High School, *Cordele* Atlanta, GA (9th place)
- 1994 – Northwest Whitfield High School, *Tunnel Hill* Chicago, IL (15th place)
- 1995 – South Gwinnett High School, *Snellville* Denver, CO **National Champion**
- 1996 – Redan High School, *Stone Mountain* Pittsburgh, PA (4th place)
- 1997 – Ware County Magnet School, *Manor* Nashville, TN (11th place)
- 1998 – Clarke Central High School, *Athens* Albuquerque, NM (6th place)
- 1999 – Clarke Central High School, *Athens* St. Louis, MO **National Champion**
- 2000 – Henry W. Grady High School, *Atlanta* Columbia, SC (13th place)
- 2001 – Riverdale High School, *Riverdale* Omaha, NE (13th place)
- 2002 – Jonesboro High School, *Jonesboro* St. Paul, MN (10th place)
- 2003 – Jonesboro High School, *Jonesboro* New Orleans, LA (16th place)
- 2004 – Clarke Central High School, *Athens* Orlando, FL (23rd place)
- 2005 – Henry W. Grady High School, *Atlanta* Charlotte, NC (16th place)
- 2006 – Jonesboro High School, *Jonesboro* Oklahoma City, OK (5th place)
- 2007 – Jonesboro High School, *Jonesboro* Dallas, TX **National Champion**
- 2008 – Jonesboro High School, *Jonesboro* Wilmington, DE **National Champion**
- 2009 – Henry W. Grady High School, *Atlanta* Atlanta, GA (8th place)
- 2010 – Henry W. Grady High School, *Atlanta* Philadelphia, PA (3rd place)
- 2011 – Henry W. Grady High School, *Atlanta* Phoenix, AZ (4th place)
- 2012 – Henry W. Grady High School, *Atlanta* Albuquerque, NM (2nd place)
- 2013 – Middle Georgia Christian Homeschool Association, *Macon* Indianapolis, IN (35th place)
- 2014 – Jonesboro High School, *Jonesboro* Madison, WI (34th place)
- 2015 – Northview High School, *Johns Creek* Raleigh, NC (2nd place)
- 2016 – Jonesboro High School, *Jonesboro* Boise, ID (17th place)
- 2017 – Henry W. Grady High School, *Atlanta* Hartford, CT (3rd place)
- 2018 – Jonesboro High School, *Jonesboro* Reno, NV (4th place)
- 2019 – Jonesboro High School, *Jonesboro* Athens, GA (17th place)

2020 – Jonesboro High School, *Jonesboro* *Nationals cancelled*
2021 – Henry W. Grady High School, *Atlanta* Evansville, IN – Virtual (4th place)

Cases Used and Issues Studied in Previous Georgia Mock Trial Seasons

1988 – <i>State v. Bryant</i>	Drug Trafficking (Entrapment Defense)
1989 – <i>Johnson v. Bowen</i>	DUI (Host Liability)
1990 – <i>State v. Barrett</i>	Homicide (Battered Woman Syndrome)
1991 – <i>Hills v. Midway School Board</i>	Freedom of Speech in a School Setting
1992 – <i>State v. Binder</i>	Drug Trafficking
1993 – <i>Alexander v. Cooper, Cook & Troy</i>	Sexual Harassment in the Workplace
1994 – <i>U.S. v. Remy</i>	Conspiracy to Import Drugs
1995 – <i>Tenebrous v. Busy Bee Express</i>	Personal Injury
1996 – <i>State v. Foil</i>	Homicide
1997 – <i>Ortega v. Brewster</i>	Wrongful Death
1998 – <i>State v. Peterson</i>	Involuntary Manslaughter and Hazing
1999 – <i>O’Riley v. Happy Daze Daycare Center</i>	Personal Injury
2000 – <i>State v. Brunetti</i>	Homicide
2001 – <i>Hamilton v. Sadler</i>	Libel
2002 – <i>State v. Cunningham</i>	Homicide/Self-Defense
2003 – <i>Schwinn v. Farnsworth</i>	Comparative Negligence
2004 – <i>State v. Finn</i>	Homicide
2005 – <i>Fields v. Register</i>	Wrongful Death
2006 – <i>State v. Banks</i>	Homicide/Arson
2007 – <i>LaQuinta v. Hill</i>	Wrongful Death
2008 – <i>State v. Bryant</i>	Drug Trafficking (Entrapment Defense)
2009 – <i>Sadler v. Hamilton</i>	Tort/Battery
2010 – <i>State v. Stafford</i>	Aggravated Assault
2011 – <i>Greenwood v. Durden</i>	<u>42 USC § 1983</u> Action (Social Media & Freedom of Speech)
2012 – <i>State v. Capulet</i>	Homicide/Self Defense
2013 – <i>Cowell v. Roberts</i>	Negligence/Malice
2014 – <i>Georgia v. Pyke</i>	Homicide
2015 – <i>Stuart v. Garfunkel Property Group</i>	Negligent Hiring/Negligent Retention
2016 – <i>Georgia v. Talbot Berrien</i>	Burglary
2017 – <i>Cobb v. Bryson</i>	Tort/Battery
2018 – <i>Georgia v. Dewitt</i>	Felony Murder
2019 – <i>Hutchinson v. Shutze</i>	Violation of Contract

2020 – *State v. Harper* Armed Robbery/Aggravated Assault
2021 – *Carter v. Vic’s Vaporium* Negligence



THE 2021-2022 HIGH SCHOOL MOCK TRIAL COMMITTEE

Past GHSMT

Committee Chairs

Warner S. Fox (1987-89)
Elizabeth B. Hodges (1987-89)
Susan B. Devitt (1989-90)
Joseph A. Roseborough (1990-91)
Aimee R. Maxwell (1991-92)
Gregory S. Smith (1992-93)
Lela Smith Bridgers (1993-94)
Cathy Cox Brakefield (1994-95)
Julie D. Culhane (1995-96)
Catherine H. Hicks (1996-97)
H. Suzanne Smith (1997-98)
Frederick N. Sager, Jr. (1998-99)
Roy E. Manoll, III (1999-00)
Jennifer B. Mann (2000-01)
Christine S. Barker (2001-02)
Candace L. Byrd (2002-03)
Robert A. McDonald (2003-04)
Leah E. McEwen (2004-05)
Jason B. Thompson (2005-06)
Tania T. Trumble (2006-07)
Sara A. "Sally" Evans (2007-08)
William H. Noland (2008-09)
Stacey G. Evans (2009-10)
Ashley M. Palmer (2010-11)
Jon Setzer (2011-12)
Deshala Dixon (2012-13)
Kevin E. Epps (2013-14)
Lee Ann Feeley (2014-15)
E. Righton Johnson (2015-16)
Adam Hebbard (2016-17)
Peyton Bell (2017-18)
Amanda Kay Seals (2018-19)
Steven Pruitt (2019-20)
Norman Barnett (2020-21)

Elissa B. Haynes, *YLD President*
Ron Daniels, *YLD President-Elect*
Breana Ware, *HSMTC Chair*
Tyler Gaines, *HSMTC Vice-Chair*

Special Consultant to the GHSMT Committee

Hon. Stephen Louis A. Dillard,
Judge, Court of Appeals of Georgia

Ex-Officio

Elizabeth L. Fite
President of the State Bar of Georgia
Sally Akins
State Bar of Georgia President-Elect
Dawn M. Jones
State Bar of Georgia Immediate Past President
Bert Hummel
Young Lawyers Division Immediate Past President

THE 2021-2022 HIGH SCHOOL MOCK TRIAL SUBCOMMITTEES

Regional Coordinators

Jeremy Baker
Hon. Eric Brewton
Craig Call
Kevin Epps
Lindsey Forshee (Tifton District)
Nicole Golden
Adam Hebbard
Christina Jenkins
Virginia Josey
Chaundra Lewis
Alan Lightcap
Adrienne Nash
William Ortiz
Brittany Partridge
Steven Pruitt
Bryan Rayburn
Megan Rittle
Cameron Roberts (Tifton District)
Jon Setzer
Hon. Margaret Spencer
Hallie Willis
Sandy Wisenbaker



Subcommittee on the Problem

Jon Setzer, *Chair*
John Raterree, *Vice Chair*
Hon. Michael Barker
Hon. Melodie Clayton
Julie Culhane
Will Davis
Kevin Epps
Adam Hebbard
Beth Jones
Hon. Jennifer Mann
Megan Rittle
Bonnie Smith
Breana Ware
Katie Wood
Faith Worley



Subcommittee on Development

(Fundraising)
Amanda Kay Seals, *Chair*
Adam Hebbard
Betsy Hodges
E. Righton Lewis
Aimee Maxwell

Subcommittee on the Rules

Kevin Epps, *Chair*
Norman Barnett
Julie Culhane
Will Davis
Adam Hebbard
William Noland
Steven Pruitt
Megan Rittle
Hon. Jon Setzer
Bonnie Smith
Robert Smith
Breana Ware

Non-Voting Coach Representatives to the Rules Subcommittee:

Carl Gebo
Rich Harris
Ken Mauldin



State Finals Planning Board

Hon. Stephen Louis A. Dillard, *Special Consultant*
Norman Barnett
Will Davis
Kevin Epps
Adam Hebbard
Catherine Hicks
Betsy Hodges
Joe Hodges
Virginia Josey
Kelsey Kicklighter
Hon. Jennifer Mann
William Noland
Ashley Palmer
Paul Panusky
Megan Pearson
Steven Pruitt
Hon. Emily Richardson
Bonnie Smith
Hon. Jon Setzer
Breana Ware
Katie Wood
Walter Zankov

Subcommittee on Honors and Awards

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Norman Barnett
Betsy Hodges
Megan Rittle



Special Projects Task Force

Aimee Maxwell, *Chair*
Julie Culhane
Rhonda Klein



2021 Law Academy Faculty & Staff

Norman Barnett
Hon. John Carbo
Sherry Marie Carr
Will Davis
Mike Dunham
Kevin Epps
Adam Hebbard
Barry Stewart Mann
Michael Nixon
Paul Panusky
Megan Rittle
Hon. Jon Setzer
Harsha Sridhar
Bonnie Smith
Walter Zankov



Craig Harding Memorial Court Artist Contest

John Manly, *Judging Coordinator*

RATIONALE OF THE GEORGIA HIGH SCHOOL MOCK TRIAL COMPETITION

The mock trial activity has proven to be an effective and popular part of a comprehensive, law-focused program designed to provide young people with an operational understanding of the law, legal issues and the judicial process. Part of the appeal of a mock trial is the fun involved in preparing for, and participating in, a trial. Mock trials are exciting, but more importantly, they provide invaluable learning experiences.

Participation in, and analysis of, mock trials provides young people with an insider's perspective from which to learn about courtroom procedures.

Mock trials help students gain a basic understanding of the legal mechanism through which society chooses to resolve many of its disputes. Moreover, while obtaining this knowledge, young people develop useful questioning, critical thinking, and oral advocacy skills, as well as significant insight into the area of law in question.

The mock trial activity also provides an opportunity to incorporate field experiences and community resource persons into the educational process. Visits to local courts will make the activity a more meaningful learning experience. Inviting judges, attorneys, and other members of the legal community to take part in the mock trial will help bridge the gap between the simulated activity and reality, and also will provide an opportunity for the resource people to share their knowledge and experience with young people. Finally, the mock trial will give participants practical knowledge about courts and trials which can be invaluable should they ever be jurors or witnesses in a real trial or principals in a legal action.

(Taken in part from Update on Law-Related Education, Winter, 1978. Update is an American Bar Association publication.)

GOALS OF THE GEORGIA HIGH SCHOOL MOCK TRIAL COMPETITION

Benefits of the mock trial program extend beyond the rewards of competing against one's peers or winning a round of competition. The impact of the program is measured by successfully attaining the following objectives: to further understanding of court procedures and the legal system; to improve proficiency in basic skills: listening, speaking, reading, and reasoning; to promote better communication and cooperation between the educational and legal communities; to provide a competitive event in an academic atmosphere; and to promote cooperation among young people of various abilities and interests.

Education of young people is the primary goal of the mock trial program. Healthy competition helps to achieve this goal. However, teacher coaches are reminded of their responsibility to keep the competitive spirit at a reasonable level. The reality of the adversary system is that one party wins and the other loses, and coaches should be sure to prepare their team members to be ready to accept either outcome in a mature manner. Coaches can help prepare students for either outcome by placing the highest value on excellent preparation and presentation, rather than winning or losing the case. Participants need to be prepared for the agony of defeat as well as how to win with class.

Hurt feelings, anger and frustration are not the objectives of the mock trials. We hope students view the event as a fun and exciting learning experience. An admonition to all team members and coaches: Lighten-up and have a good time, regardless of the competition's outcome!

INTRODUCTION

*This introduction is of **no legal consequence** in terms of the trial and is **not admissible** for impeachment purposes or for any other purpose.*

A common thought exercise in law schools across the country centers on the hypothetical homeowner who confronts an intruder, fearing for their life. To defend themselves and their family, the homeowner confronts the intruder and uses force in that defense; sometimes deadly force. This is commonly referred to as the “Castle Doctrine.” But, what if the intruder is fleeing the home during the homeowner’s use of force? What if the intruder is killed from behind, as they run away? Or even outside the home? Is that use of deadly force now justified?

This is the situation Carli/Carl Holmes found her/himself in this past March. Not in his/her home but on the job. Carli/Carl worked at the Miltonville Mini Market, a revived gas station convenience store in Jenkintown on the south side of Miltonville. Jenkintown had a history of an economically depressed area with a lot of crime and gang activity. But new development has turned that around and the Miltonville Mini Market has been a leader in that change.

The MMM is Carli/Carl’s second job at a gas station like this. Last summer, while working at Leonardo’s, Carli/Carl witnessed a carjacking and tried to intervene. Unfortunately, s/he was injured as the carjacker sped away with a toddler in the backseat. Thankfully, the toddler was recovered quickly but the carjacker got away. This was a life-changing trauma for Carli/Carl and s/he started seeing Dr. Mayse Ceridian for treatment of anxiety, depression, and PTSD. Breckett Pierson, a part-time yoga instructor at the senior center, got to know Carli/Carl when s/he dropped his/her grandmother off for classes. Breckett worked at the MMM and convinced Carli/Carl to leave Leonardo’s and get a job at the MMM. This was a good move for Carli/Carl, who started making progress with his/her mental struggles.

That is until a certain individual started hanging around the MMM. Something about this guy gave Carli/Carl the creeps and s/he couldn’t figure out why, until a chance encounter inside the store triggered a memory in Carli/Carl’s head: This. Was. The. Carjacker.

Carli/Carl decided to watch this guy closely and not let him hurt anyone else again. Not long after, on an early Saturday morning, Carli/Carl was coming off an overnight shift when he saw the guy hanging around the parking lot of the MMM, next to a Dodge Charger. Carli/Carl ran back inside the store and grabbed his/her gun s/he started carrying. The guy followed him/her inside, standing in front of Carli/Carl with his hands in his pockets. But then he started to pull something out. Fight beat flight and Carli/Carl drew first. Shots were fired and the guy ran out. Carli/Carl gave chase and the guy wound up dead in the parking lot.

Norma/Norman Twiggs was in the store and saw the whole thing happen. As an Army veteran, Twiggs felt certain that something must have caused Holmes to take such drastic action. Regan Montero, the driver of the Charger, also happened to be working undercover for the Milton County Sheriff’s Office’s Investigative Unit on gang activity and actually drove the guy to the MMM that morning. Montero said that the guy, Danke Mercado, was trying to get out of the gang and start a new life and s/he was certain that Mercado wasn’t carrying a gun or presenting a threat. Sgt. Danni/Danny Saturday of the Miltonville Police Department was the first officer to respond to the scene and doesn’t believe Holmes’ claim of self-defense.

It seems that in this case, perception, like beauty, is in the eye of the beholder. At what point does one wo/man’s belief of impending danger become strong enough to justify use of deadly force on a fleeing threat?

STIPULATIONS

1. Any reference to a previous season’s mock trial case is for the edification of mock trial veterans and facts from referred cases may not be used as an unfair extrapolation of fact. Only references specifically contained in the current case materials are relevant and available for trial as presently stated.

2. All exhibits included in the problem are authentic in all respects, and no objections to the authenticity of the exhibits shall be entertained.
3. Stipulations cannot be contradicted or challenged.
4. The signatures on the witness statements and all other documents are authentic.
5. There are **NO** costume options permitted as an exception to Rule 20 this season.
6. The Charge of the Court is accurate in all respects; no objections to the charge shall be entertained.
7. No demurrer to the indictment shall be allowed
8. Chain of custody for evidence is not in dispute.
9. The **Introduction** provided is of **no legal consequence** in terms of the trial and **is not admissible** for impeachment purposes or for any other purpose.
10. Exhibits 1 and 2 fairly and accurately depict the view or scene each purport to depict.
11. Exhibit 5 is a certified copy from the Clerk's Office of the Milton County Superior Court.
12. Exhibit 6 is the excerpt from the employee manual that has been agreed upon by the State and the Defense, and no objection to its admissibility based upon incompleteness shall be entertained.
13. Exhibit 8 was obtained through a search warrant by the Milton County Sheriff's Office. No further foundation as to authenticity is necessary.
14. The autopsy conducted by the Milton County Medical Examiner found that Danke Mercado died as a result of gunshot wounds to his upper torso and neck. The manner of death was ruled a homicide.

WITNESSES

The following witnesses are available to be called by the parties. Prosecution witnesses may not testify or be called on behalf of the Defendant. Defense witnesses may not testify or be called on behalf of the Prosecution. All witnesses may be female or male. See Rules 3, 5 and 12(f) for more details on witnesses.

FOR THE PROSECUTION

Sgt. Danni/Danny Saturday
 Det. Regan Montero
 Breckett Pierson

FOR THE DEFENSE

Carli/Carl Holmes, *Defendant*
 Norma/Norman Twiggs
 Dr. Mayse Ceridian

EXHIBITS

Teams in competition may use the following exhibits. Teams may print and use exhibits in either a black and white or color format. They are pre-numbered and are to be referred to by the assigned number, as follows:

Exhibit Numbers and Title/Descriptions

1. Crime scene photos
2. Map of interior of Miltonville Mini Market
3. Police Report
4. Investigator Report
5. Disposition of Danke Mercado
6. Excerpt of Miltonville Mini Market employee manual
7. Miltonville Mini Market Employee Disciplinary Referral
8. Text messages
9. Session notes from Dr. Mayse Ceridian

GENERAL BILL OF INDICTMENT

Grand Jury Witnesses:
Sgt. Danni/Danny Saturday, MPD
Det. Regan Montero, MCSO

INDICTMENT NO. 22CR-HSMT
MILTON SUPERIOR COURT
SEPTEMBER TERM 2021

THE STATE OF GEORGIA

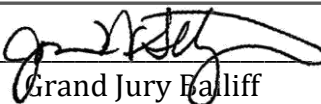
V.

CARLI/CARL HOLMES

TRUE BILL

Date: April 7, 2021


Grand Jury Foreperson


Grand Jury Balliff

Elizabeth Fite, District Attorney

The defendant Carli/Carl Holmes waives formal arraignment, a copy of the indictment, list of witnesses, and pleads Not guilty. This the 12 of Apr, 20 21.

Defendant Carli/Carl Holmes

Def. Attorney Edward B. Haynes

DA/ADA Elizabeth Fite

The defendant _____ waives formal arraignment, a copy of the indictment, list of witnesses, and pleads _____ guilty. This the ____ of _____, 20 ____.

Defendant _____

Def. Attorney _____

DA/ADA _____

The defendant _____ waives formal arraignment, a copy of the indictment, list of witnesses, and pleads _____ guilty. This the ____ of _____, 20 ____.

Defendant _____

Def. Attorney _____

DA/ADA _____

STATE OF GEORGIA, COUNTY OF MILTON
IN THE SUPERIOR COURT OF MILTON COUNTY

THE GRAND JURORS selected, chosen and sworn for the County of Milton, to wit:

- | | | |
|------------------|------------------------|-----------------------------|
| 1. Jeremy Baker | 8. Adam Hebbard | 15. Bryan Rayburn |
| 2. Eric Brewton | 9. Christina Jenkins | 16. Adrienne Nash |
| 3. Craig Call | 10. Virginia Josey | 17. William Ortiz |
| 4. George Carley | 11. Sherri Kelley | 18. Megan Rittle |
| 5. Kevin Epps | 12. Chaundra Lewis | 19. Margaret Spencer |
| 6. Tyler Gaines | 13. Allen Lightcap | 20. Breana Ware, Foreperson |
| 7. Nicole Golden | 14. Brittany Partridge | 21. Sandy Wisenbaker |

COUNT ONE: FELONY MURDER (O.C.G.A. 16-5-1)

In the name and behalf of the citizens of Georgia, charge and accuse **CARLI/CARL HOLMES**, with the offense of **FELONY MURDER**, for that the said accused, in the County of Milton and State of Georgia, on the **20th** day of **March, 2021**, **did then and there unlawfully, while in the commission of a felony, to wit: Aggravated Assault, cause the death of Thanke Mercado**, a human being, by shooting said victim with a pistol, contrary to the laws of said State, the good order, peace and dignity thereof.

COUNT TWO: AGGRAVATED ASSAULT (O.C.G.A. 16-5-21)

And the jurors aforesaid, In the name and behalf of the citizens of Georgia, charge and accuse **CARLI/CARL HOLMES**, with the offense of **AGGRAVATED ASSAULT**, for that the said accused, in the County of Milton and State of Georgia, on the **20th** day of **March, 2021**, **did make an assault upon the person of Thanke Mercado with a deadly weapon, to wit: a firearm, by pointing a pistol at said victim**, contrary to the laws of said State, the good order, peace and dignity thereof.

COUNT THREE: POSSESSION OF FIREARM DURING COMMISSION OF A FELONY (O.C.G.A. 16-11-106)

And the jurors aforesaid, In the name and behalf of the citizens of Georgia, charge and accuse **CARLI/CARL HOLMES**, with the offense of **POSSESSION OF FIREARM DURING COMMISSION OF A FELONY (O.C.G.A. 16-11-106)**, for that the said accused, in the County of Milton and State of Georgia, on the **20th** day of **March, 2021**, **did unlawfully have on his person a pistol, a firearm, during the commission of the crime of Felony Murder**, a crime involving the person of another, contrary to the laws of said State, the good order, peace and dignity thereof.

Elizabeth Fite, District Attorney
Special Presentment

IN THE SUPERIOR COURT OF MILTON COUNTY

STATE OF GEORGIA

STATE OF GEORGIA

v.

CARLI/CARL HOLMES,

Defendant.


)
)
)
)
)
)
)

CRIMINAL #: 22CR-HSMT

ORDER ON STATE'S MOTION TO EXCLUDE TESTIMONY OF DR. MAYSE CERIDIAN

The State's Motion to Exclude Testimony of Dr. Mayse Ceridian came regularly before the Court on January 15, 2022, with counsel for the State, counsel for defendant, and defendant present. After hearing evidence and argument of counsel, it is hereby ordered that the State's motion is DENIED.

SO ORDERED this 18th day of January, 2022.



Stephen Louis A. Dillard, Judge
Superior Court of Milton County

cc: All Parties

STATEMENT OF SGT. DANI/DANNY SATURDAY

1 1. My name is Danny/Dani Saturday, and I am a sergeant with the Miltonville Police Department.
2 I'm not originally from Miltonville, but I've been here so long that I might as well be. I moved to
3 Miltonville about 25 years ago when I was just a baby officer. I started out as just a routine patrol
4 officer, and I stayed on the road for several years, even initially turning down some promotions to
5 work in investigative units where I could wear plainclothes. Eventually, though, the Police Department
6 needed my experience in the Major Crimes Investigative Unit. And so, I went on to spend a large part
7 of my career investigating robberies, homicides, and other serious crimes.

8
9 2. In my time on patrol and then with the Unit, I've seen a bit of everything. Miltonville is a typically
10 quiet place but we do get our share of typical "bigger city" crimes. The Square has seen a lot of action
11 in this regards in the past several years, from that bank robbery a couple of years ago to that crazy
12 murder at the Hole in the Wall four years back. I had moved into the Unit by the time both of those
13 occurred, so was on the investigative team for both. That Addison Dewitt case was one of the more
14 complicated, big city-type murders we've had in Miltonville, with a hitman no less. I wasn't called to
15 testify in that case but the work on it was exciting.

16
17 3. Like I said, Miltonville is typically a quieter town than most. Aside from Bobby Bacalaleri and him
18 getting tossed over the side of the Miltonville Parking Garage in 2013, the biggest thing we had to
19 "organized crime" in Miltonville was the hit on R.L. Parker. Being here for 25 years has made me one
20 of the longest-serving officers in the Department so I'm kind of the "institutional memory" of what
21 we've dealt with.

22
23 4. I know some of the officers in the Sheriff's department are worried about gang activity in the
24 county, but honestly, we haven't seen much of it in the city limits. Like any city, we have petty crime,
25 underage house parties, car thefts, graffiti, and drug abuse to keep us busy. But none of it has ever
26 looked like real gang activity. Some of the kids like to call themselves a "gang", like the kids that live
27 near the high school calling themselves the "Cade Street Soldiers". I'm not sure what army they're
28 soldiering for but they haven't done anything "organized". But, being in the Unit, we have them on
29 our radar and try to keep abreast of anything they may get themselves involved with.

30
31 5. Regan Montero is a part of the Sheriff's Department, though s/he started off with the MCPD. S/He
32 was on patrol, just like I was, and did a good job getting to know the community and building relations.
33 S/He was a little high strung, always seeing bigger issues in the shadows, feeling like there was a larger
34 element of some criminal underworld just under the surface. It almost bordered on paranoia and s/he
35 kept pushing Chief Wiggum to take the rising gang activity seriously. We just weren't seeing it. But,
36 Montero had an eye for details and seemed to put a big picture together, so Chief Wiggum set up the
37 first iteration of the Investigation Unit. Its focus was on community-related and quality of life crimes.
38 Montero seemed happy but never let the shadows go. Eventually, s/he wasn't satisfied with the
39 department "not hunting the real bad guys" and moved over to the Sheriff's Department. Which was

40 fine. As the county law enforcement agency, they have to look at a broader picture of the county and
41 is in a better place to connect the dots that may not be focused within the city limits.

42
43 6. I heard Montero fit right in and started training for undercover work of some sort. We'd run into
44 each other when our universes overlapped but I always got the feeling s/he looked down his/her nose
45 at us. I don't know if it was us being too "small town" or what. S/He'd often make comments to me
46 about the department "having our heads in the sand" and leaving the house unguarded from more
47 serious elements than DUIs and shoplifters. I think we did all right with the Parker murder and the
48 bank robbery a couple of years ago on our own. If Montero is happy chasing windmills to "protect and
49 serve", that's fine.

50
51 7. Saturday, March 20, got off to a slow start. Which is basically every Saturday. Weekend mornings
52 in Miltonville are usually quiet, with families heading out of town on some kind of adventure, whether
53 a baseball or soccer tournament, a fishing or camping expedition, or, in the fall, getting to their favorite
54 team's tailgate. I'm still amazed at how early some people get started for those tailgates. For those
55 staying in town, Groothen Kaarlson does a good breakfast business on the Square, which is a good
56 place to catch up with people and get a sense of what the community is talking about.

57
58 8. The Miltonville Mini Mart is in Jenkintown, on the south edge of the city limits in an area that has
59 been down on its luck for a while. However, with interest rates being so low the past few years, and
60 people from metro Atlanta looking for a quieter existence, that part of town has seen some
61 redevelopment in the past year and a half. Several of the old houses have been taken down with new
62 developments put up. Jenkintown has been a higher crime area than most other parts of the city but
63 nothing out of the ordinary in terms of rates for economically depressed areas.

64
65 9. The Mini Mart used to be one of those run-down gas stations that advertised more beer and lotto
66 tickets than gas and soda. It had bars on the windows and a really seedy, run down feel to it. It was
67 one of the high crime hotspots in Jenkintown with a lot of drug deals happening in the parking lot and
68 other stuff behind the building. It was an easy target for hold ups too. The area around it was pretty
69 bad off, so it was a cycle that fed itself. Gangs prospered down there and kept us busy. Then, a few
70 years ago, the owners were charged with various tax fraud schemes by the US Attorney's office in
71 Atlanta and it closed for a few months. That stopped the robberies but not anything else. A developer
72 from Campbell County bought the property, cleaned it up, and has been working on making it
73 respectable. The redevelopment of the area around it got going at the same time and it's turned a
74 corner. It still has a way to go but it sees a lot more residents and families than drug pushers and has
75 a good business from people passing through Milton County. Most of the criminal problems it has are
76 overnight since it's a 24-hour place and it has been held up a few times in the past couple of months.

77
78 10. That Saturday morning, just as I was getting my morning coffee at Groothen's before reporting
79 for my shift that began at 7:00 am, I got a call from dispatch, saying there was a robbery in progress
80 at the Mini Mart. Before I could get there though, the call was upgraded to shots fired, and then again
81 to a person down. I sped to the scene, only to find Danke Mercado on the ground in the front parking

82 lot of the store. I immediately knew who it was, because I'd encountered him several times before. He
83 had clearly been shot multiple times. It was also clear that medical intervention would be fruitless. He
84 was deceased at the scene.

85
86 11. Mercado was known to the law enforcement community as a member of the Jenkintown
87 Blossoms. We kept files on people who either admitted they were in a gang to law enforcement
88 officers when they got arrested or who were known to associate with those gang members. Not to
89 mention the fact that I had arrested Mercado before, about a year ago, for robbing another
90 convenience store on the other side of town - The Dinoco. The Sheriff's Office got all worked up over
91 me arresting Mercado and went to Chief Wiggum, saying I almost blew a huge gang and drug
92 investigation because of it. We weren't supposed to take anyone into custody because that would
93 make the other gang bangers worried they would get ratted out. I contacted the prosecutor on that
94 case when I heard he posted bond a few days after that robbery, and the prosecutor said a lot of
95 defendants had been granted bonds during the COVID-19 pandemic to alleviate the risk of exposure
96 in the Milton County Jail.

97
98 12. When I first pulled up to the scene, Carli/Carl Holmes was inside the store behind the counter,
99 sitting on a stool. Breckett Pierson was with him/her, talking quietly. Mercado was face down on the
100 pavement behind a black older Dodge Charger. The driver of the Charger was Regan Montero, who
101 was standing in front of the car on the sidewalk. I quietly nodded to Montero but s/he didn't seem to
102 pay me any attention. In the doorway of the store was a 9 mm Walther PPK just outside the door
103 frame, in the middle of a pile of shattered glass. Two more MPD units and a MCPS unit arrived a minute
104 or two after I did. Once I was sure the danger had passed, I worked with the additional units to secure
105 the scene and then went into the Mini Mart to start talking to Holmes and Pierson.

106
107 13. It was nice to have several witnesses to obtain information from. Many times, we have much less
108 information to work with. Once the crime scene technicians arrived, they photographed the Walther
109 and bagged it for evidence. They also photographed and bagged four shell casings; two inside the Mart
110 and two on the sidewalk. Their initial inspection of Mercado's body didn't find anything significant,
111 including a weapon of any kind. , in particular, looking for the gun that Carli/Carl Holmes said s/he saw
112 when Mercado purportedly robbed the store.

113
114 14. First, I talked to Rachel Jackson. She was the night manager of the store, and she let me take a
115 look at the surveillance system. It was badly out of date, and as hard as I tried, I couldn't get the system
116 to work. She told me that it might be better to have someone more technologically savvy than either
117 of us takes a look at it since she wasn't familiar with the settings. I informed her that we would send
118 someone from our tech unit over to try to access the surveillance footage in the coming days. I don't
119 know what happened with that request, but I never saw the footage, and I have no idea whether it
120 was accessible or if my request went unfulfilled. She also said that Holmes had recently been
121 reprimanded because of a prior incident where Holmes had used excessive force when a juvenile was
122 accused of shoplifting a couple of bags of Doritos. In fact, Holmes had been moved to the day shift to
123 avoid the usual nighttime trouble. Unfortunately, Holmes had been working the overnight shift

124 because of staff shortages that Saturday night, March 20, and had been just ending a long shift. So, on
125 top of the reprimand and shift change, Holmes was exhausted from a long overnight shift dealing with
126 people that s/he didn't always see eye-to-eye with.

127
128 15. I tried to talk to Holmes, but s/he didn't say much. S/He looked like s/he was having a nervous
129 breakdown and kept mumbling, "He had a gun." S/He also said, "I didn't mean to..." and trailed off. I
130 couldn't get him/her to say much else, except one time, when it looked like a bolt of electricity hit
131 him/her and s/he suddenly looked me in the eye, and asked, "what about the baby? Is the baby okay?"
132 I asked him/her "what baby?" and s/he said, "In the back seat. There's a baby in the back seat!" S/He
133 got really worked up about it all. I radioed another officer who was outside and they said there wasn't
134 a baby in the Charger. I told Holmes that and s/he just stared at me completely shocked and lost. When
135 I asked Holmes if s/he had shot Mercado, s/he slowly nodded but didn't say anything. And I knew that
136 was all I was going to get at that point. Another officer took Holmes to a police car, read him/her
137 his/her Miranda rights, and took him/her to the station downtown. When an investigator went to talk
138 to Holmes at the station, s/he asked for his/her lawyer, who didn't let Holmes say anything. The lawyer
139 got a doctor to visit Holmes in holding. The next day, the lawyer told the judge that Holmes was not
140 handling the incident well and needed to be granted bond to receive treatment and talk with his/her
141 doctor. We never got a formal statement from Holmes until several weeks later.

142
143 16. I briefly spoke to Breckett Pierson who seemed pretty rattled. I don't think s/he blinked the whole
144 time that we spoke, which was about five minutes by my guess. Pierson told me that s/he had clocked
145 in for his/her shift and was standing behind the counter by the window watching Holmes, because
146 s/he had a funny feeling about Mercado and Holmes. Pierson never said what the "funny feeling" was.
147 I was interrupted before I could finish my interview with Pierson and when I went to look for her/him
148 again, s/he was gone. I never was able to get her/him to come down to the station to give a statement.
149 I'm pretty sure Pierson knows exactly what happened, but does not want to sell out Holmes.

150
151 17. Last, I talked to Montero. S/He was really cagey and didn't want to say much. S/He looked really
152 distraught and like s/he was really annoyed that I was trying to talk to him/her. S/He said s/he didn't
153 know anything had happened until s/he heard the gunshots and saw Holmes standing on the sidewalk
154 with the gun in his/her hand. S/He didn't see Mercado until s/he got out of the car. I asked why s/he
155 didn't do anything to secure the scene or anything but Montero didn't really answer. When I got back
156 to the station to type up my report, I had a note from my supervisor to check in. It turns out that
157 Montero was working undercover, and that Mercado was part of his/her investigation. Since Montero
158 was working an investigation undercover, I wasn't able to get a formal statement from him/her. They
159 had some major drug bust a few days later, taking down several gang-banger types and I haven't seen
160 him/her since.


161
162 18. The ballistics on the rounds all matched the Walther PPK found at the doorway. The gun also had
163 Holmes' fingerprints and a GSR test showed gunpowder on Holmes' hands at the station. Holmes
164 submitted to a blood draw, which showed no illegal drugs or alcohol but did show s/he was on
165 medication for anxiety and depression.

166
167 19. The autopsy on Mercado showed he died of two gunshot wounds, one to the back of his left
168 shoulder, and another to the right side of his neck. He had \$40 in cash and a cell phone. The phone
169 had text messages between Mercado and a Christopher McFadden. An investigator from the Sheriff's
170 Department said that McFadden runs New Path Outreach, a group that helps gang members get out
171 of the gang lifestyle and a new start. It's part of the Georgia Anti-Gang Network. Apparently, McFadden
172 had been talking to Mercado about getting out of the Blossoms, and Miltonville, and he was set to
173 leave for the New Path Outreach services center in Dillardsville that Tuesday.
174
175 20. Mercado's prior robbery at the Dinoco had peculiar similarities to this one. But, then again,
176 Holmes' history of having a short fuse also fit the profile of this investigation.
177
178 21. I'm getting ready to retire, and this may very well be my last case. I can't wait to finish up with
179 this trial so I can start thinking about moving to my lake house.

Sgt. D Saturday
Sgt. Danni/Danny Saturday

SIGNED AND SWORN to me on April 2, 2021.

C. M. McCormack
C.M. McCormack, Notary Public



WITNESS ADDENDUM

I have reviewed this statement, given by me on the date above, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed,

Sgt. D Saturday
Sgt. Danni/Danny Saturday

Morning of Trial

STATEMENT OF REGAN MONTERO

1 1. My name is Regan Montero and I am an investigator with the Milton County Sheriff's Office. I
2 haven't always been with MCSO. In fact, I started my career with the Miltonville Police Department
3 right out of the police academy, where I was quickly fast-tracked into investigations. I've always had a
4 real knack for drug and gang cases. What can I say? People like to open up to me for some reason, so
5 turning perpetrators into informants just comes natural. And, unlike some of these older veterans like
6 Danny/Dani Saturday, I understand that you have to get creative if you want results - especially when
7 it comes to gangs.

8
9 2. The landscape of gang investigation is always changing. The major gangs of today are essentially
10 national corporations, concerned more about profits than bandana colors, which has paved the way
11 for the emergence of these new, hybrid gangs. You often see hybrid gangs spring up when kids from
12 different neighborhoods are placed in the same school, form friendships outside of their
13 neighborhood gangs, and form their own groups. These new groups are hungry for recognition with
14 the end goal being brought in under the umbrella of a larger national gang, typically referred to as a
15 "set", where they can make more money and have the security and protection of a larger organization.
16 The most popular examples are the Bloods in Los Angeles. They were formed in the late '60s as a way
17 to protect kids from the Crips, and small neighborhood sets were established under the Bloods
18 umbrella.

19
20 3. The Jenkintown Blossoms is one of these new gangs. The Blossoms are a recent alliance between
21 the Cade Street Soldiers on the east side of downtown Miltonville, the Creekside Boys, and the
22 Northside 86ers from the northern part of the county. When they were on their own, they were all
23 mainly petty-crime stuff and more like social clubs than "gangs", holding loud parties and doing stupid
24 graffiti. Once they merged about five years ago, they started becoming a problem -. The trouble
25 started with more aggressive tagging and expanded into marijuana sales. The Miltonville Police
26 Department should have done something then, but it was clear that both the chief of police and the
27 now former mayor both didn't know what they were dealing with. Before we knew it, these kids had
28 graduated to carjacking and armed robbery and the community was at risk like it had never been
29 before. If we don't get a real handle on it, we leave ourselves open to a bigger outside group using
30 these kids for drug trafficking, like the Sinaloas moving fentanyl, heroin, and marijuana northward
31 through Georgia to the Carolinas and up the east coast. A quick source of cash for local gangs is to
32 serve as stash houses for the traffickers.

33
34 4. The way the police department handled the whole situation when the Blossoms got started made
35 me sick. I couldn't take any more of the half measures and mediocre investigations so I reached out to
36 some of my buddies at the Sheriff's Office. The sheriff was happy to have me come on board. After all,
37 my record speaks for itself – I get the job done. The crackdown on these gangs didn't start until I got
38 involved and I made quick progress identifying key members and sources of their money and
39 connections to other gangs in this part of the state.

40 5. With the help of the GBI Gang Task Force, the Milton County Sheriff's Office started an intense
41 undercover investigation into the Blossoms in the early months of 2020. Naturally, I was asked to work
42 my magic and go undercover. I went through training with the GBI and the DEA. I started setting up
43 my cover as a member of a large drug transport operation out of the Atlanta area, looking for partners
44 in this part of Georgia to establish safe houses. This has become common recently since the Atlanta
45 High Intensity Drug Trafficking Area had been identified by the federal government and resources put
46 into the area. I was able to make contact with Richard Houser, one of the principals of the Blossoms
47 and started getting ingrained with the gang. I met Danke Mercado about a month into my
48 investigation and my heart went out to him right away. I've met some bad dudes in my time – guys
49 that will make you afraid to go to sleep at night or let your kids leave the house, people like Houser
50 and Ray Merriman. Mercado was nothing like that. He was just a kid in a bad situation, pulled into this
51 lifestyle by the fat stacks of cash his cousins always seemed to have to blow on fancy shoes and weed.

52
53 6. If anything, Mercado was a coward. I'll never forget the day I bailed him out after Saturday locked
54 him up for the robbery of the Dinoco station south of Miltonville on Highway 205 last year. The poor
55 kid was shaking so bad. I don't think he had ever spent more than a few days in the Youth Detention
56 Center before, so the county jail must have been a real shock. Honestly, it wouldn't have killed Sgt.
57 Saturday to give our office a call before locking the kid up. S/He knew we were working something,
58 but as usual, s/he cared more about punching a time clock than the big picture. Being a part of the GBI
59 Gang Task Force, we tell all of the local jurisdictions in Milton County to let us know when they arrest
60 someone that may be involved in a gang, mostly so we can coordinate anything that may mess up a
61 larger investigation.

62
63 7. Mercado told me that his cousins had forced him to come along for the robbery, saying that he
64 needed to "start making himself more useful". I'm not surprised. In order to get recognized by a larger
65 national gang, the Blossoms had to prove that they could turn a profit and that they wouldn't back
66 down from doing what was necessary to rake in the cash and establish a "legit" presence. Everyone
67 had to pull their weight. I don't know if Mercado had a gun during that Dinoco robbery. I had never
68 seen him with one, but I know from the report that firearms were recovered from some of the
69 suspects, though everyone was charged with possession of a firearm during a felony. Running with
70 guns became more commonplace after the Blossoms formed, so I know for a fact the expectation of
71 holding your own was there.

72
73 8. For the first time in a while, I was torn between doing my job and doing what my heart knew was
74 right. Mercado was going down a dark path and I thought that maybe I could do something to stop it.
75 It was a tough task, keeping my cover as the broker between the Blossoms and the Atlanta
76 organizations while talking a kid out of the life. But, I'm good enough to sell it. I started to talk to him
77 about his options, about ways he could get out of this town and do something with his life – and I think
78 it worked. Mercado started talking less about wanting the latest [Gucci] slides and more about getting
79 his GED. I was finally getting through to him. I still can't believe he's dead.

80

81 9. I picked Mercado up in my undercover car, an older model Dodge Charger, on the day of the
82 shooting and drove him to the Miltonville Mini Market. I've never been a big fan of the overpriced
83 roller dogs or that twitchy clerk Holmes, but Mercado loved it – probably because he didn't actually
84 have to pay for his hotdogs due to the Safe Haven thing they've got going on over there.

85
86 10. Mercado was in a good mood. It was nice to see him like that – he had been down recently
87 because the other Blossoms kept getting on to him about stepping up and doing his part. I'd seen them
88 messing with him a few times over the past few months. One time he even cried, which obviously
89 didn't go over well. Honestly, I began to worry about his safety and I could tell he was stressed. His
90 cousins could only protect him so much and Houser was starting to tighten control over the Blossoms,
91 trying to get them trained to up their game. Houser even said something to me one time about "these
92 kids being weak" and coming up with ways to "toughen them up." I was afraid what he might make
93 Mercado do, even possibly leading a robbery by himself.

94
95 11. Mercado wasn't upset that Saturday though. In fact, I would say that he was excited. He kept
96 talking about his "new plan" and how things were finally going to work out in his favor. I hate to admit
97 it, but I was only half listening. I knew that our big bust was finally coming down the pipes, so my mind
98 was focused on that instead. I had all of the chess pieces in place and even got Sgt. Saturday on board.
99 I think s/he wanted to be in on some real action so was happy to help bust some "gang banger punks"
100 as s/he liked to call them.

101
102 12. I pulled the Charger up to a gas pump and Mercado popped out. He told me to pull up to the store
103 when I was done and to keep the car running and doors unlocked. I guess he wasn't planning on staying
104 long or maybe didn't want to risk being seen out with me. I watched Mercado go into the Market. I
105 couldn't tell where he went inside but it seemed like he went towards the middle where the rollers
106 were. I finished with the pump, grabbed my receipt for the accounting clerks, and pulled up to a spot
107 by the front door. I slumped in my seat and pulled out my phone and started going through messages.
108 The Blossoms were coordinating a smash and grab burglary the next week, so I had to do my job and
109 play the part. I was really hoping Houser wasn't going to put Mercado in the hot seat, as I know he
110 wouldn't be able to handle it. I was playing the next few days out in my head when the next thing I
111 knew – gunfire.

112
113 13. I looked up and saw Holmes standing in front of my car holding a pistol in his hand. I hadn't seen
114 anyone go in or out of the store until I heard the shots and saw Holmes standing there, this panicked
115 look on his/her face. I reacted as fast as I could, but Mercado was dead. Holmes kept saying, "he had
116 a gun, he had a gun" over and over. I can't believe that is true. Mercado didn't have a gun and I would
117 like to think I would have noticed if he was carrying. Even though I was distracted all morning, I've
118 been trained to spot that sort of thing. Of course, I couldn't do anything that would blow my cover. I
119 had to act like a shocked civilian, which wasn't hard, and wait for Miltonville PD to get there. I texted
120 my manager, Sgt. Foley, to let him know what had happened and he told me to sit tight and try to talk
121 to Saturday when s/he got there.


122

123 14. Waiting for the Miltonville PD to get to the scene was one of the toughest things I've had to do in
124 this job. I hate that this is a city case. Call me jaded, but if you want an investigation done right, you
125 need the Milton County Sheriff's Office on it. Sgt. Saturday didn't even recognize me, and that should
126 tell you all you need to know about the kind of work they do at the PD. I hung around a bit to see if
127 Saturday wanted to talk and s/he finally got my attention to come inside. While I couldn't say much
128 since this was in the middle of one of our investigations, I just told him/her what I saw; Holmes
129 shooting Mercado. Saturday said Holmes claimed self-defense, that Mercado came in with his hands
130 in his jacket pocket like he had a gun and was pulling it out. I was shocked that Saturday just up and
131 said this to a witness, but bit my tongue and didn't say anything about it. I just hope the jury can see
132 past all of that and get justice for Mercado.

Regan Montero
Regan Montero

SIGNED AND SWORN to me on March 25, 2021.

C. M. McCormack
C.M. McCormack, Notary Public



WITNESS ADDENDUM

I have reviewed this statement, given by me on the date above, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed,

R Montero
Regan Montero

Morning of Trial

STATEMENT OF BRECKETT PIERSON

1 1. My name is Breckett Pierson. I guess I'm here because I was there the morning that poor kid died.
2 I really do not want to be involved in this. Being here is interfering with my achievement of nirodha,
3 the third truth. I became a Buddhist a few years back after I realized that all my suffering was the result
4 of my desires rooted in consumerism.

5
6 2. I met Carli/Carl about two years ago. I volunteer at the senior center in Miltonville teaching yoga
7 classes. Carli/Carl's grandmother used to take my yoga class three days a week and Carli/Carl would
8 drop her off. She was one of my best students – she had an amazing journey to find her absolute self.
9 I guess there is some peace and clarity that comes with getting to the end of one's life. I did not really
10 know Carli/Carl that well until a year ago when Grandma Holmes passed away. She was 95, but
11 Carli/Carl took it pretty hard. I saw Carli/Carl at the funeral and s/he was in bad shape. I took her/him
12 out for an herbal tea afterward, and I explained to her/him that Grandma Holmes was at peace, having
13 already reached magga and obtained enlightenment. Grandma Holmes and I had shared many cups
14 of green tea over a conversation about her path to enlightenment. She was a bit of a mentor for me
15 in that sense. Carli/Carl became really interested in obtaining enlightenment after s/he heard my story.

16
17 3. My journey to understanding the source of my suffering was an ugly one. I grew up in West Oaks
18 Estate. I was a trust fund baby. Both of my parents come from money, and their parents came from
19 money, and their parents came from money – and so on. If I wanted it, I got it. I was never denied a
20 single thing I wanted – well, not until the accident. You see, the more I got, the more I wanted. Nothing
21 made me happy. So, I turned to augmenting "happiness" with drugs and alcohol. One night, leaving a
22 wild party at 4 a.m., I wrecked my Lamborghini. Wrapped it around a streetlight in the middle of town,
23 at the corner of Cumberland Ave and Rome Street. I spent a week in the hospital in a medically induced
24 coma. I broke my collarbone, my right arm and three ribs, one of which punctured my lung. Thankfully,
25 I was wearing my seatbelt; otherwise, I might have been dead. Still, that wasn't quite my wake up call.
26 After the wreck, my parents paid a DUI lawyer to get my charge reduced to reckless driving, bought
27 me a four-door sedan, kicked me out, and cut me off. I didn't have a job, but I still wanted the life that
28 I had before. Doing odd jobs for Mr./Ms. Twiggs was not bringing in the kind of cash that I needed to
29 sustain my habit, so I started spending time with my drug dealer who then hooked me up with his
30 boss. I was pretty good with computers in high school, so he thought I could help his boss with some
31 credit card scheme he had going. He set me up with an apartment and paid me in drugs and alcohol,
32 so I was pretty easy to convince. I spent the next nine months being every adult's worst nightmare –
33 an identity thief. One day, I kind of went crazy. I broke down, went to the cops, and confessed
34 everything. They really wanted to go after my boss, so in exchange for my testimony they gave me five
35 years' probation and restitution.

36
37 4. It was after that whole ordeal that I finally saw the light. I got a job at Miltonville Mini Market (the
38 owner knows my dad and I grew up with her kids), and I started paying my debt to society. I had
39 already been going to yoga class back when I was a trust fund baby, and before I discovered drugs. So

40 after I started living clean, I started actually practicing yoga, which led me to the path of
41 enlightenment. Volunteering at the senior center was a part of my probation, but I also feel like it is a
42 part of my debt to my community that I harmed. I also started eating vegan because I don't believe in
43 causing suffering to any living animal. Working at Mini Market helped me with that because there are
44 several vegan options for me there.

45
46 5. After I told Carli/Carl my story, s/he became really interested in the practice of Buddhism. I even
47 had her/him meditating with me, but that all changed after s/he was involved in that carjacking at
48 Leonardo's, a skeezy gas station just south of downtown. I think that really increased her/his suffering.
49 The news coverage was pretty bad though – they interviewed Carli/Carl right after it happened. Still
50 soaked in gasoline. And that baby being in the backseat of the car, being taken. They hadn't found the
51 baby at that point; you could just see on Carli/Carl's face that something had shifted. I did convince
52 Carli/Carl to come work with me at the Mini Market because it's in a better neighborhood and it's just
53 a better company to work for. I think that helped for a while. But then Carli/Carl stopped coming to
54 meditation and started going to the gun range all the time.

55
56 6. When Carli/Carl first started at Mini Market, s/he was a little timid and reluctant to say too much
57 or make a fuss about her/himself. However, s/he made it clear that s/he did not want to work outside.
58 When s/he interviewed for the job with Rachel, one of the managers, s/he was sitting in the picnic
59 area right outside the store. I was emptying the trash nearby and I heard Carli/Carl say to Rachel, "I do
60 not want to be on the night shift and I do not want to be assigned any duties outside because I am still
61 trying to work through what happened with the carjacking." Carli/Carl handed Rachel some piece of
62 paper then, but I'm not sure what it was. I knew from my conversations with Carli/Carl that "work
63 through' meant meditation and therapy. Carli/Carl went to see a psychologist after the carjacking.
64 Carli/Carl told me that the therapist recommended that s/he come in for a session every week, but
65 Carli/Carl's insurance from Leonardo's did not cover it and Carli/Carl could not afford it on \$10 an hour.
66 However, when s/he came to Mini Mart, s/he got a bump in pay and the health insurance benefits are
67 a little better, so I think Carli/Carl got two sessions at no cost to her/him per month.

68
69 7. Carli/Carl was a great fit to the Mini Mart team after s/he warmed up and got more comfortable.
70 S/He has such a great work ethic. S/He is not a clock puncher. Carli/Carl always wanted to pitch in and
71 help wherever work needed to be done. Need a spill at the fro-yo machine cleaned up? Carli/Carl was
72 right there. Need a nasty bathroom situation handled? Carli/Carl would be on the job without
73 hesitation. Carli/Carl was also really great with the customers. S/He really took pride in the hot dog
74 roller and took the time out to explain the ingredients in all of the hot dogs, sausages and even the
75 vegan hot dogs to the customers. S/He also helped folks pick the best condiments to enhance the
76 flavor of the meat that they chose. Being a Safe Haven, we did get quite a few transient young people
77 coming in looking for a safe place to stay while they waited on their social worker to make contact.
78 Carli/Carl was always super compassionate with them and treated them just like any other customer.
79 Sometimes, we'd have to keep an eye out for people that wandered around the store, not really buying
80 anything but also not having a reason to be there. Even though things have improved around the Mini
81 Mart, we have been held up a few times, though always in the middle of the night.

82
83 8. There was this one kid though that we saw a few times – the kid who died. The kid never said
84 much except to ask for food and to use the facilities to wash up. Although, one day there was this
85 Vette outside revving its engine. I was standing at the register and the kid and Carli/Carl were standing
86 by the hot dogs. The kid looked at Carli/Carl and said, “Zoom! Zoom!” And smiled and walked outside.
87 Carli/Carl did mention a little frustration with thinking the kid was casing the place. I told her/him that
88 s/he was just being paranoid, though I don’t know if I ever saw the kid meet with anyone from Safe
89 Haven.

90
91 9. On the morning the kid died, I had just clocked in for my shift, which started at 7. I was working
92 the front counter that shift and was starting the shift change process for the cash registers. The
93 counter runs perpendicular to the front window, so from the register you can see out the 12-foot
94 window. There’s a shelf that runs about four feet up the window, so from the register you can’t see
95 the ground outside until you walk over to the shelf. I know Carli/Carl had worked the previous shift
96 overnight and that was against his/her doctor’s orders. When I got there, I didn’t see Carli/Carl
97 inside. For some reason, Carli/Carl was out in the parking lot, pulling trash bags from between the
98 pumps, though Rachel told me that s/he is not supposed to be doing outside tasks until s/he is
99 cleared by her/his doctor. I’m not sure whether Rachel told her/him to pull the trash or if Carli/Carl
100 was doing it on his/her own.

101
102 10. To be honest, Carli/Carl looked terrible. S/He had been looking a little worse for wear lately, as if
103 s/he had spent every night for two weeks binge-watching horror movies on Webpics. I had finished
104 reconciling the register drawers and went to the office to complete and file the paperwork. I walked
105 down behind the counter near the window when Carli/Carl came running back inside looking like s/he
106 had seen a ghost. I looked outside and didn’t see anything. I looked back down the counter and saw
107 Carli/Carl digging through his/her backpack, clearly not centered. A customer came up to check out,
108 so I turned towards him to ring up his gas and breakfast burrito. Once the customer was done, I looked
109 back across the counter and saw the kid standing there, looking between Carli/Carl and me. I didn’t
110 see him come in or holding anything, but it seemed like he was waiting to check out. Suddenly,
111 Carli/Carl yells “This ends right here!” and reaches towards the kid with a gun. A gun! I can’t believe
112 Carli/Carl had a gun- at work! It goes against everything we believe in Buddhism, but it is also against
113 company policy.

114
115 11. Before I could say anything, or even move, the gun exploded. The kid jumped like I did, scared by
116 the sound, and started to run towards the front door. I tried to yell at Carli/Carl to stop but s/he didn’t
117 seem to hear me. S/He sprinted around the end of the counter and started towards the door when
118 the gun exploded again, this time, almost right in front of me. The front door itself exploded and
119 Carli/Carl ran straight through it. S/He yelled “Stop!” and the gun exploded three more times, right
120 outside the door. People outside started screaming and customers inside fell down flat to the floor.

121
122 12. From where I was behind the counter, I could see out the door to the right half of the pumps and
123 parking spaces. A guy/lady in a Camaro parked in the handicap spot by the front door jumped out of

124 his/her and yelled at Carli/Carl to stop shooting and drop the gun. S/He looked like the drug dealers
125 from my darker days. I don't know why s/he wasn't the only one not running scared. Carli/Carl walked
126 back into the store a few feet and looked at me, with this lost fear in his/her eyes. I ran around the
127 counter and got him/her to walk with me back towards the office. S/He kept saying, "He had a gun,
128 didn't he? He had a gun." I didn't know what to do, so I did my best to soothe him/her by talking softly
129 and trying my best to help him/her find his/her center, with deep breathing. I asked him/her why s/he
130 had a gun and where s/he got it from, but Carli/Carl wouldn't say anything.

131
132 13. The Miltonville Police Department got there pretty quick and an officer had me go to the office
133 while s/he talked to Carli/Carl behind the counter. I couldn't hear what they said or anything but
134 Carli/Carl looked like s/he was barely there, staring off into space while looking at the floor. When
135 another officer took Carli/Carl out, I called out to him/her to keep breathing and call his doctor and
136 lawyer when s/he got to the station.

137
138 14. Then, the officer started talking to me about what happened. S/He asked if I knew the dead kid
139 and told him/her that we had seen him around but he looked harmless. I told him/her that Carli/Carl
140 always seemed rattled by the kid and the kid gave him/her a funny feeling, like uncomfortable or on
141 edge. The officer asked if I saw the kid with a gun and I said that I didn't but really couldn't see the
142 kid's hands behind the counter and register. The guy/lady from the Camaro came in and the officer
143 left to go talk to him/her down one of the aisles. S/He never came back and Rachel told me to go home
144 for the day since the store would be closed for a while.


145
146 15. I've spent a lot of time in meditation over this whole thing. I don't want to hurt anybody, least of
147 all my friend, Carli/Carl. I don't really know what happened with the kid, and I don't know what was
148 on Carli/Carl's mind that day. I do know that s/he was not supposed to be outside in the parking lot,
149 but I'm not sure why s/he was. I do know that the loss of Grandma Holmes and seeing that baby
150 kidnapped did a number on her/him. I just wish that I could have helped her/him see the path to
151 enlightenment. But, as I now know, want is the source of all suffering.

Breckett Pierson

Breckett Pierson

SIGNED AND SWORN to me on March 30, 2021.

C. M. McCormack
C.M. McCormack, Notary Public

A circular notary seal for the State of Georgia. The seal features a map of Georgia in the center, surrounded by the words "Notary Public" at the top and "State of Georgia" at the bottom. The seal is surrounded by a decorative, starburst-like border.

WITNESS ADDENDUM

I have reviewed this statement, given by me on the date above, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed,

Breckett Pierson

Morning of Trial

Breckett Pierson

STATEMENT OF CARLI/CARL HOLMES

1 1. My name is Carli/Carl Holmes, and I want to tell you that I really thought I was taking a step up
2 when I went to work for the Miltonville Mini Market.

3
4 2. The Miltonville Mini Market bills itself as the local alternative to big chain convenience stores,
5 such as FastTrak out on the interstate. With a focus on serving the folks in town, the Miltonville Mini
6 Market boasts high quality food and beverages, as well as provides sparkling clean private restrooms
7 with luxury hand soap dispensers at fully automated no-touch faucet sinks.

8
9 3. The Miltonville Mini Market's biggest draw, besides its restrooms, is the MMM™ Gourmet Roller
10 Dog. The key is quality ingredients. In addition to all beef and vegan franks spinning on separate roller
11 grills, the Miltonville Mini Market offers high-end Italian sausage and Spanish chorizo. With a variety
12 of toppings for customization, it's a place that kids love.

13
14 4. Unfortunately, during the COVID-19 pandemic, health department restrictions on self-serve food
15 put brakes on the roller grills. The limitations were lifted if COVID-19 compliant plastic windows were
16 installed. Upon reopening the roller grills, the Miltonville Mini Market launched a billboard campaign,
17 with close ups of its hot dogs and sausages on fresh baked buns: "MMM™, we are on a roll-er!" one
18 ad said. Another focusing on the wieners cooking on the roller grills announced: "Keep those doggies
19 rolling. MMM™."

20
21 5. There was so much pent-up demand for the MMM™ Gourmet Roller Dog when the pandemic
22 eased that the Miltonville Mini Market hired additional staff to keep up with demand, and at higher
23 wages. They were paying \$13 an hour, just for starters. My friend Breckett Pierson worked there. S/He
24 was always looking out for me, and thought it would be a good fit. S/He had been my Grandma Holmes'
25 yoga instructor at the senior center. Breckett knew how close I was to Grandma Holmes, who raised
26 me after my parents died, so s/he was helping me work through my grief with meditation.

27
28 6. That was only part of why I thought I was heading in the right direction when I quit my job at
29 Leonardo's Quickie Stop to take a \$3 per hour increase at the Miltonville Mini Market. The other
30 reason was that I thought I would finally be able to get some sleep.

31
32 7. Despite practicing meditation as Beckett had taught me, and ramping up therapy sessions with
33 my counselor, Dr. Mayse Ceridian, I'd been having trouble sleeping ever since I was injured thwarting
34 a carjacking at Leonardo's Quickie Stop. I'd been seeing Dr. Ceridian since my parents died. It brought
35 back long repressed memories of my parents' murders, which I witnessed when I was just eight years
36 old.

37
38 8. Leonardo's is a convenience store in my neighborhood that looks more like something out of
39 Gotham City than the Miltonville Mini Market. Leonardo's has bulletproof glass at the counter, and an

40 ice cream freezer in front of it, not only to encourage an impulse purchase, but also to keep the
41 customer from getting too close. It's in that kind of neighborhood. The Miltonville Mini Mart used to
42 be that kind of place too before Mr. Farnsworth bought it and turned it into what it is today.
43 Jenkintown used to be a rough place, like where Leonardo's is, but it's gotten a lot better lately.

44
45 9. When I was at Leonardo's, every so often, a customer would have a problem at the gas pumps
46 out in front of the store. Most of the time, I could reset the pump from inside. But if that didn't work,
47 I needed to clear the store, lock up, and go out to the pump to reset it manually. The owner was too
48 cheap to hire more than one person per shift, so I had to do it all. Thankfully, this didn't happen often,
49 but I really used to enjoy getting out for a breath of air, even if it reeked of high-octane fuel. It was
50 also an opportunity to go ahead and empty the trashcans out by the pumps instead of doing that at
51 the end of my shift.

52
53 10. One night last September, when I was outside emptying trashcans after resetting a pump, I
54 noticed a creeper slipping into the passenger seat of a Mazda6. The driver had left the key in the car,
55 along with a child who appeared to be about three years old strapped in back in a car seat, while
56 pumping gasoline. I had seen this guy hanging around the parking lot before and knew it wasn't his
57 car. I raced toward the vehicle, a fresh plastic bag for the trashcan flapping in my hand. Before the
58 creeper was able to pull away from the pump, I grabbed the passenger side door handle, and yelled,
59 "Stop! Stop!!" at the carjacker. Just as I was getting the door open, the carjacker hit the push-button
60 ignition, and popped the car into gear. I was dragged by the vehicle, before breaking away and twisting
61 an ankle in the process. The fuel nozzle, which the driver had set on automatic fill, was pulled out of
62 the gas tank, sending fuel flying all over the driver and myself, though I tried to use the plastic bag as
63 a shield. Another customer saw what had happened and hit the emergency fuel cutoff switch by the
64 front door. As the car sped off, I could hear the baby in the backseat howling in fear. It freaked me out.
65 It sounded almost like the screams I made when my parents were being gunned down. Fortunately,
66 the carjacker set the child out at a nearby shopping center, and he was quickly reunited with his parent
67 by the police

68
69 11. The police told me there was nothing more that I could have done to stop the carjacking. Still, I
70 could not get the image—and sound—of the crying three year old out of my brain. Nor could I get the
71 smell of the spewing gasoline out of my nose. What made it worse was the local news station, WMTV,
72 got ahold of the story, and kept playing the surveillance footage over and over again of me dragged
73 by the Mazda, and being sprayed with gasoline from the spewing pump.

74
75 12. I told my next-door neighbor, David Biddle, about what had happened, and how it made me feel
76 as helpless as I had been when I saw my parents gunned down. David told me I was crazy to be working
77 in a convenience store, because it was probably the most dangerous job around except being a taxi
78 driver. He told me I was welcome to borrow his Walther PPK, the very protection that James Bond was
79 issued in *Dr. No*.

80

81 13. The Walther PPK is compact—just the right size to slip into the back of my pants in a slim holster.
82 I started carrying it to my job at Leonardo’s, where I kept an eye out for that creeper. If he returned
83 again, I’d be ready to protect any little kid left in a car seat while his mom or dad pumped gas. But
84 even with that secret pistol of protection in my pocket, I didn’t feel safe. Though police found the
85 Mazda6 down by the railroad tracks a few hours after the kid was left at the shopping center, the
86 carjacker hadn’t been caught. Almost every night, I’d dream about being out there at the gas pumps,
87 being dragged by that Mazda, being sprayed with gasoline, then seeing my parents shot. My dreams
88 had conflated these two horrible events. Dr. Ceridian told me I needed to work on mindfulness
89 meditation.

90
91 14. Still, it was getting harder and harder to drag myself in to work at Leonardo’s. So I decided
92 Breckett was right; I needed to apply for a job at the Miltonville Mini Market. The smell of those rolling
93 dogs surely would get rid of the phantom smell of gasoline in my nose. And how much better to be
94 tending to a grill, and chopping up toppings, and replenishing condiments and napkins, than standing
95 behind a bullet-proof shield at the counter at Leonardo’s waiting for another carjacking.

96
97 15. Even though it’s locally owned and the only one, the Miltonville Mini Market had a real corporate
98 vibe. I had an actual job interview with the manager, who asked me when I would be available to work.
99 I said I did not want to work the night shift, and did not want to work outdoors because I was still
100 processing what had happened to me at Leonardo’s. The manager said that was not a problem if I
101 could provide a doctor’s note. The manager gave me an employee manual to read, before signing a
102 paper that said I had read and understood the materials. I skipped through it before signing. I definitely
103 keyed in on its explanation of the health benefits, because it meant that my counseling with Dr.
104 Ceridian would be covered. It said that employees get a free meal each shift and a discount on food
105 and drink items when we’re not on shift.

106
107 16. Still, I brought the Walther PPK with me in the holster. After what had happened at Leonardo’s, I
108 figured you never could be too careful. Also, the COVID-19 plastic shields they had around the roller
109 dogs didn’t seem nearly as protective as the bulletproof glass they had at the counter at Leonardo’s.

110
111 17. My insecurity heightened when I started seeing this guy who looked just like the creeper at
112 Leonardo’s hanging around the Miltonville Mini Market. Unlike Leonardo’s, there weren’t any signs
113 outside saying “No Loitering”. Instead, there were Safe Haven signs, indicating that runaways and at-
114 risk youth could come inside for food and drink, while they waited for a volunteer to come connect
115 them with professional help. The creepy guy kept coming in and washing clothes with the luxury soap
116 in the restroom sink. Then on his way out to the Safe Haven area, he’d ask for a complimentary roller
117 dog, with all the toppings, and a large soda. He’d hang his wet clothes to dry on the Safe Haven sign. I
118 don’t think I ever saw a volunteer or professional come to render aid. And he looked a lot older than
119 my vision of a runaway or an at-risk youth. I bet he was at least 25! He was there all the time and I was
120 sure he was trying to case the store or find some weakness to exploit. He was just like all those others
121 at Leonardo’s that I left behind. I didn’t want the Mini Market to fall victim like that.

122

123 18. I told my manager about my suspicion that the creepy guy was no runaway, and was just taking
124 advantage of the Safe Haven policy. I told him/her that if we weren't careful, the creepy guy would be
125 sliding into a car the first time a customer was foolish enough to leave the keys inside. All s/he did was
126 write up an incident report for corporate, and the creepy guy kept hanging around. He was always
127 watching me too, typing on his cell phone.

128
129 19. So, I really had no choice but to keep an eye on him. I started off by trying to do the Extra Mile
130 thing by politely telling him to quit using the Safe Haven sign like a laundry line. "You're taking
131 advantage of the Mini Market's Safe Haven policy," I told him, adding, "You need to be gone when I
132 get back to work tomorrow." He gave me a side-eye look that I definitely remembered from the
133 carjacking of the Mazda6, and just said "Zoom, zoom!" while waving me away with his fingers. It was
134 the most real and chilling case of Deja-vu. That's when I realized he was the same guy, and he
135 recognized me from Leonardo's. Then I remembered they never caught the carjacker. I almost had a
136 panic attack.

137
138 20. I didn't know what to do with myself. Instead of going straight home, I decided to stop off at the
139 Good Guy Firing Range out on the Miltonville Parkway. I needed to make sure the PPK was in good
140 working order. I also thought firing a few rounds at a target would be cathartic, but all it did was set
141 up a ringing in my ears, despite the ear muffers I was wearing. It made it impossible to meditate or go
142 to sleep.

143
144 21. When I got to work the next day just a minute or two late for my shift, I was already exhausted.
145 There had been a scheduling glitch; they overscheduled the day shift and they were short a person on
146 the night shift, which is from 11 pm to 7 am. So the manager told me to go home, and come back for
147 the night shift. This wasn't what I thought our agreement would be, especially with the note from Dr.
148 Ceridian. But I didn't want to do anything to jeopardize my health benefits. I came back that night and
149 worked a full shift. Thankfully, it was pretty easy and quiet but I was a nervous wreck all night. At the
150 end of the shift, around 7, I went outside to empty the trash at the gas pumps and sweep up. It was
151 morning and the sun was up, so I made myself do it, trying to get myself past that hump. I had
152 flashbacks like being back at Leonardo's, walking out through the door, but like Dr. Ceridian told me,
153 unless I push myself, I'll never move on. So I did. The sun felt good but the smell of gasoline made my
154 mind race.

155
156 22. I was glad to see that there no longer was any laundry hanging on the Safe Haven sign. But as I
157 went out to the gas pumps, there was the creepy guy sidling up to the passenger side of a Dodge
158 Charger at pump 3, looking around nervously. I don't know where the driver was. Maybe inside the
159 Mini Market to use the restroom, or to get a breakfast egg and chorizo sandwich with extra salsa?
160 What if the keys were in the ignition?

161
162 23. I reached behind me for my PPK but remembered I put it in my backpack when I went to the
163 bathroom before going outside. I made eye contact with the guy and he froze, looking guilty as sin. I
164 turned around and quietly hustled back into the store, not wanting to cause a scene, and grabbed my

165 backpack from behind the counter. When I looked back outside, he was gone. I looked around the
166 inside of the store and he was standing at the register, right in front of me. I froze, panic taking my
167 breath away. We locked eyes and I yelled "Hey, not you again! You stop right there!" As I was pulling
168 out the PPK, he reached into his pocket with a grin on his face. I just knew he was reaching for a gun.
169 So I did what any good guy does when a bad guy is reaching for a gun, I fired. I don't think I hit him
170 because one of the roller dog sneeze guards exploded. The guy took off towards the front door, first
171 with his hand in his pocket and then pulled it out. I jumped around the end of the counter and started
172 chasing him. I knew he was going to try to jump into someone's car and get away and I had to stop
173 him. When he slammed through the door, he looked over his shoulder at me and put his hand up
174 towards me. I fired again, splintering the glass like a massive spider web. Someone in the store
175 screamed but I didn't hear it; I just kept going. He wasn't going to get away this time. I couldn't see
176 him through the shattered glass until I got outside. When I ran through the door, the splintered glass
177 fell out of the frame and hit the sidewalk, scaring the crap out of me. I looked up and he was trying to
178 open the door of the Charger. I could hear the engine running. He was stealing this one. I tried to yell
179 at him to stop but couldn't, I was starting to hyperventilate. I just pushed the gun out in front of me
180 and pulled the trigger. This was my last chance at stopping him. He wasn't going to hurt anyone else
181 again. I must have hit him because he pitched sideways, away from me, and landed by the rear tire of
182 the Charger. He yelped and was moaning, sounding like he was saying something. People at the pumps
183 screamed and started running in all directions. All of a sudden, the driver door of the Charger flies
184 open and this guy jumps out of the car. I might have spun and pointed the gun at him. He yells at me
185 to not shoot and drop the gun. All of a sudden, the gun felt like it weighed twenty pounds and it fell
186 from my hands. I don't know how I got back inside but the next thing I really remember is sitting behind
187 the counter with Breckett standing next to me, telling me it was all right, that "it wasn't your fault."
188 Breckett told me, "He had a gun and you didn't know where it came from." S/He kept an arm around
189 my shoulders and was trying to get me to take deep breaths. I was numb.

190
191 24. I remember talking to some police officers but not saying much. One officer asked, "Why did you
192 shoot that kid?" and I told them the kid had a gun and was going to rob the store or steal a car. They
193 asked if that was my gun and I think I said "Yes." They took me to the police station. I sat in a jail cell
194 for a bit and asked to call someone. An investigator asked if I wanted to call my lawyer and I said yes.
195 Ms. Haynes got there quickly and said I didn't have to talk to the police any more. Dr. Ceridian came
196 to the station and talked to me too. The next day, the judge let me go on bail and I went to Dr.
197 Ceridian's office.

198
199 25. How was I supposed to know that he had just turned 23 years old, had been in the foster care
200 system, and was trying to get out of a gang? Geez! I was in foster care for a while after my parents
201 were killed, while the Division of Family and Children Services was trying to track down Grandma
202 Holmes to come get me. I would have been totally sympathetic to that. But I knew he was the carjacker
203 from Leonardo's and was pulling a gun on me for recognizing him. I'm sorry that this kid is dead, but I
204 believe the shooting was justified. I wasn't just protecting myself. There could have been a toddler in
205 the back of that Charger. How was I supposed to know?

Carli/Carl Holmes
Carli/Carl Holmes

SIGNED AND SWORN to me on June 1, 2021.

C. M. McCormack

C.M. McCormack, Notary Public

WITNESS ADDENDUM

I have reviewed this statement, given by me on the date above, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed,

Carli/Carl Holmes

Carli/Carl Holmes

Morning of Trial

STATEMENT OF NORMA/NORMAN TWIGGS

1 1. My Name is Norma/Norman Twiggs and I live in the Jenkintown neighborhood of Miltonville. I
2 was born in the northern part of the county and went to Farnsworth Academy, a magnet school for
3 arts and music. When it came time to graduate in 2000, I had aspirations to go into the service –the
4 military can be a fine surrogate parent for kids, like me, who need one – so I was looking at military
5 school, figuring that ROTC might also pay for what I couldn't afford on my own. I couldn't get an
6 appointment from my Congressman; I'm not sure I could've handled academics at one of the
7 Academies if I had. So, that left VMI and the Citadel (both fine, of course, and both out-of-state), and
8 North Georgia College & State University in Dahlonega.

9
10 2. Naturally, when I began, I didn't anticipate that 9/11 would land me in the middle of not one, but
11 two "shooting wars" upon graduation. The military was glad to have me for several tours in the Army
12 Corps of Engineers Transatlantic Expeditionary District, headquartered in Kuwait. I was part of the
13 teams building FOBs and other military sites in Iraq. An IED sent me home involuntarily. After
14 rehabilitation at Walter Reed, I tried to come back, but couldn't meet the standards for returning to
15 the field. I loved the field so rather than becoming a desk jockey at HQ in Winchester, Virginia, I retired
16 as a Captain, and moved back to Milton County, settling in Miltonville.

17
18 3. My training in the USACE gave me a strong background in starting a wide-ranging handyman
19 business: everything from random household repairs to commercial installs, electrical work, light
20 construction, etc. I'll also take on larger projects like consulting with the city and county on public
21 works improvements. We're a small community and the public works departments do a great job with
22 the small staff they have. Since retiring from active service, I've joined the Georgia State Defense
23 Force, 1st Battalion, 76th Support Brigade. It is the volunteer auxiliary unit of the Georgia National
24 Guard that provides homeland support for the Guard and fills in gaps when they are deployed
25 overseas. The 1st Battalion is the engineering component of the GSDF, so I'm able to put my military
26 civil engineering hat on every now and then. That I've also done as an occasional "volunteer" disaster
27 coordinator for FEMA.

28
29 4. I've lived in the Jenkintown neighborhood long enough to see it transform from the depressed,
30 run-down area to a more economically sustainable area of town. I live about a block from the
31 Miltonville Mini Mart and would hear the gunshots and sirens coming from that way all the time.
32 Unfortunately, the crime didn't stick to that one spot; a number of houses in the blocks around me
33 wound up being used by drug dealers, gangs, and others. The police were overwhelmed and couldn't
34 do much in this area. It felt a bit abandoned but never bothered me too much. I was pretty much left
35 alone, though my car was broken into once. I installed cameras and added a US Army flag to my
36 flagpole. That sent a projection of strength out that seemed to make my place not worth bothering.
37 What they don't see is my SIG Sauer M18 I keep in a hip holster at all times. It's a carryover from our
38 issue in the military. I may be an engineer, but was also a forward deployed soldier in the US Army.
39 Those habits and training don't go away when you retire.

40
41 5. Miltonville isn't so large and my business gives me the opportunity to meet a wide cross-section
42 of people and businesses, including public safety personnel. In fact, I have a few Milton County Fire
43 Department personnel on my payroll; they work part-time on their off-days to earn some extra cash.
44 I've also done some work for both the Milton County Sheriff's Office and the Miltonville Police
45 Department through the city and county. I've talked to Sgt. Saturday a number of times and even
46 helped him/her out with some repairs on his/her deck. S/He's a good officer but seems to be looking
47 a bit too far down the road at retirement. Almost like s/he's just putting in these final months to get
48 there and not much interest in the work. I understand how 25 years of the grind can wear you down,
49 so I get it. S/He just seemed to have too much of a 15 thousand-foot view of things going on and wasn't
50 interested in many of the ground-level details.

51
52 6. Working with the emergency services gives me contact with businesses and residents who might
53 need help after something happens. I've helped folks out with fire damage or repairs after a burglary.
54 The Leonardo's convenience store on the west side of downtown has used me to help harden their
55 store after several robberies. I installed security cameras for them as well. They weren't much help
56 with that carjacking that involved the toddler seven months ago since the kid who stole the car kept
57 his face hidden. Due to my work there, I'm familiar with Carli/Carl Holmes. S/He was a clerk at the
58 store while I was doing work and was the one who tried to stop the carjacking. That wasn't a smart
59 move, in my opinion. I completely get where s/he was coming from but you never know what drastic
60 measures someone would do to avoid being caught. I saw the constant news coverage of the
61 carjacking on both the local and national news and felt for the kid. I'm sure it was as close to a near-
62 death experience as s/he's ever going to have.

63
64 7. After the carjacking, I didn't see Holmes at Leonardo's when I was doing work there. I did hear
65 from Annie at Oakley's Gun Range that Holmes had started coming in more after that, though I never
66 saw him there. Annie said that Holmes had asked about how to get a concealed carry permit and
67 wanted some training on carrying and shooting. I was a bit worried that his/her PTSD was driving this
68 and it was an emotional reaction, not logic. I told Annie to be careful in what she suggested to him and
69 help guide him the right way. She understood.

70
71 8. What is now the Miltonville Mini Market used to be seedier and rougher than Leonardo's. I never
72 went there, Army shirt or not. When it was bought and remodeled, the criminal element found they
73 weren't as welcome there anymore. The county started a master land use development overlay for
74 Jenkintown, which brought in new developers, both residential and commercial. They created the
75 Jenkintown Tax Allocation District, which kept all of the sales tax within the District's boundaries for
76 improvement. A new subdivision broke ground, some of the rundown store fronts were bought out
77 and redeveloped, and the area got a lot better. A lot of the new businesses were started by locals,
78 which got property tax breaks from the county. It was good. I have no problem going to the Market
79 now. It has the feel of a small business but they put a lot of work and pride in providing a clean space.
80 That's where I saw Holmes again, a few weeks after the carjacking. It was good to see him/her again
81 and s/he seemed happy to see me as a customer and not a security installer. I also saw that Breckett

82 Pierson works there now. Breckett worked for me a while back as a gofer, picking up and delivering
83 small items we worked on. S/He seemed short on cash and desperate for a job when s/he started with
84 me but was not reliable at all. S/He was often late or missed jobs. I suspect s/he was dealing with some
85 drug demons or other issues. Unfortunately, I don't put up with those issues and need to protect my
86 name and investment, so I had to let him/her go. Apparently, s/he was able to keep things turned
87 around long enough to get a job at the Market. I'm sure s/he thinks I'm a bit of a grouch with my no-
88 nonsense attitude.

89
90 9. On the morning in question, I'd gone into Miltonville Mini Market for a MMM Gourmet Roller
91 Dog. It was seven in the morning, but I needed something substantial after working overnight doing
92 an emergency roof patch on a house that had a tree come through it. Under normal conditions, I
93 wouldn't do something like a Roller Dog for breakfast but occasionally, you're willing to pay for
94 convenience, especially these days with COVID. But, I will admit, I've developed something of an
95 appetite for the Roller Dog. It oddly pairs quite well with a heavy roast coffee.

96
97 10. After having installed the security shields in Leonardo's, I was contacted by the Miltonville Mini
98 Market to put shields on their roller machines "PDQ" so they could get Health Department permission
99 to go back to selling self-serve items. By the way, I told them they ought to let me install security plastic
100 like Leo's, but since they were newly opened and the neighborhood wasn't as rough, they just wanted
101 what they wanted. The owners had spent a ton on the remodel, and with COVID limiting sales, they
102 didn't have a lot of expendable cash. In order to get the MMM Gourmet machine to function properly
103 – cook and serve within the separate (and slightly conflicting) guidelines – I had to adjust, sample, and
104 adjust. Previously, I'd focused on their other sausages, like some I'd learned to like while I went
105 through NSA Naples for a stint on the way to Iraq. But, by the time I'd finished work, all those Roller
106 Dogs had become addictive! So now, I drop by occasionally to get one...or several, topped with
107 ketchup, raw onions and pickled chilies.

108
109 11. I was working up my Roller Dog and was about to head towards the coffee bar , when I saw
110 through the plate glass to the parking lot that there was a scruffy character gazing a bit too intently at
111 a dirty Dodge Charger in the lot outside. My "Spidey-sense" started tingling and I watched him intently.
112 Having lost my innocence even before I lost my foot's original joints, I know how quickly "nothing" can
113 turn into "urgent." The Safe Haven signs, inviting runaways and "at-risk" youth to hangout, don't help
114 matters. Like that car insurance commercial showed, I learned that you don't feed the bears (not even
115 picnic baskets) unless you're asking for trouble. Let the troubled youth go hang out with their Army
116 recruiter or drill instructor. That will straighten them out, sure-enough.

117
118 12. After looking at this suspect for a minute, I realized I had seen him in the area before, mainly
119 around the Market. Looking back at those instances, he looked to be one of the gang members that
120 hung around the lot before the Market was the Market. Young folks, all the time on their hands,
121 nothing better to do than do nothing but hang around and look for the next hustle. After living where
122 your life depends on your attentiveness, my peripheral vision is pretty good. As the suspect started to
123 head towards the door, I moved towards the back of the store to keep an eye on him from a distance

124 and started watching him in my periphery as I “worked” on my coffee. I sensed more than watched
125 Holmes puttering around inside, appearing unconcerned with what was going on outside. I could see
126 Pierson working the cash register by the window, oblivious to the suspect breaching the perimeter of
127 the storefront. I glanced at Holmes and sensed a bit of tension, or fear. At this point, the trash bag
128 Holmes had in his/her hand was on the counter and the suspect was standing right in front of him/her.
129

130 13. Now, I was in a full-on security posture. I slowly put the creamer bottle and coffee cup down to
131 clear my hands, just in case I needed to jump into action. The suspect was facing away from me and
132 had his hands in his jacket pockets. Over the register sounds and conversation coming from Pierson
133 and his/her customer, I could only hear Holmes vaguely– something about “stopping... again”– and
134 then the suspicious guy, a little hunched, began to pull his hands from his pocket. Since he was facing
135 away from me, I didn’t hear if the suspect said anything. Momentarily focused on the back of the
136 suspect’s head, I missed Holmes removing a pistol until it was in his/her hand. Holmes leveled the gun
137 at the suspect and paused, a look of determination and fear in his/her eye. As the suspect’s right hand
138 cleared his pocket, Holmes fired a round. I’m sure Holmes didn’t fire until the suspect gave him/her a
139 reason. After that, the atmosphere inside the convenience store went wild. The suspect lurched to his
140 right, hit the floor, and started pumping his legs as fast as he could get move. Pierson flinched and
141 dove behind the counter. Then, as the suspect gained his feet and ran towards the front door, Holmes
142 fired again. Pierson, wisely, stayed down for a moment, but then– I guess curiosity overwhelms healthy
143 fear for those young enough to feel invulnerable– peered over the counter, out the storefront, as
144 Holmes burst through the front door like a SpecOps door kicker, firing the gun twice again. Then, as
145 suddenly as it had started, it stopped. Once it was quiet, I did a quick self-assessment and moved
146 forward, down the side aisle of the store, in a combat crouch with my pistol drawn. I made eye contact
147 with Pierson and s/he nodded. I then saw that my hard work with the Roller Dog guards had been
148 destroyed by Holmes’ first round. Holmes slowly wandered back into the store and went behind the
149 counter into the office. S/He didn’t have the gun in his/her hand at that point.
150

151 14. Intuitively, I recognized the distinctive report of a 9 mm Walther PPK. I hadn’t realized that Holmes
152 had actually gotten one. I suppose Annie had talked him through his/her options at Oakley’s. However,
153 his fire control was non-existent, firing his/her weapon with others in the field of fire. Adrenaline will
154 dull your self-control; that’s why it’s imperative that those taking on the responsibility of a CCP must
155 train themselves to overcome the dump of endorphins in a situation where the use of force might be
156 possible, even in a self-defense situation.
157

158 15. Sgt. Saturday was one of the first responders. I silently hoped that s/he would come down to the
159 ground level to investigate the details of what happened here. Holmes’ PTSD may not be under
160 control, and I am sure something triggered it that s/he wasn’t expecting. For me, a strong sense of
161 diesel exhaust can take me back to the IED explosion. Sgt. Saturday did interview me about what I saw
162 and I told him/her how it happened, including my suspicions of the suspect. After talking to me, Sgt.
163 Saturday talked to this middle-aged man/woman in a leather jacket who wasn’t in the Market during
164 any of this. Sgt. Saturday didn’t seem to get a lot out of him/her and the man/woman seemed to be
165 mad about something. It was a tense conversation. As I was leaving, I saw this person sitting on the

166 hood of the dirty Charger almost brooding.

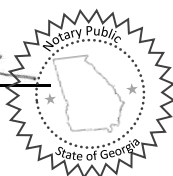
167

168 16. Holmes is going to have a hard time bouncing back from this. This is obviously much worse than
169 what s/he went through with that carjacking. I never heard if the police found a gun on the suspect or
170 what he was pulling out of his pocket that caused Holmes to shoot him, but I'm sure it was justified in
171 Holmes' mind. Despite the fact that crime has gone down around here, even the nicest areas still suffer
172 from a criminal element and you can't be too careful. I hate that the suspect lost his life in this situation
173 and hope this doesn't ruin Holmes' forever.

Norma/Norman Twiggs
Norma/Norman Twiggs

SIGNED AND SWORN to me on March 30, 2021.

C. M. McCormack
C.M. McCormack, Notary Public



WITNESS ADDENDUM

I have reviewed this statement, given by me on the date above, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed,

Norma/Norman Twiggs
Norma/Norman Twiggs

Morning of Trial

STATEMENT OF DR. MAYSE CERIDIAN, PHD.

1 1. I have been a licensed clinical psychologist, in private practice, since 2006. I received my doctorate
2 in clinical psychology from Georgia State University, training with some of the most revered clinicians
3 in the field. I completed my post-doctoral training at Emory University, and have experience working,
4 teaching, and supervising in a variety of mental health settings, including hospitals and university
5 counseling centers. My passion, however, is private practice where I can offer my clients the most
6 flexibility and creativity in the way we work together. I offer individual therapy, working primarily with
7 adults. I also offer supervision and consultation services to other mental health trainees and
8 colleagues, and often serve as a consultant or guest for media, television, and podcasts.

9
10 2. As a generalist, I am able to treat most concerns people bring to therapy. However, my specific
11 areas of interest and experience include: mood disorders; anxiety; trauma & PTSD/complex PTSD;
12 general life stress (life transitions, grief, loss, shame and sleep problems); and, personal growth.

13
14 3. I am classically trained in interpersonal and humanistic psychotherapy, but I also utilize
15 contemporary treatment paradigms including Acceptance and Commitment Therapy (ACT). ACT works
16 effectively for clients “stuck in their heads” and unable to move forward with value-driven choices. In
17 session, we learn to recognize and invite the protective “Parts” of ourselves that often “step in” when
18 we feel vulnerable, but sometimes get in the way of greater connection and fulfillment. I explore with
19 my clients how to get “Self” back in the driver’s seat, so that the client’s values are honored and life
20 goals can be reached with optimal emotional resilience. I often utilize and teach “body-focused”
21 practices (e.g., mindfulness), and may even suggest the use of natural supplements, yoga, and
22 meditation to augment the work we do in session.

23
24 4. I began seeing Carli/Carl Holmes as a patient a few years ago when his/her elderly grandmother
25 fell ill. I learned through our sessions that although Carli/Carl had grown up in a loving home with
26 his/her mother and father, they were both killed during an armed robbery outside of a movie theater
27 when Carli/Carl was about eight or nine years old. Unfortunately, Carli/Carl saw the whole ordeal.
28 However, s/he only knows that s/he saw it. Carli/Carl cannot recall the actual events of what
29 happened. S/He was asked by law enforcement to identify a potential suspect, but was never able to
30 do so. It is my understanding that no one was ever apprehended for her/his parents’ murders. My
31 professional opinion is that Carli/Carl has never fully processed the incident and as a result, its effects
32 have had a life-long impact on her/him.

33
34 5. Following the death of her/his parents, a family member could not be located for many months.
35 Carli/Carl’s grandmother was apparently living in Tibet at a Buddhist Temple studying the way of the
36 Buddha. Carli/Carl spent about nine months in foster care until her/his grandmother could be reached.
37 The death of a person’s parents at such a young age can cause significant mental and emotional
38 trauma. Compound that with being placed in a stranger’s home for nine months, and the long-term
39 effects can be catastrophic. A person who experiences that kind of upheaval is likely to experience

40 extreme feelings of abandonment, which can create anxiety toward future relationships, and a fear
41 that any relationship will ultimately end in loss. I believe that Carli/Carl has developed an extreme fear
42 of abandonment, which causes her/him to avoid connections that may result in abandonment.

43
44 6. Carli/Carl did, however, eventually, develop a very strong relationship with her/his grandmother.
45 Although a bit eccentric, her/his grandmother, from everything that I can gather from Carli/Carl, was
46 a nurturer. She also, as a follower of the teachings of the Buddha, practiced mindfulness meditation,
47 which is one of my top recommendations for clients who have trouble controlling their thoughts, or
48 put differently, let their thoughts control their actions.

49
50 7. As I mentioned before, I began seeing Carli/Carl after her/his grandmother passed away. S/He
51 originally came to me about once a month to work on coping strategies for her/his grief and to work
52 on ACT to combat her/his feelings of abandonment. Carli/Carl did not come to see me specifically
53 about the carjacking incident. I found out about that through our regular sessions about two months
54 after it happened. Through our limited work together, I had already hypothesized that Carli/Carl may
55 have been suffering from a psychological construct which makes a person feel the need to save other
56 people. This is colloquially known as a hero or savior complex. Carli/Carl exhibited a tendency to seek
57 people who desperately need help and to assist them, often sacrificing her/his own needs. For
58 example, although I learned through Carli/Carl that s/he only had a small, efficiency apartment, s/he
59 always seemed to have someone sleeping on her/his couch. Carli/Carl's limited romantic relationships
60 also exhibit the traits of a savior complex – s/he always seemed to be dating someone who was in the
61 middle of a tragedy or major life crisis. It is important to know that a person who suffers from a savior
62 complex is highly unlikely to cause harm to another living being. The underlying belief of this type of
63 individual is to do the “noble” thing. They see themselves as morally superior because they help others
64 often without receiving anything in return.

65
66 8. Carli/Carl anecdotally revealed to me the situation with the carjacking during one of our regular
67 sessions. Given what I know of Carli/Carl's history, I was alarmed by this incident. I was concerned that
68 this new trauma would only compound the trauma that Carli/Carl had already experienced with
69 her/his parents and never worked through. However, I was encouraged knowing that the infant was
70 recovered. That one fact was a positive foundation for us to build upon.

71
72 9. After I learned about this new trauma, Carli/Carl and I worked together to determine an
73 appropriate, and more intensive treatment plan. I recommended twice-weekly sessions with
74 homework for Carli/Carl in between. During our sessions, we worked on mindfulness meditation.
75 Mindfulness meditation requires a person to focus on their breathing. The ultimate goal is to slow
76 racing thoughts, let go of negative thoughts and calm the mind and body. With Carli/Carl we worked
77 on cultivating awareness, giving attention to what is occurring in the present – which is essentially
78 observing thoughts or sensations as they arise, and viewing her/himself with an attitude that is non-
79 judgmental.

80

81 10. At first Carli/Carl was a little apprehensive about the plan, mostly because of the twice-weekly
82 visits and the financial component. However, I set her/him up with a payment plan so that s/he could
83 pay later for the care that s/he desperately needed now. However, once s/he started her new job,
84 insurance fully covered two sessions a month and covered 66% of any other recommended therapies.
85

86 11. We worked together through the plan for about six months. Carli/Carl diligently attended sessions
87 and gave full effort to improving her/his cognitive processing. We even got to a breakthrough point
88 when Carli/Carl was able to forgive and look with empathy and compassion to the person who killed
89 her/his parents and the carjacker. My professional opinion is that Carli/Carl did reach a point where
90 s/he understood that those individuals' pain did not have to be her/his pain too.
91

92 12. During this time, I recommended that Carli/Carl seek other employment that would be less likely
93 to trigger her/him. The Mini Market was not exactly what I had in mind, but it was a better opportunity.
94 When I learned that Carli/Carl had accepted the job there, I provided a written order that s/he not
95 work the night shift or the parking lot because both of those variables could end up triggering her/him
96 in a form of post-traumatic stress. A trigger is an automatic response to specific stimuli, such as smells,
97 words, sounds, colors – anything really. Triggers are connected with our thoughts, experiences, and
98 memories. A huge part of mindfulness therapy is to identify triggers and coping mechanisms. Early in
99 therapy, however, it is best to avoid triggers until appropriate coping mechanisms have been
100 established. This theory was the basis for my recommendation for Carli/Carl's job related
101 responsibilities. Gasoline was a trigger for Carli/Carl after the incident. Strangers in the dark were also
102 a trigger.
103

104 13. Although we did reach a breakthrough after six months of intensive therapy, I still recommended
105 at least six more months of continued work because I had not quite seen the progress that I needed
106 to see to recommend scaling back. However, about a month before the incident, Carli/Carl started
107 cancelling every appointment because of conflicts in her/his work schedule.
108

109 14. When I was contacted by the Miltonville Police Department about the incident at the Mini Market,
110 I went to the police station to meet with Carli/Carl. S/He looked as despondent as I had ever seen
111 him/her, even more so than when s/he first started seeing me. S/He was barely lucid, almost catatonic,
112 and went through fits of sobbing. Ms. Elissa Haynes, Carli/Carl's attorney, was there as well and told
113 me the details that s/he knew of what happened. When I learned that Carli/Carl had confronted
114 someone they thought was responsible for the earlier carjacking, and that that person may have been
115 attempting to do it again under Carli/Carl's nose, I was afraid that all of the progress we had made had
116 been erased. Once I was able to talk to Carli/Carl, I knew my fears were true. Carli/Carl was convinced
117 that s/he saw the carjacker from before about to steal another car and it was up to Carli/Carl to stop
118 it. After speaking with Ms. Haynes, we agreed that the best place for Carli/Carl was in a mental
119 treatment center nearby where s/he could be monitored and we could start working on reestablishing
120 the neural and mental connections that were shattered by the incident.
121


122 15. The judge thankfully agreed and Carli/Carl was released on bond the next day. I worked with
123 him/her for several weeks in the inpatient residence setting before feeling comfortable with
124 discharging him/her to his/her own residence. When Carli/Carl wanted to make a formal statement
125 about the incident, his attorney didn't want him to do so, fearing it may implicate him in his case.
126 However, Carli/Carl honestly felt s/he did nothing wrong and was trying to do what was right in the
127 moment. Ms. Haynes agreed if I agreed to accompany Carli/Carl to the station with her to help
128 Carli/Carl work through the process of the statement. This was about eight weeks after the incident
129 and Carli/Carl was lucid and mindful, completing the statement on his/her own. It seemed to be a
130 breakthrough moment for him/her. When a client of mine needs me to testify, I always execute a
131 waiver of doctor/patient privilege, which Carli/Carl and I did in this case.

132
133 16. I do not believe that Carli/Carl harbored any premeditated intent with the incident at Mini
134 Market. From all of our work, I can only conclude that Carli/Carl had developed appropriate coping
135 mechanisms for her/his triggers and was appropriately trying to process her/his past and present
136 traumas. Given Carli/Carl's savior complex, I cannot conclude that s/he would have taken action that
137 would harm another person. While I can concede that the defense of one person, even one's self,
138 could result in harm to another person, I do not believe that was the case here.

Mayse Ceridian
Dr. Mayse Ceridian

SIGNED AND SWORN to me on March 30, 2021.

C.M. McCormack
C.M. McCormack, Notary Public



WITNESS ADDENDUM

I have reviewed this statement, given by me on the date above, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed,

Mayse Ceridian
Dr. Mayse Ceridian

Morning of Trial

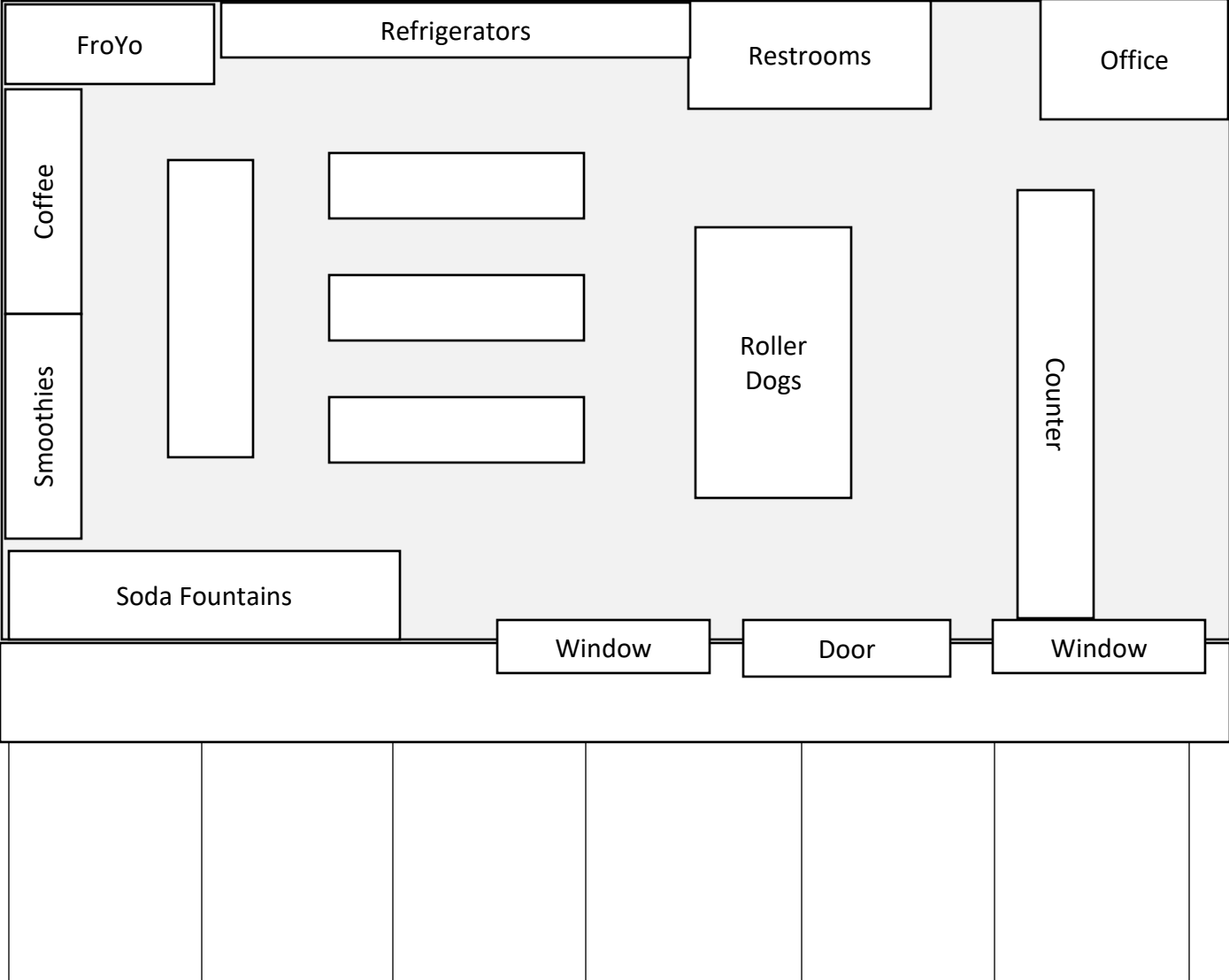
PLACEHOLDER EXHIBIT



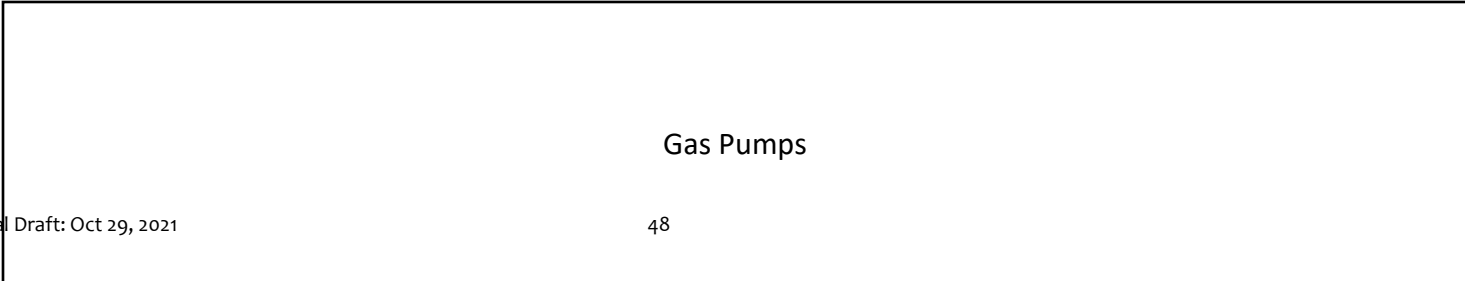
PLACEHOLDER EXHIBIT



PLACEHOLDER EXHIBIT



Final Exhibit will include more details including location of shell casings, final gun location, and victim location.



PLACEHOLDER EXHIBIT

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MILTONVILLE POLICE DEPARTMENT

INCIDENT REPORT

CASE NUMBER: 210320-04		DATE OF REPORT: 3/22/2021 TIME: 09:15		<input checked="" type="checkbox"/> ORIGINAL REPORT <input type="checkbox"/> SUPPLEMENTAL REPORT	
DATE OF OCCURRENCE: 3/20/2021		TIME OF OCCURRENCE: 06:58		DOW: <input type="checkbox"/> Sun <input type="checkbox"/> Mon <input type="checkbox"/> Tues <input type="checkbox"/> Wed <input type="checkbox"/> Thur <input type="checkbox"/> Fri <input checked="" type="checkbox"/> Sat <input type="checkbox"/> Unk	
INCIDENT LOCATION: 963 Hwy 371., Miltonville, GA 30488					
COMMON/BUSINESS NAME: Miltonville Mini Mart		ALCOHOL: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK		DRUG: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK	
CASE STATUS: <input checked="" type="checkbox"/> cleared by arrest <input type="checkbox"/> exceptionally cleared <input type="checkbox"/> unfounded <input type="checkbox"/> inactive <input type="checkbox"/> pending arrest <input type="checkbox"/> pending inv. results <input type="checkbox"/> informational only <input type="checkbox"/> administratively cleared					DATE: 3/21/2021
ATTEMPTED/COMMITTED: <input type="checkbox"/> Committed <input type="checkbox"/> Accessory After <input type="checkbox"/> Accessory Before <input type="checkbox"/> Aid/Abet <input checked="" type="checkbox"/> Assault To <input type="checkbox"/> Attempt to <input type="checkbox"/> Conspiracy To <input checked="" type="checkbox"/> Facilitation Of <input type="checkbox"/> Solicitation To <input checked="" type="checkbox"/> Threat To <input type="checkbox"/> Unfounded					
ATTACK REASON: <input checked="" type="checkbox"/> Assault <input type="checkbox"/> Theft <input checked="" type="checkbox"/> Menace <input type="checkbox"/> Concerned Citizen <input type="checkbox"/> Mental			WEAPON TYPE: <input checked="" type="checkbox"/> Firearm <input type="checkbox"/> Knife/Cutting Instrument <input type="checkbox"/> Hands/Fists/Feet, etc. <input type="checkbox"/> Other Weapon		
# ENTERED: 2	STRUCTURE OCCUPANCY: 4		EVIDENCE OBTAINED: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK		LOCATION TYPE: Gas station
JUVENILE DISPOSITION: <input type="checkbox"/> Handled w/in Dept. <input type="checkbox"/> Referred to Juvenile Court <input type="checkbox"/> Referred to Welfare Agency <input type="checkbox"/> Referred to Other Police <input type="checkbox"/> Referred to Adult Court					
UCR DISPOSITION: <input checked="" type="checkbox"/> Cleared by Arrest – Adult <input type="checkbox"/> Cleared by Arrest - JUV <input type="checkbox"/> Exceptionally Cleared – Adult <input type="checkbox"/> Exception Cleared – JUV <input type="checkbox"/> Unfounded <input type="checkbox"/> Active					
EX CLEARED TYPE: <input type="checkbox"/> Extradition Declined <input checked="" type="checkbox"/> Arrest on Primary Offense <input type="checkbox"/> Death of Offender <input type="checkbox"/> Vict/Witn Refused Cooperate <input type="checkbox"/> Prosecution Declined <input type="checkbox"/> Juvenile/No Custody					
THEFT BY COMPUTER? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK		FORCED ENTRY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK		DATE CLEARED: 3/20/2021 # ARRESTED: 1	
DRUG ACTIVITY: <input checked="" type="checkbox"/> N/A <input type="checkbox"/> Buy <input type="checkbox"/> Deliver <input type="checkbox"/> Use <input type="checkbox"/> Distribute <input type="checkbox"/> Manufacture <input type="checkbox"/> Produce <input type="checkbox"/> Cultivate <input type="checkbox"/> Possess <input type="checkbox"/> Smuggle <input type="checkbox"/> Sell <input type="checkbox"/> Traffic <input type="checkbox"/> Other					
DRUG TYPE: <input checked="" type="checkbox"/> N/A <input type="checkbox"/> Amphetamine <input type="checkbox"/> Barbiturate <input type="checkbox"/> Cocaine <input type="checkbox"/> Heroin <input type="checkbox"/> Hallucinogen <input type="checkbox"/> Marijuana <input type="checkbox"/> Opium/Derivative <input type="checkbox"/> Paraphernalia <input type="checkbox"/> Synthetic					
QUANTITY: N/A		UNITS: <input type="checkbox"/> Gram <input type="checkbox"/> Milligram <input type="checkbox"/> Kilogram <input type="checkbox"/> Ounce <input type="checkbox"/> Pound <input type="checkbox"/> Ton <input type="checkbox"/> Liter <input type="checkbox"/> Milliliter <input type="checkbox"/> Dose			VALUE \$ _____
VICTIM/OFFENDER RELATIONSHIP: None					
ASSAULT/HOMICIDE CIRCUMSTANCES: Victim shot by offender unprovoked.					
CHILDREN WERE... <input type="checkbox"/> Involved <input type="checkbox"/> Present <input checked="" type="checkbox"/> N/A <input type="checkbox"/> Both			OFFICER ACTION: <input type="checkbox"/> Arrest Family Violence <input type="checkbox"/> Arrest Other Offence <input type="checkbox"/> Summons <input type="checkbox"/> Separation <input type="checkbox"/> Unfounded <input type="checkbox"/> Referred to Social		

CASE NUMBER: 210320-04	DATE OF REPORT: 5/20/2019 TIME: 09:15	<input checked="" type="checkbox"/> ORIGINAL REPORT <input type="checkbox"/> SUPPLEMENTAL REPORT
PRIOR COURT ORDERS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK	ALCOHOL USED BY: <input type="checkbox"/> Aggressor <input type="checkbox"/> Victim <input type="checkbox"/> Both Used <input checked="" type="checkbox"/> Neither Used	DRUGS USED BY: <input type="checkbox"/> Aggressor <input type="checkbox"/> Victim <input type="checkbox"/> Both Used <input checked="" type="checkbox"/> Neither Used
PREVIOUS COMPLAINTS: <input checked="" type="checkbox"/> None <input type="checkbox"/> One-Five <input type="checkbox"/> Six-Ten <input type="checkbox"/> More than 10 <input type="checkbox"/> Unknown	SERVICES: <input type="checkbox"/> Advised <input checked="" type="checkbox"/> Not Advised	AGGRESSOR IDENTIFIED BY: <input type="checkbox"/> Physical Evidence <input type="checkbox"/> Testimonial <input checked="" type="checkbox"/> Both
BRIEF DESCRIPTION:		
<p>I received a call from dispatch at 7:04 am, reporting shots fired at the Miltonville Mini Mart on Highway 371. I arrived on scene at 7:08 am. Upon arrival, there were four or five cars in the front lot of the gas station, with four at pumps and one in the handicap space against the front of the building. All drivers at the pumps were either in their cars or hiding behind them. The driver of the parked car was standing at the rear of the car. No obvious threats were present outside. Upon exiting my vehicle, I drew my sidearm and ordered the driver standing at the rear to show his hands and step away from the car. I recognized the driver as [REDACTED] and had him/her move to the sidewalk in front of the car. The male victim was face down on the pavement at the rear of the parked vehicle, with a visible gunshot wound to the left rear shoulder and the right side of his neck. The driver said that the victim was dead.</p> <p>The store's left front door was shattered and all of the glass was on the sidewalk. A Walther PPK was located on the sidewalk. It was retrieved by CSU with four rounds in the magazine. One 9 mm shell casing was found on the sidewalk and one on the pavement.</p> <p>I entered the store through the open right door and cleared the store. Four individuals were inside, identified as Norma/Norman Twiggs, Carli/Carl Holmes, Rachel Jackson, and Breckett Pierson. Pierson and Holmes were in the store's office. Once cleared, I asked Jackson what had happened and she said that Holmes had fired multiple rounds inside the store and in the parking lot, apparently aiming at the deceased. Jackson wasn't aware of any obvious reason for the shooting.</p> <p>At this point, Lt. Barnett and Officer Worley arrived, along with Officer Gaines from the Sheriff's office. Barnett and Worley secured the immediate scene outside and started collecting information from witnesses outside. Gaines called in assistance from the MCSO for traffic control. I instructed Barnett to call CSU and homicide. I then went into the office to detain Holmes and removed Pierson to the storefront. Holmes was compliant and said, "I don't know why I shot him. He had a gun." I radioed Worley to check the deceased for a gun. Worley reported that no gun was found on the victim's body and told Holmes that there wasn't a gun. Holmes asked me, "He didn't have a gun? You need to find it."</p> <p>Before Barnett took Holmes into custody, Holmes asked if the "baby was okay." I told him/her there wasn't a baby involved and confirmed this with Gaines outside. Barnett placed Holmes in cuffs and removed him/her from the store. Holmes was processed at the department.</p> <p>I asked Jackson for any more information she had and she said that Holmes had been written up a month earlier for violating store policy on interacting with customers. She didn't want to provide details but did say it was for getting physical with a minor Holmes thought was shoplifting. Jackson also said that Holmes had a doctor's order to only work daytime shifts and work inside duties. I asked why Holmes was coming off the night shift and Jackson said there was a scheduling mix up but Holmes wanted to "give it a try" to see if s/he could handle it.</p> <p>I asked Jackson if there was any video surveillance in the parking lot and inside the store. She said that the system was new and they hadn't been trained on the settings. I glanced at it but wasn't able to figure it out. She said she would get with the owner to have someone more tech savvy to work on getting us a copy of any footage.</p> <p>I talked to Breckett Pierson who was starting a shift at the time of the shooting. Pierson was behind the counter and had a view of the parking lot and front of the store. Pierson said s/he tried to get Holmes to stop shooting after the first shot but Holmes wouldn't listen. I asked if Pierson recognized the victim and s/he said that Mercado had been at the store a number of times before, using the store's Safe Haven program. I asked when the most recent time had been and Pierson said the day before. Pierson said something during this visit bothered Holmes but s/he didn't know why. I asked Pierson to stay around a little bit longer in case we needed to ask more questions.</p> <p>I next spoke to Norma/Norman Twiggs who had been in the store purchasing a hot dog and coffee when the shooting took place. Twiggs first noticed the victim outside and felt something was "off" about him. Twiggs is an Army veteran and took a defensive posture at the back of the store in anticipation of "something happening." Twiggs said that the victim had his hands in his pockets and was pulling them out when Holmes fired the first shot. Holmes chased the victim out of the store, shooting once inside and twice outside. Twiggs informed me that s/he was carrying a Sig Sauer M17 with a CCP. S/He allowed me to check and clear his/her weapon and confirm that it had not been fired.</p> <p>I talked to [REDACTED]. S/He didn't tell me much about what had happened except the first thing s/he knew something happened was when s/he heard the gunfire outside the store and saw Holmes standing in front of the car with the gun in hand. I asked why s/he didn't react or do anything to stop Holmes and s/he said s/he didn't want to talk any more. Sgt. Saturday told me at the station that [REDACTED] was working [REDACTED].</p> <p>CSU collected the gun and four shell casings and took photos. CSU retrieved a gunshot residue wipe on Holmes before being taken to the station. CSU will run ballistics on the bullets in the victim to compare with the PPK. The ME removed the body and inventoried the victim's contents: Apple iPhone 11, \$40 cash: (1) \$20 and (2) \$10.</p>		

ATTACHMENTS: <input type="checkbox"/> Persons <input type="checkbox"/> Property <input type="checkbox"/> Offenses <input type="checkbox"/> Narrative	GCIC ENTRY <input checked="" type="checkbox"/> Warrant <input type="checkbox"/> Vehicle <input type="checkbox"/> Article <input type="checkbox"/> Boat <input checked="" type="checkbox"/> Gun	
REPORTING OFFICER: <i>Sgt. D Saturday</i>	BADGE: 5590	DATE: 3/21/2021
SUPERVISOR: <i>Capt. Jayden Gordon</i>	BADGE: 4322	DATE: 3/23/2021

The Defendant shall have no contact whatsoever with Mavis Hebbard.

GENERAL CONDITIONS OF PROBATION

The Defendant is subject to arrest for any violation of probation. If probation is revoked, the Court may order incarceration. The Defendant shall comply with the following General Conditions of Probation: 1) Do not violate the criminal laws of any governmental unit and be of general good behavior. 2) Avoid injurious and vicious habits. 3) Avoid persons or places of disreputable or harmful character. 4) Report to the Probation Officer as directed and permit the Probation Officer to visit you at home or elsewhere. 5) Work faithfully at suitable employment insofar as may be possible. 6) Do not change your place of abode, move outside the jurisdiction of the Court, or leave Georgia without permission of the Probation Officer. If permitted to move or travel to another state, you agree to waive extradition from any jurisdiction where you may be found and not contest any effort by any jurisdiction to return you to this State. 7) Support your legal dependents to the best of your ability. 8) When directed, in the discretion of the Probation Officer: (a) submit to evaluations and testing relating to rehabilitation and participate in and successfully complete rehabilitative programming; (b) wear a device capable of tracking location by means including electronic surveillance or global positioning satellite systems; (c) complete a residential or nonresidential program for substance abuse or mental health treatment; and/or (d) agree to the imposition of graduated sanctions as defined by law. 9) Make restitution as ordered by the Court.

Acknowledgment: I have read the terms of this sentence or had them read and explained to me. If all or any part of this sentence is probated I certify that I understand the meaning of the order of probation and the conditions of probation. I understand that violation of special condition of probation could result in revocation of all time remaining on the period of probation.

Thanke Mercado
Defendant

I certify that the Defendant has read the terms of this sentence or had them read and explained to him/her. If all or any part of this sentence is probated, I certify that the Defendant has acknowledged understanding of the meaning of the order of probation and the conditions of probation.

FRANK SMITH
Probation Officer

Steven L. Pruitt IV, Attorney at Law, represented the Defendant by: employment; or appointment.

SO ORDERED this 7th day of June, 2020

Michael Barker
Judge, Superior Court
Milton Judicial Circuit
Judge Michael Barker

Prosecutor: Elizabeth Fite

State of Georgia v. Thanke Mercado
Criminal Action #20CR-HSMT
SC-6.2 Final Disposition Felony Sent. with Probation

- Empty trash receptacles between pumps and restock with empty bag
- Refill window washer stations as needed
- Refill hand sanitizer pumps as needed
- Sweep loose debris and trash in lot and sidewalk

3.9 – Shifts

Employees will be assigned to shifts by week by the store supervisor. Each week's shift assignments run from Saturday to Friday. Employees will have the opportunity to request specific shift assignments provided they be requested by 5 p.m. Wednesday.

Full Shifts:

- A: 7 a.m. – 3 p.m.
- B: 10 a.m. – 6 p.m.
- C: 3 p.m. – 11 p.m.
- D: 11 p.m. – 7 a.m.

Partial Shifts:

- E: 4 a.m. – 7 a.m.
- F: 7 a.m. – 12 p.m.
- G: 12 p.m. – 3 p.m.
- H: 3 p.m. – 6 p.m.
- I: 6 p.m. – 9 p.m.

Employees should arrive 15 minutes prior to the start of shift in order to be on station at the start of the shift. Employee shifts will be registered by clocking in up to 15 minutes before the start of the shift.

3.10 – Max Out

At the end of a shift, employees are expected to “Max Out” the following items to ensure the next shift will start smoothly and customers will find a complete Market:

- Roller items
- Roller condiments and napkins
- MMM cups and lids

Store Safety

4.1 – Safety Expectations

Shift managers are responsible for the safe operation of the Market. Employees are expected to contribute to the safe operation of the Market in their personal actions and in the maintenance of the Market for its customers.

4.2 – Market Maintenance

A clean Market is a safe Market. Employees are expected to maintain their immediate station throughout their shift and help to maintain clean environment throughout the Market property.

4.3 – Reporting and Addressing Safety Concerns

Employees should report any safety concerns to their shift supervisor immediately. Simple concerns should be remedied by the employee as soon as possible:

- Spills
- Obstruction in aisles
- Entrance rugs
- Merchandise falling off shelves/displays
- Displaced furnishings
- Trash/debris outdoors

Miltonville Mini Market

Complex concerns will be addressed by supervisors and management:

- Lighting
- Malfunction of building systems (AC, doors, refrigeration/freezers, running water)
- Malfunction of store fixtures (Roller machines, fountains, smoothie machines, frozen yogurt machines, permanent displays/fixtures/furnishings)
- Gas pump malfunctions

4.4 – Reporting Criminal Activity

Supervisors and employees are prohibited from confronting or attempting to stop suspected criminal activity. Any suspicion of criminal activity must immediately be reported to the shift supervisor. Any employee who witnesses suspected criminal activity should attempt to observe the activity from a safe distance and make record of any details about the activity to provide to the authorities: descriptions, license plate numbers, overheard statements, identification of individuals involved and other witnesses, time, etc.

The shift supervisor will contact local authorities for assistance. Market personnel will assist local authorities as much as possible in resolving the situation without endangering themselves or our customers.

4.5 – Incident Reports

Employees must report all safety incidents and accidents to the shift supervisor as soon possible. A Market Incident Report must be completed by the employee and supervisor, detailing nature of accident, injuries sustained, and actions taken to remedy the situation.

4.6 – Prohibited Items

The following items are prohibited on all Market property:

- Illegal drugs
- Weapons, unless allowed by state issued license
- Possession of alcohol and tobacco by minors

The following items are prohibited from inside Market:

- Propane gas canisters
- Animals (certified service animals excepted)
- Motorized vehicles
- Cleats/golf shoes
- Skateboards, roller blades/skates

Safe Haven

The Miltonville Mini Market is a partner in the Safe Haven Program, administered by the Georgia Division of Family and Children Services. As a Safe Haven location, the Market strives to be a safe refuge for individuals under 21 years old who need assistance from DFCS programs. Individuals seeking assistance are to be provided a meal, drink, restroom access, and contact with the DFCS Safe Haven coordinating center.

Employees are expected to extend the Market's Extra Mile Service to individuals seeking Safe Haven assistance. A supervisor should be notified when an individual seeks assistance.

EMPLOYEE DISCIPLINARY ACTION FORM

Employee: Carli/Carl HolmesDate of Warning: January 15, 2021Department: ClerkSupervisor: Theo Barnett

Type of Warning

 - First Warning - Second Warning - Third Warning

Reason for Warning

 - Attendance - Carelessness - Disobedience - Safety - Tardiness - Work Quality - Other (explain) _____Violation Date: Jan 14 Time: 4:12 pm

Description of Infraction:

During his/her shift at the registers, Carli/Carl confronted a 14-year-old customer, accusing her of stealing a bag of Doritos. The customer said she was still looking and was going to pay. Carli/Carl grabbed the girl's wrist and tried to pull her to the office and called for someone to call the police. I heard the yelling and intervened. Carli/Carl was sent home for the rest of the shift.

Plan for Improvement

Carli/Carl was required to review the employee manual regarding customer safety and protocols set up regarding suspected theft. I discussed with him/her what needed to be done next time.

Signatures

Further misconduct or violation(s) will result in disciplinary action, up to and including immediate suspension or termination. I have read this Warning Notice and understand it.

Employee's Signature: Carli/Carl Holmes Date: 1/15Employer's/Supervisor's Signature: Theo Barnett Date: Jan 15, 21

Milton County Sheriff's Office

Text message log

Requested by: Sgt. Danni/Danny Saturday, MPD

Case No: MPD 210320-04

Log created by: Caleb Evans, MCSO

Date: 3/26/21, 10:15

Account phone number: 678-138-7092

Account holder: Danke Mercado | Horizon Wireless

*To 404-195-4556**3/18/21, 9:48*

I got your number from Regan Montero. S/He said you could help me get out of a gang.

...

*From 404-195-4556**3/18/21, 9:56*

Yes. My name is Christopher McFadden and I run New Path Outreach. We help individuals like you make a safe transition out of gangs into a more sustainable lifestyle. I would be happy to talk about the program and how to apply. Are you able to talk?

...

*To 404-195-4556**3/18/21, 14:15*

K. Can I call you on Saturday?

...

*From 404-195-4556**3/18/21, 9:56*

Yes. I will be available after 9 am. We have open spots.

...

COMING SOON

Legal Authorities

Statutes

OCGA § 16-3-20. Justification

The fact that a person's conduct is justified is a defense to prosecution for any crime based on that conduct. The defense of justification can be claimed:

- (1) When the person's conduct is justified under Code Section 16-3-21, 16-3-23, 16-3-24, 16-3-25, or 16-3-26;...

OCGA § 16-3-21. Use of force in defense of self or others; evidence of belief that force was necessary in murder or manslaughter prosecution

- (a) A person is justified in threatening or using force against another when and to the extent that he or she reasonably believes that such threat or force is necessary to defend himself or herself or a third person against such other's imminent use of unlawful force; however, except as provided in Code Section 16-3-23, a person is justified in using force which is intended or likely to cause death or great bodily harm only if he or she reasonably believes that such force is necessary to prevent death or great bodily injury to himself or herself or a third person or to prevent the commission of a forcible felony.
- (b) A person is not justified in using force under the circumstances specified in subsection (a) of this Code section if he:
 - (1) Initially provokes the use of force against himself with the intent to use such force as an excuse to inflict bodily harm upon the assailant;
 - (2) Is attempting to commit, committing, or fleeing after the commission or attempted commission of a felony; or
 - (3) Was the aggressor or was engaged in a combat by agreement unless he withdraws from the encounter and effectively communicates to such other person his intent to do so and the other, notwithstanding, continues or threatens to continue the use of unlawful force.
- (c) Any rule, regulation, or policy of any agency of the state or any ordinance, resolution, rule, regulation, or policy of any county, municipality, or other political subdivision of the state which is in conflict with this Code section shall be null, void, and of no force and effect.
- (d) In a prosecution for murder or manslaughter, if a defendant raises as a defense a justification provided by subsection (a) of this Code section, the defendant, in order to establish the defendant's reasonable belief that the use of force or deadly force was immediately necessary, may be permitted to offer:
 - (1) Relevant evidence that the defendant had been the victim of acts of family violence or child abuse committed by the deceased, as such acts are described in Code Sections 19-13-1 and 19-15-1, respectively; and
 - (2) Relevant expert testimony regarding the condition of the mind of the defendant at the time of the offense, including those relevant facts and circumstances relating to the family violence or child abuse that are the bases of the expert's opinion.

OCGA § 16-3-23. Use of force in defense of habitation

A person is justified in threatening or using force against another when and to the extent that he or she reasonably believes that such threat or force is necessary to prevent or terminate such other's unlawful entry into or attack upon a habitation; however, such person is justified in the use of force which is intended or likely to cause death or great bodily harm only if:

- (1) The entry is made or attempted in a violent and tumultuous manner and he or she reasonably believes that the entry is attempted or made for the purpose of assaulting or offering personal violence to any person dwelling or being therein and that such force is necessary to prevent the assault or offer of personal violence;
- (2) That force is used against another person who is not a member of the family or household and who unlawfully and forcibly enters or has unlawfully and forcibly entered the residence and the person using such force knew or had reason to believe that an unlawful and forcible entry occurred; or
- (3) The person using such force reasonably believes that the entry is made or attempted for the purpose of committing a felony therein and that such force is necessary to prevent the commission of the felony.

OCGA § 16-3-23.1. No duty to retreat prior to use of force in self-defense

A person who uses threats or force in accordance with Code Section 16-3-21, relating to the use of force in defense of self or others, Code Section 16-3-23, relating to the use of force in defense of a habitation, or Code Section 16-3-24, relating to the use of force in defense of property other than a habitation, has no duty to retreat and has the right to stand his or her ground and use force as provided in said Code sections, including deadly force.

OCGA § 16-3-24. Use of force in defense of property other than a habitation

- (a) A person is justified in threatening or using force against another when and to the extent that he reasonably believes that such threat or force is necessary to prevent or terminate such other's trespass on or other tortious or criminal interference with real property other than a habitation or personal property:
 - (1) Lawfully in his possession;
 - (2) Lawfully in the possession of a member of his immediate family; or
 - (3) Belonging to a person whose property he has a legal duty to protect.
- (b) The use of force which is intended or likely to cause death or great bodily harm to prevent trespass on or other tortious or criminal interference with real property other than a habitation or personal property is not justified unless the person using such force reasonably believes that it is necessary to prevent the commission of a forcible felony.

OCGA § 16-3-24.1. Habitation and personal property defined

As used in Code Sections 16-3-23 and 16-3-24, the term "habitation" means any dwelling, motor vehicle, or place of business, and "personal property" means personal property other than a motor vehicle.

OCGA § 16-5-2. Aggravated assault

- (a) A person commits the offense of aggravated assault when he or she assaults:
 - (1) With intent to murder, to rape, or to rob;
 - (2) With a deadly weapon or with any object, device, or instrument which, when used offensively against a person, is likely to or actually does result in serious bodily injury

OCGA § 16-11-106. Possession of firearm or knife during commission of or attempt to commit certain crimes

- (b) Any person who shall have on or within arm's reach of his or her person a firearm or a knife having a blade of three or more inches in length during the commission of, or the attempt to commit:
 - (1) Any crime against or involving the person of another;

Case Law

The following excerpts are from Case Law concerning the legal issues raised in this mock trial case. Only portions of the opinions are provided, and only those portions may be used in the course of the trial. Citations and internal quotation marks are omitted in the excerpts of the cases that follow.

[The defendant] argues that the trial court erred by excluding evidence of a violent robbery committed by [the victim] against a third party, despite the fact that prior to the murder, [the defendant] had no knowledge of the robbery. We disagree. [The defendant] bases his contention on *Chandler v. State*, 261 Ga. 402, 407(3)(c) (1991), in which this Court created an evidentiary exception ‘permit[ting] a defendant claiming justification to introduce evidence of specific act of violence by the victim against third persons.’ *Chandler*, however, was decided under Georgia’s old evidence code, and, it related specifically to the application of that old code. – ***Mohamud v. State*, 297 Ga. 532, 535 (2015)**.

Even though OCGA § 16–3–21(d)(2) provides for the admissibility of relevant expert testimony regarding the condition of the mind of a defendant in a situation of abuse, it has “not otherwise changed the rule in homicides where justification is raised as a defense, namely, that justification is based upon the fears of a reasonable person, not upon the reasonable fears of the defendant. – ***Selman v. State*, 267 Ga. 198, 200 (1996) (citing *Johnson v. State*, 266 Ga. 624, 627(2) (1996))**.

The critical factor in a justification defense is whether a defendant acted with the fear of a reasonable person under the circumstances... Because justification is based on the fears of a *reasonable* person, the *subjective* fears of a particular defendant are irrelevant in the evaluation of this defense. For this reason, we have on numerous occasions found inadmissible to support a justification defense evidence of violent acts or abuse committed against a defendant by someone other than the victim. Even if it can be said the trial court erred in excluding the proffered evidence of childhood abuse, we would find no harm because appellant's experts were permitted to testify that she suffered from PTSD and battered person syndrome as a result of her childhood experiences... This testimony was sufficient to allow the jury to give full consideration to appellant's justification defense. – ***O’Connell v. State*, 294 Ga. 379 (2014) (citations omitted)**.

**IN THE SUPERIOR COURT OF MILTON COUNTY
STATE OF GEORGIA**

STATE OF GEORGIA,

v.

CARLI/CARL HOLMES,

Defendant.

)
)
)
)
)
)
)
)

CRIMINAL ACTION NO: 22CR-HSMT

THE CHARGE OF THE COURT

[Not to be read in open court]

Indictment/Accusation

You are considering the case of the State of Georgia versus Carli/Carl Holmes. The grand jury has indicted the defendant with the offenses of FELONY MURDER, AGGRAVATED ASSAULT, and POSSESSION OF A FIREARM DURING THE COMMISSION OF A FELONY.

Issue and Plea of Not Guilty

The defendant has entered a plea of not guilty to this indictment. The indictment and the plea form the issue that you are to decide. Neither the indictment nor the plea of not guilty should be considered as evidence.

Presumption of Innocence; Burden of Proof; Reasonable Doubt

The defendant is presumed to be innocent unless and until proven guilty. The defendant enters upon the trial of the case with a presumption of innocence in his/her favor. This presumption remains with the defendant unless and until it is overcome by the state with evidence that is sufficient to convince you beyond a reasonable doubt that the defendant is guilty of the offense charged. No person shall be convicted of any crime unless and until each element of the crime as charged is proven beyond a reasonable doubt.

The burden of proof rests upon the State to prove every material allegation of the indictment and every essential element of the crime charged beyond a reasonable doubt. There is no burden of proof upon the defendant whatsoever, and the burden never shifts to the defendant to introduce evidence or to prove innocence.

However, the state is not required to prove the guilt of the accused beyond all doubt or to a mathematical certainty. A reasonable doubt is a doubt of a fair-minded impartial juror honestly seeking the truth. A reasonable doubt is a doubt based upon common sense and reason. It does not mean a vague or arbitrary doubt but is a doubt for which a reason can be given, arising from a consideration of the evidence, a lack of evidence, or a conflict in the evidence.

After giving consideration to all of the facts and circumstances of this case, if your minds are wavering, unsettled, or unsatisfied, then that is a doubt of the law, and you must acquit the defendant. But, if that

doubt does not exist in your minds as to the guilt of the accused, then you would be authorized to convict the defendant.

If the state fails to prove the defendant's guilt beyond a reasonable doubt, it would be your duty to acquit the defendant.

Grave Suspicion

Facts and circumstances that merely place upon the defendant a grave suspicion of the crime charged or that merely raise a speculation or conjecture of the defendant's guilt are not sufficient to authorize a conviction of the defendant.

Jury; Judges of Law and Facts

Members of the jury, it is my duty and responsibility to determine the law that applies to this case and to instruct you on that law. You are bound by these instructions. It is your responsibility to determine the facts of the case from all of the evidence presented. Then you must apply the law I give you in the charge to the facts as you find them to be.

Evidence; Generally

Your oath requires that you will decide this case based on evidence. Evidence is the means by which any fact that is put in issue is established or disproved. Evidence includes all of the testimony of the witnesses and any exhibits admitted during the trial. Evidence does not include the indictment, the plea of not guilty, opening, or closing remarks of the attorneys, or questions asked by the attorneys.

Stipulations

The parties have entered into certain stipulations that have been approved by the court. Where parties stipulate facts, this is in the nature of evidence. You may take that fact or those facts as a given without the necessity of further proof. However, you are not required to do so, and even such matters may be contradicted by other evidence. You make all decisions based on the evidence in this case.

Direct and Circumstantial Evidence

Evidence may be either direct or circumstantial or both. In considering the evidence, you may use reasoning and common sense to make deductions and reach conclusions. You should not be concerned about whether the evidence is direct or circumstantial.

Direct evidence is that which may be seen or heard or otherwise directly sensed, such as by smell or taste or touch. It may be brought into court in the form of exhibits or the testimony of direct witnesses to such matters. It is evidence that points immediately to the issue in question.

When direct evidence, by inference, points to an obvious, likely, or reasonable conclusion—even though that conclusion was not directly seen, heard, smelled, tasted, or touched—that is said to be circumstantial evidence. Circumstantial evidence is the proof of facts or circumstances, by direct evidence, from which you may infer other related or connected facts that are reasonable and justified in light of your experience. It is evidence that only tends to establish a conclusion in question by its consistency with such conclusion or elimination of other conclusions. Sometimes circumstantial evidence may point to more than one conclusion.

To authorize a conviction on circumstantial evidence, the proved facts must not only be consistent with the theory of guilt but also exclude every other reasonable theory other than the guilt of the accused.

The law does not require a higher or greater degree of certainty on the part of the jury to return a verdict based upon circumstantial evidence than upon direct evidence.

Whether dependent upon direct evidence or circumstantial evidence or both, the true test is whether there is sufficient evidence or whether the evidence is sufficiently convincing to satisfy you beyond a reasonable doubt. If not, you must acquit; if so, you may convict.

There is no rule that either circumstantial or direct evidence is stronger than the other if conflicting. The comparative weight of circumstantial evidence and direct evidence on any given issue is a question of fact for the jury to decide.

Credibility of Witness

The jury must determine the credibility of the witnesses. In deciding this, you may consider all of the facts and circumstances of the case, including the witnesses' manner of testifying, their means and opportunity of knowing the facts about which they testify, the probability or improbability of their testimony, their interest or lack of interest in the outcome of the case, and their personal credibility as you observe it.

Witness, Attacked

In determining the credibility of witnesses and any testimony by them in court, you may consider, where applicable, evidence offered to attack the credibility or believability of any such witness. This would include evidence of:

- a. *Character for untruthfulness.* Shown by opinion of other witnesses, reputation, or "Bad Acts" – specific instances of conduct of the witness in question, brought out on cross-examination of that or another witness that may relate to that witness's character for untruthfulness.
- b. *Bias toward a party.* Shown by "Bad Acts" – specific instances of conduct of the witness in question that may relate to the witness's bias toward a party.
- c. *Felony conviction.* Proof that the witness has been convicted of the offense of Armed Robbery, Aggravated Assault, or Possession of Firearm by Convicted Felon.
- d. *Crime of dishonesty conviction.* Proof that the witness has been convicted of a crime involving dishonesty or making a false statement.

Witness, Impeached by

To impeach a witness is to prove the witness is unworthy of belief. A witness may be impeached by:

- a. Disproving the facts to which the witness testified;
- b. Proof of general bad character;
- c. Proof that the witness has been convicted of a crime involving dishonesty or false statement; or
- d. Proof of contradictory statements, previously made by the witness, as to matters relevant to the witness's testimony and to the case.

If it is sought to impeach a witness by "b," "c," or "d," above, proof of the general good character of the witness may be shown. The effect of the evidence is to be determined by the jury.

If any attempt has been made in this case to impeach any witness by proof of contradictory statements previously made, you must determine from the evidence:

- a. First, whether any such statements were made;
- b. Second, whether they were contradictory to any statements the witness made on the witness stand; and
- c. Third, whether it was material to the witness's testimony and to the case.

If you find that a witness has been successfully impeached by proof of previous, contradictory statements, you may disregard that testimony, unless it is corroborated by other credible testimony, and the credit to be given to the balance of the testimony of the witness would be for you to determine.

It is for you to determine whether or not a witness has been impeached and to determine the credibility of such witness and the weight the witness's testimony shall receive in the consideration of the case.

Witness, Supported

In determining the credibility of any witness whose credibility has been attacked, cast doubt upon, or challenged as I have described above and any testimony by him or her in court, you may consider, where applicable, evidence offered to support the credibility or believability of any such witness.

Good Character of Defendant

You have heard evidence of the character of the defendant in an effort to show that the defendant likely acted in keeping with such character or trait at pertinent times or with reference to issues in this case. This evidence has been offered in the form of opinion of other witnesses, reputation, and specific instances of conduct of the defendant showing such trait. You should consider any such evidence along with all the other evidence in deciding whether or not you have a reasonable doubt about the guilt of the defendant.

Prior Statements

Your assessment of a trial witness's credibility may be affected by comparing or contrasting that testimony to statements or testimony of that same witness before the trial started. It is for you to decide whether there is a reasonable explanation for any inconsistency in a witness's pre-trial statements and testimony when compared to the same witness's trial testimony. As with all issues of witness credibility, you the jury must apply your common sense and reason to decide what testimony you believe or do not believe.

Single Witness; Corroboration

The testimony of a single witness, if believed, is sufficient to establish a fact. Generally, there is no legal requirement of corroboration of a witness, provided you find the evidence to be sufficient.

Intent

Intent is an essential element of any crime and must be proved by the State beyond a reasonable doubt. Intent may be shown in many ways, provided you, the jury, believe that it existed from the proven facts before you. It may be inferred from the proven circumstances or by acts and conduct, or it may be, in your discretion, inferred when it is the natural and necessary consequence of the act. Whether or not you draw such an inference is a matter solely within your discretion.

No Presumption of Criminal Intent

This defendant will not be presumed to have acted with criminal intent, but you may find such intention (or the absence of it) upon a consideration of words, conduct, demeanor, motive, and other circumstances connected with the act for which the accused is being prosecuted.

Definition of Crime

This defendant is charged with a crime against the laws of this state. A crime is a violation of a statute of this state in which there is a joint operation of an act and intention.

Felony Murder; Defined

A person also commits the crime of murder when, in the commission of a felony, that person causes the death of another human being irrespective of malice. Under our law, aggravated assault is a felony, and is defined as follows:

An assault is an attempt to commit a violent injury to the person of another. A person commits the offense of aggravated assault when that person assaults another person with a deadly weapon, or with any object, device, or instrument which, when used offensively against a person, is likely to or actually does result in serious bodily injury.

Murder; Felony, during Commission of

In order for a homicide to have been done in the commission of this particular felony, there must be some connection between the felony and the homicide. The homicide must have been done in carrying out the unlawful act and not collateral to it. It is not enough that the homicide occurred soon or presently after the felony was attempted or committed. There must be such a legal relationship between the homicide and the felony so as to cause you to find that the homicide occurred before the felony was at an end or before any attempt to avoid conviction or arrest for the felony. The felony must have a legal relationship to the homicide, be at least concurrent with it in part, and be a part of it in an actual and material sense. A homicide is committed in the carrying out of a felony when it is committed by the accused while engaged in the performance of any act required for the full execution of the felony.

Motive

Proof of particular motive is not essential to constitute the crime of murder. Evidence of motive, if any, is admitted for your determination as to whether or not it establishes the state of the defendant's mind at the time of the alleged homicide.

Assault, Simple; Generally

A person commits simple assault when that person attempts to commit a violent injury to the person of another or commits an act that places another in reasonable apprehension of immediately receiving violent injury.

Aggravated Assault

A person commits the offense of aggravated assault when that person assaults another person with a deadly weapon that when used offensively against a person, is likely to or actually does result in serious bodily injury.

The State must also prove as a material element of aggravated assault, as alleged in this case, that the assault was made with a deadly weapon that, when used offensively against a person, is likely to or actually does result in serious bodily injury.

A firearm, when used as such, is a deadly weapon as a matter of law.

Firearm During Commission of Crime; Possession of

A person commits the offense of possession of a firearm during commission of a crime when the person has on or within arm's reach of his/her person a firearm during the commission of or any attempt to commit a felony, which is:

- a. any crime against or involving the person of another.

The offense of Felony Murder is a felony under the laws of this state and is defined as previously stated.

Intent

Intent is an essential element of any crime and must be proved by the state beyond a reasonable doubt.

Intent may be shown in many ways, provided you, the jury, believe that it existed from the proven facts before you. It may be inferred from the proven circumstances or by acts and conduct, or it may be, in your discretion, inferred when it is the natural and necessary consequence of the act. Whether or not you draw such an inference is a matter solely within your discretion.

Affirmative Defense; Definition; Burden of Proof

An affirmative defense is a defense that admits the doing of the act charged but seeks to justify, excuse, or mitigate it. Once an affirmative defense (other than that of insanity) is raised, the burden is on the State to disprove it beyond a reasonable doubt.

Justification; Generally

If you find that the defendant's conduct was justified, this is a defense to prosecution for any crime based on that conduct, provided the defendant's conduct is justified under O.C.G.A. §§16-3-21, 16-3-23, 16-3-24, 16-3-25, 16-3-26.

Use of Force in Defense of Self

A person is justified in threatening or using force against another person when, and to the extent that, he/she reasonably believes that such threat or force is necessary to defend himself/herself against the other's imminent use of unlawful force. A person is justified in using force which is intended or likely to cause death or great bodily harm only if that person reasonably believes that such force is necessary to prevent death or great bodily injury to himself/herself or to prevent the commission of a forcible felony.

The state has the burden of proving beyond a reasonable doubt that the defendant was not justified.

A person is not justified in using force, if that person:

- a. Initially provokes the use of force against himself/herself with the intent to use such force as an excuse to inflict bodily harm upon the assailant; or
- b. Is attempting to commit, committing, or fleeing after the commission or attempted commission of a felony; or

- c. Was the aggressor or was engaged in a combat by agreement, unless the person withdraws from the encounter and effectively communicates his/her intent to withdraw to the other person, and the other person still continues or threatens to continue the use of unlawful force.

Forcible Felony, Definition

A forcible felony means any felony which involves the use or threat of physical force or violence against any person.

Aggravated assault is a felony, and I have previously defined it for you.

Doctrine of Reasonable Beliefs

In applying the law of self-defense, a defendant is justified to kill another person in defense of self. The standard is whether the circumstances were such that they would excite not merely the fears of the defendant but the fears of a reasonable person. For the killing to be justified under the law, the accused must have really acted under the influence of these fears and not in a spirit of revenge.

What the facts are in this case is a matter solely for you, the jury, to determine under all the facts and circumstances of this case.

Retreat (No Duty to Retreat to Be Justified)

One who is not the aggressor is not required to retreat before being justified in using such force as is necessary for personal defense, or in using force which is likely to cause death or great bodily harm, if one reasonably believes such force is necessary to prevent death or great bodily injury to himself/herself or to prevent the commission of a forcible felony.

Justification; Threats, Menaces Causing Reasonable Beliefs of Danger

It is not essential, to justify a homicide, that there should be an actual assault made upon the defendant.

Threats, accompanied by menaces, though the menaces do not amount to an actual assault, may, in some instances, be sufficient to arouse a reasonable belief that one's life is in imminent danger, or that one is in imminent danger of great bodily injury, or that a forcible felony is about to be committed upon one's person.

Provocation by threats or words alone will in no case justify the homicide or be sufficient to free the accused from the crime of murder when the killing is done solely in resentment of the provoking words.

Whether or not the killing, if there was a killing, was done under circumstances which would be justifiable or was done solely as a result of, and in resentment of, threats or provoking words alone is a matter for you, the jury, to determine.

If you believe that the defendant was justified under the instructions which the court has given you, then it would be your duty to acquit the defendant.

Excessive Force

The use of excessive force or unlawful force, while acting in self-defense, is not justifiable, and the defendant's conduct in this case would not be justified if you find that the force used exceeded that which the defendant reasonably believed was necessary to defend against the victim's use of unlawful force, if any.

Venue

The law provides that criminal actions shall be tried and indicted in the county in which the crime was committed.

Venue, that is, the crime was committed in Milton County, Georgia is a jurisdictional fact that must be proved by the State beyond a reasonable doubt as to each crime charged in the indictment just as any element of the offense(s). Venue must be proved by direct or circumstantial evidence, or both.

Verdict; Generally

As to each count of the indictment, you should deliberate as follows. If, after considering the testimony and evidence presented to you, together with the charge of the court, you should find and believe beyond a reasonable doubt that the defendant in Milton County, Georgia, did on or about the date alleged commit the offense as alleged in the indictment, you would be authorized to find the defendant guilty. In that event, the form of your verdict would be, "We, the jury, find the defendant guilty."

If you do not believe that the defendant is guilty, or if you have any reasonable doubt as to the defendant's guilt, then it would be your duty to acquit the defendant, in which event the form of your verdict would be, "We, the jury, find the defendant not guilty."

Court Has No Interest in Case

By no ruling or comment that the court has made during the progress of the trial has the court intended to express any opinion upon the facts of this case, upon the credibility of the witnesses, upon the evidence, or upon the guilt or innocence of the defendant.

Sympathy

Your verdict should be a true verdict based upon your opinion of the evidence according to the laws given you in this charge. You are not to show favor or sympathy to one party or the other. It is your duty to consider the facts objectively without favor, affection, or sympathy to either party.

Sentencing; Responsibility for

You are only concerned with the guilt or innocence of the defendant. You are not to concern yourselves with punishment.

Deliberations

One of your first duties in the jury room will be to select one of your number to act as foreperson, who will preside over your deliberations and who will sign the verdict to which all twelve of you freely and voluntarily agree.

You should start your deliberations with an open mind. Consult with one another and consider each other's views. Each of you must decide this case for yourself, but you should do so only after a discussion and consideration of the case with your fellow jurors. Do not hesitate to change an opinion if you are convinced that it is wrong. However, you should never surrender an honest opinion in order to be congenial or to reach a verdict solely because of the opinions of the other jurors.

Unanimous Verdict

Whatever your verdict is, it must be unanimous, that is, agreed to by all. The verdict must be in writing and signed by one of your members as foreperson, dated, and returned to be published in open court.

Retire to Jury Room

You may now retire to the jury room, but do not begin your deliberations until you receive the indictment and any evidence that has been admitted in the case.

Bailiff, please escort the jury to the jury room.

2022 RULES OF COMPETITION AND EVIDENCE

OF THE

GEORGIA HIGH SCHOOL MOCK TRIAL COMPETITION

These rules are in effect October 1, 2021 through September 30, 2022.

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I. RULES OF THE ORGANIZATION

A. THE PROBLEM

Rule 1. Rules

- (a) The Georgia Mock Trial Competition, and all of the Special Projects sponsored by the Georgia High School Mock Trial Committee, including, but not limited to, the Law Academy and the Court Artist Competition, are governed by the Rules of the Organization, the Rules of Procedure, and the Georgia High School Mock Trial Rules of Evidence. Specifically, the Code of Ethical Conduct identified in Rule 7(m), and the disciplinary processes outlined in Rule 10 are applicable to the Competition and to the Special Projects noted above. Additionally, all policies of the Georgia Mock Trial Competition contained in the Policy Manual and Coaches Manual are binding on participating teams. Any clarification of rules or case materials will be issued in writing to all participating teams and/or students.
- (b) These Rules provide governance for an in-person season. Rules governing virtual aspects of the competition are maintained in a reserve appendix. In the event that it becomes necessary to conduct all or part of the competition levels in a virtual format, those rules will be published by the Georgia Mock Trial Competition as soon as practicable.
- (c) When a team registers to compete in this program, that team agrees to comply with the rules, the policies, and the Code of Ethical Conduct of the Georgia High School Mock Trial Competition. The Rules Subcommittee has the authority to remove a team or individual team members or coaches from the Georgia High School Mock Trial Competition for non-compliance with these rules, with competition policy and/or the Code of Ethical Conduct.
- (d) Any modification to the rules of a competition made on-site must be reduced to writing and signed by the trial coordinator and the teacher or attorney coaches of the affected teams.
- (e) Individual scoring judges have within their discretion the ability to discount points for violations of these rules.
- (f) The Mock Trial season shall extend from October 1 through the Final Round of the State Finals tournament.

Rule 2. The Problem

The problem will be an original fact pattern, which may contain any or all of the following: statement of facts, indictment, stipulations, witness statements/affidavits, jury charges, exhibits, etc. Stipulations may not be disputed at trial. Witness statements may not be altered. Only three witnesses per side will be called.

- (a) The Problem shall not be used as a basis for any course of study, at any instructional level, during the competition year for which the Problem is created until such time as the Final Round of the State Competition has been completed and scored.
- (b) This Rule shall apply to elementary, middle school, high school, college, graduate, and post-graduate programs, private and public, whether or not individuals who would direct or otherwise be involved in the study or analysis of the Problem support a mock trial team or smaller groups of individual members of any mock trial team.
- (c) Any use of the Problem in the competition year for which it was created as outlined above shall be interpreted as a violation of the Young Lawyers Division, State Bar of Georgia copyright of said materials, whether or not used for a non-profit or educational purpose. Further, any such use of the Problem in the manner outlined above by any individual involved in any way with the coaching or support of a mock trial team or smaller groups of individual members of a mock trial team shall be deemed a violation of the Procedural and Ethical Rules of Competition, regardless of whether any information shared in the course of study is shared with a competition team or members thereof.

Rule 3. Witness Bound by Statements

- (a) Each witness is bound by the facts contained in his/her own witness statement and/or any exhibits 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 under Rule 4, outside the scope of the problem.
- (b) 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.
- (c) Students shall be prohibited from responding with new material facts which are not in their witness statements or consistent with the Statement of Facts.
- (d) A witness is not bound by facts contained in other witness statements or testimony of other witnesses presented during the trial.
- (e) The Case Summary (or Statement of Facts), if provided, is meant to serve as background information only. It may not be used for substantive evidence, cross-examination, or impeachment.

Rule 4. Unfair Extrapolation

(Additional explanations regarding this rule may be found in the Coaches Manual)

- (a) An extrapolation is a fact brought into the trial that is not contained in the case materials.
 - 1. A fair extrapolation is one that provides no advantage to either side.
 - 2. An unfair extrapolation is one that materially affects the witness' testimony or any substantive issue of the case and serves to provide an adversarial advantage or disadvantage to one side.
- (b) Unfair extrapolations are best attacked through impeachment and closing arguments and are to be dealt with in the course of the trial.
- (c) Attorneys shall not ask questions calling for information outside the scope of the case materials or requesting an unfair extrapolation. If a witness is asked information not contained in the witness' statement, the answer must be consistent with the statement and may not materially affect the witness' testimony or any substantive issue of the case.
- (d) Attorneys for the opposing team may refer to Rule 4 in a special objection, such as "unfair extrapolation" or "This information is beyond the scope of the statement of facts."

- (e) Possible rulings by a judge include:
 1. No extrapolation has occurred;
 2. An unfair extrapolation has occurred; or
 3. The extrapolation was fair.
- (f) When an attorney objects to an extrapolation, the judge will rule in open court to clarify the course of further proceedings.
- (g) The decision of the presiding judge regarding extrapolations or evidentiary matters is final.
- (h) Points should be deducted from individual scores of participants who make unfair extrapolations or ask questions that call for unfair extrapolations. Witnesses and attorneys making unfair extrapolations and attorneys who ask questions that require the witness to answer with an unfair extrapolation should be penalized by having a point or points deducted from their individual scores.
- (i) The number of points deducted should be determined by the severity of the extrapolation. If a team has several team members making unfair extrapolations, the offending team's overall points should also be reduced accordingly.
(See Rule 29 for the treatment of rule infractions.)

Rule 5. Witnesses

Any student may play any witness role, regardless of the student's race, religion, ethnicity, sex, physical attributes, or disability. Where a witness is specifically described as being of a particular sex, religion, or race or as having a particular physical attribute, injury, or disability, any student of any sex, religion, race, physical attribute, or disability may play that role. At no time will an examining attorney or witness make an issue of the student's actual race, religion, ethnicity, sex, physical attributes, or disability at trial, but both will be confined to the case's description of the witness role being portrayed. The gender of students will be clearly indicated on the Trial Squad Roster form.

Rule 6. Voir Dire

Voir dire examination of a witness is not permitted.

B. THE TEAM

Rule 7. Mock Trial Team

"Competition levels" are defined in Rule as the separate stages of the season's competition: Regions, District, and State Finals.

- (a) *Team Composition and Eligibility*— A team shall be composed of 1) young people who are between the ages of 14 and 19 and who are currently enrolled or receiving educational instruction at the high school level; 2) at least one attorney coach; and 3) at least one teacher coach, each in compliance with subsections (c) through (e) below. There is no limit on the number of students that may participate in a school's mock trial program.
- (b) *Number of Teams per School*—Each school may register up to two teams to compete. Each team must submit its own registration form and fee and will compete as independent teams throughout the season.
 1. Teams must submit a Competing Team Declaration by the deadline set by the Mock Trial office prior to the first Round at each level of the competition. The Team Declaration will list the competing and non-competing students from that team. Once submitted, students may not compete with another team from their school throughout the duration of that level of competition. Teams may make changes to their Team Declaration between levels of the competition.
 2. Students may move between teams from their school between the levels of competition.
 3. Only one team from a school may advance to the State Finals Competition. Should two teams from the same school qualify for the State Finals Competition, the school must combine students from both teams to enter one team, with the higher-seeded team retaining its spot. All teams beneath the school's lower-seeded additional team will move up in ranking to fill the gap.
 4. Multiple teams from a school may share coaching staffs; however, each team is expected to prepare and present its own case at trial. Teams are not allowed to share any part of their trial preparation (opening statements, examination questions, closing arguments) with the other team from their school.
- (c) *Students* – All student participants must be currently enrolled or be receiving accredited or approved educational instruction at the school, or through the school organization that registers the team, or otherwise qualify for participation under subpart (3) of this rule.
 1. No requests will be granted for students to participate on a mock trial team not affiliated with or sponsored by the school or school organization where they are officially enrolled or receiving educational instruction as a student.
 2. For the purpose of this Rule, the term "school" includes traditional schools, charter schools, on-line or virtual schools, and other state- or school system-sanctioned academies, and "school organization" includes entities that provide accredited or approved educational instruction for students at the high school level such as home school associations, cooperatives, collectives, and the like.
 3. Home school students neither enrolled with, nor receiving educational instruction from a school or school organization during the competition year may compete as a member of an established mock trial team at a school if the following conditions are met:
 - i. Prior to and during the mock trial competition year, the student meets the admission requirements of the school with the team on which the student wishes to compete (the "sponsoring school" or "sponsoring team") -- i.e., the student would be otherwise eligible to become enrolled or receive educational instruction and to participate in interscholastic activities at the school;
 - ii. The student resides in the county in which the sponsoring school is located unless the state coordinator determines that this geographic limitation creates an undue hardship and on that basis grants an exception;
 - iii. The student submits the special application form to the Mock Trial office by the date established for such applications, which form shall include at a minimum, a certification that the student has not been recruited or received any special treatment or accommodation that would cause the team to be in violation of the letter or the spirit of the Mock Trial Rules;

- iv. The sponsoring team submits the special application form to the mock trial office by the date established for such applications, which form shall include at a minimum: the signature of the school principal, headmaster/mistress, or the like and the teacher coach; a statement of their consent to the student's participation as a team member; and a certification that the student fully meets the sponsoring school's admission requirements and its governing interscholastic eligibility rules, that the student's participation will not discourage team participation by students actually enrolled at the school, and that the student has not been recruited or received any special treatment or accommodation that would cause the team to be in violation of the letter or the spirit of the Mock Trial Rules;
 - v. The sponsoring team provides to the state coordinator all information and documentation requested for the purpose of making a decision on the application; and
 - vi. The state coordinator determines that the student's requested participation meets the above criteria, is not the result of unfair "recruiting" and will not result in an unfair advantage to the other mock trials teams in the state such that the student's participation should not be allowed.
4. Students who are not home school students, but who are simultaneously enrolled at two different schools as part of an authorized dual enrollment program (e.g., a traditional high school and a sanctioned special academy), may participate on a mock trial team registered by and affiliated with either school, but not both. However, such students, once they elect a team on which to compete, must honor that election throughout high school so long as they are dually enrolled and both schools have registered mock trial teams.
 5. No non-school organization (i.e. a Boy/Girl Scout troop, Boys/Girls Club, etc.) wishing to participate in this program may allow students who are currently enrolled or receiving educational instruction at a school or school organization as defined herein that has a team active in the competition to participate on that non-school organization's team.
- (d) *Attorney Coaches*—A team is to be sponsored by an attorney in good standing with the State Bar of Georgia. This primary attorney coach may register additional attorneys as assistant attorney coaches, all of whom must be in good standing with the State Bar of Georgia. No person may serve as an attorney coach who is currently under sanction by the Supreme Court of Georgia for disciplinary reasons. Law clerks, paralegals, law students, and attorneys admitted in another state who are in good standing with their state's Supreme Court, may assist the coaching staff but must operate under the professional supervision of the primary attorney coach. As the sponsor of the team, the primary attorney coach will act as liaison between the team and the local bar associations and the State Bar of Georgia. The coaching staff will act as legal advisers in preparing the team for competition. No attorney coach may coach teams at multiple schools.
- (e) *Teacher Coaches*—The team is to be sponsored by a teacher at the school. This primary teacher coach will act as the main liaison between the team and the mock trial office and will coordinate the submission of the registration form and fee. The teacher coach will also act as the educational adviser to the team, serving as guide to both the team members and their attorney coaches, so that all decisions related to the program are made in the best interests of the education of the team members. The final authority over the direction of a mock trial team rests with the teacher coach. No teacher coach may coach teams at multiple schools. The primary teacher coach may recruit additional teachers from the school to assist the team. The teacher coach may designate the primary attorney coach to be the liaison with the mock trial office and to be responsible for submitting the team registration and fee.
- (f) *Competing and Non-Competing Team Members*— Each team must field a minimum of six and maximum of twelve "competing" team members, the students competing during a specific level of competition. A team may use different competing students between each level of the competition. All other students on the team are designated "non-competing" team members for that level of competition. All competing and non-competing team members must be listed on their team's/school's Team Member List (due in January), their team's Competition Roster (due at competition registration), and sign the Code of Ethical Conduct form (due at competition registration) for their team (see Rules 7(l) and (m)).
- (g) *Team Composition*—Six of the team's competing team members will present one side of the case in any given round, with three serving as attorneys and three serving as witnesses. Competing team members not participating in a specific round (students beyond the six participating for that side) are considered "idle" for that round.
1. Prior to each round of competition, each team will be assigned to present the prosecution/plaintiff or the defense side of the case for that particular round.
 2. Prior to each round of competition, roles and responsibilities of a team's competing team members presenting for their side of the case must be identified and listed on the Trial Roster Form (see Rule 41).
 - i. From one round to the next, roles and responsibilities of the six to twelve competing team members may be interchanged within each team but may not be interchanged between teams from the same school.
 - ii. However, once declared per Rule 7(g)(1), no substitutions by a non-competing team member for a competing team member may be made during the entirety of that competition level. Non-compliance with this portion of Rule 7, at any level or round of the season's competitions, may result in penalties being applied by the trial coordinator under Rule 38(b) and (c).
 3. In the case of an emergency occurring *during a round of competition*, a team may participate with less than six members. In such a case, a team may continue in the trial round by making substitutions to achieve a two-attorney/three witness composition. Any team competing under this emergency arrangement will have the points for the doubled-up attorney role entered as 0 for ranking purposes and will be ineligible to advance the next level of competition.
 - i. The affected team may be allowed to complete the level of competition to provide the team's remaining students the opportunity to finish their competition as well as provide continued opposition to the other teams in the competition and avoid the need to use the bye rule.
- (h) *Substitution During a Competition Level*—If an emergency arises during the competition involving a competing team member, the team must make adjustments to fill vacant roles with the competing team members remaining.
- (i) *Unable to Field a Full Competition Team*—A team unable to field a full team of at least six students will not be allowed to compete.
- (j) *Timekeepers* – Each team must supply one timekeeper in each round of competition. The timekeeper may be one of the team's idle competing team members or a non-competing team member.

1. If a team only has six students and cannot provide a timekeeper per Rule 7(j), two of the team’s witness students will keep time, switching as needed for each to testify. Teams should prepare for this option and the appropriate students should be ready to keep time if needed.
- (k) *Team Differentiator*—When registering more than one team from a school, the teams need to be provided a name to differentiate between the two. The team designator may be school colors, varsity/JV, letters, mascots, names from the legal field or local community, or any other differentiator the team chooses. Team differentiators are subject to the approval of the state mock trial office. A team differentiator may not include the following terms: “school,” “high,” “academy,” “institute,” “campus,” or “center.”
- (l) *Required Eligibility Forms*—In order to verify eligibility of coaches and students, coaches must submit required forms by the published deadlines.
 1. All coaches (teachers and attorneys) must be reported to the state mock trial office on the registration form or the Supplemental Attorney Coach form.
 2. Names of all team members must be reported to the state mock trial office on the Team Member List. Changes in team composition following the published deadline must be cleared with the state mock trial office no later than 5 business days before the team’s scheduled competition date. Team member changes will not be permitted at the competition site.
 3. These forms are posted on the website and are due to the state mock trial office *no later than the date published on the forms*. The state mock trial office may disqualify a team from competition for failure to meet these deadlines.
- (m) *Ethics*—The Code of Ethical Conduct governs all participants, observers, guests, and parents at Georgia Mock Trial Competition events, including, but not limited to, the Competition itself, the Law Academy, and the Court Artist Competition. A copy of the Code must be signed by all students and coaches listed as part of the team prior to any of the events outlined above and must be delivered at registration to the coordinator of the event. Participants are responsible for making guests and parents aware of the code and all rules regarding conduct during the event.
- (n) *Decorum*—Counsel should treat opposing counsel with courtesy and tact. Attorneys should conduct themselves as professionals in these proceedings. Therefore, opposing counsel, witnesses, and the presiding judge must be treated with the appropriate courtesy and respect. All participants, including coaches, presiding judges and attorneys on the judging panel, are expected to display proper courtroom decorum. A trial coordinator has the authority to refuse entry to or remove a coach and/or other spectator from a courtroom before or during a trial round, as well as the competition site, if the trial coordinator feels that the actions of the coach and/or spectator in the courtroom is causing or may cause an undue distraction to the teams competing in that courtroom.
 1. The Plaintiff/Prosecution team shall be seated closest to the jury box.
 2. No team shall rearrange the courtroom without prior permission of the judge.
 3. Appropriate courtroom attire is expected of all team members.
 4. Small children and food should not be brought into the courtroom.

Rule 8. Activities Permitted During the School Day *(Additional explanations regarding this rule may be found in the Coaches Manual)*

- (a) Teams compete in the Georgia Mock Trial Competition as an extracurricular activity and, therefore, must adhere to the State Standards of the Georgia Department of Education requiring that individual and group practice be conducted outside the official school day. (See the Coaches Manual for further information on the State Standards and examples of proper and improper activities under this rule.)
- (b) *Definition of “Working on the Current Competition Case”* — Working on the current competition case is the organized or directed studying, discussion, or preparation of the case materials, including but not limited to discussion of the:
 1. case facts, witness statements or exhibits,
 2. rules of procedure,
 3. rules of evidence; and
 4. litigation strategies.
- (c) No *organized* group practice or meeting of a mock trial team or smaller groups of individual members may be held during regular school hours for the purpose of working with the current competition case. *Any* meeting of a mock trial team organized by a coach for the purpose of working on the current competition case during regular school hours, including associated travel for such a meeting, is interpreted as a violation of this rule.
- (d) Nothing about this Rule should be construed to discourage teams from observing real life court proceedings. Individuals and teams are clearly permitted to observe such proceedings outside of school hours, including during school holidays. Individual team members may observe court proceedings during school hours with the permission of their parents and their school provided that they:
 1. observe the proceedings as part of a school-sponsored field trip and students who are non-team members are present; or
 2. observe the proceedings independently and no other team members (including teacher coaches) are present; or
 3. observe the proceedings independently as part of a group of students that includes non-team members.
- (e) If such court attendance cannot be made outside of school hours or during school hours as part of any trip specifically permitted above, a team may apply to its Regional Coordinator for an Exception allowing said team or its members to watch court proceedings during school hours on a single date. The application shall:
 1. Be in writing;
 2. Conform to the State Standards of the Georgia Department of Education;
 3. Explain why such team cannot attend real life court proceedings outside of school hours;
 4. Specify the court proceeding to be attended;
 5. Specify the day court shall be attended; and
 6. Specify the hours, not to exceed 3 hours per Exception, to be spent in court.
- (f) Regional Coordinators may grant up to three (3) Exceptions (totaling nine (9) hours attending court proceedings) per team during the regular season and up to two (2) Exceptions (totaling six (6) hours attending court proceedings) per team for teams advancing to the State Finals. Regional Coordinators shall reply to all applications in writing. **UNDER NO CIRCUMSTANCES SHALL AN EXCEPTION BE GRANTED FOR A TEAM TO PRACTICE OR TO WORK ON THE CURRENT CASE AT ANY LOCATION, INCLUDING AT A COURTHOUSE,**

DURING SCHOOL HOURS. Exceptions are intended solely for the purpose of allowing students the opportunity to watch real life court proceedings. All applications and responses will be forwarded promptly to the State Mock Trial Coordinator. Any abuse of this procedure shall subject the team to the disciplinary procedures outlined in Section IV of the Grievance Procedure.

Rule 9. Team Scrimmages

Teams will be allowed to participate in virtual scrimmages up until 7 days from Round 1 of the Regional competition. No in-person scrimmages are permitted. Teams are free to arrange scrimmages on their own. However, there will be no protections afforded against matching teams during competition rounds that scrimmaged during the pre-season. Teams participating a scrimmage do so with the understanding that they may be matched against that team during competition rounds at their own risk.

Rule 10. Resolution of Section B Rules Violations

The State Bar of Georgia recognizes that the High School Mock Trial Competition is a competition involving student and teacher volunteers who are not professional attorneys. These extracurricular teams choose to participate in this competition and abide its Rules. No action taken by the High School Mock Trial Committee in enforcement of these Rules shall be construed beyond the purview of this competition. In that spirit, students and teams are encouraged to resolve all disputes without resorting to formal grievances. The following procedure applies only to violations of Rules that concern team eligibility and conduct and other "outside the bar" aspects of the competition on non-competition days. All violations of rules, both inside and outside the bar, that occur on competition days are governed by section E of the Rules.

- (a) A grievance alleging a violation of the Rules must be given to either the Regional Coordinator of the affected region, the District Coordinator of the affected district, or the HSMT Director as soon as possible. If given to the Regional or District Coordinator, the Regional or District Coordinator shall promptly forward the grievance to the Mock Trial Office. All grievances must be submitted in writing, specifically detailing the alleged violation and any attempts to resolve the dispute informally prior to the filing of a formal grievance. Should the complaint originate with any person charged with deciding the disposition of such complaint, or consenting thereto, the person originating the complaint shall recuse himself/herself from the disposition process. Any member of the Panel, Grievance Committee, or Governing Board described below may participate in the disposition process by teleconference.
- (b) Upon receipt of a complaint, the State Coordinator shall consult with the Chair of the Subcommittee on the Rules, the Special Consultant to the High School Mock Trial Committee, and the Chair of the High School Mock Trial Committee (the "Panel") for an initial evaluation of the complaint. This evaluation shall be convened and conducted as soon as practicable.
 1. If the Panel determines that the incident complained of could be interpreted as a violation of the Rules, the party or team alleged to have committed the violation shall be notified of the complaint and offered an opportunity to respond in writing. Such response must be made within 12 hours of notification.
 2. The grievance and response shall be forwarded to all members of the Panel. No other evidence or testimony shall be allowed except as ordered by majority vote of the Panel.
 3. The Panel, with the advice and consent of the State Coordinator, shall determine by majority vote whether a violation of the Rules has occurred. If a violation is found, the Panel may impose discipline as provided in Rule 10(i).
- (c) The party aggrieved by the decision of the Panel may appeal to the Governing Board.
- (d) All appeals must be registered in writing with the State Coordinator within 24 hours of the Panel's decision.
- (e) The Governing Board shall consist of the following members:
 1. The Chair of the High School Mock Trial Committee
 2. The 1st Vice Chair of the High School Mock Trial Committee
 3. The 2nd Vice Chair of the High School Mock Trial Committee
 4. The Special Consultant to the High School Mock Trial Committee;
 5. The Immediate Past Chair of the High School Mock Trial Committee
 6. The Chair of the Subcommittee on the Rules;
 7. The Chair of the Subcommittee on the Problem;
 8. The Regional/District Coordinator for the affected region/district, as the case may be;
 9. The President of the Young Lawyers Division;
 10. The President-Elect of the Young Lawyers Division; and
 11. The Secretary of the Young Lawyers Division.If any chair is unavailable, his or her vice-chair may serve.
- (f) After an appeal is registered, the Governing Board shall convene as soon as practicable. A quorum of the Governing Board (7 of 11) is required for any decision. The decision shall be rendered by majority vote, and all parties shall be notified of the decision. All decisions of the Governing Board shall be final.
- (g) Should a majority of the Governing Board's voting members be unable to reach a decision on the appeal, the decision of the Panel shall stand as a summarily affirmed.
- (h) Should discipline be imposed, either by the panel or the Governing Board, the following range of actions shall be considered, weighing the severity of the infraction against the goal of allowing students to compete:
 1. *Warning*: The lowest level of discipline, this will constitute a letter to the affected parties advising them of the Rules violation and of potential consequences of continued violations.
 2. *Reprimand*: A reprimand to be published in *Mock Trial Briefs*, advising all participants in the Mock Trial Program that a team or its member has committed a Rules violation and of the potential consequences of continued violations.
 3. *Point Deduction*: For infractions not rising to a level requiring disqualification of a team member or entire team, point deductions ranging from 1 to 10 points can be imposed against a team member or entire team in a single round, in an entire regional competition, in an entire competition year, or for succeeding years, depending upon the severity of the violation.
 4. *Member Disqualification*: For severe infractions by individual team members, those team members shall be disqualified from competition for a given year or succeeding years, depending upon the severity of the infraction. This punishment may also be

used against team members with repeated lesser violations, with whom reprimands and point deductions have not been effective.

5. *Team Disqualification*: For severe infractions by an entire team, that team shall be disqualified from competition for a given year or succeeding years, depending upon the severity of the infraction. This punishment may also be used against teams with repeated lesser violations, with which reprimands and point deductions have not been effective.

C. THE TRIAL

Rule 11. Regional Competition

- (a) A mock trial "region" must consist of at least six teams. In the event that a region drops to five teams, volunteer teams will be solicited to move into the affected region to bring the number of teams up to at least six. A team invited under these circumstances to volunteer to move into the affected region will be under no obligation to accept the invitation and will suffer no penalty for declining, but will be eligible to have their team registration fee waived for the next season in acknowledgment of their assistance. If a volunteer team is not identified to salvage the affected region within 5 days of beginning the search, that region will be dissolved for that season and the remaining teams will be reassigned to other regions, on a space available basis. If the Mock Trial office is unable to reassign a team affected by the dissolution of a region for any reason, that team may be eligible for a full refund of their team registration fee. Team reassignment under these circumstances may not be contested by any party. If the number of teams drops below five within 7 days of the first scheduled competition date, the regional competition will proceed under "emergency circumstances" and the scoring will be conducted as outlined in Rule 32(b)(5).
- (b) Teams will be allowed to indicate a preference for regional placement in the team registration process. The Mock Trial office will consider regional assignments on a first come, first served basis. This preference is one of several factors that the Mock Trial Office will use to determine regional placement. Other factors include but are not limited to previous regional placement, school location, space availability at the regional competition site, and/or the number of other schools in that school system participating in the program. Space is limited in most regions. Attempts will be made to place multiple teams from the same school in the same region. The Mock Trial office has the discretion to place additional teams from a school in a different region from its primary team.
- (c) The state coordinator reserves the right to move teams from assigned regions to other neighboring regions in order to maintain an equitable balance in the size of neighboring regions, or for any other administrative purpose deemed by the state coordinator to be in the best interests of the program; provided, however, that team reassignments necessitated by a region dropping below five teams will be handled solely as provided by Rule 11(a). Any team whose assignment has been shifted from one region to another during the season, with the exception of those affected by the dissolution of a regional competition under Rule 11(a), has a right to appeal such a decision before the Rules Subcommittee Chair within 24 hours of receiving notification of the reassignment, but the subsequent ruling of the Subcommittee Chair is final. Other teams in a region affected by such shifts in the assignment of a team into or out of said region do not have a right to appeal administrative decisions made by the Subcommittee Chair.
- (d) The regional competition will consist of four rounds with all teams competing in all four rounds.
- (e) At the conclusion of the fourth round, the top two or three teams will advance to the district level of competition, per Rule 12(c) and Rule 32(b)(7), with the top-ranked team being deemed the "Region Champion".

Rule 12. District Competition

- (a) A mock trial "district" must consist of six teams.
- (b) Each district will be comprised of two or three regions, depending on the number of viable regions.
- (c) Teams qualify for the district competition in the following manner:
 1. In districts comprised of two Regions, teams who finish in the top three spots after Round 3 will advance to the district competition.
 2. In districts comprised of three Regions, teams who finish in the top two spots after Round 3 will advance to the district competition.
- (d) The district competition will consist of two rounds with all teams will competing in both rounds.
- (e) At the conclusion of the second round, the top two teams will advance to the State Finals competition per Rule 33(c)(5).
- (f) If, for any reason, a team qualifying for the district competition withdraws from the GHSMT Competition before the district competition, that team will forfeit its place at the district competition. The team(s) beneath the forfeiting team will shift upward and the 3rd (now vacant) spot will then be offered to the 4th place team from that region. If that team declines the offer, the spot will then be offered to the 4th place team from the other region, and then to the 5th place team of the original region, and so on, alternating between the regions, until a team accepts the spot and that team will advance to the district competition.

Rule 13. State Finals Competition

- (a) The State Finals Competition will be comprised of sixteen teams and consist of four rounds of competition, with all teams competing in the first, second, and third rounds. At the conclusion of the third round, the top two teams will advance to the State Championship Round per Rule 34(c).
- (b) If, for any reason, a team qualifying for the State Finals competition withdraws from the GHSMT Competition after qualifying, that team will forfeit its place at the State Finals tournament. The spot will then be conferred on the next available team from the district.
- (c) If, for any reason, a round or rounds of a regional or district competition is postponed or cancelled, with the exception of the cancellation of competition rounds in a region that has been dissolved for the season under Rule 11(a), it is the responsibility of the regional or district coordinator to announce the date of the rescheduled round or rounds within seven days of the original regional or district competition date and to fully staff any rescheduled rounds in compliance with these rules. No regional competition rounds

may be held within the 14 days before the first round of the district tournament. No district competition rounds may be held within 7 days before the first round of the state tournament.

Rule 14. Team Presentation

- (a) Teams will present one side of the case at a time in each round of competition, thus requiring just six students to compete each round.
- (b) Teams must be prepared to present both the Prosecution/Plaintiff and Defense/Defendant sides of the case.
- (c) Any team who arrives, at any level of the competition, with less than six students will be immediately withdrawn from the competition and not allowed to compete in any round.
- (d) Should a team be forced to withdraw, final determination of an emergency forfeiture will be made by the trial coordinator, in consultation with available Committee leaders. Under extraordinary circumstances, the trial coordinator, in consultation with available Committee leaders, may declare an emergency prior to the competition round.

Rule 15. Team Duties

- (a) Competing team members must handle all aspects of the trial during a competition round, including any rules disputes (see Rule 37) at the conclusion of the trial round.
- (b) The team may divide the duties for each side of the case between the competing team members as they see fit.
- (c) Idle competing team members may either act as a timekeeper or observe the trial outside the bar.
- (d) Teams will be guaranteed to present each side of the case at least once during the Regional competition and both sides during the District competition.
- (e) Idle competing team members may either act as a timekeeper or observe the trial outside the bar.
- (f) The team may change the composition and/or roles of their plaintiff/prosecution or defense amongst their competing team members between rounds.
- (g) The six competing team members on a side are to divide their duties evenly. Each of the three attorneys will conduct one direct and one cross-examination; in addition, one will present the opening statements and another will present closing arguments. In other words, the eight attorney duties for each team will be divided as follows:
 - Attorney 1: Opening Statement, Direct Examination of Witness #1, Cross Examination of Witness #1
 - Attorney 2: Direct Examination of Witness #2, Cross Examination of Witness #2
 - Attorney 3: Direct Examination of Witness #3, Cross Examination of Witness #3, and Closing Argument (including Rebuttal) [See Rule 15(g)]
- (h) Opening Statements must be given by both sides at the beginning of the trial, with the Prosecution/Plaintiff giving their opening statement first..
- (i) Closing Arguments must be presented by both sides at the conclusion of the defense's case in chief. The Prosecution/Plaintiff gives their closing argument first but may reserve all or a portion of its closing time for a rebuttal.
- (j) 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' cross-examination. The attorney who will cross-examine a witness will be the only attorney permitted to make objections during the direct examination of that witness.
- (k) The attorneys who make the opening statement or the closing argument during a trial round are the only people who may make an "objection" to an opponent's opening statement or closing argument, as outlined in Rule 53(a).
- (l) Each team must call three witnesses. Witnesses may be called only by their own team and must be examined by both sides. A team may not treat its own witness as a hostile witness unless expressly authorized within the case materials. Witnesses may not be recalled by either side. Witnesses may be called in any order, regardless of the order in which they are listed on the Trial Roster Form or in which they have been called in earlier rounds of the competition.

Rule 16. Swearing of Witnesses

- (a) The following oath may be used before questioning begins: "Do you promise that the testimony you are about to give will faithfully and truthfully conform to the facts and rules of the mock trial competition?"
- (b) The swearing of witnesses will be conducted by the presiding judge at the start of the trial. No religious texts or references to a deity may be used.

Rule 17. Trial Sequence and Time Limits

- (a) The trial sequence and time limits are as follows:
 1. Opening Statement: 5 minutes per side
 2. Direct Examination (and optional Redirect): 25 minutes per side
 3. Cross Examination (and optional Recross): 20 minutes per side
 4. Closing Argument: 5 minutes per side
- (b) Redirect and Recross examinations must conform to restrictions in Rule 611(d).
- (c) The Prosecution/Plaintiff's closing rebuttal is not limited to the scope of the Defense's closing argument.
- (d) Attorneys are not required to use the entire time allotted to each part of the trial. Time remaining in one part of the trial *will not* be transferred to another part of the trial.
- (e) Even if a team has exhausted its time for direct and/or cross-examination, Rule 15(j) requires that each witness be called and subjected to direct and cross examination. Accordingly, attorneys out of time will be allowed only one question in direct: "Will the witness please state your name for the record?" The opposing team will then be permitted to conduct a cross-examination of the witness. No questions will be allowed on cross-examination if a team has used all of its allotted time for cross-examination.
(See Rule 30(b) for the treatment of rule infractions.)

Rule 18. Timekeeping

(Additional explanations regarding this rule may be found in the Team and Coaches' Manual)

- (a) Per Rule 7(j), each team must supply one timekeeper per round. Timekeepers may be an idle competing team member or a non-competing team member.
- (b) Time limits are mandatory and will be enforced.
- (c) Time for objections, extensive questioning from the judge, or administering the oath will not be counted as part of the allotted time during examination of witnesses and opening and closing statements.
- (d) Time does not stop for introduction and admittance of evidence.
- (e) A master copy of the Time Sheet is provided on the website.
- (f) Time card templates are provided on the website. Time cards must be printed on yellow paper. Using the Time Remaining Charts (located on the website), timekeepers must signal the time remaining by holding the appropriate time card up for the courtroom to see. When the time allowed for a category has expired, the timekeeper will raise the STOP card so that it may be visible to the judge and both counsels. If, at the expiration of time, the STOP card is raised and the attorney continues without permission from the judge to do so, the appropriate attorney for the opposing team may object, stating that "the time has expired," to bring the matter to the judge's attention.
- (g) At the end of each task during the trial presentation (i.e. at the end of each opening, at the end each witness examination, at the end of each cross-examination and at the end of each closing argument), the timekeepers will confer with each other regarding the amount of time remaining. If there is more than a 15-second discrepancy between the teams' timekeepers, the timekeepers must notify the presiding judge of the discrepancy. The presiding judge will then investigate the discrepancy, rule on a resolution to the discrepancy, and the timekeepers will synchronize their stopwatches accordingly; the trial will continue. No time disputes will be entertained after the trial concludes.
- (h) At the conclusion of the round, the presiding judge will ask the timekeepers to present their forms. It is the sole discretion of the scoring judges as to how they will interpret and weigh violations of time limits, and their decisions will be final.

Rule 19. Time Extensions and Scoring

The presiding judge has sole discretion to grant time extensions. If time has expired, the attorney may not continue without permission from the Court. Judges are encouraged to allow the completion of an answer that is in progress at the moment time is called. If an attorney pleads for additional examination after time is called, judges may permit a time extension but are strongly encouraged to limit any time extension to one question only.

Rule 20. Prohibited and Permitted Motions

- (a) No pre-trial motions may be made. A motion for directed verdict, acquittal, or dismissal of the case at the end of the Plaintiff/Prosecution's case may not be used. No motions may be made unless expressly provided for in the problem.
- (b) A motion for a recess may be used only in the event of an emergency (e.g., health emergency). To the greatest extent possible, team members are to remain in place. Should a recess be called, teams are not to communicate with any observers, coaches, or instructors regarding the trial.
- (c) In the event that a team member attorney believes, during the course of a trial round in which that team member attorney is competing, that the presiding judge has materially departed from the rules of the mock trial competition, the team member attorney may move for compliance with the rules of the mock trial competition. Such motions must be presented respectfully, must direct the presiding judge's attention to the applicable rule, and must be raised at the time of the presiding judge's alleged departure from the rules. No claim that the presiding judge has departed from the rules of the mock trial competition may be made after the judging panel has returned to the courtroom for debriefing.

Rule 21. Sequestration

Teams may not invoke the rule of sequestration, nor ask the judge for constructive sequestration.

Rule 22. Bench Conferences

Bench conferences may be granted at the discretion of the presiding judge, but should be made from the counsel table in the educational interest of handling all matters in open court.

Rule 23. Supplemental Material/Costuming/Illustrative Aids

(Additional explanations may be found in the Coaches Manual)

- (a) Teams may refer only to materials included in the case materials. No illustrative aids of any kind may be used, unless provided in the case materials. No enlargements or alterations of the case materials (as listed in the Coaches'/Policy Manual) by teams will be permitted. If any team member has a disability and requires special assistance, services, or printed materials in alternative formats, in order to participate in the Georgia Mock Trial Competition, the teacher or attorney coach must contact the State Mock Trial Coordinator well in advance of the regional competition date to receive modified case materials or make arrangements for special assistance or services.
- (b) Absolutely no props, uniforms, or costumes are permitted, unless specifically authorized in the trial materials. Costuming is defined as hairstyles, clothing, accessories, and makeup, which are case specific.
- (c) The only documents which the teams may present to the presiding judge or judging panel are the team roster forms and individual exhibits as they are introduced into evidence. Teams shall not show any copies of any exhibit to the judging panel other than the single individual copy of any exhibit that has been admitted into evidence. Exhibit notebooks are not to be provided to the presiding judge or judging panel.

(See Rule 30 for the treatment of rule infractions.)

Rule 24. Trial Communication

For purposes of this rule, the trial begins when the judging panel enters the courtroom and ends after all closing arguments in that round, including rebuttals, have concluded and the judge has asked the evaluators to retire to calculate their scores.

- (a) Coaches, non-competing team members, idle competing team members, Court Artist contestants, and observers shall not talk to, signal, communicate with, or coach their teams during a trial round. No coach is allowed inside the bar at any time during a trial round. This rule remains in force during any recess time during the trial, which may occur.
- (b) Competing team members competing in a particular round may communicate among themselves during the trial; however, no disruptive communication is allowed. Signaling of time by the teams' timekeepers shall not be considered a violation of this rule.
- (c) Non-competing team members, idle competing team members, contest participants, teachers, and coaches must remain outside the bar in the spectator section of the courtroom. Only competing team members participating in the round may sit inside the bar and communicate with each other.
- (d) Except in the case of an emergency, no competing team member is allowed to leave a courtroom during a round without the permission of the court.
- (e) If a recess is taken during a trial for any reason, to the greatest extent possible, team members should remain seated in their appropriate positions within the courtroom until the trial resumes.
- (f) Competing team members may not use cell phones, tablets, laptops, or other personal electronic devices during a trial.
- (g) All electronic communication devices (belonging to team members, coaches, contest participants, and observers) should be turned off during the entirety of the trial.

Rule 25. Viewing a Trial

- (a) Non-competing and idle team members, alternates, coaches, spectators, and any other persons directly associated with a mock trial team are not allowed to view other teams in competition, so long as their team remains in the competition.
- (b) A team that has been eliminated from one level of the competition may not share its scoresheets, judging panel comment sheets, or other observations of an opponent's performance with another team that remains in the competition, until that team is eliminated from the competition entirely.
- (c) A violation of Rule 25(b) will be considered as occurring "outside the bar" and will be handled in accordance with the procedure outlined in Rule 40.

Rule 26. Videotaping/Photography

- (a) Any team has the option to refuse participation in videotaping, tape-recording, still photography, or media coverage.
- (b) Media coverage and video production 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.

D. JUDGING AND SCORING

(Additional explanations regarding this section may be found in the Coaches Manual)

Rule 27. Decisions

All decisions of the judging panel are FINAL.

Rule 28. Composition of Panel

- (a) All persons serving on a judging panel must be a member in good standing with the State Bar of Georgia or their state-licensing body; or a student in their third year of law school.
- (b) 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 as follows:
 - 1. One presiding judge and two -scoring evaluators (all three complete score sheets); or
 - 2. One presiding judge and three scoring evaluators (scoring evaluators only complete score sheets).Law school students may only serve as scoring evaluators and each panel may only have a maximum of one law school student on the panel.
- (c) A championship round may have a larger panel at the discretion of the trial coordinator.
- (d) 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.
- (e) Judging panel members should turn off and/or not use their cell phones, pagers, PDAs, etc. during a trial round.
- (f) In the event of an emergency (ex. sudden illness, etc.), if a judging panel member must leave the courtroom, the presiding judge or scoring evaluator will call for a brief recess and notify the trial coordinator. The trial coordinator will attempt to 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 24(a) applies to the teams in the courtroom.
 - 1. If the panel member is unable to return to the courtroom, the trial coordinator will adjust the panel composition to best meet the requirements of the rules and the round should resume.

Rule 29. 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 paper or electronic form on which speaker and team points are recorded. Scoresheets are to be completed individually by the scoring evaluators. Scoring evaluators are not bound by the rulings of the presiding judge. The

team that earns the highest points on an individual evaluator'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) 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 critique, judging panel members will be provided with an optional judging panel worksheet 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.
- (c) When exceptional presentations are made, the judging panel has the option of recognizing one Outstanding Attorney and 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.
- (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 advancing to the next stage of the competition.

Rule 30. Completion of Scoresheets/Judging Guidelines

- (a) Scoresheets are to be completed in four steps; three by the scoring evaluator and one by the scoring Coordinator:
 - 1. *Speaker Points*—The scoring evaluator will record a number of speaker points (1-10) for each portion of the trial.
 - 2. *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.**
 - 3. *Tie Breaker*—The scoring evaluator will circle the team designation that should receive the tiebreaker in the event that the Final Point Total is tied. (In the event the ballot is tied, the scoring Coordinator will award the designated team an additional point to break the tie.) At this point, the scoring evaluator will turn the ballot in to the Scoring coordinator for calculation.
 - 4. *Final Point Total*—The scoring Coordinator will add the Speaking Points and Team Points boxes to achieve a final point total for each team. **NO TIE IS ALLOWED IN THE FINAL POINT TOTAL BOX.** In the event of a tie, an additional point will be awarded to the team designated as the tiebreaker by the scoring evaluator. The team with the highest number of points in the Final Point Total box receives the ballot from that scoring evaluator.
- (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);
 - Excessive answers by witnesses on cross-examination in order to deplete the opposing team's time, aka "time sucking" (Rule 7(m) and Ethics Code §1);
 - Exceeding Time Limits (Rule 14);
 - Use of Unapproved Supplemental Materials (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 one scoring evaluator be available for a round, the presiding judge and lone scoring evaluator will complete a scoresheet. The Scoring coordinator shall average the scores from the two scoresheets to achieve the required third score.
 - 1. Fractions will be rounded to the nearest higher whole number.
 - 2. In the rare instance that the third scoresheet has a tie in the Final Point Total boxes, the philosophy outlined in Rule 31(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.
- (d) On a paper ballot, 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 team. 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, continue with the calculation of the ballot, and notify the mock trial office.

Rule 31. Power Matching and Team Advancement

- (a) *Ranking Rule* – For purposes of ranking teams based on previous rounds' records and/or prior to the use of power matching, teams will be sorted and ranked based on the following criteria (the "Ranking Rule") in the order listed. This may be referred to as a team's "ranking" or "record":
 - 1. *Win/Loss Record*—Equals the number of courtrooms won or lost by a team.
 - 2. *Total Number of Ballots*—Equals the total number of ballots a team earned thus far.
 - 3. *Strength of Schedule* – Equals the total ballot count of a team's opponent(s) thus far.
 - 4. *Total Number of Points Accumulated*—Equals the total number of points a team earned thus far.
 - 5. *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(s) 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) *Power Matching* – When making pairings using the teams’ previous rounds’ results, matches for the round will be made using a power matching system, with an attempt to pair teams within each bracket established by the process outlined in Rule 31(a). Matches will be made within each bracket by pairing the highest ranked team with the lowest ranked team, the next highest with the next lowest, and so on until all teams are matched. A discussion of the power match system is included in the Coaches’ Manual and is thereby incorporated into the Rules of the Competition.
 - 1. If there are an odd number of teams in a bracket, the highest team from the next lower bracket will be pulled up to pair with the top team from the original bracket. That lower bracket’s teams will be paired amongst the remaining teams.
- (c) Advancement to the next level of competition will be made using the final ranking of teams after the last round of competition.
- (d) Announcements of the results of final regional and district rankings are subject to verification by the Mock Trial office before those results become official.

Rule 32. Round Matching for Regional Competitions

- (a) Teams will not be paired against the same opponent twice in the regional competition.
- (b) Teams from the same school will not be protected from being matched with each other in the third and fourth rounds.
- (c) Matches for the first and second rounds will be made by random draw, excluding pairing teams from the same school.
 - 1. All teams will present both sides of the case in Rounds 1 and 2.
- (d) The power-match system will determine opponents for the third and fourth rounds.
 - 1. After the third round, brackets will be determined by each team’s win/loss record. Teams will be sorted within each bracket per the Ranking Rule.
 - 2. All teams will present both sides of the case in Rounds 3 and 4.
 - 3. In regions operating under emergency circumstances with only five teams competing, the Region will operate in a round-Robin format with each team facing the other four teams within the Region on a pre-determined rotation made by the Regional Coordinator. The rotation will also include side-assignment to ensure each team presents both sides of the case twice.
 - 4. After the fourth round, teams will be ranked per Rule 31(a), creating a cumulative record of all four rounds. The three teams with the best ranking will advance to the district competition.

Rule 33. Seeding and Round Matching for District Competitions

- (a) Districts that are comprised of two regions shall be seeded and matched for the first round in the following manner:
 - 1. The Region Champion teams will be matched against the other region’s third place teams. The second place teams from each region will be matched against each other.
For example: Region A #1 vs. Region B #3; Region A #2 vs. Region B #2; Region A #3 vs. Region B #1
- (b) Districts that are comprised of three regions shall be seeded and matched for the first round in the following manner:
 - 1. The Region Champion teams will be ranked using the Ranking Rule. This will be used to set the order of the three regions, creating three “columns” A, B, and C, with A being the highest ranked region.
 - 2. The matches for the first round will be set as follows:
 - i. The Region Champion team from column A will be matched against the second place team from column B.
 - ii. The Region Champion team from column B will be matched against the second place team from column C.
 - iii. The Region Champion team from column C will be matched against the second place team from column A.
- (c) The power-match system will determine opponents for the second round.
 - 1. All teams are guaranteed to present each side of the case once.
 - 2. Teams will not be paired against the same opponent twice in the district competition.
 - 3. Teams from the same school will not be protected from being matched with each other.
 - 4. After each round, brackets will be determined by each team’s win/loss record. Teams will be sorted within each bracket per the Ranking Rule. This will create a ranking of the teams in spots 1-6 with three teams in each bracket.
 - i. Matches for the second round will be made pairing team #1 vs. #4, team #2 vs. team #3, and team #5 vs. team #6.
 - ii. If the power matching for Round 2 results in a rematch of teams from Round 1, then the scoring coordinator will make adjustments to prevent a rematch.
 - 5. After the second round, teams will be ranked per Rule 31(a) using the team’s cumulative record from both the regional and district competition, creating a ranking of all six rounds.
 - 6. The two highest-ranked teams will advance to the State Finals competition.

Rule 34. Seeding and Round Matching for the State Finals Competition

- (a) A random method of selection will determine opponents in the first round, excluding pairing teams from the same district.
- (b) The power-match system will determine opponents for the second and third rounds.
 - 1. All teams are guaranteed to present each side of the case at least once.
 - 2. Teams will not meet the same opponent twice during the State Finals Competition.
 - 3. Teams from the same district will not be protected from being matched with each other in the second and third rounds.
 - 4. After each round, brackets will be determined by each team’s win/loss record. Teams will be sorted within each bracket per the Ranking Rule.
 - 5. After the third round, teams will be ranked per Rule 31(a), creating a cumulative record of all three preliminary rounds. The two teams with the best ranking will advance to the Final Round.

- (c) The fourth/Final Round of the State Finals Competition stands alone, with the results from the Final Round being the sole determining factor. The team with the highest ballot total will win the Round.

Rule 35. Odd Number of Teams at Competition

As each Round of competition requires an even number of teams, when an odd number of teams is present, one team will have no opponent each round. When this happens, the following process will be used.

- (a) A team will be drawn before the start of each round to be designated as the “bye” team for that round.
 - 1. The bye team for Round 1 will be drawn at random from all teams in the competition.
 - 2. The bye team for subsequent Rounds will be drawn at random from teams with 0 wins up to that point.
- (b) The team drawing the “bye” for a round will receive a win and three ballots for that round by default. For the purposes of power matching later rounds, the team will temporarily be given points equal to the average of the winning teams from that round. At the conclusion of Round 4, the teams who were drawn as a bye in each round will have the points they earned in the three rounds in which they competed averaged and that average will replace the temporary points given in their bye round.
 - 1. Any team being drawn as a bye team will be guaranteed to present both sides of the case during a competition level.
 - 2. The team being drawn as a bye, as well as its coaches and observers, may not observe any trials during that round.

No team will be drawn as a bye team more than once.

Rule 36. [reserved]

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E. DISPUTE SETTLEMENT

Rule 37. Reporting a Rules Violation: Inside the Bar

- (a) Disputes which involve team members competing in a competition round and occur inside the bar must be filed with the presiding judge immediately following the conclusion of that trial round.
- (b) The dispute procedure described in this rule may not be used to challenge an action by the presiding judge, which a team believes materially departs from the rules of the mock trial competition. If a team believes that such a material departure has occurred during the trial round, one of its team member attorneys must move for compliance with the rules of the mock trial competition in accordance with Rule 20(c). (See Rule 38(a) for resolution procedure)
- (c) If any team believes that a substantial rules violation has occurred that was not handled during the course of the trial, one of its team member attorneys must indicate that the team intends to file a dispute. The complainant team will record in writing the nature of the dispute on an Inside the Bar Dispute Form. The team member may communicate with their co-counsel, and/or witnesses before lodging the notice of dispute or in preparing the form.
 - 1. 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) 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 37(a)) or to the trial coordinator’s attention during the competition day by a teacher or attorney coach (under Rule 40), 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 40(b) & (c) for resolution procedure).

Rule 38. Dispute Resolution Procedure: Inside the Bar

- (a) The presiding judge will review the written dispute and determine whether the dispute should be granted a hearing or be 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 to prepare their arguments (not to exceed three minutes), 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. The presiding judge shall offer no ruling on the dispute.
- (b) Rules violations and/or disputes identified 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 HSMTTC leader. In consultation, the trial coordinator and the HSMTTC leader(s) contact will decide the outcome of the situation. All decisions in this process made by the trial coordinator in consultation with HSMTTC leadership will be considered final.
 - 1. If a trial coordinator, in consultation with HSMTTC leadership, determines that a rules violation did occur as described in Rules 37(e) and 38(b), the trial coordinator and HSMTTC leader(s) may choose to impose one or more of the consequences outlined in Rule 10(e) 1-5.

Rule 39. Effect of Violation on Score

The scoring evaluators may consider the weight of the dispute/rules violation in completing their scoresheets. The dispute may or may not affect the final decision, but the matter will be left to the discretion of the scoring evaluators.

Rule 40. Reporting of Rules Violation: Outside the Bar

- (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 individuals 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.
 - 1. 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.
 - 2. 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.
 - 3. The decision of the dispute resolution panel in these matters will be considered final and no appeals will be heard.
 - 4. 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).
- (c) 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.
- (d) 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.
- (e) 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.
 - 1. 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 41. Trial Roster Form

The Trial Roster Form must be completed and be ready to be distributed by each team for each side of the case prior to start of the competition level. Teams must only be identified by their pre-assigned team code. No information identifying team origin (school name, team name, etc.) should appear on the form. Witness lists should identify the gender of each witness as being portrayed so that references to such parties will be made with the proper gender pronouns.

Before beginning a trial, the teams must exchange copies of the Trial Roster Form. Copies of the Trial Roster Form should also be made available to each member of the judging panel and the presiding judge before each round. The Trial Roster Form is available as a fillable and savable PDF on the HSMTC website and should be completed in typed form whenever possible.

Rule 42. Stipulations

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

Rule 43. The Record

The stipulations, the indictment/complaint and answer, and the Charge of the Court will not be read into the record.

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B. BEGINNING THE TRIAL

Rule 44. Jury Trial

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

Rule 45. 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 30(b) for the treatment of rule infractions.)

Rule 46. 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 30(b) for the treatment of rule infractions.)

C. PRESENTING EVIDENCE

Rule 47. 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 48. 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 49. 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 50. Procedure for Introduction of Exhibits

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. All evidence will be pre-marked as exhibits. Timekeepers will not stop time during the introduction of evidence.

1. “I now show you what has been marked as Exhibit No. ___ for identification.”
2. Ask the witness to identify the exhibit. “Would you identify it please?”
3. Witness answers with identification only.
4. Offer the exhibit into evidence. “Your Honor, we offer Exhibit No. ___ into evidence at this time. The authenticity of this exhibit has been stipulated.”
5. *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.)
6. *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?”
7. *Court*: “Exhibit No. ___ is/is not admitted.”
8. If the exhibit is admitted into evidence, the attorney may now solicit testimony on its contents.

Rule 51. 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 52. 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 53. 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 (per Rule 15(e)) 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 opposing team is allowed a response. The presiding judge will not rule on the “objection.” Presiding and scoring judges will weigh the “objection” and response (if given) individually.
- (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.

1. If an attorney makes this mock trial “objection”, s/he 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.”
2. 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 30(b) for point deductions for rules infractions*).
3. 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 54. 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 (verdict) 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 should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination.

Rule 105. Limited Admissibility

If the court admits evidence that is admissible against a party or for a purpose — but not against another party or for another purpose — the court, on timely request, must restrict the evidence to its proper scope and instruct the jury accordingly.

Rule 106. Remainder of or Related Writings or Recorded Statements

If a party introduces all or part of a writing or recorded statement, an adverse party may require the introduction, at that time, of any other part — any other writing or recorded statement — that in fairness ought to be considered at the same time.

Article II. Judicial Notice

Rule 201. Judicial Notice of Adjudicative Facts

- (a) This rule governs judicial notice of an adjudicative fact only, not a legislative fact.

- (b) The court may judicially notice a fact that is not subject to reasonable dispute because it is a matter of mathematical or scientific certainty. For example, the court could take judicial notice that $10 \times 10 = 100$ or that there are 5280 feet in a mile.
- (c) The court must take judicial notice if a party requests it and the court is supplied with the necessary information.
- (d) The court may take judicial notice at any stage of the proceeding.
- (e) A party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed.
- (f) In a civil case, the court must instruct the jury to accept the noticed fact as conclusive. In a criminal case, the court must instruct the jury that it may or may not accept the noticed fact as conclusive.

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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.

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Article IV. Relevancy and its Limits

Rule 401. Test for Relevant Evidence

Evidence is relevant if:

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

Rule 402. General Admissibility of Relevant Evidence

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

Rule 403. Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons

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

Rule 404. Character Evidence; Crimes or Other Acts

(a) Character Evidence.

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

(b) Other Crimes, Wrongs, or Other Acts.

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

Rule 405. Methods of Proving Character

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

Rule 406. Habit, Routine Practice

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

Rule 407. Subsequent Remedial Measures

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

- negligence;
- culpable conduct;
- a defect in a product or its design; or
- a need for a warning or instruction.

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

Rule 408. Compromise Offers and Negotiations

(a) **Prohibited Uses.** Evidence of the following is not admissible — on behalf of any party — either to prove or disprove the validity or amount of a disputed claim or to impeach by a prior inconsistent statement or a contradiction:

1. furnishing, promising, or offering — or accepting, promising to accept, or offering to accept — a valuable consideration in compromising or attempting to compromise the claim; and
2. conduct or a statement made during compromise negotiations about the claim — except when offered in a criminal case and when the negotiations related to a claim by a public office in the exercise of its regulatory, investigative, or enforcement authority.

(b) **Exceptions.** The court may admit this evidence for another purpose, such as proving a witness’s bias or prejudice, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

Rule 409. Offers to Pay Medical and Similar Expenses (civil case only)

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

Rule 410. Pleas, Plea Discussions, and Related Statements

(a) **Prohibited Uses.** In a civil or criminal case, evidence of the following is not admissible against the defendant who made the plea or participated in the plea discussions:

1. a guilty plea that was later withdrawn;
2. a nolo contendere plea;
3. a statement made during a proceeding on either of those pleas under Federal Rule of Criminal Procedure 11 or a comparable state procedure; or
4. a statement made during plea discussions with an attorney for the prosecuting authority if the discussions did not result in a guilty plea or they resulted in a later-withdrawn guilty plea.

(b) **Exceptions.** The court may admit a statement described in Rule 410(a)(3) or (4):

1. in any proceeding in which another statement made during the same plea or plea discussions has been introduced, if in fairness the statements ought to be considered together; or
2. in a criminal proceeding for perjury or false statement, if the defendant made the statement under oath, on the record, and with counsel present.

Rule 411. Liability Insurance

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

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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 spouses;
2. communications between attorney and client;
3. communications among grand jurors;
4. secrets of state; and
5. communications between medical or mental health care providers and patient.

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Article VI. Witnesses

Rule 601. General Rule of Competency

Every person is competent to be a witness.

Rule 602. Need for Personal Knowledge

A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness’s own testimony. This rule does not apply to a witness’s expert testimony under Rule 703. (See Rule 2.2)

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 a Witness

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

Rule 608. A Witness's Character for Truthfulness or Untruthfulness

- (a) **Reputation or Opinion Evidence.** A witness's credibility may be attacked or supported by testimony about the witness's reputation for having a character for truthfulness or untruthfulness, or by testimony in the form of an opinion about that character. But evidence of truthful character is admissible only after the witness's character for truthfulness has been attacked.
- (b) **Specific Instances of Conduct.** Except for a criminal conviction under Rule 609, extrinsic evidence is not admissible to prove specific instances of a witness's conduct in order to attack or support the witness's character for truthfulness. But the court may, on cross-examination, allow them to be inquired into if they are probative of the character for truthfulness or untruthfulness of:
 1. the witness; or
 2. another witness whose character the witness being cross-examined has testified about.

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

Rule 609. Impeachment by Evidence of a Criminal Conviction

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

Rule 610. Religious Beliefs or Opinions

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

Rule 611. Mode and Order of Interrogation and Presentation

- (a) **Control by the Court; Purposes.** The court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to:
 1. make those procedures effective for determining the truth;
 2. avoid wasting time; and
 3. protect witnesses from harassment or undue embarrassment.
- (b) **Scope of cross-examination.** The scope of the 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. A hostile witness may only be called pursuant to Rule ~~12(f)~~ 15(k).

- (d) **Redirect/Re-cross.** 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 or re-cross, but such questions must be limited to matters raised on redirect examination and should avoid repetition.
- (e) **Permitted Motions.** The only motion permissible is one requesting the judge to strike testimony following a successful objection to its admission.

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

- (a) **Scope.** This rule gives an adverse party certain options when a witness uses a writing to refresh memory:
 - 1. while testifying; or
 - 2. before testifying, if the court decides that justice requires the party to have those options.
- (b) **Adverse Party’s Options.** An adverse party is entitled to have the writing produced at the hearing, to inspect it, to cross-examine the witness about it, and to introduce in evidence any portion that relates to the witness’s testimony.

Rule 613. Witness’s Prior Statement

- (a) **Showing or Disclosing the Statement During Examination.** When examining a witness about the witness’s prior statement, a party need not show it or disclose its contents to the witness. But the party must, on request, show it or disclose its contents to an adverse party’s attorney.
- (b) **Extrinsic Evidence of a Prior Inconsistent Statement.** Extrinsic evidence of a witness’s prior inconsistent statement is admissible only if the witness is given an opportunity to explain or deny the statement and an adverse party is given an opportunity to examine the witness about it, or if justice so requires. This subdivision (b) does not apply to an opposing party’s statement under Rule 801(d)(2).

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Article VII. Opinions and Expert Testimony

Rule 701. Opinion Testimony by Lay Witness

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

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

Rule 702. Testimony by Experts

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

- (a) the expert’s scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue; and
- (b) the testimony is based on sufficient facts or data.

Rule 703. Bases of an Expert’s Opinion Testimony

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

Rule 704. Opinion on Ultimate Issue

- (a) **In General — Not Automatically Objectionable.** An opinion is not objectionable just because it embraces an ultimate issue.
- (b) **Exception.** In a criminal case, an expert witness must not state an opinion about whether the defendant did or did not have a mental state or condition that constitutes an element of the crime charged or of a defense. Those matters are for the trier of fact alone.

Rule 705. Disclosing the Facts or Data Underlying An Expert’s Opinion

Unless the court orders otherwise, an expert may state an opinion — and give the reasons for it — without first testifying to the underlying facts or data. But the expert may be required to disclose those facts or data on cross-examination.

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Article VIII. Hearsay

Rule 801. Definitions

The following definitions apply under this article:

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

- (d) **Statements That Are Not Hearsay.** A statement that meets the following conditions is not hearsay:
1. **A Declarant-Witness's Prior Statement.** The declarant testifies and is subject to cross-examination about a prior statement, and the statement:
 - a. is inconsistent with the declarant's testimony and was given under penalty of perjury at a trial, hearing, or other proceeding or in a deposition;
 - b. is consistent with the declarant's testimony and is offered
 - i. to rebut an express or implied charge that the declarant recently fabricated it or acted from a recent improper influence or motive in so testifying; or
 - ii. to rehabilitate the declarant's credibility as a witness when attacked on another ground; or
 - c. identifies a person as someone the declarant perceived earlier.
 2. **An Opposing Party's Statement.** The statement is offered against an opposing party and:
 - a. was made by the party in an individual or representative capacity;
 - b. is one the party manifested that it adopted or believed to be true;
 - c. was made by a person whom the party authorized to make a statement on the subject;
 - d. was made by the party's agent or employee on a matter within the scope of that relationship and while it existed; or
 - e. was made by the party's coconspirator during and in furtherance of the conspiracy.

The statement must be considered but does not by itself establish the declarant's authority under (c); the existence or scope of the relationship under (d); or the existence of the conspiracy or participation in it under (e).

Rule 802. Hearsay Rule

Hearsay is not admissible except as provided by these Rules.

Rule 803. Exceptions to the Rule Against Hearsay – Regardless of Whether the Declarant is Available as a Witness

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

1. **Present Sense Impression.** A statement describing or explaining an event or condition, made while or immediately after the declarant perceived it.
2. **Excited Utterance.** A statement relating to a startling event or condition, made while the declarant was under the stress of excitement that it caused.
3. **Then-Existing Mental, Emotional, or Physical Condition.** A statement of the declarant's then-existing state of mind (such as motive, intent, or plan) or emotional, sensory, or physical condition (such as mental feeling, pain, or bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the validity or terms of the declarant's will.
4. **Statement Made for Medical Diagnosis or Treatment.** A statement that:
 - a. is made for — and is reasonably pertinent to — medical diagnosis or treatment; and
 - b. describes medical history; past or present symptoms or sensations; their inception; or their general cause.
5. **Recorded Recollection.** A record that:
 - a. is on a matter the witness once knew about but now cannot recall well enough to testify fully and accurately;
 - b. was made or adopted by the witness when the matter was fresh in the witness's memory; and
 - c. accurately reflects the witness's knowledge.

If admitted, the record may be read into evidence but may be received as an exhibit only if offered by an adverse party.
6. **Records of a Regularly Conducted Activity.** A record of an act, event, condition, opinion, or diagnosis if:
 - a. the record was made at or near the time by — or from information transmitted by — someone with knowledge;
 - b. the record was kept in the course of a regularly conducted activity of a business, organization, occupation, or calling, whether or not for profit;
 - c. making the record was a regular practice of that activity;
 - d. all these conditions are shown by the testimony of the custodian or another qualified witness, or by a certification that complies with a statute permitting certification; and
 - e. the opponent does not show that the source of information nor the method or circumstances of preparation indicate a lack of trustworthiness.
7. **Absence of a Record of a Regularly Conducted Activity.** Evidence that a matter is not included in a record described in paragraph (6) if:
 - a. the evidence is admitted to prove that the matter did not occur or exist;
 - b. a record was regularly kept for a matter of that kind; and
 - c. the opponent does not show that the possible source of the information nor other circumstances indicate a lack of trustworthiness.
8. **Public Records.** A record or statement of a public office if:
 - a. it sets out:
 - i. the office's activities;
 - ii. a matter observed while under a legal duty to report, but not including, in a criminal case, a matter observed by law-enforcement personnel; or
 - iii. in a civil case or against the government in a criminal case, factual findings from a legally authorized investigation; and
 - b. the opponent does not show that the source of information nor other circumstances indicate a lack of trustworthiness.
10. **Absence of a Public Record.** Testimony that a diligent search failed to disclose a public record or statement if the testimony or certification is admitted to prove that:
 - a. the record or statement does not exist; or

- b. a matter did not occur or exist, if a public office regularly kept a record or statement for a matter of that kind.
16. **Statements in Ancient Documents.** A statement in a document was prepared before January 1, 1998 and whose authenticity is established.
18. **Statements in Learned Treatises, Periodicals, or Pamphlets.** A statement contained in a treatise, periodical, or pamphlet if:
- the statement is called to the attention of an expert witness on cross-examination or relied on by the expert on direct examination; and
 - the publication is established as a reliable authority by the expert's admission or testimony, by another expert's testimony, or by judicial notice.
- If admitted, the statement may be read into evidence but not received as an exhibit.
21. **Reputation Concerning Character.** A reputation among a person's associates or in the community concerning the person's character.
22. **Judgment of a Previous Conviction.** Evidence of a final judgment of conviction if:
- the judgment was entered after a trial or guilty plea, but not a *nolo contendere* plea;
 - the conviction was for a crime punishable by death or by imprisonment for more than a year;
 - the evidence is admitted to prove any fact essential to the judgment; and
 - when offered by the prosecutor in a criminal case for a purpose other than impeachment, the judgment was against the defendant.
- The pendency of an appeal may be shown but does not affect admissibility.

Rule 804. Hearsay Exceptions; Declarant Unavailable

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

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

- (b) **The Exceptions.** The following are not excluded by the rule against hearsay if the declarant is unavailable as a witness:
- Former Testimony.** Testimony that:
 - was given as a witness at a trial, hearing, or lawful deposition, whether given during the current proceeding or a different one; and
 - is now offered against a party who had — or, in a civil case, whose predecessor in interest had — an opportunity and similar motive to develop it by direct, cross-, or redirect examination.
 - Statement Under the Belief of Imminent Death.** In a prosecution for homicide or in a civil case, a statement that the declarant, while believing the declarant's death to be imminent, made about its cause or circumstances.
 - Statement Against Interest.** A statement that:
 - a reasonable person in the declarant's position would have made only if the person believed it to be true because, when made, it was so contrary to the declarant's proprietary or pecuniary interest or had so great a tendency to invalidate the declarant's claim against someone else or to expose the declarant to civil or criminal liability; and
 - is supported by corroborating circumstances that clearly indicate its trustworthiness, if it is offered in a criminal case as one that tends to expose the declarant to criminal liability.
 - Statement of Personal or Family History.** A statement about:
 - the declarant's own birth, adoption, legitimacy, ancestry, marriage, divorce, relationship by blood, adoption, or marriage, or similar facts of personal or family history, even though the declarant had no way of acquiring personal knowledge about that fact; or
 - another person concerning any of these facts, as well as death, if the declarant was related to the person by blood, adoption, or marriage or was so intimately associated with the person's family that the declarant's information is likely to be accurate.
 - Statement Offered Against a Party That Wrongfully Caused the Declarant's Unavailability.** A statement offered against a party that wrongfully caused — or acquiesced in wrongfully causing — the declarant's unavailability as a witness, and did so intending that result. *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 by the rule against hearsay if each part of the combined statements conforms with an exception to the rule.

Rule 806. Attacking and Supporting Credibility

When a hearsay statement — or a statement described in Rule 801(d)(2)(C), (D), or (E) — has been admitted in evidence, the declarant's credibility may be attacked, and then supported, by any evidence that would be admissible for those purposes if the declarant had testified as a witness. The court may admit evidence of the declarant's inconsistent statement or conduct, regardless of when it occurred or whether the

declarant had an opportunity to explain or deny it. If the party against whom the statement was admitted calls the declarant as a witness, the party may examine the declarant on the statement as if on cross-examination.

Rule 807. Residual Exception

Under the following conditions, a hearsay statement is not excluded by the rule against hearsay even if the statement is not admissible under a hearsay exception in Rule 803 or 804:

- 1) The statement is supported by sufficient guarantees of trustworthiness – after considering the totality of circumstances under which it was made and evidence, if any, corroborating the statement; and
- 2) It is more probative on the point for which it is offered than any other evidence that the proponent can obtain through reasonable efforts.

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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.

INSTRUCTIONS FOR TIMEKEEPERS

Under the Rules of the Georgia High School Mock Trial Competition, all timekeepers are expected to follow these instructions when keeping time during a competition round.

Thank you for your diligence in this matter.

Before Competition Day

1. Timekeepers play an essential role during a mock trial competition round. At least two reliable students should be recruited to fill these critical positions on the mock trial team.
2. The role of timekeeper is a required role in a competition round. Trial coordinators do not provide additional volunteer personnel to act as timekeepers. -*Rule 18*
3. Each team may use up to three unique individuals to keep time throughout each level of competition. -*Rule 7(j)*
4. **NOTE:** If a team does not provide their own student timekeepers, that team must submit to the time kept by their opponent's timekeeper in the trial round. -*Rule 7(j)*
5. Rule 17 defines the time blocks allocated to each portion of the trial. Rule 18 describes the duties of a timekeeper. Timekeepers must review the rules for timekeeping and these instructions thoroughly before competition day.
6. Timekeepers must understand how to recognize each part of the trial before competition date. If there are any questions during a trial about whether or not time has stopped, politely ask the presiding judge for clarification.
7. It is suggested that to keep track of which stopwatch is for which side, label the stopwatches "P" and "D" and keep the "P" stopwatch on your left and the "D" stopwatch on your right.
8. Time will not be counted for: objections, extensive questioning from the presiding judge or administration of the oath. **Time DOES NOT stop for the introduction of evidence.** -*Rule 18(d)*
9. Practice timekeeping duties during team rehearsals before competition day.
10. Make copies of the time cards on yellow paper or card stock using the time card template found in the Coaches Manual. Time intervals may not be altered.

Before the Trial Round

1. On competition day, be sure each timekeeper has:
 - a. At least one timesheet for each round of the competition
 - b. Two stopwatches per team—**NOTE:** Some cell phones include a stopwatch function, but it is strongly preferred, because of issues related to team communication inside the bar & the use of electronic equipment by competing team members during a competition round (*Rule 24*), that timekeepers use traditional stopwatches for this task unless an unexpected battery or similar emergency related to a stopwatch arises on site and on competition day.
 - c. One set of "Time Remaining" cards printed on yellow paper or card stock
 - d. One "Time Card Use" sheet
 - e. Two pencils
2. Enter the round number and team codes in the appropriate space on the time sheet.
3. Enter the courtroom and take your position at the end of the jury box, away from any judging panel member. Arrange stopwatches, time cards and Time Card Use sheet.
4. Rise when the judge and jury enter the courtroom and then be seated when the presiding judge grants permission.

During the Trial Round

1. Timekeepers for both teams in a competition round will work together as a neutral "timekeeping team" to insure that time is kept accurately and fairly for both sides in the round.

2. For each task in a trial round, time **starts** when each attorney starts to speak. (i.e. when the attorney actually speaks the first word of his/her opening, closing or examination question—examples include but are not limited to, “May It Please the Court...”, or “Your Honor, ladies/gentlemen of the jury...” (for openings/closing) or “Please state your name for the court...” (for examination questions)—NOT when an attorney responds to a presiding judge’s inquiry as to whether that side is ready to proceed, asks for permission to reserve time for a rebuttal, asks for permission to use/move a podium, or to swear a witness, etc.).
3. Time **stops** when the attorney makes the last statement on completion of a given task.
4. Occasions when time is **not counted**:
 - a. From time witness is called until s/he finishes taking the stand (including the administration of the oath)
 - b. From time an objection is raised until the attorney resumes the task/examination that the objection interrupted
 - c. During the time a judge may raise questions to a team, the panel or the trial coordinator
5. **NOTE:** Time **stops** for **OBJECTIONS**. Timekeepers will stop time when an attorney says, “Objection, Your Honor...”. Timekeepers will re-start time, after the presiding judge’s ruling, when the student attorney says the first word to continue the interrupted task/examination.
6. Time **DOES NOT STOP** for the introduction of evidence.
7. Reset a stopwatch to zero **only** at the following times:
 - a. At the beginning of each side’s opening statement
 - b. At the beginning of each side’s direct examination time block
 - c. At the beginning of each side’s cross examination time block
 - d. At the beginning of each side’s closing argument
8. Do **NOT** reset a stopwatch to zero at any other time.
 - a. Do not reset stopwatch to zero at the end of a direct or cross examination of a particular witness, since the timekeeper may need to resume direct examination timing for redirect questioning, and cross examination timing for re-cross questioning.
 - b. Do not reset stopwatch to zero at the end of the P’s closing argument, since the timekeeper may need to resume the P’s closing argument timing IF the P side gives a portion of their closing before the D side and then must make a rebuttal after the D side has concluded their closing argument.
9. Timekeepers should display time cards simultaneously throughout the round and the cards must be displayed to **both teams** (attorneys and witnesses) and the presiding judge only at the intervals set out in the Time Card Use table. The STOP card must be displayed to both teams, the presiding judge and to the scoring judges, as well.
10. Timekeepers may not display any additional increments of time (not outlined on the time card use table) to their own team independently of the opposing team’s timekeeper at any time during the trial.

Discrepancies in Time Between Team Timekeepers During a Trial Round

1. If timing variations of 15 seconds or more occur at the completion of any task of the trial, the timekeepers are to notify the presiding judge that a time discrepancy has occurred. -*Rule 18(f)*
2. Timekeepers may raise time discrepancies of more than 15 seconds at the end of each task during the trial presentation (i.e. at the end of each opening, at the end each witness examination, at the end of each cross examination and at the end of each closing argument).
 - To do this, one timekeeper will politely gain the presiding judge's attention and state: "Your honor, under Rule 18(f), there is a time discrepancy of more than 15 seconds."
 - The presiding judge will likely ask for an explanation of the discrepancy and will then rule on the time discrepancy before the trial continues. The presiding judge has the option to rule on the discrepancy without any explanation of why it occurred.
 - Timekeepers will synchronize their stopwatches to match the ruling of the presiding judge. (i.e. if the P team's stopwatch indicates that the P team has 2 minutes left in the direct examination block and the D team's stopwatch indicates that time has expired for the P team in the direct examination block, the presiding judge MIGHT decide to split the difference in the timing variation and give the P team 1 minute to conclude the direct examination. The D timekeeper would adjust timing to allow for the 1-minute decision.)
3. Any discrepancy between timekeepers of less than 15 seconds will not be considered a violation.
4. No time disputes will be entertained after the trial concludes.
5. The decisions of the presiding judge regarding the resolution of timing disputes are final.

Things to Remember During a Trial Round

1. The presiding judge has sole discretion to grant time extensions.
2. If time has expired and an attorney continues without permission from the Court, the timekeepers should indicate so on the timesheet and should continue holding the STOP card until the overage is acknowledged and dealt with by the presiding judge. -*Rule 18(e)*
3. The time sequence listed gives the *maximum* time limits per trial segment (*Rule 14*). Time not used in one segment may not be applied to any other segment of the trial.

Concluding a Trial Round

1. After the round concludes, add up the time used for each side and sign the time sheet.
2. Politely obtain the presiding judge's attention and turn in the time sheet before the presiding judge retires to the scoring room. No matter the confusion, timekeepers *must* deliver their time sheets to the presiding judge immediately after the trial round has concluded.
3. If an "Inside the Bar" dispute is raised at the conclusion of the trial round, a presiding judge may request that timekeepers time portions of the dispute procedure.
4. Reset the stopwatch to zero in order to time the debriefing session.
5. Politely remind the presiding judge that both timekeepers will be timing the debriefing and that a maximum of 10 minutes is allotted to that portion of the round.
6. Signal the presiding judge with the STOP card when the 10 minutes for debriefing has elapsed.
7. When the debriefing session has ended and the presiding judge has released both teams, timekeepers should help the teams straighten up the courtroom for the next round.

TIME CARD USE CHART

Georgia Mock Trial Competition

For **Direct Examination** (25 minutes total)

When your stopwatch says	Hold up the timecard that says
5:00	20:00
10:00	15:00
15:00	10:00
20:00	5:00
21:00	4:00
22:00	3:00
23:00	2:00
24:00	1:00
24:20	0:40
24:40	0:20
24:45	0:15
24:50	0:10
24:55	0:05
25:00	STOP

For **Cross Examination** (20 minutes total)

When your stopwatch says	Hold up the timecard that says
5:00	15:00
10:00	10:00
15:00	5:00
16:00	4:00
17:00	3:00
18:00	2:00
19:00	1:00
19:20	0:40
19:40	0:20
19:45	0:15
19:50	0:10
19:55	0:05
20:00	STOP

For Opening Statements & Closing Arguments (5 minutes each)

When your stopwatch says	Hold up the timecard that says
1:00	4:00
2:00	3:00
3:00	2:00
4:00	1:00
4:20	0:40
4:40	0:20
4:45	0:15
4:50	0:10
4:55	0:05
5:00	STOP

The time sheet and the timecard templates can be found under the FORMS LINK in the secure Team Information section of the website.

Timecards must be printed on yellow paper or card stock.

Explanation of the Performance Ratings Used on the Mock Trial Scoresheet

As the trial progresses, the Scoring Evaluators will award point to students at each stage of the trial. Individual students will be rated on a scale of 1-10 speaker points, according to their role(s) in the trial. The Scoring Evaluator is scoring **INDIVIDUAL PERFORMANCE** in each speaker category, and separately the **TEAM PERFORMANCE** in the Team Points box. **The scoring Evaluator is NOT scoring the legal merits of the case.**

The following page contains a guideline of appropriate points for attorneys and witnesses. This is not meant to be a checklist of assigned points but more of a guideline to adjust points as each student presents their role. Though an attorney does something that falls in the 4-5 category, they may hit everything else at a higher number. Evaluators should weigh the entire performance of each student and score them with these guidelines in mind.

Scoring Evaluators may individually consider penalties for violation(s) of the Rules of the Competition or the Code of Ethical Conduct. Penalties would reduce point awards in the appropriate performance categories below. Penalties will not be indicated separately on the scoresheet. Please see **Rule 30(b)** for the treatment of rule infractions.

Team Points

On a scale of 1-10 (with 10 being the highest), rate the performance of each team as a whole in the categories on the scoresheet. Each category is to be evaluated separately. **DO NOT GIVE DECIMAL, PARTIAL OR FRACTIONAL POINTS.** After scoring speaker points for individuals, award 1-10 points to each team as Team Points. Each scoring Evaluator should consider “6” as the average Team Points award, with reductions made for team penalties and additions for outstanding team performance:

- As a whole, did the team present an effective case?
- As a whole, did the team members show an understanding of the rules of the competition, the rules of evidence, the applicable law and the facts of the case?
- As a whole, did the team present their case within the letter and the spirit of the mock trial rules? Were all trial strategies used ethical and the team adhere to the Code of Ethical Conduct? – see **Rule 7(f)**.
- Was the team’s demeanor positive and did all members observe proper courtroom decorum at all times?
- Was a cohesive theme of the case was used throughout each portion of the trial presentation?
- Was each member of the team able to present information in a logical and articulate manner?
- As a whole, did the team seem poised, knowledgeable and well prepared?
- Did witnesses respond to questions accurately, within the scope of the information contained in their witness statement and related exhibits (unfair extrapolation)? Did they answer questions on cross concisely (time sucking)? Were they consistent with their character and performance on both direct and cross?
- Did the attorneys ask witnesses for information outside the scope of the appropriate case materials (unfair extrapolation)? – See **Rules 3 & 4**
- Did team members direct comments to the appropriate audience - judge, jury or witness - with good eye contact?
- Was there was minimal reliance on notes throughout the **entire presentation**? - see **Rule 52**
- Were appropriate time limits followed in each portion of the trial? – see **Rule 17**
- If there were rule infractions, you may deduct them from the Team Points per **Rule 30(b)**.

Teams MAY NOT receive the same Team Point award. Ties are NOT ALLOWED in the Team Points box.

The team with the largest number of Total Points on the scoresheet will win the ballot. The team with the largest number of ballots per courtroom wins the courtroom. Please sign the scoresheet.

Outstanding Attorney and Witness Awards

Scoring Evaluators are strongly encouraged to exercise their **OPTION** of recognizing outstanding individual performance by honoring one **OUTSTANDING ATTORNEY** and one **OUTSTANDING WITNESS** per competition Round. This would be a joint decision of the majority of the Judging Panel, including all scoring Evaluators and the Presiding Judge. The appropriate certificates should be completed and signed by the Judging Panel and returned to the trial Coordinator for distribution during the awards ceremony.

SCORING MATRIX

	ATTORNEYS	WITNESSES
9 – 10 Outstanding and Superior	<p>Case/rules/legal issues excellent understanding Trial procedure understanding was superior Delivery was compelling Script not used, reacts to the moment Notes only used for issues raised during trial Questions/arguments were compelling Objections/responses were appropriate and mastered Superior recovery after objections Questions asked called for no unfair extrapolation Eye contact maintained Voice was clear, audible, confident and with conviction Excellent responses to other team’s presentation Compelling trial presentation Took command of courtroom, but not overbearing</p>	<p>Witness statements and exhibits excellent understanding Performance felt spontaneous and natural Responses consistent with facts Did not materially go outside case materials (<i>no unfair extrapolation</i>) Superior recovery after objections Eye contact maintained when appropriate Voice was clear, audible, confident and with conviction Took command of courtroom, but not overbearing Performance was compelling (<i>see Rules 3 & 5</i>) Performance/character was solidly consistent between direct and cross Answered cross questions responsibly, not attempting to waste opposing counsel’s time (<i>time sucking</i>)</p>
7 – 8 Very Good	<p>Case/rules/legal issues well understood Trial procedure understanding was very good Delivery was persuasive Script not used, reacts to the moment Notes only used for issues raised during trial Questions/arguments moved case forward Questions asked called for no unfair extrapolation Objections/responses were appropriate Recovered well after objections Eye contact mostly maintained Voice was clear, audible, and confident Adjusted case other team’s presentation</p>	<p>Witness statements and exhibits well understood Responses mostly felt spontaneous and not memorized Responses consistent with facts Did not materially go outside case materials (<i>no unfair extrapolation</i>) Recovered well after objections Eye contact mostly maintained when appropriate Voice was clear, audible, and confident Performance was mostly credible and convincing (<i>see Rules 3 & 5</i>) Performance/character was mostly consistent between direct and cross Answered most cross questions responsibly, not overtly attempting to waste opposing counsel’s time (<i>time sucking</i>)</p>
6 Average (Proficient)	<p>Case/rules/legal issues fairly understood Trial procedures fairly understood Delivery had some hesitation/stumbles Script/notes used occasionally (<i>see Rule 48</i>) Questions/arguments moved case forward Questions asked called for no unfair extrapolation Missed appropriate opportunities to object Recovered adequately after objections Eye contact maintained some of the time Voice sometimes difficult to hear Minimally responsive to other team’s presentation</p>	<p>Witness statements and exhibits fairly understood Some responses felt scripted Responses consistent with facts Materially went outside case materials once (<i>unfair extrap.; see Rule 4</i>) Recovered adequately after objections Eye contact maintained some of the time when appropriate Voice sometimes difficult to hear Performance was somewhat credible and convincing (<i>see Rules 3 & 5</i>) Performance/character was somewhat consistent between direct and cross Answered most cross questions responsibly, not seeming to attempt to waste opposing counsel’s time (<i>time sucking; see Rule 50 (c)</i>)</p>
4 – 5 Poor	<p>Case/rules/legal issues poorly understood Trial procedures slightly poorly understood Poise and delivery needed work Script/notes was highly depended upon (<i>see Rule 48</i>) Few questions/arguments moved case forward Asked questions intended for an unfair extrapolation Struggled to make/respond to objections No understanding of how to recover from objections Little eye contact made Voice often difficult to hear Failed to consider other team’s presentation</p>	<p>Witnesses statements and exhibits poorly understood Responses felt generic and/or scripted Responses sometimes inconsistent with facts Materially went outside case materials more than once (<i>unfair extrap.; see Rule 4</i>) No understanding of how to recover from objections Little eye contact made Voice often difficult to hear Performance was passable, lacks depth (<i>see Rules 3 & 5</i>) Performance/character was not consistent between direct and cross Deliberately attempted to waste opposing counsel’s time (<i>time sucking; see Rule 50 (c)</i>)</p>
1 – 3 Ineffective	<p>Case/rules/legal issues not understood Trial procedures not understood Delivery not persuasive or articulate Script/notes was totally relied upon (<i>see Rule 48</i>) No questions/arguments moved case forward Asked questions intended for an unfair extrapolation No understanding of making/responding to objections No understanding of how to recover from objections Eye contact not made Voice weak, unclear or inaudible Failed to consider other team’s presentation</p>	<p>Witness statements and exhibits not understood Responses not thorough, persuasive, or natural Responses not consistent with facts Consistently went materially outside case materials (<i>unfair extrap.; see Rule 4</i>) No understanding of how to recover from objections Eye contact not made Voice weak, unclear or inaudible Performance/character was completely inconsistent between direct and cross Performance was not credible nor convincing (<i>see Rules 3 & 5</i>) Deliberately attempted to waste opposing counsel’s time (<i>time sucking; see Rule 50 (c)</i>)</p>

WHAT TO LOOK FOR WHEN SCORING TEAMS

ATTORNEYS

Opening Statement	<p>Provided overview on the witnesses and their testimony, evidence, and how it will prove the case</p> <p>Introduced a theme/theory of the case</p> <p>Outlined the burden of proof</p> <p>Requested relief (what the side is asking the court to decide)</p> <p>Non-argumentative</p>
Direct Attorney/ Examination	<p>Asked properly phrased open ended questions that allowed explanation or description of the situation</p> <p>Sequenced questions logically</p> <p>Did not ask questions that required any unfair extrapolations</p> <p>Laid foundation for witness testimony</p> <p>Elicited relevant, important evidence from witnesses</p> <p>Continued with consistent theme/theory of the case</p> <p>Provided proper objections during opposing team's cross-examination</p> <p>Utilized objections to move the case forward and not just to throw the other side off their game</p> <p>Made/defended objections utilizing rules of evidence or the rules of the competition</p> <p>Recovered well after objections</p> <p>Adjusted to judges' rulings</p> <p>Addressed actual testimony</p> <p>Followed proper protocol for handling and introducing exhibits</p> <p>Demonstrated an understanding of the rules of competition and evidence</p> <p>Limited re-direct to scope of cross-examination</p> <p>On re-direct, rehabilitated witnesses</p>
Cross Attorney/ Examination	<p>Continued with consistent theme/theory of the case</p> <p>Provided proper objections during opposing team's direct examination</p> <p>Made/defended to objections utilizing rules of evidence or the rules of the competition</p> <p>Utilized objections to move the case forward and not just to throw the other side off their game</p> <p>Recovered well after objections</p> <p>Adjusted to judges' rulings</p> <p>Addressed actual testimony</p> <p>Elicited facts favorable to the attorney's case</p> <p>Asked properly phrased questions that weakened the testimony given during direct examination</p> <p>Used appropriate leading questions suggesting a "yes/no" answer</p> <p>Attempted to appropriately control the witness consistent with the judges' rulings</p> <p>Properly impeached the witness, if needed, without appearing to harass or intimidate</p> <p>Followed proper protocol for introducing exhibits</p> <p>Demonstrated an understanding of the rules of competition and evidence</p> <p>Limited re-cross-examination to scope of re-direct examination</p>
Closing Arguments	<p>Incorporated what transpired during trial</p> <p>Summarized the evidence with reasoned arguments</p> <p>Outlined the strengths of his/her side's witnesses and the weaknesses of the other side's witnesses</p> <p>Discussed relevant exhibits when appropriate</p> <p>Theme was carried through to closing</p> <p>Refers to jury instructions or other legal standards when necessary</p> <p>Asked for the verdict, including a request for relief, and explained why the verdict was justifiable</p> <p>Effectively answered and rebutted opponent's case</p>

WITNESSES

Performance	<p>Presented an interesting and authentic character</p> <p>Character and performance was consistent between direct and cross</p> <p>Played up the strengths of his/her statements and adequately explained the weaknesses</p> <p>Understood the facts of the case and the exhibits</p> <p>Provided logical testimony</p> <p>Sounded spontaneous and not memorized</p> <p>Did not give excessively long or non-responsive answers on cross-examination (time sucking)</p> <p>Maintained factual position under cross-examination</p> <p>Did not offer answers that included any unfair extrapolations</p> <p>Recovered well after objections</p> <p>Remained in character when not on the witness stand</p>	<p><i>Witnesses now receive one score on direct and another separate score on cross. This is to allow for differences in performance and character between direct and cross and to address any rules issues, i.e. unfair extrapolation and time sucking in either portion.</i></p>
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***** Do NOT reward excessive explanations and/or obstructionist behavior meant to waste opposing team's time.**
***** Do NOT reward unfair extrapolations.**



Level: REGION DISTRICT STATE Round: 1 2 3 4 Final

Date: 2/12/22

Courtroom: 3C

Prosecution/Plaintiff: G v. R:Defense
 (Team Code) (Team Code)

Using the Scoring Matrix at the end of the Judging Panel Manual for reference, rate the teams in the categories below, recording one numerical score in each box. Use whole points only. Please use a ballpoint pen and press down hard.

Not Effective	Poor	Average (Proficient)	Very Good	Outstanding and Superior
1 - 3	4 - 5	6	7 - 8	9 - 10

		P (Prosecution/Plaintiff)		D (Defense)	
OPENING STATEMENT		8		OPENING STATEMENT 9	
P'S FIRST WITNESS Witness Role:	Direct Examination	7		Cross Examination	8
	Witness' Performance	Dir 9	Cross 8		
P'S SECOND WITNESS Witness Role:	Direct Examination	7		Cross Examination	8
	Witness' Performance	Dir 9	Cross 6		
P'S THIRD WITNESS Witness Role:	Direct Examination	8		Cross Examination	10
	Witness' Performance	Dir 9	Cross 8		
D'S FIRST WITNESS Witness Role:	Cross Examination	6	Direct Examination 8		
			Witness' Performance	Dir 7	Cross 8
D'S SECOND WITNESS Witness Role:	Cross Examination	9	Direct Examination 8		
			Witness' Performance	Dir 7	Cross 9
D'S THIRD WITNESS Witness Role:	Cross Examination	8	Direct Examination 7		
			Witness' Performance	Dir 9	Cross 8
CLOSING ARGUMENT (and rebuttal, if any)		8		CLOSING ARGUMENT (and rebuttal, if any) 9	
TEAM POINTS (1 - 10 per side)		8		NO TIE ALLOWED 7	
Tie Breaker (Circle one)		Pros/Plain		Defense	
TO BE COMPLETED BY SCORING ROOM ONLY					
FINAL POINT TOTAL (Maximum 150 per side)		118		122	

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State Bar
of Georgia

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