

The City of Erieland vs.
CAMERON WOODS
2018 Cleveland
MOCK TRIAL

22ND ANNUAL CLEVELAND MOCK TRIAL COMPETITION

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Presented in partnership by:



The City of Erieland vs. Cameron Woods: case materials created by Dairian Heard and Xavier Thomas-Hughes, supplemented and edited by Jessica Paine of the Cleveland Metropolitan Bar Association.



About the authors: Dairian and Xavier are alumni of the Louis Stokes Scholars Program who share a passion for writing and legal research. Dairian earned her B.A. in English from Georgetown College, and plans to practice Entertainment Law. Before joining the Stokes Classes of 2013 and 2017, Dairian participated in the CMBA's High School Internship Program. In 2010, she earned Best Overall Attorney in the Cleveland Mock Trial. As an avid reader and writer, she creates poetry and is currently working on a novel. Dairian enjoys exercising her talents by coaching students at her alma mater, Cleveland Early College High School. Her mantra is to "Be the change you hope to see in the world"; it's her belief that by incorporating this mantra she will not only grow in her personal and professional life, but also be a change agent in her community.

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CASE SUMMARY

Witnesses for the Prosecution:

- Dr. Mickey Edwards (medical examiner)
- Ali Jacobs (member of the track team)
- Detective Taylor Byrd (Erieland Police Department)

Witnesses for the Defense:

- Sam Jones (Erieland HS teacher and track coach)
- Dr. Jesse Spencer (orthopedic surgeon)
- Cameron Woods (defendant)

Case Narrative:

On Wednesday afternoon, October 4, 2017, 15 members of the Erieland High School track team met to practice for an upcoming meet at the high school's track field. Included in attendance were team members Cameron Woods and Victor Rye. Approximately 20 minutes into practice, during a cool-down following warmups, Victor Rye began expressing to his teammates that he was experiencing lightheadedness and difficulty breathing. Victor's teammates immediately called over the head coach, Sam Jones. As Coach Jones reached Victor, he began to vomit and collapsed just seconds later. Coach Jones quickly called 9-1-1. When first responders arrived approximately five minutes later, Victor Rye was experiencing a seizure. The first responders took vital signs and loaded Victor into an ambulance. Victor was rushed to the hospital, but was pronounced dead on arrival.

Responding to the emergency call, Detective Byrd of the Erieland Police Department arrived on the scene approximately three minutes after the first responders and immediately began questioning team members and the coaching staff. Byrd's inquiry led them to believe that Victor Rye may have taken un-prescribed medication, which he allegedly obtained from Cameron Woods. Acting on this lead, Detective Byrd approached Cameron and asked them about recent interactions with Victor. Cameron replied that the only encounter they'd had with Victor was earlier in the day when Victor asked Cameron for help with his homework. Detective Byrd then requested to see the contents of Cameron's gym bag. Although reluctant at first, Cameron handed the bag to Detective Byrd. Inside, Detective Byrd discovered cash, rolled up and fastened with a rubber band, totaling \$150; a bottle of pills labeled oxycodone; and a sheet of paper with the following written on it:

“AS---- 20
BL-----25
VR---21
DT---- 17
ER----22.”

Detective Byrd took a photo of the roll of cash and gave it back to Cameron. When asked about the pills, Cameron said they were prescribed by their doctor for a surgery they'd had in May. When Detective Byrd asked about the money and the sheet of paper, Cameron became evasive and asked if they were in trouble for something.

Detective Byrd informed Cameron that they'd received a tip from another student Cameron was selling drugs. Cameron fell silent and attempted to walk away. Before Cameron could do so, Detective Byrd asked Cameron for the sheet of paper in their gym bag. Cameron reluctantly consented and said nothing more. Detective Byrd also wrote down the name of Cameron's medication but did not confiscate it.

Three weeks later, results from the autopsy of Victor Rye came back positive for oxycodone as the most likely factor leading to his death. After conducting an unannounced search of the school, which revealed no other signs of narcotics in the possession of any students but Cameron, Detective Byrd returned to the school and arrested Cameron Woods, who has been charged with involuntary manslaughter and drug trafficking.

THE LAW

Ohio Revised Code

2903.04 Involuntary manslaughter.

(A) No person shall cause the death of another or the unlawful termination of another's pregnancy as a proximate result of the offender's committing or attempting to commit a felony.

(B) No person shall cause the death of another or the unlawful termination of another's pregnancy as a proximate result of the offender's committing or attempting to commit a misdemeanor of any degree, a regulatory offense, or a minor misdemeanor other than a violation of any section contained in Title XLV of the Revised Code that is a minor misdemeanor and other than a violation of an ordinance of a municipal corporation that, regardless of the penalty set by ordinance for the violation, is substantially equivalent to any section contained in Title XLV of the Revised Code that is a minor misdemeanor.

(C) Whoever violates this section is guilty of involuntary manslaughter. Violation of division (A) of this section is a felony of the first degree. Violation of division (B) of this section is a felony of the third degree.

2925.03 Trafficking, aggravated trafficking in drugs.

(A) No person shall knowingly do any of the following:

- (1) Sell or offer to sell a controlled substance or a controlled substance analog;
- (2) Prepare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance or a controlled substance analog, when the offender knows or has reasonable cause to believe that the controlled substance or a controlled substance analog is intended for sale or resale by the offender or another person. ...

(C) Whoever violates division (A) of this section is guilty of one of the following:

- (1) If the drug involved in the violation is any compound, mixture, preparation, or substance included in schedule I or schedule II, with the exception of marihuana, cocaine, L.S.D., heroin, hashish, and controlled substance analogs, whoever

violates division (A) of this section is guilty of aggravated trafficking in drugs. The penalty for the offense shall be determined as follows:

- (a) [A]ggravated trafficking in drugs is a felony of the fourth degree
- (b) [I]f the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the third degree

3719.41 Controlled substance schedules.

SCHEDULE II

(A) Narcotics-opium and opium derivatives

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrophan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:

- (a) Raw opium;
- (b) Opium extracts;
- (c) Opium fluid extracts;
- (d) Powdered opium;
- (e) Granulated opium;
- (f) Tincture of opium;
- (g) Codeine;
- (h) Ethylmorphine;
- (i) Etorphine hydrochloride;
- (j) Hydrocodone;
- (k) Hydromorphone;
- (l) Metopon;
- (m) Morphine;
- (n) Oxycodone;
- (o) Oxymorphone;
- (p) Thebaine.

THE ISSUES

In recent years the United States has experienced what experts in the legal and medical professions have called an epidemic: the opioid crisis. What the opioid crisis is, whom it affects, and how people can be educated about the crisis are top concerns for officials across the country, but particularly here in Ohio. Ohio leads the nation in opioid overdose deaths, and more specifically Ohio also tops the list for death rate due to heroin: one in nine heroin overdose deaths in the United States occurs in Ohio, easily surpassing states with higher overall populations.¹ At least 4,149 Ohioans died from unintentional drug overdoses in 2016, a 36 percent leap from just the previous year, and experts say the total for 2017 is likely to be even higher.²

According to the National Institute on Drug Abuse:

Opioids are a class of drugs that include the illegal drug heroin, synthetic opioids such as fentanyl, and pain relievers available legally by prescription, such as oxycodone (OxyContin®), hydrocodone (Vicodin®), codeine, morphine, and many others. These drugs are chemically related and interact with opioid receptors on nerve cells in the body and brain. Opioid pain relievers are generally safe when taken for a short time and as prescribed by a doctor, but because they produce euphoria in addition to pain relief, they can be misused (taken in a different way or in a larger quantity than prescribed, or taken without a doctor's prescription). Regular use—even as prescribed by a doctor—can lead to dependence and, when misused, opioid pain relievers can lead to overdose incidents and deaths. An opioid overdose can be reversed with the drug naloxone when given right away.³

Fentanyl is so dangerous, that in some cases merely breathing in, or touching a small bit of it, can still be fatal.⁴ For example, a 10-year-old boy in Florida died in July, 2017, after being exposed to the drug. His case closely follows that of an Ohio police officer who passed out and required four doses of an antidote medication to revive him after coming into brief contact with a piece of fentanyl — which is about five times as strong as heroin. The officer was wearing gloves and a mask to perform a search but accidentally touched a small speck of the drug when he brushed it off his shirt with his bare hand.

The opioid crisis is one that hits close to home for Ohio citizens, and particularly residents of Cuyahoga County. The city of Dayton, Ohio, was the number one location in the U.S. for per-capita drug deaths, according to data from the Center for Disease

¹ "Ohio Leads Nation in Overdose Deaths," Columbus Dispatch, <http://www.dispatch.com/news/20161129/ohio-leads-nation-in-overdose-deaths/>

² "Overdose deaths continue to soar in Ohio," Columbus Dispatch, <http://www.dispatch.com/news/20170528/overdose-deaths-continue-to-soar-in-ohio>

³ National Institute on Drug Abuse, <https://www.drugabuse.gov/drugs-abuse/opioids>

⁴ "Fentanyl Crisis: Miami Boy, 10, Believed to Have Died After Exposure to Drug," NBC News, <http://www.nbcnews.com/storyline/americas-heroin-epidemic/fentanyl-crisis-miami-boy-10-reportedly-overdosed-deadly-painkiller-n784086>

Control and Prevention, with Cincinnati coming in at the sixth highest city, Toledo at number 10, Akron number 15, and Cleveland the 25th highest city in the nation.⁵

Cuyahoga County has been no stranger to the war on drugs and all that accompanies addiction: drug trafficking and crime, abuse and overdose, and more. Drugs prevalent in this county include crack and powder cocaine, marijuana, heroin, ecstasy, methamphetamine, PCP, fentanyl, MDMA, and more.⁶ Each day in the United States, more than 120 people die as a result of a drug overdose; however, deaths from overdoses related to opioid abuse far and away outpace those of other drugs. In Cuyahoga County alone, according to the Medical Examiner's office, in the first 90 days of 2016, 107 people died of heroin and fentanyl overdoses.⁷ In just one year, the overdose-death count *doubled* in Ohio's six biggest counties (Cuyahoga, Franklin, Hamilton, Lucas, Montgomery and Summit).⁸

Where are opioids coming from?

There is much debate about the underlying causes for the crisis, and what exactly leads to addiction. Many authorities blame prescription drugs: prescription opioids are one of the top three main categories of medications that often lead to abuse.⁹ The factors that likely contribute to the problem include "drastic increases in the number of prescriptions written and dispensed, greater social acceptability for using medications for different purposes, and aggressive marketing by pharmaceutical companies."

Others, however, say the blame does not lie with those originally prescribed the medication, who then misuse the drug themselves until they are addicted, but with those who obtain and use opioids illicitly, not medically.¹⁰ According to some studies, 75 percent of all opioid misuse starts with people using un-prescribed medication obtained from a friend, family member, or dealer. Some people argue that saying cracking down on people who take opiates for medically-prescribed uses unfairly punishes them for their chronic pain, while recreational drug use is the real culprit. There is some evidence, too, that drugs can be obtained online for mail order from overseas sources, making it even easier for people to become addicted.¹¹

What can be done about the crisis?

Community and political leaders across Ohio and the nation have called for a solution, but the issue is complex and difficult. In August of 2017, the Ohio Mayors Alliance urged Ohio Gov. John Kasich to establish an emergency operations center to coordinate the

⁵ "Dayton tops list of drugged-out cities," Dayton Daily News, <http://www.mydaytondailynews.com/news/crime--law/dayton-tops-list-drugged-out-cities/lksAhrYPd2IGjct8Wg9SsK/>

⁶ "Drug Abuse Trends in the Cleveland Region," Ohio Substance Abuse Monitoring Network, <http://mha.ohio.gov/Portals/0/assets/Research/OSAM-TRI/Cleveland-Jan2016.pdf>

⁷ "Getting Answers: Northeast Ohio's top reporting drug schools exposed," Cleveland 19 News, <http://www.cleveland19.com/story/31737853/getting-answers-northeast-ohios-top-reporting-drug-schools>

⁸ "Overdose deaths continue to soar in Ohio," *Ibid.*

⁹ "America's Addiction to Opioids: Heroin and Prescription Drug Abuse," Report by Dr. Nora D. Volkow to the Senate Caucus on International Narcotics Control, National Institute on Drug Abuse, <https://www.drugabuse.gov/about-nida/legislative-activities/testimony-to-congress/2016/americas-addiction-to-opioids-heroin-prescription-drug-abuse>

¹⁰ "Opioid Addiction Is a Huge Problem, but Pain Prescriptions Are Not the Cause," Scientific American, <https://blogs.scientificamerican.com/mind-guest-blog/opioid-addiction-is-a-huge-problem-but-pain-prescriptions-are-not-the-cause/>

¹¹ "Fentanyl Crisis: Deadly Drug Easily Available for Online Purchase," NBC News, <https://www.nbcnews.com/storyline/americas-heroin-epidemic/fentanyl-crisis-deadly-drug-easily-available-online-purchase-n791311>

state's response to the opioid crisis.¹² Members of the group wrote, "We are witnessing an unfolding catastrophe, unparalleled in our state's recent history, and more needs to be done by all of us to confront this deadly epidemic." To connect resources, the Ohio Department of Public Safety shares law enforcement drug information with local, state, and federal agencies. The mayoral group also proposed other ideas, including streamlining the flow of information from cities to the state and coordinating the sharing of crisis resources such as the overdose antidote naloxone and clean needles.

The overdose antidote naloxone, commonly referred to by its brand name Narcan, is a drug that can reverse the effects of an opioid overdose. Some states now require police officers to carry a variety of naloxone to revive people who have overdosed, and many firefighters, emergency medical personnel, and other first responders also carry naloxone.¹³ Although the drug has saved the lives of many overdose victims, requiring police to carry Narcan or naloxone remains controversial, with some authorities refusing to require police officers to carry the remedy.¹⁴ Administering the drug, they say, puts the officers in danger and the cost to taxpayers is too high.

For many years, naloxone was available only as an injectable drug carried by experts like first responders.¹⁵ However, in response to the epidemic, the U.S. Food and Drug Administration recently approved a new hand-held auto-injector specifically designed to be given by family members or caregivers, and supports the development of a needle-free naloxone nasal spray that can easily be used by a friend, bystander, or even the overdose victim in the event of an emergency.

Note from the 2018 Cleveland Mock Trial Case authors:

This year, we decided to create awareness around the tragic truth about the opioid crisis in Northeast Ohio. In *City of Erieland v. Woods*, we discuss the abuse of prescription drugs among teenagers like you. We weave a story of a star athlete and their champion track team to bring to light the horrors of opioids and other prescription drugs. It is important that not only students, but educators understand what to look for in situations like these. We urge all of our mock trial participants to further explore this topic and keep the conversation going about this life-threatening issue.

¹² "Ohio Mayors Seek Emergency Response Center for Opioid Crisis," US News, <https://www.usnews.com/news/best-states/ohio/articles/2017-08-22/ohio-mayors-seek-emergency-response-center-for-opioid-crisis>

¹³ "Narcan Is Now Sold at Walgreens. What's That?," Time, <http://time.com/4999223/what-is-narcan/>

¹⁴ "Ohio Sheriff Says His Officers Won't Carry Narcan," NBC News, <https://www.nbcnews.com/storyline/americas-heroin-epidemic/ohio-sheriff-says-his-overdosing-ohioans-my-guys-have-no-n780666>

¹⁵ "America's Addiction to Opioids: Heroin and Prescription Drug Abuse," *Ibid.*

ENHANCE YOUR CASE

- Use relevant exhibits to establish certain important facts.
- Determine if there are any facts to impeach (discredit) a witness's testimony.
- Determine if there are any facts that can be used to show a witness's testimony was motivated by bad or impure reason (for example, did Ali accuse Cameron of selling drugs out of envy?)
- Try to manipulate facts to conform to your theory of the case (for example, was Cameron's new fancy track gear an indication they were making money from selling drugs?).
- Standard of proof: Remember that in a criminal trial, the burden is on the prosecution to prove the defendant's guilt "beyond a reasonable doubt," which means the evidence must be so strong that there is no reasonable doubt that the defendant committed the crime.

WRITING PROMPTS

1. Write a sentencing memorandum for *City of Erieland v. Cameron Woods* using the assumption that Cameron Woods was convicted of one or more of the charges. Support your conclusion for sentencing with evidence from the case, considering any possible factors calling for a higher sentence, or a lesser sentence (mitigating factors).
2. Write an essay supporting your argument either that Cameron Woods should be convicted or should be found not guilty. Support your statements as you would before the court.
3. Assume that after their arrest, Cameron Woods was formally charged with involuntary manslaughter and drug trafficking through an indictment from a grand jury. The grand jury, unlike a trial jury, considers the evidence only from the prosecution and decides whether or not to deliver a "true bill" indictment. This does not mean the indicted is guilty of a crime. Rather, a majority of the grand jury (in Ohio, at least 7 out of the 9 grand jurors) found that the evidence presented by the prosecution, and *only* by the prosecution, was strong enough to find probable cause that the accused could have committed the crime and that a trial can commence. Research how probable cause is used in the judicial system. If you were a member of the grand jury in this case and only heard the testimonies from the prosecution's witnesses, would you have delivered a true bill incitement against Cameron Woods? Why or why not?
4. Many people believe that a major cause for the opioid epidemic are the doctors who overprescribe highly addictive medication. What role have doctors taken in the past 20 years in regards to the epidemic and what are they doing now to combat the opioid crisis? Do you think the doctor in this case bears some responsibility for the death of the Victor Rye? Why or why not?
5. In June of 2016, Governor John Kasich signed House Bill 110, the "9-1-1 Good Samaritan" law. This law, under certain circumstances, gives a person, possibly involved in unlawful activity, criminal immunity should they seek medical

assistance for an individual experiencing a drug overdose. Research this law or any version of a “Good Samaritan” law in other states. What are the pros and cons? With respect to the opioid crisis, do you think this law will help, hurt, or have no effect on the growing epidemic?

6. Do you believe that first responders such as police, EMS, or firefighters, should carry a form of naloxone with them as an antidote? Why would that be dangerous for the first responders? If you agree it would be dangerous for them, would such a requirement still be worth it as an overall social good? Research the positions both pro and con, and support your argument.

WITNESS STATEMENTS

FOR THE PROSECUTION

Statement of Dr. Mickey Edwards, Medical Examiner¹⁶

My name is Dr. Mickey Edwards. I am the assistant medical examiner for Cleveland County, Ohio, which includes the city of Erieland. I hold a Bachelor's Degree in chemistry from Case Western Reserve University and a Medical Degree from Vanderbilt University. I also completed an internship in internal medicine and a residency in anatomic and clinical pathology at the Ohio State University Wexner Medical Center, as well as a fellowship in forensic pathology at the Franklin County Medical Examiner's office in Columbus. I am board certified in combined anatomic and clinical pathology and forensic pathology. My primary job at the Medical Examiner's Office is to examine the bodies of the recently deceased and try to determine a cause of death.

On October 5, 2017, the body of Victor Rye was transported from the Erieland Central Hospital to the Medical Examiner's Office for an autopsy. Upon arrival, I immediately examined the body of Mr. Rye. What was initially noticeable was the appearance of residue near the nose of the deceased. This is a telltale sign that Mr. Rye was using a substance for recreational use. The fact that this residue was on the nose was particularly notable, considering that many drug users use the nasal cavity to inject drugs into their bodies in order for the drug to enter the bloodstream quicker for a faster and more "effective" high. My hypothesis was quickly confirmed when I discovered a straw in the left pocket of Mr. Rye's track pants. This straw also appeared to have the same residue that was discovered near Mr. Rye's nasal cavity. We tested both the residue near the nasal cavity and on the straw. The residue from both areas came back positive for oxycodone. It is my belief that Mr. Rye crushed these pills into a powder and used the straw to snort the drug through the nose.

Initially, I was somewhat suspicious if the amount of oxycodone used was enough to cause death. Oxycodone, while considered a schedule two narcotic, is used to treat moderate to severe pain from broken bones and surgeries. Oxycodone connects with a certain receptor located throughout the central nervous system. This can cause feelings of euphoria and relaxation, along with excessive constriction of the pupil of the eye (miosis) and respiratory depression (hypoventilation), among other things. A closer examination of the deceased revealed constricted pupils, a collapsed lung, aspirated mucus, and heart failure. In narcotic overdoses, respiratory depression to the level of cessation is usually the primary cause of death.¹⁷ While death from oxycodone can occur when the drug is taken in high doses, I couldn't be sure that oxycodone was the sole factor in Mr. Rye's death.

Upon looking through Mr. Rye's medical history, it appeared that the deceased had epilepsy, a disorder that causes excessive and abnormal brain activity causing seizures,

¹⁶ *Facts and outline for testimony sourced from: Borrows DL, Hagardorn AN, Harlan GC, Wallen EDB, Ferslew KE. A fatal drug interaction between oxycodone and clonazepam. J Forensic Sci 2003; 48(3):683-86*

and had been a long time user of clonazepam, a drug used to treat seizures and panic disorders. Clonazepam is believed to enhance the activity of a gamma acid, a primary inhibitory neurotransmitter in the central nervous system. Toxic levels of clonazepam can produce cyclic comas; causing someone to continually gain and lose consciousness. We discovered traces of clonazepam in Mr. Rye's bloodstream.

Even though seizures and, on extremely rare occasions, death can happen to someone with epilepsy, it is my expert opinion that Mr. Rye likely died from a seizure caused by a cocktail of oxycodone and clonazepam. When clonazepam is used in combination with opioids such as oxycodone, it enhances the effects of the opioid. In many cases, it can act as a substitute for heroin — satisfying an addict's craving and relieving some symptoms of withdrawal, including cravings and nervousness. Because clonazepam and oxycodone can share the same cytochrome (a type of protein in the body that helps cells function) that's used when both are metabolizing (processing) in the body (CYP450-3A4), it is possible for the clonazepam to slow and even hinder the metabolism of oxycodone.¹ This causes the drug to stay in the system longer, accumulating in the bloodstream and essentially toxifying the body. This chemical interaction can cause the symptoms occurring from an oxycodone overdose mentioned earlier.

I feel it is important to note that certain substances that are inhibitors of this cytochrome like marijuana and even grapefruit juice can increase the concentration of both clonazepam and oxycodone in the blood. And while we did detect small traces of marijuana in Mr. Rye's system, I am not entirely convinced that this was enough to cause such an increase. Also, while similar symptoms of an oxycodone overdose can occur from an overdose of clonazepam alone, death only by clonazepam is rare.

The deceased had a blood plasma concentration of oxycodone of .60 micrograms per millimeter ($\mu\text{g}/\text{mL}$). This translates to about 65 milligrams, assuming Mr. Rye had a normal metabolism. A plasma concentration of 0.2 -5.0 $\mu\text{g}/\text{mL}$ is considered toxic. A lethal concentration is considered to be between 4.3-14 $\mu\text{g}/\text{mL}$; however, when mixed with another central nervous system depressant, like clonazepam, this range can be between 0.4-0.7 $\mu\text{g}/\text{mL}$.¹ The deceased was also discovered to have a plasma concentration of 0.40 $\mu\text{g}/\text{mL}$, about three times what is considered to be a normal regimen. This suggests that Mr. Rye may have had been misusing the medication that was prescribed to him.

One note for the layperson: in my autopsy report, I concluded that the cause of death was accidental. For medical examiner death certification purposes, accident is defined as an unnatural death resulting from an inadvertent chance happening. For example, traffic-related fatalities or on-the-job injury-related deaths are classified as accidents. Deaths related to illicit drug or excessive medication use, in the absence of evidence specifically supporting the conclusion of the manner of death being homicide or suicide, are classified as accident. Based on my examination alone, I had no evidence before me of either homicide or suicide, so my conclusion was Victor Rye's death was an accidental overdose caused by oxycodone intoxication, likely exacerbated or induced by abnormally high levels of clonazepam.

Statement of Ali Jacobs, member of the track team

My name is Ali Jacobs. I am a 17-year-old senior at Erieland High School. I'm also a member of the track team. I think it's safe to say I was a good friend to Cameron Woods. I've known Cam since middle school. To be honest, I've always been kind of a quiet person, like I try to keep to myself. But even in middle school Cam had such a gravitating and friendly personality that even I was able to get along with them and eventually we became best friends. We did almost everything together — played basketball and video games, stayed over at each other's house on weekends. There were even times when Cam tutored me and saved me from failing a few classes.

It would also be fair to say Cameron always had a competitive streak a mile long. They would take up any challenge just to prove others wrong. I can remember during our freshman year of high school our math teacher and current track coach, Coach Jones, challenged the class to complete a math question for extra credit. Coach kept telling the class how few of us would get it correct and that they were willing to award partial credit for just attempting the problem. Cam was the only one in the class to get full credit. From that point on Cam soared to the top of the class. This competitive spirit wasn't just limited to academics, however.

Since joining the track team freshman year, Cam has always strived to be the best runner on the team, and they succeeded. Our sophomore year we went to the state championship but lost to Columbus High. This just drove Cam even more, and junior year we won the championship. Cam was being noticed by recruiters from Ohio State, the University of Michigan, and Penn State.

Unfortunately, about two weeks after the track meet championship, Cam broke an ankle playing basketball at their cousin's house. Over the summer I visited as much as I could when I had days off from my job as a camp counselor, while Cam recovered from the injury. Cam seemed so miserable. They were really concerned about losing the attention of the recruiters and being out of a scholarship. I told Cam that they could always try for an academic scholarship, but Cam didn't seem to think their grades were good enough to get a full ride, even with extracurriculars like sports and tutoring to pad their application.

They kept telling me how bad the pain was, and how the drugs they'd been given were the only thing that helped. They showed me the bottle; I remember the drug was called oxycodone. Cameron mentioned how good of a high the drug gave them, and said that they should sell it at school to make some extra cash for college, since they were going to lose their track scholarship now. It seemed like a joke at the time, but now I'm not so sure.

When the new school year started I notice a personality change in Cameron. They became defensive and aggressive, acting like they had something to prove. I remember the whole track team was talking about it when on the first day of practice Cam showed

up in top-notch gear. A couple of kids on the team teased Cam about it, and they played it up like they're Kanye. It wasn't like Cam to be so showy – they were always competitive, but this was different.

In our first track practice back, everyone was waiting to see how Cam would perform. I was up against them in the 300-meter dash, and even to my surprise, I beat them. I could tell they weren't too pleased about that. In my strange way to try to ease the tension, I made a joke about beating them in the race after practice. Cam got aggressive and shoved me. We've horsed around a lot before, of course, but it felt serious in a way I'd never seen in Cam before. In shock, I pushed them back, and we ended up in a scuffle. We never got into a fight like this. I felt heartbroken — this was someone I've known since middle school, and in one moment it felt like a friendship was gone, just because Cam couldn't handle losing a single practice race.

After that incident, we kept our distance from each other. We didn't sit next to each other in class, nor did we eat lunch together. Their behavior also changed outside of class. About two weeks after the incident I saw some students hanging around Cameron. I've never really hung out with these students before since we don't share any classes or anything, I'd only met them in passing. I guess Cam was able to get new friends – they always made friends a lot more easily than I do. Guess I was that easy to get over, despite our years of friendship. That kind of hurt, if I'm being honest. Soon enough they were hanging out together all the time, it seemed. But then there was one incident that seemed out of the ordinary.

After track practice one evening, I saw Cam meet with their “new gang” of friends. They were walking in the same direction I would usually walk to go home, but I tried to walk a block or two behind to try to make myself unseen or at least uninterested. Then they met up with this guy who I've never seen before. He seemed to be in his early 20s. I got an odd feeling that something wasn't right so tried to hide behind a car in a driveway where I was able to see them without being seen. I wasn't able to hear anything, but I did see Cam pull out what looked like the same orange bottle of pills they showed me when I was visiting after their ankle injury over the summer. I wasn't able to see the actual pills, only Cam was shaking the bottle into their other hand as if to empty it. I also saw the stranger pull out a \$20 bill and crumple it into Cam's hand. Cam shook this stranger's hand with the same hand they'd emptied the bottle into and put their hand in back in their pocket. It seemed like one quick and smooth motion, like you see on TV, like Cam was used to doing it.

The stranger took off pretty soon after that, but Cameron and their friends stood around for about five minutes before leaving. You know how when someone's acting almost too casual when they want you to think nothing's up? That's what Cameron was acting like. I decided to take another route home to avoid the possibility of having to run into them. I had a pretty good guess as to what it was I saw. After that incident, I started to get the idea that Cameron was hanging around bad influences. But I was not expecting what was to happen a week later.

The morning of October 4th started as a normal day. I went to my morning classes; Cameron and I were still distant. During lunch, I noticed our teammate Victor Rye hanging around Cameron. I thought this was unusual because Victor doesn't really hang around the rest of the team members outside of practice; he has his own group of friends he hangs around with. A couple of words were exchanged, and Victor went back to his group on the other side of the lunchroom. After lunch, I went to my locker, and while I was passing Cameron's locker, I saw Victor give some cash to Cameron. Then they made the same odd handshake I saw Cameron and the stranger make a week ago. I didn't see an orange bottle or pills though. It just seemed strange because Cameron and Victor don't really talk to each other.

At the start of practice later that day, we did our normal warmup routine in the middle of the turf: high knees, side jumping jacks, backwards running, and double arm bounds. After our warmup, we started to walk back on the track and then I noticed Victor was walking strangely. He told one of our teammates he was feeling light-headed and started to breathe heavily. We called Coach Jones over and by the time they ran over to meet Victor he collapsed. He started to foam at the mouth and began to have a seizure. Coach Jones called 9-1-1, and the paramedics came a few minutes later, followed by the detective who comes to the school from time to time. I felt helpless watching Victor and not knowing what to do. The paramedics tried to take Victor's vital signs and rushed them to the ambulance.

The detective on the scene spoke to the coach for a few minutes and then asked all of us to stay for questioning. I immediately began to tense up. I felt compelled to mention Cameron's recent activities to the detective. Cam was my friend, even though they ditched me for this new crew, but this was a matter of life and death. When the detective came up to me, they asked if I noticed anything unusual with Victor before he collapsed. I told the detective everything, from what I saw with Cam's pill bottle and the stranger the week before, to what I'd noticed earlier in the day with Cam and Victor talking. I thought if the worst happened to Victor I couldn't live with the guilt of knowing something that could have been important even if I was wrong about my suspicions.

I was in total shock when I found out Victor had died and I'm glad I spoke out. I'm not sure what will happen to Cameron, but I hope the whole truth will come out from this.

Statement of Detective Taylor Byrd, Erieland Police Department

My name is Detective Taylor Byrd. I've been with the Erieland Police Department for 20 years. Over those two decades, I was on patrol duty for seven years and currently I'm a detective in the department's narcotics unit. I hold a degree in Criminal Justice from Cleveland State University and have extensive training in the areas of Criminal Investigation, Drug Law Enforcement, and Crime Scene Processing. My primary job is to investigate drug-related crimes including drug trafficking and drug possession. I interview witnesses, suspects, and victims to discover how a crime occurred. I'd like to think I'm one of the victim's final advocates — uncovering the truth and telling their

story. In the 13 years I've been in the Narcotics department, I've handled over 250 cases ranging from possession to overdoses.

Opioid cases are a nasty business, and it's only been getting worse over the years. Ohio is one of the hardest-hit states in the country for opioid overdoses. Even if you haven't had someone you love die from it, someone you know has. And they're everywhere – when I was a kid, you could score a little weed in the neighborhood, maybe some ecstasy or mushrooms. But these days, the hard stuff is everywhere and it's easier to get than ever. You can even order it online, mail-order directly from China and sold as a “research chemical” with no questions asked, like you're ordering paper towels off of Amazon. Death, just a few clicks of a mouse away.

While I'm driving, I usually listen to the police and medical radio scanner just to get a sense of what's going on around the city. On October 4th at approximately 3:10 in the afternoon, I began my drive home from work and had my scanner on. At around 3:20 there was a call for EMS personnel to arrive at Erieland High School for a student who collapsed on the track field. I'm very familiar with the school. In addition to being a proud alum of Erieland High, I also teach a four-week course each year on drugs and drug prevention. I also make periodic visits to the school to see my good friend and classmate Sam Jones, a math teacher and the coach of the track team. I love going to the school and teaching about this subject, hoping that it will make a difference to them. These kids, I believe, are some of the most talented in the district. Out of concern for them, I rushed over. Seeing that I was already in the area, it took no time for me to get to the school; I was just a couple minutes behind the ambulance.

When I arrived on the school's track field, I saw a group of students huddled together in the middle of the field. I, along with the paramedics, proceeded to the huddled group where we saw a young male, later identified as Victor Rye, stretched out on the field. Victor was foaming at the mouth and appeared to be having a seizure. These symptoms were not unlike the ones occurring during a drug overdose, but I couldn't be 100% sure at the time. If I was sure, I wouldn't have had any hesitation in using Narcan — a drug used to immediately counteract the effects of a drug overdose, thus increasing the survival rate of the user.

When you're in a situation like this, every minute counts, so I wasted no time in talking with the witnesses and bystanders while the paramedics were handling the victim and getting him to the hospital. I first talked to Sam and asked if they were aware of anything unusual about Victor before his collapse. Sam seemed really upset – they could barely speak. The coach said they thought everything about Victor seemed normal. I asked if Victor had been known to have seizures, but Sam didn't answer me. Seemed like they were lost in their own head at the time. That happens sometimes in an emergency – sometimes even an experienced, stable person can go into shock and not be able to respond, even to questions they know the answer to.

I then asked Sam if it would be ok to ask some members of the team some questions. Sam managed to nod, so I talked to a few of the kids. Most of the team didn't really have much to say about the victim. According to them, Victor didn't really socialize

much with the team outside of practice. I then proceeded to speak with Ali Jacobs, who quickly began to tell me about their suspicions of Cameron Woods. In my experience usually kids are protective of each other when a police officer asks questions, but Ali seemed very eager to tell me everything. Almost seemed happy about it, if you ask me.

Ali said right away that Cameron was a drug dealer who sold pills on the street, and that they think Cameron sold Victor some bad drugs. I asked them if they'd witnessed the sale or any of that sort of activity directly, and Ali said yes, then no, then maybe in rapid succession. Ali told me about a week ago they'd seen Cameron hand off something to a strange man in exchange for money. I asked if Ali saw the pills, and Ali said "Not really, but it was obvious that's what they were." Ali then said they'd seen Cameron and Victor talking earlier and that Cameron had given Victor a packet of pills.

That was enough for me at the time to lead me to question Cameron. After talking with Ali, I approached Cameron and asked if they would be able to answer a few questions for me. They agreed, initially with no hesitation. I remember Cameron very well from my drug course last year. They were very inquisitive – always managed to ask and answer questions and did assignments that weren't even required. In my experience, Cameron struck me as a decent and honest student, eager to please. I asked Cameron if they had noticed anything strange about Victor today. Cameron replied that they hadn't; the only encounter Cameron had with Victor was when Victor asked Cameron for help with his math homework. I asked Cameron if they had anything else to add. Cameron hesitated for a moment then replied "No." I noticed Cameron was clutching their bag when I asked them this question, so I asked if I could look inside. Cameron hesitated again, but said "Ok" and handed me the bag. Inside I saw a hoodie and a pair of jeans, but underneath I found a prescription bottle of pills labeled oxycodone, a fat roll of money, and a sheet of paper with the following written on it:

"AS---- 20
BL-----25
VR---21
DT---- 17
ER----22."

Based on what Ali told me and my knowledge of what overdose victims look like, I thought the combination of these items was highly suspicious, to say the least. I asked Cameron how much was in the roll of money and they said "About \$150." I didn't count it, but I did take a picture with my cell phone of the roll of cash before Cameron shut their bag again.

When I asked Cameron about the oxycodone pills, they told me that they were prescribed by a doctor for surgery they had earlier in the year. When I asked about the money and the sheet of paper, Cameron became evasive and asked if they were in trouble for something. I informed Cameron about the assertion that they may have been selling drugs without mentioning the source. Cameron was nonresponsive and became flustered. I thought their reaction to this inquiry and the lack of response was telling. I then asked Cameron for the sheet of paper in their gym bag. They handed it to me without a word, then asked "Are we done now? Can I go home?" I said that would be

ok, knowing I would complete my investigation later, so Cameron turned to leave while I talked with a few of the other students who were still lingering in shock. I noticed, though, that Cameron didn't leave immediately, but moved off to the side of the track and was busy texting someone. A few minutes later Cameron left the school grounds, and I saw they were met at the field gates by three other young people who didn't appear to be on the track team.

I later learned that Victor was DOA at the hospital that day, despite the paramedics' efforts to save him. When the report from the medical examiner was released two weeks later showing that un-prescribed oxycodone was a factor in his death, we decided to do an unannounced search of the school. We brought drug-sniffing dogs from our K-9 unit to go through the halls and search lockers and unattended bags. Where students had their bags with them, we obtained consent to have the dog sniff-search. After we searched all school lockers and everyone's bags in the building, we found that no one that day, other than Cameron Woods, had possession of oxycodone. We conducted a similar unannounced search for students who were absent during our initial search two days later to ensure that every student was checked. Every student consented to this search and, again, we found no evidence of oxycodone in their possession.

Based on our inquiries from the team, our subsequent searches, and the medical examiner's report, we concluded that we had probable cause to charge Cameron Woods with involuntary manslaughter and aggravated trafficking in drugs.

FOR THE DEFENSE

Statement of Sam Jones, Erieland HS teacher and track coach

My name is Sam Jones and I am a teacher and track coach at Erieland High School. I have been teaching for 23 years and coaching for 15. I received my Bachelors of Science from The Ohio State University and my Masters of Education from Cleveland State University. I ran track while I was a student at Erieland High and then received a full athletic scholarship to OSU.

As a math teacher at Erieland High School, I encounter every student at least once during their high school career, whether it's geometry in freshman year, trig in sophomore year, or statistics and calculus as juniors and seniors. If they happen to run track, I get to know them even better outside of the classroom. Ali Jacobs and Cameron Woods have been members of the track team since they were freshmen. As seniors, I have them in my class. All of the senior members of the track team are in my first period math class. I think it's safe to say I know Ali and Cameron very well. I had Victor just during his sophomore year and knew him, of course, through track.

Cameron has always been successful inside and outside of the classroom: always the top competitor during track meets and now the top student in my class. I remember when Cameron was a freshman I challenged the class to complete a math question for extra credit. I knew it was a difficult question and maybe only a few students would answer it correctly, if any. I told the class I would award partial credit for simply attempting the problem. Cameron was the only student to get full credit. I knew then that Cameron was a bright student and that they would achieve academic success throughout their high school career and beyond. From that point on Cameron became the number one student in the class and still holds that spot today. When Cameron joined the track team that spring, I took note that their competitive spirit wasn't limited to academics.

Since then, Cameron has pushed their limits to be the best runner on the team. They work hard during every practice, and their success on the field has kept pace with their academic success. One year the team made it to the state championship, but we were defeated by Columbus High. I saw a fire in Cameron after that season and the next year we were state champs. Because of their success inside and out of the classroom Cameron was being noticed by recruiters from Penn State, the University of Michigan, and my alma mater, The Ohio State University. I told Cameron I would write a letter of recommendation on their behalf to send to OSU. I am very involved with the alumni association and I still communicate with the athletic director there. I figured a word from me could help them along.

I was so excited for Cameron to be achieving so much at such a young age. I support all of the members of my team and make sure I am doing my best to make sure they all succeed in one way or another, but I saw something special in Cameron and wanted to make sure they have all of the tools they need so that they don't waste their talent on things that aren't good for them. You see too many kids get caught up in bad influences, and I was determined that wouldn't happen to my students, especially one like

Cameron. Truth be told, I see more than a little of myself in that young athlete. If I hadn't had someone supporting me and believing in me too, who knows where I would have ended up? I know that Cameron lost their cousin not too long ago too, to an overdose. We had a heart-to-heart when that happened, when I noticed they were really upset but trying to hide it at track practice. Cameron swore to me then that they'd never mess with drugs after seeing what it put their family through.

Sadly, about two weeks or so after we won the state championship, Cameron badly broke an ankle playing a pick-up game of basketball. I strongly advise my runners to be careful playing other sports for fun, even if the season is over, because injuries happen much more often outside supervised sports. However, I do encourage them to play another sport after our season has ended so that they stay in shape. Cameron had the summer to recover before school started back up in the fall. I was sure they would make a full recovery by then. With Cameron's permission, I spoke with their physician, Dr. Jesse Spencer, who informed me that with physical therapy and rest Cameron would be fine. However, when the school year started, Cameron returned as a different person. I noticed how defensive and aggressive they had become. It appeared Cameron had lost their drive and motivation. Although Cameron's grades were still top-notch in my class that fall, that competitive edge seemed to have faded. Once in practice I asked Ali and Cameron to participate in the 300-meter dash to loosen up their muscles and to my surprise, Ali beat Cameron. Cameron was visibly upset at their defeat at the hands of their teammate, and to my knowledge, a very good friend.

After that practice, I noticed Cameron and Ali were pretty distant with one another. They didn't sit next to each other in class anymore, like they had been doing since they were freshmen. Even outside of class I noticed Cameron had a different group of friends. Cameron's locker this year is right outside my classroom, so I have a pretty good view of it from my desk. Recently, I noticed students congregating at Cameron's locker very often. This didn't really seem out of the ordinary to me because Cameron was a math tutor and midterms are approaching. The kids knew how smart Cameron was and looked to them for help often.

At the start of practice later that day, the students went about their normal warmup routine. After that, the students started to walk back on to the track and I noticed that Victor Rye was walking strangely, but thought nothing of it. I turned back to the work I was doing and the next thing I knew the entire team was calling me over to where they were. By the time I got there Victor had collapsed. He started to foam at the mouth and began to have a seizure. In a panic, I called 9-1-1, and the paramedics came a few minutes later, followed by Detective Byrd, an old track teammate of mine. We attended Erieland High together and ran track for three years as well, although Detective Byrd was a year ahead of me in school.

The situation was entirely different than anything I'd encountered before – it didn't make sense that one of my students could be that sick and I hadn't realized it. When they sign up for track, students are required to let the school know of all medical concerns they have, so of course I'd been informed that Victor had epilepsy that was under control with medication. When Victor collapsed, though, I couldn't think straight, and I couldn't

even tell you why. I've never reacted like that before to an intense situation – I used to pride myself on staying calm and focused during an emergency, but it felt like my head was stuffed with cotton as I watched the paramedics take Victor's vital signs and try to revive him. Soon after they rushed him to the hospital.

While the paramedics were attending to Victor, Detective Byrd wanted to talk to me about the situation. I told them everything I knew as best I could at the time. Honestly, I couldn't even tell you now exactly what Detective Byrd asked me or what I said. I do remember that I said I wasn't sure what exactly happened, but that they should talk to the track to team because they were the ones nearby when Victor started feeling different. Detective Byrd spoke with Cameron for awhile, then Cameron handed over their gym bag. Detective Byrd looked through the bag briefly and continued to say some things to Cameron. I was too far away to know what was being said, but I could tell Cameron was flustered by the conversation. After that, I saw Cameron leave the field with some other students who weren't on the track team. I don't remember if they were students at Erieland High, my mind was on Victor and I wasn't concentrating on identifying them at the time.

I am appalled by the charges being brought against Cameron Woods. Cam had so much going for them and now it's all in jeopardy because of these false accusations. They're a good kid who caught a series of bad breaks, but should have a great future ahead of them, track scholarship or not. Regardless, I hope justice is served for Victor. He didn't deserve to have his life cut short like that, either.

Statement of Dr. Jesse Spencer, orthopedic surgeon

My name is Dr. Jesse Spencer and I am an orthopedic surgeon at the Erieland Clinic. I have been a doctor for 25 years. I received my Bachelors in Chemistry from The Ohio State University in 1988 and my Doctor of Medicine degree from Case Western Reserve University in 1992. During my residency, I conducted research with my attending doctor on pharmaceuticals. I am also the doctor in charge of hearing drug representatives when they come to the hospital to pitch their product.

I was Cameron's orthopedic surgeon when they broke their ankle last year. When Cameron came in I immediately assessed the ankle to see if it was actually broken or simply sprained. After noticing Cameron's reaction to my touch on their ankle, swelling, and bruising in the area, I quickly concluded that the ankle was in fact broken. Even though I had done a physical exam, I still sent Cameron to get an x-ray to see where and how their ankle was broken. The exam showed lateral malleolus fracture in their fibula. I noticed that the fracture caused Cameron's ankle to be unstable and would need surgery to be fixed.

After viewing Cameron's medical record prior to surgery, I noted that Cameron had only one other incident prior to this one. Cameron broke their arm when they fell from a jungle gym when they were eight years old. Their primary care physician at the time attempted to prescribe Cameron with different drugs for the pain, however, they soon found out Cameron was allergic to them. Cameron's then-doctor took note that only

oxycodone had worked. I concluded that this would be what I would have to prescribe Cameron. I didn't want to risk them getting sick on top of having a broken ankle.

I had learned a lot more about oxycodone when a drug company representative came to Erieland Clinic just two weeks prior to Cameron coming to me. The representative gave an entire presentation on the drug. She told me about all the pros and cons of prescribing the drug to our patients. She mostly spoke about the benefits. During the break we took from the presentation she took me out to lunch to a restaurant I had never been to before. I thought that was really nice of her. As a surgeon, I rarely go out for lunch, so it was refreshing to get a change from the day-to-day cafeteria food. Right before she left that day, she gave me two boxes of swag to hand out to all the doctors in my department and around the hospital. There were t-shirts, coffee mugs, pens, and tote bags. Overall, I enjoyed that visit.

Cameron asked me to speak with their track coach after their surgery to let the coach know how long they would need to rest before their ankle would be fully healed. A few days after the surgery I spoke with Coach Sam Jones on the phone about Cameron's healing process. I told Sam that with physical therapy and plenty of rest Cameron should be fully healed by the start of the next school year. Cameron had injured their ankle right after the track season had ended in May. It normally takes about six weeks to heal a broken ankle, but I suggested a couple weeks of physical therapy just to be safe. This would give Cameron plenty of time before the season started to gain strength and heal properly.

Cameron came back to my office after they had completed their pain medication after the six-week healing period, complaining of more pain. I did another physical exam and didn't see anything wrong. In fact, Cameron's ankle seemed to be almost completely healed, however, it is difficult to assess pain in a patient, so I prescribed Cameron only two weeks more of oxycodone. I told them they didn't need to finish it if the pain subsided. I also gave them a list of places to dispose of the medication if it went unused. Cameron told me they would be careful and follow my directions.

Statement of Defendant Cameron Woods

My name is Cameron Woods and I am 17-year-old senior at Erieland High School. I am a top athlete and have a 3.8 GPA. Victor Rye and I weren't super close, but I'd say that he was a friend of mine. We sat together pretty often in classes and we'd see each other outside school with other groups of friends sometimes. He was an easy-going guy – not a big extrovert, but if you were hanging out with him he'd offer you a can of beer or a drag on a joint. Not that I ever partook – I had to keep in fighting form for track and school, but I don't judge others who do.

Ali Jacobs, on the other hand, used to be a very good friend of mine. I've known them since middle school and ever since then we were attached at the hip. I used to help Ali with their homework because they struggled in some classes, especially math, which is my specialty. I didn't think anything of it. We were friends and that's what friends do, they help each other. Currently, we run track together and we used to sit together in

Coach Jones' math class every year. After I broke my ankle last spring Ali started acting weird towards me, so we don't speak much anymore.

I believe Ali is the reason why I'm here being charged with involuntary manslaughter and drug trafficking. If I'm being totally honest, Ali was always jealous of my natural athletic talent and academic brilliance. I'm not bragging, it's just the truth. It's hard being in someone else's shadow all the time. If you'd told me last year that Ali would lie to the police to get me out of the picture, so they could be the star of the track team and number one in our senior class, a position I have held all year, I'd say you were crazy. But after Ali's behavior last year, I'd have to say it's got to be the case.

Because I have always been the smartest in my class and the fastest on the track, I have grown to be pretty competitive over the years. I don't think there's any shame in being the best at something and being proud of your success! Both school and track made me happy, like I'm really worth something, and I always felt the need to defend it at any cost. Running track was my therapy until I got hurt last year.

I was at my aunt's house playing basketball with my cousins when I went up for a layup and came down on my ankle. I had heard a slight crack. I knew then it was broken. Dr. Spencer examined my ankle when I went to the hospital that evening. When they slightly touched it, a sharp pain shot up my leg. The doctor told me they could tell there was some damage, but they would need to get x-rays to see if I would need surgery or not. I hoped they would tell me I wouldn't because I had signed up for a track camp that was taking place that summer and I was so excited to go run for three weeks with kids from all over Ohio. That camp was going to be the highlight of the summer. On top of that, recruiters wouldn't be able to see what I could do. This camp brought recruiters from all over the country and I would be missing out. I already had scouts from Ohio State, University of Michigan, and Penn State looking at me during that last season. They definitely wouldn't want me if they knew I got hurt easily. Sadly, the x-ray showed a fracture in one of the bones in my ankle. Dr. Spencer told me the medical name for it, but it was sort of difficult to pronounce. Whatever it was called, it meant I would need surgery.

The next day I went into surgery and Dr. Spencer told me it would be six weeks before my ankle completely healed and after that I would have to do physical therapy. I was crushed. My entire summer was ruined! However, I did what I was told and took the oxycodone the doctor prescribed and rested up. I was so lonely during those six weeks – I couldn't go outside and doing any of the stuff I like to do, and I didn't see my friends much. Well, except one time, Ali came to visit me. I complained about missing out on scholarships because all of the full rides were given out during the summer before school started. It's not that deep, though, because my grades are up and I can shoot for an academic scholarship instead of athletic. I did tell Ali that I felt I was healing faster than the doctor expected. Dr. S. had told me that themselves when I went in for a follow-up appointment at the three-week mark, post-surgery.

The prescription Dr. S. prescribed was helping a lot with my pain. I was glad too, because I was allergic to almost every other pain med. When I was eight I broke my

arm on the jungle gym on the school playground. They tried everything for my pain, but I continued to have bad reactions to it. They realized oxy was the only thing that worked.

I showed Ali the bottle the pills came in. It was still half empty because I had stopped taking it. I felt better and even felt a little bit of a high from the drug, which Ali and I joked about that day, just horsing around like usual. I didn't want to use all the pills because I thought if I just continued to rest I wouldn't need to the meds to heal. Dr. S. did say it was just for pain. When I went in to see Dr. S. for my six-week follow up appointment I did complain of some pain, so they would refill my prescription. I just wanted to make sure I had enough just in case.

After school started back up that fall, I carried around the meds with me, even though I was supposed to give them to the school nurse for distribution, but I figured that wasn't necessary because I didn't need them that bad. Some of my teammates would complain about pain after practice and I would just slide them one or two. I mean, we're all like family, I would never do anything to hurt my family.

Besides, I know how dangerous prescription drugs can be. My older cousin overdosed two years ago. She was only 18. She started doing pot a few years earlier when she started high school, nothing too serious, but then I noticed she did it a lot and seemed to be in with a crowd who knew how to get the heavier stuff, if you feel me. I think soon she became addicted to pills. Her home life is pretty bad, to be honest, with her dad run off and her mom working a lot to keep food on the table and the lights on. I don't want to speak ill of the dead, but I never got the sense she thought very much of herself – like, really low self-esteem. I know just about a month before she died she decided the pills weren't strong enough and started doing heroin. One day my aunt came home from work and found her dead in the bathtub. Our whole family was a mess with grief. I think I took it the hardest, because we were so close when we were young, before she went to high school. She was like a big sister to me. I would never want to see anyone go through that pain like my family did, so the idea that I would sell drugs is ridiculous, even insulting.

When Victor asked me for a pill I didn't think anything of it. Only the people on the track team knew I had a few pills, but I wasn't selling them. I only wanted to help them out. How was I supposed to know Vic was taking another prescribed medicine? I didn't know he had epilepsy – we weren't that close and it's not like he broadcast the news. I admit he was better and faster than me when I came back from recovery, but I wasn't jealous of him. I would never hurt my friends. He just needed to relieve some of his pain, so I gave it to him. I had known Victor since middle school. Sure, we weren't as close as Ali and I *used* to be, but I still considered Victor a friend. Why would I intentionally hurt him?

I'm not sure why Ali said I started acting different after my surgery. I believe I changed for the better. I was even more competitive and wanted to succeed even more because I felt like I was behind all my teammates. Ali and Victor had gotten so much better over the summer. I just wanted to get back to that level. When I raced Ali during the 300-meter dash during our first practice back and they beat me, I have to admit I was a little

upset, but it never got physical. I didn't like Ali's attitude afterwards, like they were suddenly the Greatest of All Time. I did start hanging around other people in school, but I had already had these friends. I just started hanging with them more because we all would be graduating soon, and I wouldn't get to see them as often. If anything, Ali is the one who started acting weird toward me after my surgery, like I wasn't the same person I was before.

On October 4th, practice started like any other one, with warmups. I was off to the side by myself the whole time. When the team finished we started to walk back over to the track and Ali said something about the way Victor was walking. I knew I had given him a pill earlier before lunch to help with some back pain he was having from helping his uncle move the weekend before. He said he wanted to take it with his lunch, so he wouldn't feel sick later on. I thought maybe he waited until right before practice to take it and now he just felt sick. Victor had told another teammate of ours that he was feeling lightheaded and soon after he started breathing heavily.

That's when someone called Coach Jones over, but by the time they jogged over to us Victor was on the ground foaming at the mouth and having a seizure. I had never seen anything like it before. We were all so shocked. Nobody knew what was going on, but I did have a sinking feeling that this was somehow my fault. Coach called 9-1-1 and the ambulance came soon after, followed by Detective Byrd. I recognized Detective Byrd, because they would come to the school every so often to teach a drug awareness class to us. I was always very attentive because I thought the topic was so interesting. Also, because of my cousin. I wanted to be aware of the dangers of drugs.

After Victor was rushed to the hospital, Detective Byrd stayed around to question Coach and the team. Detective Byrd questioned me last. I remember being very nervous and tense. Not because I had anything to hide or feel guilty about, but I was just shaken up about the whole situation. I could only think about whether or not Victor was dead. Detective Byrd asked me if I noticed anything strange about Victor that day. I said I didn't and that the only encounter I had had with Victor was when he asked me if I could help him with his math homework. I fibbed a little there, again, because I was nervous. It sort of just came out.

Then Detective Byrd asked me if I had anything else to add. I said "no" as normal as I could. Detective Byrd seemed to notice that I was gripping my bag, something I do when I'm nervous. I guess this made them suspicious and they asked to see what was in my bag. I reluctantly told them ok, and handed over the bag. I knew I had my tutoring money in there and some of my leftover pills. I had a feeling Detective Byrd would accuse me of something. Sure enough, after Victor died, two weeks later the medical examiner wrote a report saying oxycodone was in his system when he died. The police came to the school and did a clean and complete search of everyone, including students, faculty and staff. I was the only one who had oxy on me. That's when I was arrested for the murder of one of my closest friends.

People have been saying I'm a drug dealer and murderer. Some of my teammates noticed I started wearing better athletic gear to practice and meets. I earned my money

legally. I work as a peer tutor as well as a tutor outside of the school to earn that money. I like gear that assists my performance, and gear like that costs more than what some people are used to. Just because I'm independent and work hard doesn't mean I'm doing illegal things to get nice stuff for myself. I also like to help my mother out sometimes. She has a decent paying job, but I try to help pay our cell phone bill since I use so much more data on our plan than she does. I just want my mom to be proud of me. Now that I have these charges against me how's she supposed to feel? No one wants an accused murderer and drug dealer as a child, when they had a top scholar and athlete on their way to college before.

I hope these charges are dropped because I didn't kill Victor. I am innocent, contrary to what some of my less-talented peers and Detective Byrd may think.

EXHIBITS

Exhibit 1: Paper found in Cameron Woods' bag by Detective Byrd on Oct. 4, 2017

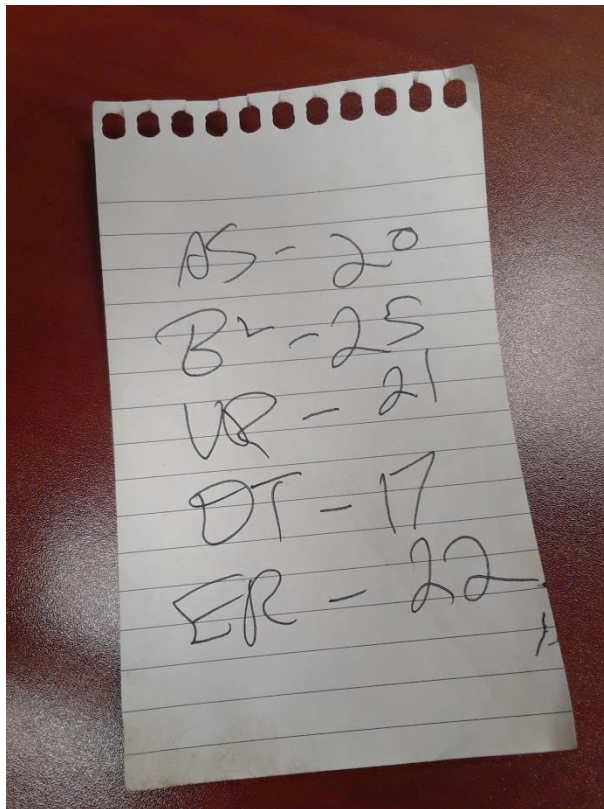


Exhibit 2: Autopsy report issued for Victor Rye



RYE, VICTOR C. 2017 8048
Exam Case

Summary Sheet:
Age: 17 years Race: White Sex: Male

FINDINGS:

- I. Oxycodone intoxication, in combination with clonazepam levels
 - A. Respiratory depression: collapsed lung, aspirated mucus
 - B. Heart failure
 - C. Blood plasma concentration: oxycodone .60 µg/mL, clonazepam 0.40 µg/mL

CAUSE OF DEATH:

Immediate cause: Oxycodone intoxication

Manner of death: Accident

Mickey Edwards
Mickey Edwards, M.D.
Medical Examiner

Exhibit 3: Oxycodone prescription for Cameron Woods, issued by Dr. Jesse Spencer

52959-130-60 RX Only: #XXXXXXXX #XXX CAUTION: Federal law PROHIBITS the transfer of this drug to anyone other than the person to whom prescribed and prohibits dispensing without a prescription unless OTC. See outsert for acetaminophen. KEEP OUT OF REACH OF CHILDREN. Store in a cool dry place 68 to 77 degrees F.

OXYCODONE HCL 30mg TABLET

Lot #: OXY16VZ Compare to: Roxicodone
Mfg: ACTAVIS Mfg. NDC: 0378-6114-01
Exp: 5/18 Mfg Morgantown, Pill ID: White Round Tablet
Loc.: WV

Take as directed by your Doctor or
See outsert for usual dosage information

②

OXYCODONE HCL 30mg TABLET
52959-130-60 Qty #60
5/17 Lot OXY16VZ
Roxicodone 0378-6114-01

OXYCODONE HCL 30mg TABLET
52959-130-60 Qty #60
5/17 Lot OXY16VZ
Roxicodone 0378-6114-01

OXYCODONE HCL 30mg TABLET
52959-130-60 Qty #60
5/17 Lot OXY16VZ
Roxicodone 0378-6114-01

OXYCODONE HCL 30mg TABLET
52959-130-60 Qty #60
5/17 Lot OXY16VZ
Roxicodone 0378-6114-01

Repack: HJ Harkins Co., Inc. Nipomo, CA 93444
Dispense in tight, child & light-resistant container per USP

FPC&B-Apparna, N. I.

PLAINTIFF'S EXHIBIT

FPC&B-Apparna, N. I.

DEFENDANT'S EXHIBIT

Exhibit 4: Roll of cash found in Cameron Woods' bag by Detective Byrd¹⁸

FPC&B-Apparna, N. I.

PLAINTIFF'S EXHIBIT

FPC&B-Apparna, N. I.

DEFENDANT'S EXHIBIT



¹⁸ Photo credit: Flickr, 401kcalculator.org

COMPETITION INSTRUCTIONS

The Mock Trial Competition will be held on Friday, May 11, 2018 at the Cleveland Municipal Court in the Justice Center, 1200 Ontario Street, Cleveland, Ohio. There will be two trial sessions: 9:00-11:00 a.m. and 12:00-2:00 p.m. The awards ceremony will take place following the second session at approximately 2:30 p.m. Lunch will not be provided; however, special arrangements with the cafeteria at the Justice Center have been made and it will be open and available from 11:00 until 12:00 if students wish to purchase lunch. There is no limit to the number of teams from each school that may enter the competition. The purpose of the competition is to maximize student involvement and give as many students who wish to participate the opportunity to do so.

In order for the necessary arrangements for the competition to be made, each school must submit its entry form(s) to Gayle Gadison at the Cleveland School Administration Building on or **before April 20, 2018**. Forms may be submitted by fax to (216) 858-6502 or by email to LaVora.Gadison@clevelandmetroschools.org. A separate entry form for each team should be submitted.

Team Membership and Roles

At competition, each team will conduct the mock trial twice, once as the prosecution and once as the defense. At the competition a mock trial team may consist of a minimum of six and up to 17 students.* In this case, there are three possible witnesses who may be called for the prosecution and three for the defense. Each team may use up to five attorneys for each side played. Each team will also have a bailiff who will also serve as the timekeeper. Thus, the possible roles for each team are as follows:

Prosecution

1. Attorney (Opening Statement)
3. Attorney (Witness Examination)
5. Attorney (Witness Examination)
7. Attorney (Witness Examination)
9. Attorney (Closing Argument)
11. Prosecution (Witness #1)
13. Prosecution (Witness #2)
15. Prosecution (Witness #3)
17. Bailiff/Timekeeper

Defense

2. Attorney (Opening Statement)
4. Attorney (Witness Examination)
6. Attorney (Witness Examination)
8. Attorney (Witness Examination)
10. Attorney (Closing Argument)
12. Defense (Witness #1)
14. Defense (Witness #2)
16. Defense (Witness #3)

Although each team is encouraged to maximize student participation, at the discretion of each teacher, attorney roles may be combined and one student may, for example, conduct more than one witness examination or do both a witness examination and make one of the arguments. Each team, however, must use all three witnesses, use at least two attorneys for each side played, and supply a bailiff/timekeeper. Only the attorney who conducts the direct examination of a witness may make objections during the cross-examination of that witness.

The student presentations should be the work product of the students themselves – guided, of course, by the teacher and team legal advisor(s). It is important that the opening, direct examination, testimony, or whatever the particular presentation should be the student's work rather than having the student simply read the words prepared by an adult.

Before the start of each trial, teams should give to judges a *completed* team roster with students' names *and* their roles at trial. Judges will rely on these rosters to identify the Outstanding Attorney and Outstanding Witness from the trial – please write clearly and legibly. Blank rosters will be distributed electronically before the competition and will also be available on-site.

* Please include any additional student who participates in the training for the mock trial competition regardless of whether they play a role at the actual competition so they may also receive a Certificate of Participation.

Time Limits

A trial is scheduled to last no longer than two hours. The presiding judge will enforce the time limit and may at his or her discretion grant a time extension in the interest of fairness. Each team will supply a student timekeeper who will show cards with 2:00, 1:00 or 0:00 minutes remaining. The time clock will stop for objections and responses.

Conduct During Trial and Trial Sequence

The presiding judge controls the courtroom. The judge may ask anyone to leave, if necessary. During the trial, teachers, legal advisors and all other observers may NOT talk to, signal or otherwise communicate with or coach their teams. This restriction includes any breaks during the trial.

Only furnishings and equipment available in the courtroom may be used during the trial. At the conclusion of the trial, all tables, chairs and any other courtroom furniture and equipment are to be returned to the place where they were found at the beginning of the proceedings. Nothing is to be removed from the courtroom.

The bailiff will open court by saying:

All rise. Hear ye, hear ye, this Honorable Court for the City of Cleveland is open pursuant to adjournment. All having business before this Honorable Court draw near, give attention and you shall be heard. You may be seated.

All judges are to be addressed as “Judge _____” or “Your Honor.”

The bailiff will swear in each witness by saying:

Please raise your right hand. Do you solemnly swear that the testimony you are about to give is the truth, the whole truth and nothing but the truth and that your testimony will comply with the Rules of the Cleveland Mock Trial Competition?

Witnesses answer and sit down. They will remain in the courtroom during the trial. No motion for separation of witnesses will be entertained.

Opening Statements (3 minutes maximum)

The presiding judge should ask counsel for the prosecution if they wish to make an opening statement. Prosecution counsel should introduce themselves and their team members and the roles they are playing and then present the opening statement. The same procedure is used with defendant’s counsel.

Testimony of Witnesses

The prosecution will present its case first. The presiding judge will ask counsel to call their first witness. The witness will then testify in the following examination sequence:

Direct (6 minutes)
Cross (5 minutes)
Redirect (2 minutes)
Re-cross (2 minutes)

The prosecution will call its remaining two witnesses using the same sequence for each.

Upon conclusion of the prosecution’s case, the prosecution will rest. The presiding judge will then ask counsel for the defense to call his/her first witness. The defense team will follow the same sequence as noted above.

Witnesses are bound by their written statements. If there is inconsistency or ambiguity between the case summary and the witness statement, the witness is to rely upon the information contained in the witness statement.

Fair extrapolations are permitted if they are consistent with the facts contained in the case materials and do not materially affect the witness’s testimony. If a witness invents an answer that is likely to affect the outcome of the trial, the opposition may object. Teams that intentionally and frequently stray outside the case materials may be penalized.

If an attorney who is cross-examining a witness asks a question, the answer to which is not included in the witness's written statement, the witness is free to "create" an answer as long as it is not contrary to the statement. If the answer is contrary to the statement, the cross-examination attorney may impeach, or in other words, attack the credibility of the witness.

The trial proceedings are governed by the Modified Rules of Evidence found in this casebook.

Closing Argument (4 minutes maximum for each)

The prosecution will be allowed 2 minutes rebuttal.

Objections

In addition to evidentiary objections, objection may be made during trial by an attorney who believes that any rule set forth in the Competition instructions has been violated. As with evidentiary objections, the objection must be made as soon as the claimed violation occurs. If no objection is made at the time of the claimed violation, the attorney knew or should have known of the violation at that time, the right to object is waived.

The presiding judge may make rulings as appear appropriate. All judges will not interpret the rules and guidelines in the same way. The judge's decision, however, is final and no appeals procedure is available.

Conclusion of Trial

The judicial panelists will retire to chambers to discuss their decision and complete the score sheets upon conclusion of the trial and return it to the competition coordinator. The scoring panelists will announce the outstanding witness and attorney awards, discuss the highlights of their performances, and present their certificates. The judicial panelists may discuss the case and make remarks to the teams at the conclusion of the trial but will not discuss the scoring.

The bailiff will close the proceedings at the judicial panelists' signal with:

"All rise. This honorable court is hereby adjourned."

Judging and Scoring

Each trial will be presented before a judicial panel consisting of a Presiding Judge and two Scoring Judges. The Presiding Judge will control the courtroom and rule on motions and objections, and will complete a ballot along with the ballots of the two Scoring Judges, based on their evaluations of the team and individual performances.

The trial will be judged based on team and individual performances, not the merits of the case. The two scoring panelists and the presiding panelist will separately rate the Prosecution and Defense teams, assigning points from 6-90 based on the following factors:

1. Opening Statement (1-10 points possible)
2. Witnesses' Performances (1-30 points possible)
3. Attorneys' Performances on Direct (1-10 points possible)
4. Attorneys' Performances on Cross (1-10 points possible)
5. Closing Statement (1-10 points possible)
6. Team Performance (1-20 points possible)

Judicial panelists will score individual performances based on the following guidelines:

- Ability to think well on feet, be logical, keep poise under duress
- Ability to sort out essential from the nonessential and use time effectively to accomplish major objectives
- Mastery of elements of the case: utilization of all resources to contribute to the team's position
- Quality of communication in terms of fluency, persuasiveness, clearness and understandability
- Depth of performance in terms of knowledge of task and materials

Judicial panelists will score team performances based on the following guidelines:

- The development and validity of the case theory (Did the prosecution/defense team establish a theme for their argument? Was the theme valid?)
- The choice and development of case strategy (Did the prosecution/ defense team select the appropriate form of questioning used for direct examination and cross-examination?)
- The degree of a team's persuasiveness (Was the team's case carefully crafted and skillfully delivered? Were team members prepared and direct in their roles?)
- The quality and authenticity of the student's own work product (Does the student presentation appear to be the work product of the student?)

In judging the performance of **witnesses**, judges should consider whether the witness was:

- Believable in his/her characterizations and convincing in testimony
- Articulate and responsive
- Observant of proper courtroom decorum
- Knowledgeable of the case facts and theory of the team's case
- Faithful to the case facts and did not invent new facts

In judging the performance of **attorneys**, judges should consider the following elements:

- A creative, organized, and convincing presentation
- Observation of proper courtroom decorum
- A clear understanding of the facts, issues, law and rules of Cleveland Mock Trial
- Ability to apply authority and law to facts
- Proper phrasing of questions and objections
- Appropriate presentation style
- Poise and ability to think on his/her feet, extemporaneous (not scripted) delivery, eye contact (ability to proceed without reading from prepared materials)

Bonus Points for exceptional attorneys and witnesses (1-20 additional points possible but NOT mandatory): Judges at their discretion may award an attorney and/or witness who they feel has given an extraordinary performance 1-20 bonus points, to be indicated in the Bonus Points section of the score sheet along with the student(s) name(s). **These points are NOT mandatory, and are NOT to be included with the team's overall score.** The points are to aid the Competition Coordinators in determining which students have received the best scores of the Competition considered as a whole in the categories of Outstanding Attorney for the Prosecution, Outstanding Attorney for the Defense, and Outstanding Witness for the Competition.

Penalties: Points should be deducted from the Team Performance Score for:

- Consistently abusing the time limits (1 point)
- Failing to use attorneys as prescribed (1 point)
- Intentionally and frequently straying outside the case materials (1 point)
- Communication during trial between team members and their teacher, legal advisor or any observer (1 point)

Outstanding Attorney and Witness Awards: Judicial panelists should consult at the conclusion of the trial to determine the Outstanding Attorney and Outstanding Witness of the trial. Awards should be based on individual performances – they are not to be used as a consolation prize, but awarded on merit.

All three judicial panelists will complete a ballot. Based on point totals ONLY, each panelist will find a winner from his/her ballot (no ties on individual ballots allowed). Teams that have won at least two of the panel's ballots have won the trial.

Teams will perform one trial as the Prosecution and one trial as the Defense. Teams that have won both of the two trials will be deemed "Finalists." Ranking among the finalists will be determined by overall point total from all ballots for the teams. In the event of a tie, additional points will be added to team scores based on the awards for Outstanding Attorney and Outstanding Witness, with five points added for each award won. The team with the highest score will be declared the winner of the competition. The scores

will be tabulated and the top three teams announced at the conclusion of the competition. After the competition, non-Finalists will be informed of their overall performance (e.g. winner of first but not second trial). Finalists will be informed of their ranking among the other Finalist teams.

All participants must be mindful that the regular business of the court will be continuing during Mock Trial Competition. Conversations and noise in the hallways should be limited accordingly.

Sample Scoresheet

2018 CLEVELAND HIGH SCHOOL MOCK TRIAL SCORE SHEET TRIAL ONE

Judge's Name: _____

Presiding / Scoring (Please circle)

ALL 3 Judges (2 Scoring and 1 Presiding) MUST complete and return score sheet to competition coordinator upon completion!
DO NOT use fractional points or award zero points. NO TIES ALLOWED in TOTAL POINTS.

PLAINTIFF/PROSECUTION:

School Name: _____

Team Name: _____

DEFENSE:

School Name: _____

Team Name: _____

Please fill in points within range indicated

Opening Statement (1-10 points possible)	(1-10)
Witness Performance #1 (1-10 points possible)	(1-10)
Witness Performance #2 (1-10 points possible)	(1-10)
Witness Performance #3 (1-10 points possible)	(1-10)
Attorneys' Performance on Direct (1-10 points possible)	(1-10)
Attorneys' Performance on Cross (1-10 points possible)	(1-10)
Closing Statement (1-10 points possible)	(1-10)
Team Performance (1-20 points possible)	(1-20)
Subtraction of Penalties (if any)	
TOTAL:	

Please fill in points within range indicated

Opening Statement (1-10 points possible)	(1-10)
Witness Performance #1 (1-10 points possible)	(1-10)
Witness Performance #2 (1-10 points possible)	(1-10)
Witness Performance #3 (1-10 points possible)	(1-10)
Attorneys' Performance on Direct (1-10 points possible)	(1-10)
Attorneys' Performance on Cross (1-10 points possible)	(1-10)
Closing Statement (1-10 points possible)	(1-10)
Team Performance (1-20 points possible)	(1-20)
Subtraction of Penalties (if any)	
TOTAL:	

OPTIONAL: Bonus Points for exceptional attorneys and witnesses (do not include in point totals above)

Attorney name AND school: _____

Points awarded (1-20 possible): _____

Witness name AND school: _____

Points awarded (1-20 possible): _____

SIMPLIFIED OHIO RULES OF EVIDENCE

Rules Unique to Mock Trial

I. Invention of Facts and Extrapolation (special rules for the Mock Trial Competition)

The object of these rules is to prevent a team from “creating” facts not in the material to gain an unfair advantage over the opposing team.

Invention of Facts - Direct Examination. **On direct examination the witness is limited to the facts given in his/her own written statement.** If the witness goes beyond the facts given (adds new facts or speculates about facts), the testimony may be objected to by the opposing counsel as speculation or as invention of facts outside the case materials. If a witness testifies *in contradiction* of a fact given in the witness statement, opposing counsel should impeach the witness’s testimony during cross-examination. [See *also*, Competition Instructions, “Testimony of Witnesses—Guidelines.”]

Invention of Facts - Cross-Examination. If on cross-examination a witness is asked a question, the answer to which is not contained in the facts given in the witness statement, the witness may respond with any answer, so long as it is responsive to the question, does not contain unnecessary elaboration beyond the scope of the witness statement, and does not contradict the witness statement. An answer which is unresponsive or unnecessarily elaborate may be objected to by the cross-examining attorney. An answer which is contrary to the witness statement may be impeached by the cross-examining attorney. [See *also*, Competition Instructions, “Testimony of Witnesses—Guidelines”].

Example

The limits on fair extrapolation apply only to cross examination, and no extrapolation is permitted on direct examination.

An accident reconstruction expert (Mr. Smith) has testified that the accident was caused by the failure of the defendant to maintain an assured clear distance ahead. The defendant has claimed that he was undergoing a type of epileptic seizure when the driver ahead stopped abruptly. The accident reconstructionist testifies that even a person experiencing this kind of epileptic seizure would have seen the car brake abruptly.

1. Unnecessary Elaboration

Cross-examiner: “But you’re not a neurologist, are you, Mr. Smith?”

Mr. Smith: “As a matter of fact, I have a Ph.D. in Neurology from Johns Hopkins University and have written extensively on epileptic seizures...”

If there is no hint in the case materials that Mr. Smith has expertise in neurology, it would be regarded as an unnecessary elaboration

2. Elaboration necessitated by the Question

Cross-examiner: “Have you testified before as an expert in accident reconstruction, or is this the first time that you have ever testified?”

Mr. Smith: “I have testified in 27 trials.”

It may be reasonable for the expert to claim he has testified in 27 trials, if his age and background make that plausible, even if there is nothing in the case materials to reflect an answer to that question. It is an elaboration necessitated by the question.

II. Scope of Examinations

Scope of Direct Examination An attorney questions the witness she/he has called to stand. On direct examination an attorney may inquire as to any relevant facts of which the witness has first-hand, personal knowledge.

Scope of Cross Examination The scope of cross-examination shall not be limited to the scope of the direct examination, but may inquire into any relevant facts or matters contained in the witness's 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.

Redirect Examination After cross examination, additional questions may be asked by the direct examining attorney, but such questions are limited to matters raised by the opposing attorney on cross-examination. Just as on direct examination, leading questions are not permitted on redirect.

Comment: If the credibility or reputation for truthfulness of the witness has been attacked successfully on cross-examination, the attorney whose witness has been damaged may wish to ask questions to "rehabilitate" the witness (save the witness's truth-telling image). Redirect examination may also be used to strengthen a positive fact that was weakened by the cross-examination. Redirect examination is not required. A good rule to follow is: if it isn't broken, don't fix it.

Examples:

1. **Cross-examination of physician called by Plaintiff in murder case:**

Attorney: Doctor, you testified on direct that the defendant died of arsenic poisoning, correct?

Witness: Yes.

Attorney: Isn't it true that you have a deposition in which you testified that you did not know the cause of death?

Witness: Yes, that's true.

Redirect:

Attorney: Doctor, why did you testify in your deposition that you did not know the defendant's cause of death?

Witness: I had not yet received all of the test results which allowed me to conclude the defendant died of arsenic poisoning.

2. **Cross-examination:**

Attorney: Doctor, isn't it true the result of test X points away from a finding of arsenic poisoning?

Witness: Yes.

Redirect:

Attorney: Doctor, why did you conclude that the defendant died of arsenic poisoning even though test X pointed away from arsenic poisoning?

Witness: Because all of the other test results so overwhelmingly pointed toward arsenic poisoning, and because test X isn't always reliable.

Comment: Neither one of these redirect examinations should have been conducted unless the attorney had a good idea of what the witness's response would be. As a general rule, it is not advisable to ask a question if you don't know what the answer will be.

Re-cross Examination After redirect, additional questions may be asked by the cross examining attorney, but such questions are limited to matters raised on redirect examination.

Re-cross is not mandatory and should not be used simply to repeat points that have already been made.

Example:

Assume the cross-examination in the example above has occurred. A good re-cross-examination would be the following:

Attorney: Doctor, isn't it true that when you gave your deposition you had received all of the test results except the result of test X?

Witness: Yes, that's true.

Comment: The cross-examining attorney would then argue in the closing argument that the doctor testified in his deposition that he did not know the cause of death at that time and the only test result received after the deposition pointed away from arsenic poisoning.

III. Hostile Witness Rule- Mode and Order of Interrogation and Presentation

1. **Control by court.** The court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.
2. **Scope of cross-examination.** Cross-examination shall be permitted on all relevant matters and matters affecting credibility.
3. **Leading questions.** Leading questions should not be used on the direct examination of a witness except as may be necessary to develop the testimony. Ordinarily, leading questions should be permitted on cross-examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, interrogation may be by leading questions.
4. **When is a witness hostile?** "Where a witness is an unwilling one, hostile to the party calling him, or stands in such a situation as to make him necessarily adverse to such party, his examination in chief may be allowed to assume something of the form of cross-examination, at least to the extent of allowing leading questions to be put to him." 44 OH Jurisprudence 3d 241, "hostile witness" §. 869

The issue is whether the witness's hostile attitude toward the party calling them is likely to make the witness reluctant to volunteer facts helpful to that party. Hostility may be demonstrated by the witness's demeanor in the courtroom, by other facts and circumstances, or by a combination thereof. Whether a witness is hostile is confided to the sound discretion of the presiding judge.

IV. Voir Dire

Voir Dire examination of a witness is not permitted.

V. No offer of proof

No offers of proof may be requested or tendered.

Article I. GENERAL PROVISIONS

RULE 101. Scope of Rules: Applicability; Privileges; Exceptions

Applicability. These rules govern proceedings in the Ohio Mock Trial Program and are the only basis for objections in the Ohio Mock Trial Program.

- **No directed verdict or dismissal motion may be entertained.**

Article II. RELEVANCY AND ITS LIMITS

RULE 201. Definition of "Relevant Evidence"

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

RULE 202. Relevant Evidence Generally Admissible; Irrelevant Evidence Inadmissible

Evidence which is not relevant is not admissible.

RULE 203. Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Undue Delay

(A) Exclusion mandatory. Although relevant, evidence is not admissible if its probative value is substantially outweighed by the danger of unfair prejudice, of confusion of the issues, or of misleading the jury.

(B) Exclusion discretionary. Although relevant, evidence may be excluded if its probative value is substantially outweighed by considerations of undue delay, or needless presentation of cumulative evidence.

RULE 204. Character

Character evidence. Evidence of a person's character, other than his/her character for truthfulness, may not be introduced. Evidence about the character of a party for truthfulness or untruthfulness is only admissible if the party testifies.

Article III. WITNESSES

RULE 301. General Rule of Competency

Every person is competent to be a witness.

RULE 302. Lack of Personal Knowledge

A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that S/he has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the testimony of the witness. This rule is subject to the provisions of Rule 703, relating to opinion testimony by expert witnesses.

RULE 303. Who May Impeach

(A) Who may impeach. The credibility of a witness may be attacked by any party except that the credibility of a witness may be attacked by the party calling the witness by means of a prior inconsistent statement only upon a showing of surprise and affirmative damage. This exception does not apply to statements admitted pursuant to Evid.R. 801(D)(1)(A), 801(D)(2), or 803.

RULE 304. Evidence of Character and Conduct of Witness

Opinion and reputation evidence of character. The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations: (1) the evidence may refer only to character for truthfulness or untruthfulness, and (2) evidence of

truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence or otherwise.

RULE 305. Mode and Order of Interrogation and Presentation

(A) Control by court. The court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.

(B) Scope of cross-examination. For Ohio Mock Trial Rules, see Simplified Ohio Rules of Evidence (Section II).

(C) Leading questions. Leading questions should not be used on the direct examination of a witness. Leading questions are permitted on cross-examination. When a party calls a hostile witness interrogation may be by leading questions.

RULE 306. Writing Used to Refresh Memory

If a witness uses a writing to refresh his memory while testifying, an adverse party is entitled to have the writing produced at the hearing. He/she is also entitled to inspect it, to cross-examine the witness thereon, and to introduce in evidence those portions which relate to the testimony of the witness.

RULE 307. Bias of Witness

In addition to other methods, a witness may be impeached by any of the following methods:

(A) Bias. Bias, prejudice, interest, or any motive to misrepresent may be shown to impeach the witness either by examination of the witness or by extrinsic evidence.

(B) Sensory or mental defect. A defect of capacity, ability, or opportunity to observe, remember, or relate may be shown to impeach the witness either by examination of the witness or by extrinsic evidence.

(C) Specific contradiction. Facts contradicting a witness's testimony may be shown for the purpose of impeaching the witness's testimony.

Article IV. OPINIONS AND EXPERT TESTIMONY

RULE 401. Opinion Testimony by Lay Witnesses

If the witness is not testifying as an expert, his/her testimony in the form of opinions or inferences is limited to those opinions or inferences which are (1) rationally based on the perception of the witness and (2) helpful to a clear understanding of his testimony or the determination of a fact in issue.

RULE 402. Testimony by Experts

A witness may testify as an expert if: (1) The witness is qualified as an expert by specialized knowledge, skill, experience, training, or education regarding the subject matter of the testimony; and (2) The witness's testimony is based on reliable scientific, technical, or other specialized information.

RULE 403. Bases of Opinion Testimony by Experts

The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by the expert or admitted in evidence at the hearing.

RULE 404. Opinion on Ultimate Issue

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

RULE 405. Disclosure of Facts or Data Underlying Expert Opinion

The expert may testify in terms of opinion or inference and give his/her reasons therefore after disclosure of the underlying facts or data. The disclosure may be in response to a hypothetical question or otherwise.

Article V. HEARSAY

RULE 501. Definitions

The following definitions apply under this article:

(A) Statement. A "statement" is (1) an oral or written assertion or (2) nonverbal conduct of a person, if it is intended by him as an assertion.

(B) Declarant. A "declarant" is a person who makes a statement.

(C) Hearsay. "Hearsay" is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

(D) Statements which are not hearsay. A statement is not hearsay if:

(1) Prior statement by witness. The declarant testifies at trial or hearing and is subject to cross-examination concerning the statement, and the statement is (a) inconsistent with his testimony, and was given under oath subject to cross-examination by the party against whom the statement is offered and subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition, or (b) consistent with his testimony and is offered to rebut an express or implied charge against him of recent fabrication or improper influence or motive, or (c) one of identification of a person soon after perceiving him, if the circumstances demonstrate the reliability of the prior identification.

(2) Admission by party-opponent. The statement is offered against a party and is (a) his own statement, in either his individual or a representative capacity, or (b) a statement of which he has manifested his adoption or belief in its truth, or (c) a statement by a person authorized by him to make a statement concerning the subject, or (d) a statement by his agent or servant concerning a matter within the scope of his agency or employment, made during the existence of the relationship, or (e) a statement by a co-conspirator of a party during the course and in furtherance of the conspiracy upon independent proof of the conspiracy.

RULE 502. Hearsay Rule

Testimony which is hearsay is inadmissible.

RULE 503. Hearsay Exceptions; Availability of Declarant Immaterial

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

(1) Present sense impression. A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter unless circumstances indicate lack of trustworthiness.

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

(3) Then existing, mental, emotional, or physical condition. A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.

(4) Statements for purposes of medical diagnosis or treatment. Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.

(5) Records of regularly conducted activity. A memorandum, report, record, or data compilation, in any form, of acts, events, or conditions, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by testimony.

RULE 504. Hearsay Exceptions; Declarant Unavailable

(A) Definition of unavailability. "Unavailability as a witness" includes any of the following situations in which the declarant:

(1) is unable to be present or to testify at the hearing because of death or then-existing physical or mental illness or infirmity;

(B) Hearsay exceptions. The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

(1) Statement under belief of impending death. In a prosecution for homicide or in a civil action or proceeding, a statement made by a declarant, while believing that his or her death was imminent, concerning the cause or circumstances of what the declarant believed to be his or her impending death.

(2) Statement against interest. A statement that was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless the declarant believed it to be true. A statement tending to expose the declarant to criminal liability, whether offered to exculpate or inculpate the accused, is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

RULE 505. Hearsay Within Hearsay

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

Article VI. AUTHENTICATION AND IDENTIFICATION

RULE 601. Requirement of Authentication or Identification

General provision. The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.

EXAMPLES OF COMMON OBJECTIONS AND TRIAL PROCEDURE

I. Procedure for Objections

An attorney may object if they believe that the opposing attorney is attempting to introduce improper evidence or is violating the Simplified Rules of Evidence. The attorney wishing to object should stand up and object at the time of the claimed violation. The attorney should state the reason for the objection, and if possible, cite by rule number the specific rule of evidence that has been violated. (Note: Only the attorney who questions a witness may object to the questions posed to that witness by opposing counsel.) The attorney who asked the question may then make a statement about why the question is proper.

The judge will then decide whether a question or answer must be discarded because it has violated a simplified rule of evidence (objection sustained), or whether to allow the question or answer to remain in the trial record (objection overruled). Objections should be made as soon as possible; however, an attorney is allowed to finish his/her question before an objection is made. Any objection that is not made at the time of the claimed violation is waived.

When an objection has been sustained, the attorney who asked the question may attempt to rephrase that question. Judges may make rulings that seem wrong to you. Also, different judges may rule differently on the same objection. Always accept the judge's ruling graciously and courteously. Do not argue the point further after a ruling has been made.

II. Examples of Common Objections

The following are examples of common objections. This is not a complete list. Any objection properly based on the simplified Ohio rules of evidence is permitted:

1. Irrelevant evidence: "Objection. This testimony is irrelevant."
2. Irrelevant evidence that should be excluded:
"Objection. This is unfairly prejudicial (or a waste of time) and should be excluded because..."
3. Leading question: "Objection. Counsel is leading the witness."
(Remember, leading is only objectionable if done on direct or redirect examination).
4. Narrative Answer: "Objection, this witness's answer is narrative" Commonly used on direct examination when a witness's answer has gone beyond the scope of the initial question
5. Non-responsive Answer: "The witness is nonresponsive, your honor. I ask that this answer be stricken from the record."
The witness's answer does not answer the question being asked. Commonly used by the cross-examining attorney during cross examination.
Example:
Attorney: Isn't it true that you hit student B?
Witness: Student B hit me first. He/she was asking for it, acting like a jerk and humiliating me in front of all my friends.
Attorney: Your Honor, I move to strike the witness's answer as non-responsive and ask that he/she be instructed to answer the question asked. (Another option is to impeach the witness with prior testimony if he/she testified in his his/her deposition that he/she hit student B.)
6. Beyond the scope of cross or redirect: "Objection. Counsel is asking the witness about matters that were not raised during the cross or redirect examination."
7. Improper character testimony: "Objection. This is testimony about character that does not relate to truthfulness or untruthfulness."

8. Improper opinion: "Objection. Counsel is asking the witness to give an expert opinion, and this witness has not been qualified as an expert." OR "Objection. Counsel's question calls for an opinion which would not be helpful to understanding the witness's testimony (or which is not rationally based upon what the witness perceived.)"
9. Invention of facts: "Your Honor, we object on the basis that opposing counsel's question seeks evidence that is outside the record in this case. Witness X has never given testimony in this case concerning..." If the witness gives testimony on direct that is beyond the scope of materials, the cross-examining attorney should say "move to strike the testimony concerning...as beyond the scope of the case materials."

Example:

If witness X did not personally see arsenic in the medicine cabinet of the decedent's wife, he cannot testify that she had arsenic in her medicine cabinet.

10. Lack of personal knowledge: "Objection." The witness has no personal knowledge that would allow her to answer this question.
11. Speculation: "Objection. The witness is speculating/this question calls for speculation." A hybrid between lack of personal knowledge and improper opinion.
12. Hearsay: "Objection. Counsel's question calls for hearsay." If a hearsay response could not be anticipated from the question, or if a hearsay response is given before the attorney has a chance to object, the attorney should say, "I ask that the witness's answer be stricken from the record on the basis of hearsay."

Example:

Witness X testifies that "Mrs. Smith said that the decedent's wife had a bottle of arsenic in her medicine cabinet." This testimony is inadmissible if offered to prove that the decedent's wife had a bottle of arsenic in her medicine cabinet, since it is being offered to prove the truth of the matter asserted in the out-of-court statement by Mrs. Smith. If, however, the testimony is offered to prove that Mrs. Smith can speak English, then the testimony is not hearsay because it is not offered to prove the truth of the matter asserted in the out-of-court statement. However, the testimony is only admissible if Mrs. Smith's ability to speak English is relevant to the case.

Comment:

Why should the complicated and confusing condition be added that the out-of-court statement is only hearsay when "offered for the truth of the matter asserted"? The answer is that hearsay is considered untrustworthy because the speaker of the out-of-court statement has not been placed under oath and cannot be cross-examined concerning his/her credibility. In the previous example, Mrs. Smith cannot be cross-examined concerning her statement that the decedent's wife had a bottle of arsenic in her medicine cabinet, since witness X, and not Mrs. Smith has been called to give this testimony. However, witness X has been placed under oath and *can* be cross-examined about whether Mrs. Smith actually made this statement, thus demonstrating that she could speak English. When offered to prove that Mrs. Smith could speak English, witness X's testimony about her out-of-court statement is not hearsay.

Remember, there are responses to many of these objections that the examining attorney can make after the objection is raised and he or she is recognized by the judge to respond.

III. Other Trial Procedures

A. Opening Statement

An opening statement has been defined as "a concise statement of [the party's] claim [or defense] and a brief statement of [the party's] evidence to support it." Judge Richard M. Markus, *Trial Handbook for Ohio Lawyers* (Thomson-West, 2006 Edition), §7:1, p.

305. A party seeking relief should indicate the nature of the relief sought. It may be useful to acknowledge the applicable burden, or burdens, of proof. An opening statement is not supposed to be argumentative, and should be used by attorneys to present their theories of the case. Legal authorities can be cited, to show what issue or issues are before the court for decision. It is appropriate to lay out what the attorney expects the evidence will show, but the wise attorney will be conservative in this regard.

The most important aspect of the opening statement is to frame the issues. The attorney wants to frame the issues so that there is a compelling narrative (the theory of the case) in his/her client's favor into which all the favorable facts and all favorable legal authority neatly fit. A well-crafted opening statement tells a story that will dominate the trial that follows.

B. Closing Statements

Closing statements, "are permitted for the purpose of aiding the [finder of fact] in analyzing all the evidence and assisting it in determining the facts of the case." Markus, op. cit., §35:1, at p. 1013. In a bench trial (to a judge, rather than to a jury), the closing statement is also the time to argue the law to the judge.

The attorney should point out to the court that his/her side has proven everything that it promised to prove, while pointing out that the other side failed to prove what it promised it would. It can now be shown how the evidence that was presented fits into the narrative (the theory of the case) that was introduced in opening statement, which, in turn, applying the law, compels a result in that side's favor. Remind the court what that favorable result is; i.e., the particular relief your client is seeking from the court.

On occasion, your evidence won't survive an objection, or the attorney's best witness will be forced to equivocate on an important point on cross-examination. When this occurs adjustments have to be made to the closing statement to fit the evidence actually presented in the trial.

The closing statements are the final opportunities to persuade the judge. In oral presentation, the statements having the most impact are the first statements, and the final statements. The attorney should try to make the first and last things said in closing argument the most vivid and persuasive, while reserving those points that have less emotional impact, but need to be said, for the middle of the statement.

C. Direct Examination - Form of Questions

Witnesses should be asked neutral questions and may not be asked leading questions on direct examination. Neutral questions are open-ended questions that do not suggest the answer and that usually invite the witness to give a narrative response. A leading question is one that suggests to the witness the answer desired by the examining attorney and often suggests a "yes" or "no" answer.

Examples:

1. ***Proper direct examination questions:***
 - a. What did you see?
 - b. What happened next?
2. ***Leading questions (not permitted on direct):***
 - a. Isn't it true that you saw the defendant run into the alley?
 - b. After you saw the defendant run into the alley, you called the police, didn't you?

D. Cross Examination - Form of Questions

An attorney should usually, if not always, ask leading questions when cross-examining the opponent's witness. Open-ended questions tend to evoke a narrative answer, such as "why" or "explain," and should be avoided. (Leading questions are not permitted on direct examination because it is thought to be unfair for an attorney to suggest answers to a witness whose testimony is already considered to favor that attorney's side of the case. Leading questions are encouraged on cross-examination because witnesses called by the opposing side may be reluctant to admit facts that favor the cross-examining attorney's side of the case.) However, it is not a violation of this rule to ask a non-leading question on cross-examination.

Examples:

1. **Good leading cross-examination question:**

Isn't it true that it was almost completely dark outside when you say you saw the defendant run into the alley? (This is a good question where the witness's statement says it was "almost completely dark," but a potentially dangerous question when the statement says it was "getting pretty dark out.")

2. **Poor cross-examination question:**

How dark was it when you saw the defendant run into the alley? (The witness could answer, "It wasn't completely dark. I could see him.")

E. Opinion Testimony by Non-Experts

For mock trial purposes, most witnesses are non-experts. If a witness is a non-expert, the witness's testimony in the form of opinions is limited to opinions that are rationally based on what the witness saw or heard and that are helpful in explaining the witness's testimony. Non-experts (lay witnesses) are considered qualified to reach certain types of conclusions or opinions about matters which do not require experience or knowledge beyond that of the average lay person. Note, however, that the opinion must be *rationally* based on what the witness saw or heard *and* must be helpful in understanding the witness's testimony.

Examples:

1. Witness X, a non-expert, may testify that the defendant appeared under the influence of alcohol. However, it must be shown that this opinion is *rationally* based on witness X's observations by bringing out the facts underlying the opinion, e.g., the defendant was stumbling; his breath smelled of alcohol; his speech was slurred. If witness X thinks the defendant was under the influence because he had a strange look in his eye, then the opinion should not be permitted because it is not sufficiently rational and has potential for undue prejudice.
2. Witness X, a non-expert, may not testify that in his opinion the decedent died of arsenic poisoning, since this is not a matter that is within the general knowledge of lay persons. Only an expert, such as a forensic pathologist, is qualified to render such an opinion.

F. Opinion Testimony by Experts

Only persons who are shown to be experts at trial may give opinions on questions that require special knowledge beyond that of ordinary lay persons. An expert must be qualified by the attorney for the party for whom the expert is testifying. Before a witness can testify as an expert, and give opinions in the area of his/her expertise, a foundation must be laid for his/her testimony by introducing his/her qualifications into evidence. In a sense, every witness takes the stand as a non-expert, and the questioning attorney must then establish the witness's expertise to the court's satisfaction for the witness to be able to testify as an expert. This is usually accomplished by asking the expert himself/herself about his/her background, training and experience.

Example:

Attorney: Doctor, please tell the jurors about your educational background.

Witness: I attended Harvard College and Harvard Medical School.

Attorney: Do you practice in any particular area of medicine?

Witness: I am board-certified forensic pathologist. I have been a forensic pathologist for 28 years.

It is up to the court to decide whether a witness is qualified to testify as an expert on a particular topic.

G. Refreshing Recollection (Rule 306)

If a witness is unable to recall information in his/her witness statement or contradicts the witness statement, the attorney calling the witness may use the witness statement to help the witness remember.

Example: Witness cannot recall what happened after the defendant ran into the alley or contradicts witness statement on this point:

1. Mr./ Mrs. Witness, do you recall giving a statement in this case?
2. Your Honor may I approach the witness? (Permission is granted.)
I'd like to show you a portion of the summary of your statement, and ask you to review the first two paragraphs on page three.
3. Having had an opportunity to review your statement, do you now recall what happened after the defendant ran into the alley?

H. Impeachment (Rule 303)

On cross-examination, the cross-examining attorney may impeach the witness. Impeachment is a cross-examination technique used to demonstrate that the witness should not be believed. Impeachment is accomplished by asking questions which demonstrate either (1) that the witness has now changed his/her story from statements or testimony given by the witness prior to the trial, or (2) that the witness's trial testimony should not be believed because the witness is a dishonest and untruthful person.

Impeachment differs from the refreshing recollection technique. Refreshing recollection is used during direct examination to steer a favorable, but forgetful, witness back into the beaten path. Impeachment is a cross-examination technique used to discredit a witness's testimony.

Examples:

1. Impeachment with prior inconsistent statement:

Attorney: Mr. Jones, you testified on direct that you saw the two cars *before* they actually collided, correct?

Witness: Yes.

Attorney: You gave a deposition in this case a few months ago, correct?

Witness: Yes.

Attorney: Before you gave that deposition, you were sworn in by the bailiff to tell the truth, weren't you?

Witness: Yes.

Attorney: Mr. Jones, in your deposition, you testified that the first thing that drew your attention to the collision was when you heard a loud crash, isn't that true?

Witness: I don't remember saying that.

Attorney: Your Honor, may I approach the witness?
(Permission is granted.)

Mr. Jones, I'm handing you the summary of your deposition and I'll ask you to read along as I read the second full paragraph on page

two, "I heard a loud crash and I looked over and saw that the two cars had just collided. This was the first time I actually saw the two cars." Did I read that correctly?

Witness: Yes.

Attorney: Thank you Mr. Jones.

2. Impeachment with prior dishonest conduct:

Attorney: Student X, isn't it true that last fall you were suspended from school for three days for cheating on a test?

Witness: Yes.

I. Introduction of Physical Evidence (Rule 601)

Generally, physical evidence (objects) must be relevant and authentic (shown to be what they appear to be) in order to be admissible. Exhibits are generally presented to the court through witness testimony. Specifically, for mock trial purposes, all exhibits contained in the case materials have already been stipulated as admissible evidence and may not be altered to give either side an unfair advantage. This means that both sides have agreed that all exhibits are admitted. Therefore, it is not necessary to demonstrate through a witness's testimony that an exhibit is authentic, an accurate representation or admissible, nor is it necessary to move the court for the admission of the physical evidence.

Example:

Attorney: Your honor, we have marked this one-page document as Plaintiff Exhibit 1 (or Defendant's Exhibit A). Let the record reflect that I am showing Plaintiff Exhibit 1 (or Defendant's Exhibit A) to opposing counsel. (Exhibit is shown to opposing counsel.) Your Honor, may I approach the witness?

Judge: You may.

Attorney: Witness X, I'm showing you what has been marked as Plaintiff Exhibit 1. Do you recognize that exhibit?

Witness: Yes.

Attorney: Could you explain to the Court what that is?

Witness: It's a map of the accident scene.

(At this point, the attorney may ask the witness any additional relevant questions about the exhibit, and then give it to the judge.)

Courtroom pointers to make the most of your presentation:

- I. Dress appropriately: Your personal appearance affects the way people view you and your performance. Appropriate clothing means business (not casual) dress: for example, a dress, a skirt and jacket, slacks and a jacket, slacks and a shirt and tie.

- II. Pre-trial preparation
 1. Arrive at the courtroom at least 15 minutes early so that you can acquaint yourself with the layout, make any necessary adjustments and be ready to start the trial exactly on time.
 2. The prosecution team sits at the table closest to the jury box, and the defense team sits at the other table.
 3. Attorneys should neatly organize their materials on the tables. Get rid of all unnecessary papers, briefcases, pencils and other clutter.
 4. Witnesses should seat themselves in separate areas of the spectators' section.
 5. Make sure no team members are chewing gum.

- III. Posture: Participants should remember that from the elevated bench, the judge has a good view of the entire courtroom. Your seating posture has a definite impact on the judge's impression of you. Attorneys especially need to be conscious of how they are seated. Sit straight but not so stiff as to be uncomfortable. Put your feet flat on the floor or cross your legs in a professional manner. Avoid nervous mannerisms, such as shaking your leg or tapping your pencil.

- IV. Decorum
 1. Be polite and courteous to the judges, both presiding and scoring.
 2. Always stand when talking in court and when the judges enter or leave the room.
 3. Always refer to the presiding judge as "Your Honor" and accept rulings graciously and politely even if they are not in your favor.
 4. Behave courteously and respectfully toward the opposing team before, during and after the trial.
 5. Be cordial to witnesses.
 6. Emotions are not banned from the courtroom; however, they must be controlled. It is okay (and may even be part of your trial strategy) to be appropriately indignant, puzzled, etc., but uncontrolled outbursts or wild theatrics are not appreciated by the judging panels and may cost you valuable points.

- V. Speak effectively
 1. All participants should speak clearly and carefully enunciate each word.
 2. For attorneys, all speaking is done from a standing position. For witnesses, speaking is done in a seated position from the witness stand.
 3. If you are an attorney and are addressed by the court, stand promptly before responding.

- VI. Deliver your best opening statement or closing argument
 1. Organize any materials before beginning.
 2. Rise slowly.
 3. With confidence, walk slowly, yet deliberately, to the podium or the area from which you will deliver the opening or closing.
 4. Assume good speech-making posture. Your feet should be set apart a bit and your weight balanced on the balls of your feet.
 5. Before your first word, look the judge directly and say, "May it please the court" and begin to speak directly to the members of the jury (scoring judges).

6. Try for a conversational tone in your voice. Speak to the judges in a clear voice that is slow enough and loud enough for them to follow your ideas without straining.
7. Avoid using slang and always use your very best vocabulary.
8. Use variety in your delivery. You can emphasize major points in several different ways, e.g. pause before an important idea, raise your volume slightly to accentuate an important idea, or slow down to draw attention to an important idea.
9. Natural gestures are always good to emphasize ideas. They will come instinctively if your focus is on talking to the judges. Do not force gestures and always avoid repetitive or unnecessary gestures.
10. Be aware that judges may interrupt during your closing statement and ask you a question. Pause, listen carefully to the question, then answer to the best of your ability. The most important thing is to maintain your poise.
11. When you have concluded your presentation, say, "Thank you, your honors," while looking directly at the presiding judge. Pause briefly and then take your seat. Show no signs of relief and do not immediately turn to speak to co-counsel. Always maintain that aura of poise and confidence.

VII. Question witnesses skillfully

1. Always rise to do the questioning.
2. You may have questions written out, but be ready to adapt when objections are made or when a witness does not respond as you had expected.
3. Speak slowly and clearly.
4. Listen to the witness's response. S/he may not say what you had anticipated and thus you may have to insert or reword questions for clarification.
5. If opposing counsel makes an objection, stop speaking and give them the floor.
6. Be prepared to respond to an objection. Do so as articulately and confidently as you possibly can. Do not ramble. Not all judges will expect you to respond, and, in fact, sometimes you will have to ask if the judge will allow you to do so.
7. If the judge rules against you on an objection, show no signs of dismay. Simply proceed with another question. The key is to maintain your poise.
8. If you are stumped on how to proceed, ask the judge if you may confer with your co-counsel. Make the conference brief. Use this conference technique only when absolutely essential. Judges may become frustrated if you hold up the trial too often. Remember: this conference counts as part of your time allotment.
9. Never ask a question to which you do not know the answer.
10. When you have finished your questioning, say, "No further questions, your honor," and take your seat in a confident manner.

VIII. Be a great witness

1. Generally, all witnesses will be sworn at the beginning of the trial as one group.
2. When you are called, go to the witness stand. When the judge indicates that you may take your seat, respond by saying, "Thank you."
3. Seat yourself in the witness box in a professional manner.
4. Position yourself so that you can comfortably give your responses to the scoring judges.
5. Speak loudly and clearly and in a manner best fitting the character you are portraying.
6. Stay in character!
7. Do not allow any unnecessary movement or gestures to distract from your testimony.
8. When an objection is made, immediately stop talking.
9. Wait until the objection is decided and even then do not respond until the attorney doing the questioning indicates that you should do so.
10. Do not attempt to answer a question that you do not understand. Ask for clarification to be sure that you understand the question that is being asked.

11. Never argue with the judge or the opposing counsel. Keep a cool head!
12. Do not leave the witness box until the judge directs you to “step down.”
13. Walk slowly and confidently back to your seat.
14. Do not speak to anyone along the way or when you are seated.

IX. Maintain your demeanor during recess and debriefing

1. Rise when the judges leave the courtroom; maintain order and quiet while they are out; rise when the judges re-enter the courtroom.
2. Listen quietly and respectfully during the debriefing. When all the judges have concluded their comments, feel free to applaud, not only for them, but also for your opponents and yourselves.

X. Demonstrate fair play and integrity: Walk over to the other team members. Shake hands and introduce yourself. It is always appropriate to congratulate them on a particularly good aspect of their performance. Remember, being a good sport is part of being a good winner. Not everyone can win the competition, so learn as much as you can and have fun while participating in the project.

**CLEVELAND MUNICIPAL COURT
CLEVELAND METROPOLITAN BAR ASSOCIATION
MOCK TRIAL COMPETITION**

TEAM ENTRY FORM

It is necessary that we timely receive this form, one for each team you are entering, so that we will know how many judges and courtrooms will be needed for the competition and so that we may prepare the Certificates of Participation for the students. Please provide the names of any student who may be participating whether or not their participation has been confirmed.

Due April 20, 2018

Send to: Lavora "Gayle" Gadison
East Professional Center
1349 East 79th St.
Cleveland, Ohio 44103
Lavora.Gadison@clevelandmetroschools.org

School: _____

Teacher: _____

Team No. _____

Names of students:

(Please print legibly or attach a typed list, making sure to identify school and team on the top of the list):

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____

10. _____
11. _____
12. _____
13. _____
14. _____
15. _____
16. _____
17. _____

**CLEVELAND MUNICIPAL COURT
CLEVELAND METROPOLITAN BAR ASSOCIATION
MOCK TRIAL COMPETITION**

SUBPOENA

IN THE CASE OF:
CITY OF ERIELAND

-vs-

CAMERON WOODS

To: Judge Lauren C. Moore
Cleveland Municipal Court
Courtroom 15-B
Cleveland, OH 44101-4984
Tel.: (216) 664-4973
Fax: (216) 664-6735

You are commanded to have to appear before the (name of school) _____ mock trial team a (prosecutor, defense attorney, police officer, victim advocate, social worker, probation officer, etc.) _____ on (date) _____, at (time) _____ in Room _____ to answer questions and present information to our mock trial team to assist us in our preparation of the case. (Contact person) _____ should be contacted at (contact number) _____ upon receipt of this subpoena to confirm attendance and make arrangements.

By: _____

THE WRITING COMPETITION

Most judges will agree that writing effectively is perhaps the most important lawyering skill there is. While courtroom skills are essential, judges rely extensively on briefs and memoranda submitted by lawyers on behalf of their clients. It is through briefs and memoranda that legal issues are framed and argued. Judges frequently decide many cases, particularly in civil matters, solely on the briefs filed. Because the court believes that writing skills are at least as important as other lawyering skills promoted in the Cleveland Mock Trial Competition, this writing portion continues to be an important, and independent, component of the competition.

Once again, the writing competition this year is a solo competition and individual awards will be given. Although students are not required to participate, the court strongly encourages all students to participate. At a minimum, by writing on these issues, students will be better prepared to argue their respective positions at trial. Papers should be between four and ten pages in length. Please be conscientious about grammar, spelling, and neatness, as well as substantive content. See the following page for a sample scoring rubric.

This year, students may write a persuasive essay based on any of the topics outlined on pp. 10-11 of their case materials. Essays will be judged according to the Analytic Scoring Rubric on p. 55.

The essays are due on Friday, May 4, 2018, and must be clearly marked with students' names, teachers, and schools. The essays may be mailed, faxed, or emailed to:

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Analytic Scoring Rubric: Persuasive Essay

Area	Criteria and Points									
Quality and Development of Ideas	9-10	Ideas are insightful and well considered. This writing has a strong central focus and exhibits unique comprehension and insight that is supported by carefully chosen evidence. Sophisticated reasoning and literary appreciation are evident.	7-8	Ideas are thoughtful and clear. This writing has a clear and recognizable focus and exhibits a comprehensive and intimate knowledge of the subject matter. Literary interpretation is more logical/sensible than insightful.	5-6	Ideas are straightforward and clear. This writing has a recognizable focus and exhibits adequate development of content, although interpretation is more common place and predictable.	3-4	Ideas are limited and over generalized but discernible. This writing has an inconsistent or wandering focus and, although it exhibits some development of topic, ideas are often superficial and supporting evidence is vague or weak.	1-2	Ideas are elementary and may not be clear. This writing lacks focus and coherence and shows little or no development of topic. What is there is generalized and unsupported, so that there is little evidence of understanding.
	Organization	The introduction clearly states the direction the essay will take and invites further reading. Ideas are clearly and coherently developed and show evidence of critical thinking. The conclusion logically and thoughtfully completes the essay.	The introduction provides direction for the reader and the ideas generally focus and sustain the topic. Ideas are developed clearly and the conclusion effectively completes the essay.	The introduction provides some direction for the reader and the ideas are usually focussed but show little imagination. Ideas are clear but may lack coherence. The conclusion offers little insight.	The introduction is weak and relates only marginally to the body of the essay. There is no focus and the ideas are not clearly developed. The conclusion provides no real purpose.	The introduction, if there is one, does not contribute to a discernible controlling idea. Development of the topic is meagre or superficial. The conclusion, where present, is unclear or unrelated to the development provided.				
Style	5	The writer has chosen appropriate details and established a definite point of view that enhances the writing. Diction is clear, vivid, and precise. Syntax is varied, effective, and polished. The writer's voice and tone consistently sustain the reader's interest.	4	The writer has established a point of view and a sense of audience, and shows awareness of language and structure. Diction is effective. Syntax is generally effective. The writer's voice and tone maintain the reader's interest.	3	The writer's point of view is clear and consistent and shows a basic understanding. Diction is adequate but somewhat generalized. Syntax is straightforward. The writer's voice and tone establish, but may not maintain, the reader's interest.	2	The writer's point of view is unclear and the choice of diction is imprecise and/or inappropriate. Control of syntax is limited and results in lack of clarity. The writing exhibits superficial and/or minimal awareness of the reader.	1	The writer's point of view may shift in a confusing way. Diction is inappropriate and unclear. Syntax is confusing and results in unclear writing. Awareness of the reader is not apparent.
Mechanics	5	Sentences are correct. Any mechanical errors are the result of taking a risk with more complex or original aspects of writing. The writing demonstrates a strong command of the conventions of language.	4	Sentences are substantially correct, with errors only in attempts at more complicated constructions. The few mechanical errors do not impede communication. The writing demonstrates a solid control of the conventions of language.	3	Common and simple constructions and patterns are correct. Errors in more complex or unusual constructions do not unduly impede understanding. Information is clear despite a faltering in mechanics. The writing demonstrates a general control of the conventions of language.	2	Sentences having uncomplicated structures are usually clear, but attempts at more difficult structures result in awkwardness and/or obscured communication. The writing demonstrates a limited and/or inconsistent grasp of the conventions of language.	1	The writing exhibits a lack of knowledge in the use of sentence structure, usage, grammar and mechanics. The profusion of structural and mechanical errors make communication very difficult. The writing demonstrates only an elementary grasp of the conventions of language.