

Mock Trial Instructions for Prep:

1. Role-play the story.

Get a clear understanding of who, what, where, when, why, and how.

2. Learn the facts of your case. Go back over the scenario and think:

- What facts support your side?
- What facts weaken your side?
- What facts support their side?
- What facts weaken their side?

3. Analyze witnesses' statements via rules of evidence.

- Determine what information the witnesses should tell the jury.
- Decide how time will be divided among the witnesses that are to be called.

4. Create questions for each witness your side will call.

- These questions are called direct examination. In direct examination, you cannot ask a "leading question." A leading question is one that suggests the answer to the question, like "You saw that the light was red, didn't you?" However, asking "What color was the light?" is not a leading question.
- Note that just because a question calls for a yes or no answer does not mean it is a leading question.
- Design questions that will bring out the facts and support your case.
- Brainstorm questions the opposing side might ask your witnesses.
- Go over questions with your witnesses.

5. Write questions for each witness the other side will call.

- These are cross examination questions. Unlike direct examination, you can ask leading questions on cross examination.
- Create questions that will require the witness to admit some facts that will help your side or indicate the witness is lying, or reveal the witness is confused and unsure.
- Be prepared for an answer you do not expect and do not allow this to interrupt your flow. If the answer is contrary to the witness's affidavit or is not in the affidavit, impeach the witness.

6. Form your legal strategy.

- Decide on the theory or theme that will be presented.
- Revise the order of your witnesses, the questions you will ask your witnesses, and the questions you will ask the other side's witnesses so that these all fit with the theme of your case.
- Brainstorm the opposing side's strategy and how to weaken it.
- Outline the opening statement, but be careful not to argue your case.

7. Write the closing argument.

- Review the case; outline the important points to remind the jury.
- Tell the jury how you want them to decide and why this is the correct verdict.
- Appear sincere; feel justified with the case being presented.
- Keep your outline with you during the trial and check off your points as they are presented by following the evidence as the trial progresses. If you have a fact in your prepared closing that did not come out in the trial, take it out and make adjustments to the closing statement accordingly.

Everyone must do: a one page summary of the case (not taking a side). Summarize What are the legal elements presented? What are some potential roadblocks for either side in winning? What must be proven in the course of the trial?

Keep this document to refer to and hand in at the end of the semester – it will be a part of your mock trial grade!