## Mock Trial Curriculum - Beginners

| Day | Lesson | Homework |
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| 1 | **Introduction to trials**<br>• Explain Civil and Criminal trials<br>- Criminal trials: two parties are the State (prosecution) and the defense (representing the defendant). Defendant is charged with committing a crime. Burden is on the prosecution to prove guilt beyond a reasonable doubt. Defense role is to create a reasonable doubt.<br>- Civil Trials: Plaintiff vs. Defense. Two individuals- one suing the other. Can be a slip and fall case, breach of contract, copyright infringement, etc. Burden is the preponderance of the evidence (51%).<br>• Players in a court case<br>- Put students in groups of 3-5.<br>- Print and distribute the Definitions pages to students.<br>- Students take turns reading each definition out loud to their group.<br>• Practice game<br>- Test what students just learned!<br>- Two truths and a lie - Powerpoint HERE | Come up with Your own "two truths And a Lie" Based on What you Learned Today. |
| 2 | **Creating a Theme/Theory**<br>• Watch this video on creating a theme (10 min)<br>• What is their theory? What is their theme?<br>• Read the one page case pattern of Mrs. Seepoorly<br>• Place students on either Prosecution or Defense and split into those two teams<br>• Defense will use this template.<br>• Prosecution will use this template.<br>• Students spend 20-30 minutes creating a case theory and theme | Write out your Case theory In your own Words. |
| 3 | **Evidence**<br>• There is no case without Evidence!<br>○ What is it (first person accounts, physical evidence, facts known by a particular witness)?<br>○ What is it NOT (opinion, guesses, hearsay, or speculation)?<br>○ Evidence must be relevant. It must prove or disprove an element of the case. It must be presented by a witness. The witness must have direct and personal knowledge of it. | Re-read the Fact pattern. What other Questions do you have about this case? Try to come up with 5. |

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| | • Split into your groups for Prosecution and Defense<br>  ○ What are your GOOD pieces of evidence?<br>  ○ What are your BAD pieces of evidence?<br>  ○ Who will introduce each piece? (who has personal firsthand knowledge)?<br>  ○ What will you do about the bad pieces? How can you explain them away or rebut them?<br>• What questions do you have about the case? Write down as many as you can as a group. | |
| 4. | **What different roles are there in OUR mock trial? Let's learn about each of the**<br>**Jobs for the attorneys (non witnesses) in a trial:**<br>● **Direct Examination**<br>  ○ On direct examination, the lawyer calls a witness to the stand that they've picked to come and testify. This witness is supposed to help their side of the case. The lawyer asks relevant questions that are open-ended, like "who are you?" and "what did you do?" and "what next?" These questions CANNOT be leading.<br>● **Cross Examination**<br>  ○ On Cross examination, the lawyer asks pressing questions of the other side's witnesses, just after their direct examination is done. There are just a few points that the lawyer wants to make on cross examination, but all are meant to weaken that person's testimony. Questions are ALL leading questions, with yes or no answers. Some examples are "you weren't at the store, were you?" or "you don't see well out of your left eye, right?"<br>● **Opening Statement**<br>  ○ This is the very first thing the attorney says to the jury. Its a story of the case, persuasively written from your side's perspective. You outline the witnesses for your side of the case, and tell the jury your theme or theory of the case.<br>● **Closing Statement**<br>  ○ This is the only time in the whole case when the attorney can actually make an argument to the jury. It wraps up all of the evidence that's good for your side of the case, and explains away the weak parts of your case. It talks about the burden of proof, and the witnesses, and reiterates the theory/theme of the case.<br>● **Witness:** Witnesses present evidence that is relevant to one or more elements of the case, in a way that is convincing for their side of the trial. No evidence can be presented without a witness who has personal | |

knowledge of it. A witness is presented by one side of the trial, and cross-examined by the other. As such, they are a persuasive actor on their side of the case.

**Improv Game**

- Direct examination- tell me about your day yesterday - use only open ended questions and have a normal conversation. Teams of 3. One is the asker, one is the answerer and one objects whenever a question is LEADING (note: a leading question is one that suggests any kind of fact in the question itself. For example, are you wearing a red shirt? Instead, a proper question on direct examination is "what color shirt are you wearing?"

*Instructions: Teach students what a leading question is and explain that questions on direct examination cannot be leading. [ex: you went to the store yesterday? Is leading. But "what did you do yesterday? Is not]. Students pair up- one is the lawyer, the other is a witness. Students pick who the witness is (think about someone famous, like Taylor Swift). The direct examiner asks simple questions (one fact at a time) to ask what the witness did the prior day, in character. Then they switch roles and do it again.*

**Assign the Roles of this Case: (note: if you have less than 22 students, double up the witness actors by also giving them an opening/closing)**

- <u>Prosecution Team</u>
  - Opening Statement Prosecution
  - Closing Argument Prosecution
  - Direct Examination- Mrs. Seepoorly
  - Direct Examination- John Lennon
  - Direct Examination- Police Officer
  - Cross Examination- George Harrison
  - Cross Examination- Paul McCartney
  - Cross Examination- Store clerk
  - Witness: Mrs. Seepoorly
  - Witness: John Lennon
  - Witness: Police officer
- <u>Defense Team</u>
  - Opening Statement Defense
  - Closing Argument Defense
  - Direct Examination- George Harrison
  - Direct Examination- Paul McCartney

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| | ○ Direct Examination- Store Clerk<br>○ Cross Examination- Mrs. Seepoorly<br>○ Cross Examination- John Lennon<br>○ Cross Examination- Police Officer<br>○ Witness George Harrison<br>○ Witness: Paul McCartney<br>○ Witness: Store Clerk | |
| 5. | **Witness Development**<br>• Evidence can only be introduced through a witness with firsthand knowledge<br>• What do witnesses do? They present evidence that is relevant to one or more elements of the case.<br>• Game: Who are you?<br>*- [Instructions: students break up into pairs. As a character in the case, one asks the other "who are you?" for about 1 minute straight. The first time through, students can answer with any description possible. Ex: I'm a boy, I'm a student, I'm 15. Then they repeat the exercise again, but this time they have to describe their personality. Ex: I am shy, I am loyal, I am smart. Then they do it a third time. This time, they have to come up with anything they haven't said before. Prompt them with "I am someone who..." For example, "I am someone who always keeps my promises." This exercise is intended for them to dig deep into who they think their witness is, even if they don't have all the information.]*<br>• Witness Introductions to the class<br>*-Ask each witness to stand in front of the class and introduce who they are, in their own words, for about 1 minute. After the last exercise, they should have a better idea of their personality, motivations, and knowledge about this case.*<br>• Teams: Place students back into their two teams. Have them really flesh out what each witness will introduce and how that all comes together in the closing argument? It's basically a case outline with all their evidence. | For your side<br>Of the case,<br>Write down<br>All the evidence<br>You want<br>To present, and<br>Which witness<br>Will be presenting<br>It.<br>(Ex: the victim<br>Was found dead<br>At 5:03pm,<br>Presented by<br>Officer Nolan) |

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| 6. | **Writing Your Part**<br>• Assign roles to each teammate: directs, crosses, witnesses, opening, closing. There are 8 parts per team in this case.<br>• One point per question<br>• an opening is, what a closing is, direct exam, cross exam, and Witnesses<br>• Write down the do's and don'ts for your part of the trial (ex: don't ask leading questions on direct examinations)<br>  ○ Direct Exams<br>  ○ Cross Exams<br>  ○ Openings/Closings<br>• Place students in groups based on their parts of the trial. Put direct examiners with their witnesses, put cross examiners with the other cross examiner on their team, and put the openers and closers together. Using the templates in this folder, have students draft their parts. | Outline<br>Your part<br>Of the trial. Fill<br>In as many<br>Questions<br>As you can<br>For each<br>Point you<br>Want your<br>Witness to<br>Make. |
| 7 | **Practice**<br>First practice what you wrote for your direct examination.<br><br>Then:<br>Witness switch with Attorney and practice again. What more can you add?<br><br>Cross examiners should practice with other cross examiner on their team.<br><br>Opening and Closings should pair up and practice on one another. Make Sure their theories and facts are aligned. | Refine your<br>Script and add<br>Questions that<br>Make the flow<br>Natural. |
| 8. | **Objections**<br>• In small groups, have students read this summary of objections.<br>• Review as a class<br>• Hearsay – you cannot testify to what someone else says (exceptions if it was the Defendant who said it, if the person who said it is dead, or it was in the heat of the moment).<br>• Relevance – it has to be related to an issue in the trial<br>• Asked & Answered- you can't ask the same question twice<br>• Leading - the lawyer's question cannot have a fact in it. Questions must be simple and not assume anything.<br>• Compound – one fact per question | Go over your questions<br>For the trial. Do any of<br>Them call for an<br>Objection? If so, should<br>You re-word them? |

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| | • Speculation- This is when a question asks a witness to guess about something or asks about something this witness doesn't have personal knowledge of.<br><br>Do the objection game! HERE- play each video. It'll pause when the objection is made. Students have to state the reason for the objection.<br><br>This is a tougher game. Choose "Objection Your Honor" from the circles.<br><br>**Have everyone write their introductions to the court:** "Good morning Your Honor, Ladies & Gentleman of the Jury. My name is _____ and I represent the _____ in this matter. Today I will be: a) playing the role of [witness] or b) conducting the [direct or cross] examination of _____."<br><br>**REHEARSE the trial:** do a full run through of the trial. | |
| 9 | **Trial Time**- Criminal Trial of State of Delaware vs. Starr | |
| 10 | **Evidence** - the rules of evidence in depth<br>Review the Evidence videos (15 min each) found HERE. This is not all of the Rules. But it's a good start.<br><br>**Summarize rule numbers and content. Frequently, you'll look up a rule as you need it or if you think there might be an issue with a piece of evidence.**<br>Use the DE High School Mock Trial Rules of Evidence - HERE.<br>• Relevance - 400s<br>• Witnesses - 600s<br>• Hearsay- 800s<br>• Experts- 700s | Study the rules of evidence for evidence jeopardy tomorrow! |
| 11 | **Evidence Day 2:**<br>• Introducing documents – Go over this procedure. Then break students into pairs. Have one be the witness and the other the attorney. Each pretends they are admitting a photo. They do it until they don't need the script. Then they switch.<br>• Expert Witnesses: Expert Witnesses - what role do experts play in a trial? Read this summary of the qualifications and requirements of expert witnesses. Because their testimony can be so powerful, we need to make | Study your rules of Evidence for evidence Cheat sheet for Jeopardy tomorrow! |

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| | sure they are qualified on their subject. THINK, PAIR, SHARE: First allow students to read and take notes. Then have them pair with their neighbor to discuss. Then share out as a class. What makes an expert qualified?<br>● Impeachment – (as the teacher, you should read and understand this ahead of time). Go over the three steps of impeachment: 1) Repeat, 2) build up, 3) impeach. Place students again in teams of two. Pretend that they testified today that they saw a blue car speed through a red light, but that they told police officers at the scene that they saw a red car speed through the red light. Students repeat until they can do this without the script. | |
| 12 | **Evidence Jeopardy!**<br>https://jeopardylabs.com/play/mock-trial-jeopardy2 | |
| 13 | **Civil Case** – Do the whole thing over again, but with a Civil case! For this one, we are really going to dig deep into the rules of evidence.<br>● Divide the group into Plaintiff and Defense<br>● Explain the burden of proof in a civil case, as opposed to a criminal one (more likely than not, still rests with the plaintiff).<br><br>You can use this case: MIke v. Tom and the damaged Bike or<br><br>The Case of the Crooked Crocs, on pages 3-5 of this document.<br><br>In Plaintiff and Defense teams, create your case theory and review what the best and worst evidence is for your side of the case. | Re-read the Fact pattern. What other Questions do you have about this case? Try to come up with 5 |
| 14 | Writing your part<br><br>● Teams break into their various roles. Place students in groups based on their parts of the trial. Put direct examiners with their witnesses, put cross examiners with the other cross examiner on their team, and put the openers and closers together. Using the templates in this folder, have students draft their parts. | Write your part! Remember to consider Objections! |
| 15 | **Practice Case – Civil** | |

Link to the 2023 DE finals – use this to show openings, closings, directs and crosses as examples.

https://drive.google.com/file/d/1KgtTv8E3OJXMa3th_zcK7TkP_7XP7DWi/view?usp=sharing

Please remember that it's best to download the file, use upper right side link. Then save it. Streaming it from Google is hit or miss. Better to download.