

NATIONAL TRIAL COMPETITION

GUIDELINES FOR NTC JUDGES

Thank you for agreeing to be a judge during the National Trial Competition. Over 150 law schools are participating in a regional competition this year, and the top two teams from each of the 15 regions will advance to the national competition in Texas. Please follow the guidelines below when judging a mock trial round.

A. SOME IMPORTANT, BASIC GUIDELINES

1. Before the mock trial, the student advocates will have 15 minutes to prepare (or “woodshed”) their witness volunteers, who are not part of the mock trial team. They cannot confer with the witnesses after the woodshedding session.
2. Student advocates may examine witnesses sitting or standing.
3. Each side has a maximum of 60 minutes to present its case (excluding time for making/responding to motions), and a bailiff will keep track of time. Objections do not count towards time unless they become excessive.
4. Witnesses are allowed to have their depositions and related exhibits on the witness stand. Witnesses may highlight and underline portions of their depositions; they cannot make any other markings on their documents.
5. The *necessary inference rule* applies during the mock trial (see below); thus, witnesses may testify as to necessary inferences drawn from the facts in the problem.
6. Re-cross is not permitted; a student advocate is not permitted to waive any scored portion of the mock trial, e.g., cross examination; and, Plaintiff’s rebuttal is limited to the scope of defense’s closing argument.
7. Please do not ask any student advocate what law school he/she is from, even after the mock trial is over. If, upon entering a round, you recognize a competitor, please inform the bailiff so that the regional host may change your competition room.
8. When the mock trial is over, the presiding judge should ask everyone to leave the room while the scoring judges fill out the ballots. Please do not conference with the other judges about your scores.
9. Please total the scores on your scoring ballot. Keep in mind that ties are not permitted.
10. After all of the judges have completed their ballots, the presiding judge should fill out the Master Ballot, put all individual ballots and the Master Ballot in the competition envelope, and give the envelope to the bailiff. The bailiff will take the ballots to the scoring committee for verification.
11. Please do not leave until the bailiff comes back to your room and releases everyone. Judges should use the time to comment on the student advocates’ performances. To keep the competition schedule on time, the NTC committee strongly urges judges to spend no more than 15 minutes commenting on the student advocates’ performances.
12. Protests must be lodged within five (5) minutes after the mock trial round ends. The bailiff will keep track of the five-minute period.

B. HOUSEKEEPING MATTERS, MOTIONS, AND OBJECTIONS

The student advocates will address housekeeping matters, e.g., to invoke “the rule” and constructively exclude witnesses from the courtroom. They may also present motions in limine before they present their cases. The bailiff will keep track of the time spent on motions in limine, as the competition rules limit the time for these motions. The presiding judge may, in his or her discretion, grant each motion, deny each motion, or defer the ruling on each motion.

In addition, under the Federal Rules student advocates may make a motion for judgment of acquittal (or a motion for judgment as a matter of law in civil cases) after the plaintiff’s case-in-chief. These motions must be denied so that the student advocates representing the defense can present their case.

Lastly, the time keeper for each round will be instructed to stop the timer for objections. The presiding judge, in his or her sole discretion, may order time charged against any team that makes excessive objections or uses excessive time to argue or respond to objections.

C. REASONABLE INFERENCE RULE AND IMPEACHMENT BY OMISSION

Ethical responsibilities and the practicalities of the competition situation require that student advocates be restricted to the materials provided so they cannot create or manufacture evidence or exhibits missing from the problem. Student advocates need to try the problem, not the problem drafter.

Necessary Inference Rule: Generally, each witness knows nothing beyond the facts contained in his or her deposition/statement. The competition rules do, however, allow a team to provide witnesses with information provided in the case materials. Furthermore, the rules allow a witness to make *necessary inferences* from the materials provided only as to nonmaterial facts, e.g., in the State of Lone Star it was dark outside at 11:30 p.m. The rules specifically prohibit student advocates from suggesting or encouraging testimony about material facts outside the record, and a protest procedure governs how teams must address alleged violations of this rule (see below).

Cross Examination: If during a direct examination a witness testifies to a material fact not contained in the case materials, the witness may be impeached during cross examination through “*impeachment by omission.*” Impeachment by omission, while unique to the mock trial setting, is an acceptable method for addressing witness credibility.

During cross examination, an advocate may question the witness about non-events that are reasonable inferences based on the problem materials. For example, if a police officer witness is testifying and the record is completely silent relating to DNA samples, it is reasonable to assume the police officer witness did not collect DNA samples from the crime scene. In this example, it is permissible to ask the police officer witness “You never collected any DNA samples, correct?”

However, an advocate may not invent facts or use outside resources in their questions to enhance the cross examination of a witness. For example, if a police officer witness is testifying and the record is completely silent relating to DNA samples, an advocate shall not reference topics outside of the problem materials such as; the reliability of DNA, the scientific theory of DNA, the process of DNA collection, etc. In this example, it is not permissible to ask the police officer witness, “You’re aware that margin of error for DNA tests can be as high as five percent, correct?”

D. INVALID OBJECTION – OUTSIDE THE RECORD

The judging panel shall not entertain an objection based solely on the ground that the witness's testimony is "outside the facts contained in the case material." Such an objection would require the panel to expend valuable time reading the materials during the competition. Cross-examination and closing arguments provide adequate

opportunities for the student advocates to demonstrate effectively that the witness has strayed from the acknowledged facts of the case.

E. SCORING THE STUDENT ADVOCATES

Student advocates are individually scored out of a total of 50 points. The opening (or closing) statement is scored on a scale from 1-20, and the direct and cross examinations are scored on a scale from 1-15. Thus, the highest potential team score is 100 total points.

Please keep the following in mind when you score the student advocates:

- (1) They should be evaluated solely on demonstration of trial advocacy skills. Thus, you should not consider the merits of the case, and should not award or deduct points because of a particular witness's quality or lack of facility, nor should you score or offer critiques to advocates based on any non-advocacy characteristics such as attire, gender or race.
- (2) Advocates should conduct the trial as if a jury were present, regardless of whether a jury is actually impaneled for the trial; and
- (3) Judges are encouraged to mark their score sheets at the completion of each phase of the trial, i.e., before students proceed to the next scored portion of the case.

Judging Panels: Before the beginning of the trial, one of the panel members will be designated as "presiding judge" and will make rulings during the trial. The presiding judge and additional judges will score each of the student advocates. (If you have a four-person panel, the presiding judge will not score the mock trial.) The outcome of the trial will be determined by tallying the score sheets of all three judges. The scoring ballots will be kept confidential until the competition committee allows the student advocates and their coaches/advisors to examine them.

Please total the points for each team and vote for the team that demonstrated the better advocacy skills. ***Ties are not permitted.*** In the unlikely event that total points are equal, you must reevaluate your scores.

Please do not announce the winning team after a preliminary round mock trial unless a competition administrator has instructed you that you may do so. In most regional competitions and at the national competition, only the judges in some of the break rounds announce the winning team.

F. PROTESTS

Judges are involved in the protest procedures only if a team alleges that a student advocate has violated the competition rules concerning evidence outside the record as described above. *Protests must be made to the presiding judge within five (5) minutes of the completion of the round or be waived.* Completion of the round is the moment the presiding judge releases the students following closing arguments. The bailiff must be present at that time to keep track of this five-minute period.

Protests are lodged with the regional host, not the judging panel, and the regional host will monitor whether the protest is lodged within the five-minute period. Judges will not be involved in hearing the protest, but judges may need to be consulted as part of the protest procedure and may be needed to determine the remedy for conduct ruled as a violation. The NTC protest committee will hear the protest and will make a ruling. Please remain available to ensure that the judges are not needed to determine an appropriate remedy following a protest.

During the investigation, the bailiff and any witnesses whose testimony is at issue should remain in or near the courtroom.

THANK YOU FOR JUDGING!