

**27th ANNUAL
COLORADO BAR ASSOCIATION
2012 HIGH SCHOOL MOCK TRIAL
PROGRAM**

**The State of Colorado
v.
Sam Seaside,
Defendant**

Presented by the
COLORADO BAR ASSOCIATION'S
Mock Trial Committee
and the Public Legal Education Department
1900 Grant St., Ste. 900
Denver, CO 80203
www.coloradohighschoolmocktrial.com



January 17, 2012

Dear Mock Trial Teacher and Attorney Coaches:

On behalf of the Colorado Bar Association's High School Mock Trial Committee, we invite you to participate in the 2012 Colorado High School Mock Trial Program. The Mock Trial Committee proudly presents this year's case, *The State of Colorado v. Sam Seaside*.

Important message for teacher and attorney coaches: It is your responsibility to review, know, and teach your students the rules of this mock trial program. All teams are responsible for knowing these rules, and coaches are responsible for teaching the rules to their students.

We continue our commitment to ensure professionalism by all participants and supporters of this program. Teachers: It is your responsibility to keep attorney coaches focused on the purpose of this program – education of these students. Attorney coaches: As a representative of the Colorado Bar Association and the legal profession, we strongly remind you that this program's first and foremost purpose is to provide the students with a positive educational experience that is focused more on learning and less on winning. Teachers and attorneys: The CBA expects professional conduct at all times during participation in this program.

Gallery observers and tournament volunteers are expected to conduct themselves inside and outside of the courtrooms in the utmost professional manner. They should serve as role models of professionalism and representatives of the code of ethics of the legal industry, and demonstrate good sportsmanship for our student participants.

Read the Code of Ethical Conduct Form that is on the CBA Mock Trial program website with your students and their parents. Contentious behavior and poor sportsmanship-like conduct by anyone involved with this program at any related program event will not be tolerated. After serious consideration by the Mock Trial Committee, any team coach, any student, and any supporter who behaves beneath this expectation may subject his or her team to be disqualified from current or future CBA mock trial participation.

The CBA Mock Trial Program goals remain the same, and are the impetus for all decisions around this program. The Mock Trial Committee reminds all teachers, attorneys, and students involved that although the mock trial program is competitive by nature, it is designed for educational value. The goals of the Colorado High School Mock Trial Program remain as follows:

- To promote and to further an understanding of and appreciation for the American judicial system and court procedures;
- To build and improve basic life skills such as critical thinking, public speaking, reading, reasoning, team collaboration, persuasive argument, and advocacy;
- To increase communication and cooperation between the legal and educational communities;

- To heighten the awareness of current social and legal issues; and
- To provide an educational event that supports communication, cooperation, and respect for students of diverse abilities, backgrounds, and interests.

These goals are consistent with the goals of the National High School Mock Trial Championship, Inc.

We invite returning teachers and attorneys to encourage other peers and schools to participate in this educational program, which encourages greater participation in and education of the American judicial system. We appreciate any support you can offer in promoting this program to other schools, teachers, and attorneys in your immediate and/or surrounding communities.

We offer our advance appreciation to all the students, teachers, attorney coaches, judges, scoring panelists, parents, and community leaders for supporting and participating in this educational event. Your involvement makes this program successful. More important, your participation helps build successful futures for these young participants. We look forward to working with you this year, and wish all of you the best of luck.

Very truly yours,

Teri Vasquez, Co-Chair, CBA Mock Trial Committee
Mary Roudebush, Co-Chair, CBA Mock Trial Committee

Special Acknowledgments

CBA Litigation Section

for its continued and generous support of the costs associated with the implementation and coordination of the CBA High School Mock Trial Program.

The Colorado Bar Foundation

for its continued and generous support of the regional tournaments and the 2012 Colorado State Champion's travel to the National High School Tournament.

Our thanks to both the Colorado Bar Foundation and the CBA Litigation Section for their generous support of this law-related educational program!

2012 COLORADO MOCK TRIAL CASE PROBLEM

The State of Colorado

v.

**Sam Seaside,
Defendant**

*The 27th Annual CBA High School Mock Trial Program
is a sponsored activity of the*

**Colorado Bar Association Mock Trial Committee
Teri Vasquez, Co-Chair
Mary Roudebush, Co-Chair**

Organized by the

Colorado Bar Association Mock Trial Committee

State Coordinator

Carolyn P. Gravit
Director, Public Legal Education
Colorado Bar Association

Program Manager

Meghan Bush
Program Manager, Public Legal Education
Colorado Bar Association

Case Materials

Members of the CBA Mock Trial Committee
Adapted from original case provided by South Carolina Bar Association
Special thanks to:

**Colorado Bar Association Litigation Section
Colorado Bar Foundation
Colorado Bar Association Staff**

COLORADO HIGH SCHOOL MOCK TRIAL PROGRAM

Benefits of the mock trial program extend beyond the rewards of competing against one's peers or winning a round. The impact of the program is measured by successfully attaining the following objectives:

- to further the understanding of court procedures and the legal system;
- to improve proficiency in the basic skills of listening, speaking, reading, team collaboration, persuasive argument, and reasoning;
- to promote better communication and cooperation between the educational and legal communities;
- to provide an educational and competitive event in an academic atmosphere;
- to promote cooperation among students of various backgrounds, abilities, and interests;
- to promote ethical and professional sportsmanship.

The education of high school students is the primary goal of the mock trial program. Teacher and attorney coaches are reminded of their responsibilities to keep the competitive spirit at a reasonable and professional level before, during, and after tournaments.

In 2011, more than 110 mock trial teams participated in the CBA Mock Trial Program. Only twenty-two to twenty-four teams advanced to the State tournament, and only one of these teams was named the State Champion. We remind teachers and attorney coaches that they must prepare their students to be ready to accept the reality that they may experience disappointment. The expectations of the Colorado Bar Association and its Mock Trial Committee are that students, teacher coaches and attorney coaches, as well as gallery observers, accept the outcome in a mature and professional manner. Coaches can help prepare students for a successful outcome by placing the highest value on excellent preparation and performance, rather than winning or losing. Students need to be prepared to handle the rigors of the tournament with dignity and class. Anger, bad sportsmanship, and frustration demonstrated by students and teacher/attorney coaches are not the objectives of the mock trial program, and will not be tolerated by the organizing committee.

Our goal is to create an event in which students and coaches alike approach their participation as an enjoyable and rewarding learning experience.

2011–2012 Colorado Mock Trial Dates to Remember

August 2011	Registration Materials Available-Internet
November 1, 2011	Case Materials Available-Internet
December 1, 2011	Early Registration (\$150/ team) Deadline
December 10, 2011	Annual Coaches Meeting/Coaches College
December 17, 2011	Registration closed
December 17, 2011	Deadline to drop a team
January 17, 2012	Code of Ethical Conduct/Official Team Roster Form Due
Between February 2 - 25, 2012	Regional Tournaments
March 9 - 10, 2012	State Tournament – Boulder, CO
May 3 - 6, 2012	National Championship – Albuquerque, New Mexico

Team Registration: Schools should only register those teams they plan to take to local tournaments. Do not register multiple teams if the intent is to drop teams as they approach tournament time. The team teacher sponsor is responsible for completing the registration process, i.e., responsible for not only the application but also the registration fee.

All required registration materials and fees must be completed and submitted by registration deadline. There are no exceptions to this rule. This deadline is in place to determine the location at which each school will participate for its regional tournament.

Each school may register a maximum of three teams to participate in the Colorado High School Mock Trial Program. The Committee encourages schools to have more than three teams internally; however, a maximum of three teams from one school may officially participate at local CBA-sanctioned regional tournaments.

Team Drop Penalties: Dropping teams places a difficult burden on tournament coordinators, especially when doing so results in an uneven number of teams in tournament fields. Any schools that drop a registered team before Dec. 17, 2011 deadline will be charged a \$35 administration fee that will be deducted from the registration refund. Any teams that drop after the Dec. 17, 2011 team drop deadline will forfeit the entire registration fee.

Visit www.coloradohighschoolmocktrial.com for more information.

2012 Regional Tournaments Dates and Contact Information

Tournament Assignments: After registration closes, teams will be assigned to local tournaments based on geography and local bar association resources. Some teams may be assigned to different local tournaments to create an even number of teams for the tournament.

1st JD – Jefferson County

Dates: Feb. 14 – 17, 2012 (3 p.m. start time each day)

Coordinators: Magistrate K.J. Moore kj.moore@judicial.state.co.us (303) 271-6107; Nicole Crusier abcruser@vfblaw.com (303) 986-5769

Adams/Broomfield Counties

Dates: Feb. 17-18, 2012

Coordinator:

Arapahoe County

Dates: Feb. 24 – 25, 2012

Coordinator: Angel McCall info@arapbar.org

Boulder County

Dates: Feb.

Coordinator: Christine Hylbert Christine@boulder-bar.org (303) 440-4758

Denver City/County

Dates: Feb. 10-11, 2012

Coordinators: Carolyn Gravit cgravit@cobar.org (303) 824-5323 or Meghan Bush mbush@cobar.org (303) 824-5303

Douglas/ Elbert County Regional

Dates: Feb. 10 – 1, 2012

Coordinators: Teresa Wilkins twilkinsllc@comcast.net (303) 414-4798

Southern Colorado

Dates: Feb. 3, 4, and 7th, 2012

Coordinators: Jason Downie (719) 579-6500; (719) 385-5909

Northern Colorado

Dates: Feb. 24 – 25, 2012

Coordinator: Stacey Aurzada Stacey.Aurzada@Greeleygov.com (970) 350-9758,
Linda Conners linda@hshh.com

Western Slope

Dates: Feb. 17 – 18, 2012

Coordinator: Barbara R. Butler bbutler@hfak.com (970) 986-3417

Colorado High School Mock Trial State Tournament

Dates: March 9 - 10, 2012

Location: Boulder County Justice Center

National High School Mock Trial Tournament

Dates: May 3 -6, 2012

Location: Albuquerque, New Mexico

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General Information

The following rules of the Colorado Mock Trial Program will govern conduct of programs at local and state tournaments. However, local tournaments may deviate from these rules. Therefore, it is advisable to check with your regional tournament coordinator prior to local tournaments regarding any unique local changes and/or deviations from these guidelines. For example, the local tournament may or may not power-match, and may or may not include a championship round.

A. Local Discretion: Regional tournament coordinators have the responsibility to conduct their tournaments as determined by their local bar association and by the needs of the local courts. The manner in which the tournaments are scheduled, teams are matched, teams are scored, teams advance, and winners are named is as determined by the local Tournament Coordinator. However, deviations from the state procedures should be approved by the Colorado Bar Association (CBA) Mock Trial Committee prior to the commencement of the local tournament.

B. Local Media Coverage: Regional tournament coordinators are encouraged to maximize media coverage of mock trial events. In doing so, the media may attend mock trial rounds to cover the event and take pictures, audio and/or videotape. Media representatives must be briefed to minimize disruptions to the trial round in process.

C. Mock Trial Rules: The Colorado Mock Trial State and regional tournaments are governed by the enclosed rules. Any request for clarification of these rules or the case materials shall be submitted to the CBA Mock Trial Committee **in writing no later than January 1, 2012** to CBA Mock Trial Committee, 1900 Grant St., Ste. 900, Denver, CO 80203 or via e-mail to cbamock@cobar.org. Written responses with the posed questions will be provided to all registered teams as soon as practical and prior to the scheduled program (local or state championship tournament) via the CBA Mock Trial Program website at: <http://www.coloradohighschoolmocktrial.com/> where all teams may be informed of any clarifications or changes. All teams are fully responsible for being apprised of these clarifications or changes when preparing their mock trials. The mock trial case problem will be posted on the mock trial website.

D. Program Conduct: All teams are responsible for the conduct of persons associated with their teams throughout all mock trial events, including their volunteer attorney coaches, students, parents, peers and other team supporters. Failure of team associates to observe appropriate conduct may subject the team to disqualification at the sole discretion of the local tournament or state coordinator and/or coordinating committees. Inappropriate behavior may include, but is not limited to, coaching (audible or visual) from the gallery, demonstrative reactions to rulings or results, or disruptions from any individual in the courtroom.

Tournament Format

A. Registration

1. All required registration materials and fees must be completed by the registration deadline. There are no exceptions to this rule. This deadline is in place to determine the location where each school will participate for their regional tournament. See attached registration checklist.
2. Each school may register a maximum of three teams to participate in the Colorado High School Mock Trial Program. The Committee encourages schools to have more than three teams internally; however, a maximum of three teams from one school may participate officially at local CBA-sanctioned regional tournaments.

B. Local Tournaments

1. **Tournament Assignments:** After registration closes, teams will be assigned to local tournaments based on geography and local bar association resources. Some teams may be assigned to different local tournaments to create an even number of teams for the tournament. Each local tournament will advance its fair share of teams to compete in the state tournament. Fair share will be determined by calculating the ratio of the number of teams in the state tournament to the number of teams registered in the state. Each local tournament will advance that same percentage of teams to the state tournament. For example, if there are 72 teams registered statewide and a total of 18 advances to the state tournament, then 25% of a local tournament field will advance. Thus, if a local tournament has 13 teams, that tournament will advance 25% of its field, or 3 teams (25% of 13 = 3.25 or 3 teams), to the state tournament. The state coordinator will notify regional tournament coordinators of their advancement numbers prior to the first scheduled regional tournament.

2. **Minimum Number of Teams:** A regional tournament should have at least six teams registered with the CBA to advance a team to the state tournament. A tournament may be held with fewer than six teams at the discretion of the CBA Mock Trial Committee. The Committee reserves the right to determine the geographical boundaries for any local tournament, as well as to determine the number of teams local tournaments may advance to the state championship tournament.

3. **Minimum Number of Schools:** A regional tournament must have at least two high schools represented to advance a team to the state tournament. A tournament may be held with only one high school involved; however, such a tournament would not be allowed to advance a team to the state tournament.

4. **Tournament Structure:** Tournament coordinators are encouraged to structure their tournaments to include the following:

- a. Four rounds of competition, with a random first-round draw and subsequent rounds paired using a modified Swiss power matching;
- b. An optional championship round;

- c. Keeping the results of individual rounds confidential until completion of the tournament; and
 - d. State tournament procedures regarding composition of scoring panels, judging, and scoring considerations.
5. Tournaments may be scheduled over several weekdays, over a weekend, or during weeknights to take advantage of local resources (*e.g.*, judges, courtrooms, and scoring panelists).
 6. Regional tournaments must be scheduled to conclude no later than two weeks prior to the state tournament.
 7. Tournament coordinators are encouraged to provide judge and scoring panelist training prior to each round in the tournament. Areas to emphasize include: scoring ranges and definitions, disputes, performance vs. merit-scoring, technical vs. performance-scoring, no unfair extrapolations, witnesses bound by statements, and material omissions.
 8. Tournament coordinators should restrict gallery attendance at the championship round to teams (members and coaches) that will NOT be advancing to the state tournament, and family, friends, and supporters of the competing teams.
 9. Tournament coordinators are encouraged to send copies of score sheets to the competitors following the conclusion of their tournaments.
 10. Tournament coordinators will notify the CBA State Coordinator of the teams they are advancing to the state tournament, as well as which team is their number one seed by certification.
 11. Certification requires that the tournament coordinators collect an official team roster from each team competing in a local tournament. This official team roster should be the same as the team roster submitted with original registration materials provided to the CBA State Coordinator or CBA State Committee during the registration process. The official team rosters of those teams advancing to the state tournament must be forwarded to the State Coordinator immediately upon completion of the local tournament. This procedure will verify that only the team members listed on the local tournament roster will be allowed to compete in the state tournament. See Rule B.2.1. under Rules of Competition.
 12. Tournament Coordinators are encouraged to provide students with certificates of participation.
 13. Local bar associations may deviate from these guidelines as required by limitations on local facilities and volunteer resources. Deviations from these guidelines should be approved by the CBA Mock Trial Committee prior to the commencement of the local tournament.

C. State Tournament

1. **Maximum Number of Teams:** The number of teams advancing to the state tournament will be determined after the total number of teams competing at the local levels throughout the state has been solidified. If a school/team that has earned the chance to compete at the state tournament chooses not to advance to the state tournament, the host of the local tournament will select the team next in line of succession to advance to the state tournament.

2. **Maximum Number of Teams from One School:** No more than two teams from any one school may advance to the state tournament.
3. **Tournament Structure:** The state tournament shall be conducted as follows:
 - a. Four rounds of competition, with a random first round draw (with the exception that no regional number one seed will be paired against another regional number one seed) and subsequent rounds paired using modified Swiss power matching;
 - b. A championship round;
 - c. The results of individual rounds will be kept confidential until completion of the tournament;
 - d. State tournament procedures regarding composition of scoring panels, judging, and scoring considerations; and
 - e. The winner of the championship round will be eligible to represent Colorado at the National High School Mock Trial Tournament in May.
4. **Tournament Dates:** The state tournament will be a two-day tournament, preferably Friday and Saturday, with two trial rounds of competition on Friday afternoon and two rounds of competition and the championship round on Saturday.
5. **Tournament Results:** Copies of score sheets and final team standings will be mailed to the competitors following the conclusion of the competition.
6. **Advancement to Nationals:**
 - a. The Colorado State Champion team has until 5 P.M. local time on the Wednesday following the State Tournament to inform the State Coordinator whether or not they will attend the National Mock Trial Tournament. If the State Coordinator does not receive notice, the State Coordinator will assume that the Champion team cannot attend. If, for any reason, the Colorado champion cannot participate at Nationals, the second place team will be eligible. If neither of these teams can participate, the CBA Mock Trial Committee may select an alternate representative team.
 - b. No later than 5 P.M. local time on the Wednesday following the State Tournament, the State Champion team must notify the State Coordinator if it plans to go to the National Tournament, and additionally, if any substitute(s) are needed to have the minimum number of team members. The deadline for any alternate team designated by the State Coordinator to notify the State Coordinator if it plans to go to the National Tournament, and additionally, if any substitute(s) are needed to have the minimum number of team members shall be 5 P.M. local time on the third business day after the State Coordinator designates such team as the alternate. With respect to the notice of any substitute(s) by the State Champion or any alternate team representing Colorado at the National Mock Trial Tournament, such notice must include an affidavit from each team

member who cannot attend stating the reason why the team member cannot attend and also must include an affidavit from each substitute verifying his/her participation in the Colorado tournaments (State and regional) and verifying the person's high school. Exceptional, extenuating circumstances shall be necessary for any substitute. Approval of the substitutes will be subject to the sole discretion of the State Coordinator. No substitution will be permitted, for any reason, unless such approval is obtained.

If any team, whether State Champion or designated alternate, fails to comply with all Rules or fails to attend and fully represent Colorado at the National Mock Trial Tournament, in the sole discretion of the State Coordinator, the school represented by such team may be barred from sending any team to the National Tournament for up to two years.

7. **Team Composition at Nationals:** At the national tournament, each state is limited to eight students (six participating as witnesses and attorneys, and two alternates). Additionally, a person will be designated as the official timekeeper. The official timekeeper must meet the requirements of National Rule 1.4 as the team's official timekeeper, and may be (but need not be) one of the eight official members. The Colorado Bar Association, thanks to a grant from the Colorado Bar Foundation and the Colorado Bar Litigation Section, normally will make a financial donation to the team participating in the national championship to help defray travel expenses; however, the team and its school will be primarily responsible to raise funds as needed.

Rules of Competition

A. Administration

Rule 1.1 Rules

All trials will be governed by the Rules of the Colorado High School Mock Trial Competition, the Colorado High School Rules of Evidence, and the specific courtroom location rules of decorum and security.

Questions or requests for interpretation of these rules shall be submitted to the State Coordinator and the CBA Mock Trial Committee at 1900 Grant St., Ste. 900, Denver, CO 80203.

Rule 1.2 Code of Ethical Conduct

The Rules of Competition, the Code of Ethical Conduct, as well as the rules of the specific courthouse for decorum and security, must be followed by all team participants, coaches, non-participating team members, and observers. The State Tournament Coordinator and the CBA Mock Trial Committee possess sole discretion to determine and impose sanctions, up to and including forfeiture of a round or disqualification from the tournament, for any disruptive behavior occurring while a team is present for the state tournament including, but not limited to: rule violations; horseplay; inappropriate comments; inappropriate reactions to judges' rulings, team pairings or team results; other unprofessional conduct; property damage; and/or, breaches of decorum that affect the conduct of a trial or that impugn the reputation or integrity of any team, school, participant, court officer, judge, or the mock trial program.

Excessive littering of, or property damage to a courtroom will result in an automatic cleaning and/or replacement fee. Cleaning fees generally run a minimum of \$250. Should the assessed team refuse to pay; an assessment of the costs will be added to the following year's competition registration fee.

Food and beverages are not allowed in the courtrooms or in any area of the courthouse not designated as an eating area. Teams bringing food or beverages into the courtrooms or any area not designated for consuming food are subject to sanctions up to and including forfeiture of a round or disqualification from the tournament. Additionally, any offending team may be charged a cleaning fee as described above.

Rule 1.2.1 Team Conduct

Team members are bound by the Rules of Competition, the Code of Ethical Conduct, and the rules of the specific location courthouse. Students also shall strive to model the highest standards of sportsmanship and ethical conduct at all times.

Rule 1.2.2 Coach's Conduct

Attorney and teacher coaches shall uphold the Rules of Competition, the Code of Ethical Conduct and the rules of the specific courthouse. Additionally, coaches shall comply with

their own employment professional codes, rules, and ethical standards. Finally, coaches shall instill in their student team members, team parents, and other team gallery observers the highest standards of sportsmanship and ethical behavior.

Rule 1.2.3 Gallery Conduct

Gallery observers shall uphold the Code of Ethical Conduct and the rules of the specific location courthouse.

B. Teams

Rule 2.1 Team Composition

Each team shall consist of a minimum of six students and a maximum of twelve students. Only six students on a team may compete in any given round (three attorneys and three witnesses). Each team member shall be listed on the official team roster submitted at the local tournament level. The team roster became official at the time of its submission to the CBA State Coordinator or CBA Mock Trial Committee with registration materials and thereafter will remain fixed throughout the regional, state and national tournaments. At no time will a student who is not listed on the local tournament team roster at the time of the registration deadline be allowed to compete at the state or national tournaments. Coaches may apply for exceptions to this rule directly to the Colorado State Coordinator. Such request must include an affidavit from each team member who cannot attend stating the reason why the team member cannot attend and also must include an affidavit from each substitute verifying his/her participation in the Colorado tournaments (State and regional) and verifying the person's high school. Exceptional, extenuating circumstances shall be necessary for any substitute. Approval of the substitutes will be subject to the sole discretion of the State Coordinator.

Rule 2.1.1 Student Eligibility

Students must be currently enrolled as full-time students in their schools in order to participate in the state and national tournaments. There is one exception to this rule: students who have graduated from their schools early. To be eligible under this exception, the student must have graduated in good standing within one semester of the mock trial competition and have been a full-time student of the current senior class at the beginning of the current school year.

Teams must be comprised of students from the same high school.

Requests for exceptions to this rule must be submitted to the CBA Mock Trial Committee.

Rule 2.1.2 Timekeeper

Each team shall provide a timekeeper. The timekeeper may not be a participating team member, a team teacher coach or a team attorney coach. Exceptions need approved by the CBA Mock Trial Committee.

Rule 2.2 General Team Duties

Teams shall present both sides of the case. For each trial round, teams shall use three students as attorneys and three students as witnesses.

In the event that a team is missing one of its participating team members in a trial round, for example, due to illness or failure to appear, the missing participating team member will receive a “0” point score for each performance part he/she misses in that trial round and the opposing team member(s) impacted by the missing person shall receive a “10” point score for their role(s). This rule applies even if another participating team member stands-in for the missing member. A non-participating member may fill in for the missing participating member with no penalty. See Rule 8.1.2 for more details.

Team members shall evenly divide their duties. Each of the three attorneys shall conduct one direct examination and one cross-examination. In addition, one attorney shall present the opening statement and another attorney will present the closing argument.

The attorney who examines a particular witness on direct examination is the only team member who may make objections to the opposing attorney’s cross-examination questions. The attorney who cross-examines a witness shall be the only team member permitted to make objections during the direct examination of that witness.

Each team shall call all of its witnesses. The order of the witnesses being called to the stand is at the discretion of the team. Witnesses may be called to the stand only by their own team attorney conducting that witness’s direct examination (case-in-chief). Once direct examination is completed, the opposing team may cross-examine the witness. Re-direct and re-cross will be permitted only at the discretion of the presiding judge. Witnesses may not be recalled by either side.

Rule 2.2.1 Code of Ethical Conduct (Official Team Roster)

The original Code of Ethical Conduct/Official Team Roster must be e-signed by each member of the team, the timekeeper(s), and coach (es). This form will be used to produce team participation certificates at all tournaments. All students and coaches must be listed. By submission of the form teams acknowledge (1) All team members have read the Code of Ethical Conduct (2) all are from the school indicated at the top of the form and (3) all coaches, parents and other observers will abide by this code. Teams shall use the Code of Ethical Conduct/ Official Team Roster provided by the CBA at www.coloradohighschoolmocktrial.com. Copies of the Code of Ethical Conduct/Official Team Roster are not provided to the presiding judges or the scoring panelists during the rounds of competition.

Rule 2.2.2 Trial Rosters

Copies of the trial rosters must be completed and duplicated by each team prior to arrival at the courthouse. Teams must be identified on the roster by the code assigned to them at registration. No team origin identifying comments, symbols, or pictures shall appear on the form. Before the beginning of the trial, the teams must exchange copies of the trial

roster. Teams shall use the Trial Rosters attached to these rules or visit the program website at www.coloradohighschoolmocktrial.com for all forms.

There is a Trial Roster for Defense and a Trial Roster for Prosecution/Plaintiff.

C. The Problem

Rule 3.1 The Problem

The problem will consist of a fact pattern that may contain any or all of the following: statement of facts, indictment, complaint, answer, stipulations, witness statements, affidavits, jury instructions, exhibits, case law, etc.

The problem shall consist of three witnesses per side, all of whom shall have names and characteristics that would allow them to be played by either males or females (gender neutral). Each side shall call each of their three witnesses to testify during their case-in-chief.

Rule 3.1.1 Stipulations

Stipulations may not be disputed at trial.

Rule 3.1.2 Witness Statements

Witness statements may not be altered.

D. Trial Logistics

Rule 4.1 Scoring Panel Composition

The scoring panel shall consist of at least three individuals. The composition of the panel and the role of the presiding judge will be set at the discretion of the State Tournament Coordinator. The State Tournament Coordinator is encouraged to integrate educators and community representatives onto scoring panels. However, each panel shall have at least one attorney as a scoring judge. The following are examples of potential scoring panels:

One presiding judge and three attorneys as scoring judges

One presiding judge, two attorneys, and one educator/community representative as scoring judges

One presiding/scoring judge and two attorneys as scoring judges

One presiding/scoring judge, one attorney, and one educator/community representative as scoring judges

Rule 4.2 Videotaping/Photography

Any team has the option to refuse participation in videotaping, audio recording, and still photography by opposing teams. However, videotaping, audio recording, and still photography by the media and the Colorado Bar Association will be allowed.

If either competing team videotapes or audio tapes a trial round, the trial tapes are only to be used by the two competing teams. These audio tapes shall not be given to, traded, exchanged, or sold to another team under any circumstances without the express written consent of the CBA Mock Trial Committee. Violations of this rule may result in sanctions up to and including disqualification.

Rule 4.3 Viewing a Trial

Non-participating team members (team members outside the bar), alternates, coaches, teacher-sponsors, parents, siblings, and any other persons directly associated with a mock trial team are not allowed to view another team's performance, even if the team is from the same school, so long as the individual's team remains in the competition. There are two exceptions to this rule. See Rule 4.3.1 and 4.3.2.

Rule 4.3.1 Exception 1: Teacher coaches or attorney coaches who are the parents of students competing on a team other than the team the teacher or attorney is coaching may watch his/her child during the fourth round and the championship round of competition.

Rule 4.3.2 Exception 2: Any attorney coach, teacher-sponsor, parent, sibling, or other spectator associated with the school of a mock trial team may observe another team's round if they obtain permission from each team participating in that round. This exception must be disclosed to the presiding judge during preliminary matters.

Rule 4.4 Trial Communication

Coaches, teachers, non-participating team members, and observers shall not talk to, signal, hand notes to, communicate with, or coach their teams during trial. This rule remains enforced during any recess taken. Participating team members (those inside the bar) may, among themselves, communicate during the trial *only verbally or through notes*; however, no disruptive communication is allowed. No one (including, but not limited to, team members, coaches, teachers, and observers) shall communicate during trial by using any device capable of communicating (including, but not limited to, laptops, computers, pagers, beepers, phones, PDAs, organizers, radios, headsets, tape players, MP3 players, and portable fax machines); during trial any and all devices capable of communicating shall be turned "off" completely so they cannot, and will not, be used in any way during trial. Coaches, teachers, non-participating team members (those outside the bar), and observers must remain outside the bar in the gallery of the courtroom at all times during the trial, even if an emergency recess is taken.

If the CBA Mock Trial Committee does not provide a timekeeper and a team chooses to use its own timekeeper, the team may place the timekeeper inside the bar. Signaling of time by the team's timekeeper shall not be considered a violation of this rule.

Unauthorized communication or signals between the participating team members and their student timekeeper is prohibited. The exception to this rule is when the participating team member requests permission from the court to inquire about their time with their student timekeeper.

Rule 4.5 Courtroom Seating

The Plaintiff/Prosecution shall be seated closest to the jury box. No team shall rearrange the courtroom without prior permission of the presiding judge or courtroom monitor. Each team shall have all three witnesses and three attorneys seated inside the bar. It is up to the Defense Team whether the Defendant sits at the counsel table during the trial.

Rule 4.6 Jury Trial

The case will be tried to a jury which shall consist of the scoring panelists. Presentations are to be made to the presiding judge and scoring panelists. Teams may address the scoring panel as the jury.

Rule 4.7 Precursory Documents

A copy of the trial rosters shall be provided to the presiding judge and the scoring panelists at the commencement of each trial. It is recommended that a copy be presented to opposing team. There is a Trial Roster for Defense and a Trial Roster for Prosecution/Plaintiff.

Additionally, the Prosecution/Plaintiff's attorney presenting the opening statement shall provide a copy of the stipulations to the presiding judge and the scoring panelists just prior to beginning the opening statement.

Team members may collect these documents at the end of the trial for use in subsequent rounds.

The stipulations, indictment, or the charge to the jury shall not be read into the record. Stipulations shall be considered part of the trial record and can be discussed accordingly throughout the trial.

Rule 4.8 Supplemental Material/Costuming

Teams may refer only to material provided in the trial packet. No illustrative aids of any kind may be used, unless provided in the case packet. No enlargements of the case materials will be permitted. Absolutely no props or costumes are permitted, unless specifically authorized in the case materials. Costuming is defined as hairstyles, clothing, accessories (example: hats, pins, gloves, scarves, etc.), and make-up that are case specific.

The only documents that teams may present to the presiding judge or scoring panelists are the trial rosters and the individual exhibits provided in the case material. These exhibits may be tendered to the presiding judge and scoring panelists at the discretion of the team.

Exhibit notebooks are not permitted. However, this rule does not prohibit the introduction of witness statements if admissible by the Mock Trial Rules of Evidence and if permitted by the presiding judge.

In the event a team member appears at trial in costume or uses a prop, the team may be disqualified at the presiding judge's or CBA State Coordinator's discretion. If the presiding judge decides to proceed with the trial, the presiding judge will meet with the scoring panel to discuss the penalty to be assessed against the team. The minimum penalty imposed for use of costumes or props is two ballots (not points).

Rule 4.9 Courtroom Decorum

All team members will act in a polite and professional manner at all times.

Rule 4.9.1 Attorney Demeanor

Unless excused by the presiding judge, attorneys will stand during opening statements, direct and cross-examinations, objections, and closing arguments.

Rule 4.9.2 Addressing Opposing Counsel

Attorneys should not address opposing counsel directly during the trial.

Rule 4.9.3 Addressing the Presiding Judge

Attorneys shall address the presiding judge as "Your Honor" or "Judge ____."

Rule 4.9.4 Witness Demeanor

Witnesses are not permitted to read their statements/affidavits verbatim in the trial. Additionally, the witnesses are not permitted to refer to their written statements/affidavits during the trial, except to refresh recollection (direct) or impeach (cross). If asked questions outside the scope of their statements/affidavits, they may respond in accordance with Rule 6.5. Testimony must not be inconsistent with facts set forth in the witness' statements/affidavits.

E. Presiding Judge Pre-Trial Procedures

At the beginning of the trial, the presiding judge will handle the following pretrial matters:

1. Ask each side if it is ready for trial.
2. Ask each side to provide the judge and scoring panelists with copies of its trial roster with the team's code. No words, symbols, or other marks that identify the team by its school shall be on the trial roster.

3. Confirm that if video recorders are present and being used, that both teams have approved the taping of the round. (Coaches/gallery are not permitted to tape the trials without permission.)
4. Inform teams, as well as gallery members, that the Colorado Bar Association may be taking photographs of the competition during the round, and that team participation in the state tournament grants automatic permission and the use of these photos by the Colorado Bar Association.
5. Ask anyone in the gallery who is connected with teams not competing in that round (student members and coaches of other schools or of the same school but a different team) to leave the courtroom. There are two exceptions to this rule. See Rule 4.3.
6. Remind the teams that no recesses will be allowed, with the exception of those granted for a health emergency, and especially not between the end of witness examination and the beginning of closing arguments.
7. Ask each scoring panelist if s/he has any reason to be biased in judging either team. If any panelist is concerned that s/he may be, the judge will notify the courtroom monitor, the State Tournament Coordinator, or a CBA Mock Trial Committee member, and arrangements may be made to replace the panelist. (Team members may raise an objection regarding a particular scoring panelist at this time as a preliminary matter. The objection is deemed waived if it is not made as a preliminary matter.)
8. Remind the teams and coaches that any disputes arising out of this competition must be reported in accordance with the competition rules.
9. Remind the teams that their compliance with time requirements will be considered in scoring individual performances.
10. Confirm that no coach or team member (other than a timekeeper, if a timekeeper is not provided by the competition committee) is seated in the jury box.
11. Ask each side to introduce the participating team members (attorneys and witnesses).
12. Swear in the team members, the gallery, the scoring panelists, and the witnesses.

The presiding judge will ask all members in the courtroom to stand for the swearing in and explain that, in an effort to maintain a level of professionalism and to uphold the Code of Ethical Conduct during and after these mock trial proceedings, all members of the gallery, scoring panels, and teams shall stand for the swearing in to the oath of the Code of Ethical Conduct.

“Team members, please raise your right hands. Team members, do you promise that the presentation you are about to give will faithfully and truthfully conform to the facts and rules of the mock trial competition?”

“Gallery members, including teacher and attorney coaches, family members and friends, please raise your right hands. Do you promise to represent yourselves as positive role models, and to behave in a manner that exemplifies ethical and professional sportsmanship during and after this mock trial round?”

“Scoring Panelists, please raise your right hands. Do you promise to adjudicate the mock trial competition as fairly and objectively as possible in accordance with the facts, procedures and rules of the mock trial competition?”

Once all have been sworn to the Code of Ethical Conduct, the presiding judge will ask all but the witnesses to sit. Then the witnesses shall be sworn in as follows:

“Witnesses, do you promise that the testimony you are about to give will faithfully and truthfully conform to the facts, procedures, and rules of the mock trial competition?”

F. General Trial Information

Rule 5.1 Sequestration

The teams may not invoke the rule of witness sequestration.

Rule 5.2 Bench Conferences

Teams should not request bench conferences. However, if a bench conference is requested and granted by the presiding judge, it shall be held in open court for educational and scoring purposes. Time will stop for bench conferences. The timekeeper shall resume time upon the presiding judge’s order to proceed.

Rule 5.3 Motions

No motions may be made except a motion for an emergency recess.

Rule 5.3.1 Emergencies

A motion for a recess may be used only in the event of a health emergency. Should the recess be granted, to the greatest extent possible, the team members are to remain in place. Teams are not to communicate with anyone outside the bar during the recess.

Rule 5.4 Offers of Proof

No offers of proof may be requested or tendered.

Rule 5.5 Voir Dire

Voir dire examination of a lay witness is not permitted. The presiding judge may allow brief *voir dire* of an expert witness regarding the witness's qualifications. Time used for *voir dire* is chargeable time, *i.e.*, counts toward total time limit of the team's direct and cross-examinations.

Rule 5.6 Use of Notes

Attorneys are not restricted from the use of notes while presenting any segment of their case. Additionally, participating attorneys and witnesses may communicate during the trial with each other verbally or through the use of notes.

G. Trial

Rule 6.1 Trial Sequence

The trial sequence is as follows:

1. Plaintiff/Prosecution Opening Statement
2. Defense Opening Statement
3. Plaintiff/Prosecution Case-in-Chief
 - a. Plaintiff/Prosecution direct examination of their first witness.
 - b. Defense cross-examination of the first witness.
 - c. Plaintiff/Prosecution re-direct examination of first witness (optional and only with permission of presiding judge).
 - d. Defense re-cross-examination of the first witness (optional and only if re-direct has occurred). Re-cross will be limited to the scope of re-direct.
 - e. Same process as steps a-d for the second witness.
 - f. Same process as steps a-d for the third witness.
4. Defense Case-in-Chief
 - a. Defense direct examination of its first witness.
 - b. Plaintiff/Prosecution cross-examination of the first witness.
 - c. Defense re-direct examination of first witness (optional and only with permission of presiding judge).

- d. Plaintiff/Prosecution re-cross-examination of the first witness (optional and only if re-direct has occurred). Re-cross will be limited to the scope of re-direct.
 - e. Same process as steps a-d for the second witness.
 - f. Same process as steps a-d for the third witness.
5. Prosecution/Plaintiff Closing Argument
 6. Defense Closing Argument
 7. Prosecution/Plaintiff Rebuttal Argument if properly reserved (optional) and at the presiding judge's discretion.

If the Prosecution/Plaintiff reserved a portion of its closing time for a rebuttal, the rebuttal argument shall be limited to the scope of the Defense's closing argument.

Attorneys are not required to use the entire time allotted to each part of the trial.

Time remaining in one part of the trial may not be transferred to another part of the trial.

Rule 6.2 Re-Direct and Re-Cross-Examinations

Re-direct and re-cross-examinations are permitted at the discretion of the presiding judge. If re-direct examination is permitted, the scope of the re-cross-examination will be limited to the scope of the re-direct examination.

Rule 6.3 Scope of Closing Arguments

Closing arguments must be based on the actual evidence and testimony presented at trial.

Rule 6.4 Time Keeping

Time limits are mandatory and will be strictly enforced. Only non-participating student timekeepers are allowed to keep time for teams.

When a student timekeeper displays the time remaining to a student performer, the student timekeeper also shall display the time remaining to the presiding judge. Both student timekeepers should track time for both sides and show their time cards during the trial round. Both student timekeepers should confer with each other after each trial segment to ascertain time discrepancies. If student timekeepers have a time discrepancy greater than 15 seconds, they should notify the presiding judge. When time runs out for a specific segment of the trial, the student timekeepers must stand and say "STOP" in a voice loud enough to be heard by the performing student, the presiding judge and the

scoring panelists. Failure to do so may subject the violating team to disqualification. The following time limits shall be used.

Opening statement	5 minutes per side
Direct examination and optional re-direct	25 minutes per side
Cross examination and optional re-cross	20 minutes per side
Plaintiff/Prosecution closing argument and Optional rebuttal argument	Up to 5 minutes (depends on reserved time)
Defense closing argument	Up to 5 minutes

Rule 6.4.1 Time Extensions

The presiding judge shall not grant time extensions.

If time for a specific segment of the trial has expired and an attorney continues, the scoring panelists will determine individually the impact on the individual's performance score.

Rule 6.4.2 Timing Objections, Delays or Bench Conferences

Time for objections, extensive questioning by the presiding judge or administering of the oaths will not be counted as part of the allotted time during examination of witnesses, opening statements or closing arguments.

Time does not stop for introduction of exhibits.

Time shall stop for bench conferences. Please see Rule 5.2.

Rule 6.4.3 Time Keeping Aids

Student timekeepers should use time keeping place cards. These cards may not exceed 8 1/2 X 11" in size. Additionally, student timekeepers should use a stopwatch or similar timing device. All timekeepers should have time keeping place cards in the following increments: 20 minutes, 15 minutes, 10 minutes, 5 minutes, 4 minutes, 3 minutes, 2 minutes, 1 minute, 40 seconds, and 20 seconds. Teams may use additional place cards at different increments at their discretion.

Rule 6.4.4 Discrepancies in Time Between Team Timekeepers

If timing variations of 15 seconds or more occur at the completion of any segment of the trial, timekeepers are to notify the presiding judge that a time discrepancy has occurred.

The presiding judge will rule on any time discrepancy before the trial continues. Timekeepers will synchronize stopwatches to match the presiding judge's ruling (for example if the Plaintiff/Prosecution stopwatch indicates 2 minutes left on a direct examination and the Defense stopwatch indicates time is expired, the presiding judge might decide to split the difference in the timing variation and give Plaintiff/Prosecution 1 minute to conclude the direct examination. Defense would adjust timing to allow for the 1 minute timing decision.)

Any discrepancies between timekeepers less than 15 seconds will not be considered a violation.

Timekeepers may raise time discrepancies only at the end of each segment of the trial presentation. No time disputes will be entertained after the trial concludes. The decisions of the presiding judge regarding the resolution of timing disputes are final.

Rule 6.5 Witnesses Bound by Statements

Each witness is bound by the facts contained in his/her own statement/affidavit, the Stipulated Facts and the exhibits.

A witness is not bound by facts contained in other witness statements.

Rule 6.5.1 No Unfair Extrapolations

Unfair extrapolations are not permitted. During trial, unfair extrapolations are to be addressed only through impeachment and/or closing arguments. Thus, by way of example, but not limitation, objections and the dispute form will not be used during trial to address unfair extrapolation.

Specifically, unfair extrapolations are:

- a. statements made by a witness that are not contained in the witness's statement/affidavit but touch on a pivotal issue in the case; or
- b. statements made by a witness that are not contained in the Stipulated Facts or covered by an event in the Stipulated Facts that the witness was present for but touch on a pivotal issue in the case; or
- c. statements made by a witness that are not contained in any necessary documentation relevant to the witness's testimony but touch on a pivotal issue in the case; or
- d. statements made by a witness that are not a reasonable inference from the witness's statement, affidavit, Stipulated Facts or necessary documentation relevant to the witness's testimony, but touch on a pivotal issue in the case.

It shall not be considered an unfair extrapolation for a witness to testify that s/he agrees or disagrees with what is contained in another witness's statement/affidavit.

If a witness is asked a question that calls for an inference, for information that the other side believes to be admissible, or for any information not in the witness's statement, the following response may be used: "I'm sorry, that information is not in the case materials. I cannot respond to your question." In the alternative, the witness may respond to the question with a creative, reasonable answer, as long as the response is not considered an unfair extrapolation. The creative answers must not be inconsistent with the facts contained in the witness's statement/affidavit.

Rule 6.5.2 No Unfair Extrapolation Objection

No unfair extrapolation objections are permitted. During trial, unfair extrapolations are to be addressed only through impeachment and/or in closing arguments. See Rule 6.5.1 and Rule 6.6.3.

Rule 6.6 Objections

Attorneys shall state their objections loudly enough to be heard by the presiding judge, scoring panelists, and opposing counsel. Objections should begin by stating, "Objection, your honor." Once an attorney has the attention of the presiding judge, the attorney should state the basis for the objection.

Rule 6.6.1 List of Objections

The following is a list of objections that may be used. This is not an exhaustive list. Teams are not precluded from raising additional objections that are available under the Colorado High School Mock Trial Rules of Evidence.

- a. Ambiguous or Unintelligible
- b. Argumentative
- c. Asked and Answered
- d. Assuming Facts Not in Evidence
- e. Compound Question
- f. Cumulative
- g. Hearsay
- h. Improper Foundation

- i. Improper Lay Opinion
- j. Lack of Foundation
- k. Lack of Personal Knowledge
- l. Leading
- m. Narrative
- n. Relevance
- o. Speculative

Rule 6.6.2 Opening Statement or Closing Argument Objections

No objections shall be raised during opening statements or during closing arguments. If a team believes that an objection would have been proper during the opposing team's opening statement or closing argument, the team member presenting the same segment of the trial may, following the opening statement or closing argument, stand to be recognized by the presiding judge and once recognized, state, "If I had been permitted to object during the [opening statement/closing argument] I would have objected to _____." The presiding judge will not rule on this "objection." The presiding judge and scoring panelists will weigh the "objection" individually. No rebuttal by the opposing team will be heard.

Rule 6.6.3 No Unfair Extrapolation Objection

No unfair extrapolation objections are permitted. During trial, unfair extrapolations are to be addressed only through impeachment and/or in closing arguments. See Rule 6.5.1 and 6.5.2

Rule 6.7 Exhibits

Exhibits can be admitted into evidence only when a sequence of proper procedural steps has been followed. These steps are part of a litany that should be smoothly and efficiently demonstrated by the attorney for each exhibit admitted. All evidence is pre-marked as exhibits.

Rule 6.7.1 Steps for Exhibit Admission

The following are only offered as examples.

- a. Show the exhibit to opposing counsel or offer them a copy of the exhibit. "Your Honor, let the record reflect that I (am showing/have given) opposing counsel a copy of what has been marked as Exhibit A."

- b. Obtain permission of the presiding judge to approach the witness. “Your honor, may I approach the witness.”
- c. Show the exhibit to the witness. “Your Honor, let the record reflect I am showing the witness a copy of Exhibit A.”
- d. Lay the proper foundation for the exhibit.
- e. Move for admission of the exhibit into evidence. “Your Honor, at this time I move for the admission of Exhibit A.”
- f. Obtain permission of the presiding judge to publish the exhibit to the jury. “Your Honor, permission to publish Exhibit A to the jury.”
- g. Publish the exhibit.

H. TRIAL CONCLUSION

Rule 7.1 Disputes

Allegations of rule violations that occur within the bar must be filed with the presiding judge by a participating team member immediately following the conclusion of that trial round; this procedure is not permitted during trial. Allegations of rule violations that occur outside the bar must be brought to the attention of the State Tournament Coordinator or CBA Mock Trial Committee member by the team’s Teacher or Attorney coach as soon as possible but no later than 48 hours after the tournament, or within 48 hours of the time the team knew or should have known that rules violation occurred. Any disputes received after this time will not be considered.

Rule 7.1.1 Reporting an Inside the Bar Dispute

If any participating team member believes that a substantial rules violation has occurred, a student attorney must complete the “Team Dispute Form” for “Inside the Bar”, in writing, and file it with the presiding judge immediately following the conclusion of the trial round for which the team intends to file a dispute. The student attorney will record the nature of the dispute on the designated Form. The student may communicate briefly with participating team members (counsel and/or student witnesses) before completing and filing the Form.

At no time in this process may team sponsors, coaches, or non-participating team members communicate or consult with the student attorneys. Only student attorneys may invoke the dispute procedure.

All forms are on the program website at www.coloradohighschoolmocktrial.com

Rule 7.1.2 Dispute Resolution Procedure for an Inside the Bar Dispute

The presiding judge will review the written Form for an Inside the Bar Dispute and determine whether the dispute should be heard or denied. If the dispute is denied, the judge will record his/her reasons on the Form, announce her/his decision to the court, retire to complete his/her score sheet (if applicable), and turn the dispute Form into the State Tournament Coordinator. If the judge feels the grounds for the dispute merit a hearing, the Form will be shown to opposing counsel for its written response. After the team has recorded its response and transmitted it to the judge, the judge will ask each team to designate a spokesperson. After the spokespersons have had time (not to exceed three minutes) to prepare their arguments, the judge will conduct a hearing on the dispute, allotting each team's spokesperson three minutes for a presentation. The spokespersons may be questioned by the judge. At no time in this process may teacher or attorney coaches communicate or consult with the student attorneys. After the hearing, the presiding judge will enter her/his ruling on the dispute on the dispute form. The presiding judge may take a recess to consult with the State Tournament Coordinator and/or CBA Mock Trial Committee members.

If the presiding judge determines that a substantial rules violation has occurred, the scoring panelists will consider the dispute before reaching their final decisions. The dispute may or may not affect the final decision, but the matter will be left to the discretion of the scoring panelists on individual performance scores.

Rule 7.1.3 Reporting an Outside-the-Bar Dispute

If any participating team member believes that a substantial rules violation has occurred outside the bar, a teacher or attorney coach must indicate to the State Tournament Coordinator or a CBA Mock Trial Committee member the nature of the dispute in writing on the designated "Team Dispute Form" for "Outside the Bar". The completed Form will be provided to the State Tournament Coordinator, whereupon a dispute resolution panel will (a) notify all pertinent parties of the dispute; (b) allow time for a response, if appropriate; (c) conduct a hearing, if needed; (d) rule on the charge; and (e) assess a penalty, if appropriate.

The dispute resolution panel will be designated by the State Tournament Coordinator and CBA Mock Trial Committee members. The teams will be notified once a decision is made. All forms are on the program website at www.coloradohighschoolmocktrial.com

Rule 7.1.4 Code of Ethical Conduct Violations

Allegations of Code of Ethical Conduct violations must be reported immediately to the State Tournament Coordinator or a CBA Mock Trial Committee member. A student, Teacher coach, or Attorney coach may report an alleged violation of the Code of Ethical Conduct. The State Tournament Coordinator or a dispute resolution panel will (a) notify all pertinent parties of the alleged violation; (b) allow time for a response, if appropriate; (c) conduct a hearing, if needed; (d) rule on the charge; and (e) assess a penalty, if appropriate.

The dispute resolution panel will be designated by the State Tournament Coordinator and CBA Mock Trial Committee members. The teams will be notified once a decision is made.

I. Judging and Team Advancement

Rule 8.1 Scoring Guidelines

The scoring sheets must be completed prior to the beginning of any student performance critique. Scoring panelists should use the attached scoring criteria during the mock trial to determine the performance level of each student as attorney or witness. This scoring criteria outline will be provided to each scoring panelist as a reference during the adjudication of the mock trial.

Rule 8.1.1 Completing the Scoring Sheets

The score sheets are to be completed individually by each scoring panelist.

The scoring panelists will score participants on a scale of 1-10, according to the performance of their roles during the trial. The panelists then will total these individual performance scores and shall place the sum in the “totals box.” The team that earned the highest point value on the individual judge’s score sheet is the winner of that judge’s ballot. The scoring panelists shall then circle the team’s role (Prosecution/Plaintiff or Defense) with the highest total points. The team that receives the majority of the three ballots wins the round.

In the event of a scoring panelist having the same total team performance point scores for both teams, the scoring panelists shall circle the team’s role (Prosecution/Plaintiff or Defense) that he/she deems the trial round winner of his/her ballot.

Rule 8.1.2 Team Role Assignments

Teams have options concerning attorney/witness role assignment, order of calling witnesses, and selecting who presents opening and closing arguments, which are explained in the mock trial rules. Scoring panelists are not to pass judgment or impact a point score on how teams make assignments.

In the event that a “team” is missing one of its participating team members in a trial round, for example, due to illness or failure to appear, you shall give the missing participating team a “0” point score for each performance part he/she misses in that trial round and make a notation in the remarks section of the ballot. Additionally, you shall score the opposing team member(s) impacted by the missing person with “10” points for each performance in that trial round impacted and make a notation in the remarks section of the ballot. This rule applies even if another participating team member stands in for the missing member. A non-participating member may fill in for the missing participating member with no penalty.

Example 1, Missing Witness: A team does not have one of its three witnesses during a round.

If a witness role is not conducted, both the witness role and the attorney who would have conducted the direct-examination of the witness will receive “0” point scores. Additionally, the opposing attorney who would have cross-examined the witness will receive a “10” point score.

Example 2, Substituted Witness, Participating Team Member: A team does not have one of its witnesses, and a participating team member steps into a second role.

If a participating team member steps into that role, that role portrayal will be scored with “0” points. The attorney from the opposing team who conducted the cross-examination of the substitute participating team member will be scored “10” points.

Example 3, Substituted Witness, Non-Participating Team member: A team does not have one of its witnesses and a non-participating team member fills the role.

If a non-participating team member steps into a witness role, points for all students impacted will be scored as they are earned. No penalties will be assessed.

Example 4, Missing Attorney: A team does not have one of its attorneys during a round.

If an attorney does not conduct a direct examination of a witness, both that attorney role and the witness he/she was to direct will receive “0” point scores. Additionally, the opposing attorney who would have cross-examined the witness will receive a “10” point score.

If the same attorney does not conduct a cross-examination of a witness, that attorney will receive a “0” point score. The opposing team’s witness and the attorney who conducted the direct-examination will both receive “10” point scores.

Example 5, Substituted Attorney, Participating Team Member: A team does not have one of its attorneys during a round, and a participating team member steps into a second role (*i.e.*, doubles).

If a participating team member steps into an attorney role, that team member shall receive a “0” point score for both the direct examination and the cross-examination impacted by the substitution. The opposing team’s witness who is being cross-examined and impacted by the substitution will receive a “10” point score.

Example 6, Substituted Attorney, Non-Participating Team Member: A team does not have one of its attorneys during a round, and a non-participating team member fills the role.

If a non-participating team member fills into an attorney role, points for all students impacted will be scored as they are earned. No penalties will be assessed.

Rule 8.1.3 Merits of the Case

The responsibility of the scoring panelists is to score the student performance for each element of the trial round, not the merits of the legal case and applicable law. In other words, the scoring panelists are scoring the performance of each of the students as attorneys and witnesses to determine the winning team.

Rule 8.1.4 Mathematical Errors

In the event of a mathematical error in tabulation by a scoring panelist that, when corrected, changes the results of the team with the highest point total, such correction will be made by the State Tournament Coordinator or CBA Mock Trial Committee member or by the Regional Tournament Coordinator, if such an error occurs at the regional tournament.

Rule 8.2 Student Critique

The scoring panelists are allowed fifteen minutes total for debriefing. The timekeeper will monitor the critique allowing individual scoring panelists five minutes each. The scoring panelists shall not inform the students of individual performance scores, total team points earned, or ballot decisions. Scoring panelists shall be reminded during their orientation by tournament coordinators of the need to be sensitive to student diversity and age when making their remarks.

Rule 8.3 Team Advancement

Rule 8.3.1 Team Rankings

The teams will be ranked at the end of each round based on the following criteria in the order listed:

- a. Win/loss record
- b. Total number of ballots
- c. Total number of points spread between a team and their opponents
- d. Total number of points accumulated by the team

Rule 8.3.2 Team Matching

The teams are matched randomly in the first round of competition, with the exception that teams emerging from their regional tournament as the number one seeds will not be paired against each other. Additionally, two teams from the same region will not be paired against each other in the first round of the State Tournament. However, two teams from the same school may be paired against each other in the first round of a regional tournament. Teams will be matched in all subsequent rounds by modified Swiss power matching.

Modified Swiss power matching provides that the top teams will play other top teams; each team will be paired with a comparably ranked team based upon performance in the previous round (s). Team assignments in rounds two, three, four, and the championship round will be determined by the following criteria in the order listed:

- a. Win/loss record
- b. Total number of ballots
- c. Total number of points spread between a team and their opponents
- d. Total number of points accumulated by the team

Adjustments may be made at the discretion of the State Tournament Coordinator or CBA Mock Trial Committee for the following situations:—an odd number of teams are participating in the tournament, or other extenuating circumstance as determined in the sole discretion of the State Coordinator. To the greatest extent possible, teams will equally present both sides of the case, i.e. two times for each side in a four-round tournament. The same two teams shall not play each other more than once in the same tournament (unless they happen to meet again in a final championship round).

Rule 8.3.3 Bye Round Assignments

A “bye” becomes necessary when an odd number of teams are present for any given round of the tournament. It is the intent of the CBA Mock Trial Committee to avoid “bye” round assignments where possible. However, in the event of a circumstance resulting in an odd number of competing teams, the following procedure will be followed:

- a. The team drawing the “bye” in the first round will receive a win and three ballots for that round. For the purpose of power matching, the team will receive the average of the points spread and points earned by the top 50% of teams.
- b. The team drawing the “bye” in the second through fourth rounds will receive a win and three ballots for that round. For the purpose of power matching, the team will receive the average of its points spread and points earned in its preceding trials.

Rule 8.4 Championship Round

At the end of four rounds of competition, the top two teams will be announced to compete in the championship round. The following procedure will be followed to determine which team will represent which side of the case for the championship round:

- a. The team with the letter/numerical code that comes first alphabetically/numerically will be considered the “designated team.”
- b. A coin will be tossed and allowed to drop on the floor unimpeded by the State Tournament Coordinator or designee.
- c. If the coin lands heads up, the designated team will represent the Plaintiff/Prosecution. If the coin lands tails up, the designated team will represent the Defense.

The championship round may have a larger scoring panel than described in Rule 4.1. Teams participating in the state tournament need to plan on having an additional seven copies of all round materials for this round. If the tournament schedule allows, both teams will have approximately thirty minutes from the coin toss to regroup and prepare for the championship round. When possible and resources are available, teams will each be provided a private area to confer prior to the round. Teams will be advised as to their report time to the Championship Round Courtroom.

J. Review of Decisions

Rule 9.1 Finality

All decisions of the State Tournament Coordinator and the Colorado Mock Trial Committee are final and not subject to appeal.

Mock Trial Rules of Evidence

In American trials, complex rules are used to govern the admission of proof, *i.e.*, oral or physical evidence. These rules are designed to ensure that all parties receive a fair hearing and to exclude evidence deemed irrelevant, incompetent, untrustworthy, unduly prejudicial, or otherwise improper. If it appears that a Rule of Evidence is being violated, an attorney may raise an objection to the judge. The judge then decides whether the rule has been violated and whether the evidence must be excluded from the record of the trial. In the absence of a properly made objection, however, the evidence probably will be allowed by the judge. The burden is on the mock trial team to know the Mock Trial Rules of Evidence and to be able to use them to protect the client and fairly limit the actions of opposing counsel and its witnesses.

For purposes of mock trial competition, the Rules of Evidence have been modified and simplified. They are based on the Federal Rules of Evidence and its numbering system. Where rule numbers or letters are skipped, those rules were not deemed applicable to mock trial procedure.

Not all judges will interpret the Rules of Evidence (or procedure) the same way, and mock trial attorneys should be prepared to point out specific rules (quoting, if necessary) and to argue persuasively for the interpretation and application of the rule they think appropriate.

The Mock Trial Rules of Competition and these Mock Trial Rules of Evidence govern the competition.

Article I. General Provisions

Rule 101. Scope

These Mock Trial Rules of Evidence govern the trial proceedings of local and state tournaments in Colorado.

Rule 102. Purpose and Construction

These Rules are intended to secure fairness in administration of the trials, eliminate unjust delay, and promote the laws of evidence so that the facts of the case may be ascertained.

Article II. Judicial Notice-Not applicable.

Article III. Presumptions in Civil Actions and Proceedings-Not applicable.

Article IV. Relevancy and its Limits

Rule 401. 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 402. Relevant Evidence Generally Admissible

Irrelevant Evidence Inadmissible—Relevant evidence is admissible, except as otherwise provided in these Rules. Irrelevant evidence is not admissible.

Rule 403. Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time

Although relevant, evidence may be excluded if its probative value is outweighed by the danger of unfair prejudice; if it confuses the issues; if it is misleading; or if it causes undue delay, wastes time, or is a needless presentation of cumulative evidence.

Rule 404. Character Evidence Not Admissible to Prove Conduct; Exceptions; Other Crimes

- (a) Character Evidence—Evidence of a person’s character or character trait is not admissible to prove action regarding a particular occasion, except:
- (1) Character of accused—Evidence of a pertinent character trait offered by an accused or by the prosecution to rebut same;
 - (2) Character of victim—Evidence of a pertinent character trait of the victim of the crime offered by an accused or by the prosecution to rebut same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the aggressor;
 - (3) Character of witness—Evidence of the character of a witness as provided in Rules 607, 608, and 609.
- (b) Other Crimes, Wrongs, or Acts—Evidence of other crimes, wrongs, or acts is not admissible to prove character of a person to show an action conforms to character. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

Rule 405. Methods of Proving Character

- (a) Reputation or Opinion—In all cases where evidence of character or a character trait is admissible, proof may be made by testimony as to reputation or in the form of an opinion. On cross-examination, questions may be asked regarding relevant, specific conduct.
- (b) Specific Instances of Conduct—In cases where character or a character trait is an essential element of a charge, claim, or defense, proof also may be made of specific instances of that person’s conduct.

Rule 406. Habit; Routine Practice

Evidence of the habit of a person or the routine practice of an organization, whether corroborated or not and regardless of the presence of eye-witnesses, is relevant to prove that the conduct of the person or organization, on a particular occasion, was in conformity with the habit or routine practice.

Rule 407. Subsequent Remedial Measures

When measures are taken after an event that, if taken before, would have made the event less likely to occur, evidence of the subsequent measures is not admissible to prove negligence or culpable conduct in connection with the event. This Rule does not require the exclusion of evidence of subsequent measures when offered for another purpose, such as proving ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.

Rule 410. Inadmissibility of Pleas, Plea Discussions, and Related Statements

Except as otherwise provided in this Rule, evidence of the following is not, in any civil or criminal proceeding, admissible against a Defendant who made the plea or was a participant in the plea discussions:

- (1) a plea of guilty which was later withdrawn;
- (2) a plea of *nolo contendere*;
- (3) any statement made in the course of any proceeding under Rule 11 of the Mock Trial Rules of Criminal Procedure or comparable state procedure regarding either of the forgoing pleas; or
- (4) any statement made in the course of plea discussions with an attorney for the prosecuting authority that do not result in a plea of guilty or that results in a plea of guilty that is later withdrawn.

However, such a statement is admissible (i) in any proceeding wherein another statement made in the course of the same plea or plea discussions has been introduced and the statement ought, in fairness, be considered with it, or (ii) in a criminal proceeding for perjury or false statement, if the statement was made by the Defendant under oath, on the record, and in the presence of counsel.

Rule 411. Liability Insurance (civil case only)

Evidence that a person was or was not insured against liability is not admissible concerning the issue of whether the person acted negligently or otherwise wrongfully. This Rule does not require the exclusion of evidence of insurance against liability when offered for another purpose, such as proof of agency, ownership, or control, or bias or prejudice of a witness.

Article V. Privileges

Rule 501. General Rule

There are certain admissions and communications excluded from evidence on grounds of public policy. Among these are:

- (1) communications between husband and wife;
- (2) communications between attorney and client;
- (3) communications among grand jurors;
- (4) secrets of state; and
- (5) communications between physician and patient.

Article VI. Witnesses

Rule 601. General Rule of Competency

Every person is competent to be a witness.

Rule 602. Lack of Personal Knowledge

A witness may not testify to a matter unless the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. This Rule is subject to the provisions of Rule 703, related to opinion testimony by expert witnesses. (See Rule 3.1.2)

Rule 607. Who may Impeach

The credibility of a witness may be attacked by any party, including the party calling the witness.

Rule 608. Evidence of Character and Conduct of Witness

- (a) 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.
- (b) Specific instances of conduct — Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' credibility, other than conviction of crime as provided in Rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the Court, if probative of truthfulness or untruthfulness, be asked on cross-examination of the witness
 - (1) concerning the witness' character for truthfulness or untruthfulness, or
 - (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

Testimony, whether by an accused or by any other witness, does not operate as a waiver of the accused or the witness' privilege against self-incrimination with respect to matters related only to credibility.

Rule 609. Impeachment by Evidence of Conviction of Crime (this Rule applies only to witnesses with prior convictions)

- (a) General Rule—For the purpose of attacking the credibility of a witness, evidence that a witness other than the accused has been convicted of a crime shall be admitted if elicited from the witness or established by public record during cross-examination, but only if the crime was punishable by death or imprisonment in excess of one year, and the Court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused. Evidence that any witness has been convicted of a crime shall be admitted if it involved dishonesty or false statement, regardless of the punishment.
- (b) Time Limit—Evidence of a conviction under this Rule is not admissible if a period of more than ten years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the Court determines that the value of the conviction substantially outweighs its prejudicial effect. However, evidence of a conviction more than ten years old as calculated herein is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.
- (c) Effect of Pardon, Annulment, or Certificate of Rehabilitation—Evidence of a conviction is not admissible if:

- (1) The conviction has been the subject of a pardon or other equivalent procedure based on a finding of the rehabilitation of the person convicted, and that person has not been convicted of a subsequent crime that was punishable by death or imprisonment in excess of one year, or
 - (2) The conviction has been the subject of a pardon or other equivalent procedure based on a finding of innocence.
- (d) Juvenile Adjudications—Evidence of juvenile adjudications generally is not admissible under this rule. The Court may, however, in a criminal case allow evidence of a juvenile adjudication of a witness other than the accused, if conviction of the offense would be admissible to attack the credibility of an adult and the Court is satisfied that admission in evidence is necessary for a fair determination of the issue of guilt or innocence.
- (e) Not Applicable.

Rule 610. Religious Beliefs or Opinions

Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature the witness' credibility is impaired or enhanced.

Rule 611. Mode and Order of Interrogation and Presentation

- (a) Control by Court—The Court shall exercise reasonable control over questioning of witnesses and presenting evidence so as to:
- (1) make the questioning and presentation of evidence effective for ascertaining the truth,
 - (2) avoid needless waste of time, and
 - (3) protect witnesses from harassment or undue embarrassment.
- (b) 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' statement.
- (c) Leading Questions — Leading questions should not be used on direct examination of a witness (except as may be necessary to develop the witness' testimony). Ordinarily, leading questions are permitted on cross-examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, leading questions may be used.
- (d) Redirect/Re-cross—After cross-examination, additional questions may be asked by the direct examining attorney, but questions must be limited to matters raised by the attorney on cross-examination. Likewise, additional questions may be asked by the cross-examining attorney on re-cross, but such questions must be limited to matters raised on redirect examination and should avoid repetition.

Rule 612. Writing Used to Refresh Memory

If a written statement is used to refresh the memory of a witness either while or before testifying, the Court shall determine that the adverse party is entitled to have the writing produced for inspection. The adverse party may cross-examine the witness on the material and introduce into evidence those portions that relate to the testimony of the witness.

Rule 613. Prior Statements of Witnesses

Examining Witness Concerning Prior Statement—In examining a witness concerning a prior statement made by the witness, whether written or not, the statement need not be shown nor its contents disclosed to the witness at that time, but on request the same shall be shown or disclosed to opposing counsel.

Extrinsic Evidence of Prior Inconsistent Statement of Witness—Extrinsic evidence of a prior inconsistent statement by a witness is not admissible unless the witness is afforded an opportunity to explain or deny the same and the opposite party is afforded an opportunity to interrogate.

Article VII. Opinions and Expert Testimony

Rule 701. Opinion Testimony by Lay Witness

If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences that are

- (a) rationally based on the perception of the witness and
- (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue.

Rule 702. Testimony by Experts

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise.

Rule 703. Bases of Opinion Testimony by Experts

The facts or data on which an expert bases an opinion may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied on by experts in the field in forming opinions or inferences, the facts or data need not be admissible in evidence.

Rule 704. Opinion on Ultimate Issue

- (a) Opinion or inference testimony otherwise admissible is not objectionable because it embraces an issue to be decided by the trier of fact.
- (b) In a criminal case, an expert witness shall not express an opinion as to the guilt or innocence of the accused.

Rule 705. Disclosure of Facts or Data Underlying Expert Opinion

The expert may testify in terms of opinion or inference and give reasons therefore without prior disclosure of the underlying facts or data, unless the Court requires otherwise. The expert may, in any event, be required to disclose the underlying facts or data on cross-examination.

Article VIII. Hearsay

Rule 801. Definitions

The following definitions apply under this Article:

- (a) Statement—A “statement” is an oral or written assertion or nonverbal conduct of a person if it is intended by the person 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 that are not hearsay—A statement is not hearsay if:
 - (1) Prior statement by witness—The declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement and the statement is (A) inconsistent with the declarant’s testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition, or (B) consistent with the declarant’s testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive, or (C) one of identification of a person made after perceiving the person; or
 - (2) Admission by a party-opponent—The statement is offered against a party and is (A) the party’s own statement in either an individual or a representative capacity or (B) a statement of which the party has manifested an adoption or its truth, or (C) a statement by a person authorized by the party to make a statement concerning the subject, or (D) a statement by the party’s agent or servant concerning a matter within the scope of the agency or, made during the existence of the relationship, or (E) a statement by a co-conspirator of a party during the course in furtherance of the conspiracy.

Rule 802. Hearsay Rule

Hearsay is not admissible, except as provided by these rules.

Rule 803. 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.
- (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 Conditions—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 the purpose of medical diagnosis or treatment.

- (5) Recorded Recollection—A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the witness’ memory and to reflect that knowledge correctly.
- (6) Business Records—Records of regularly conducted activity. A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnosis, 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 to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of the information or the method or circumstances of preparation indicate lack of trustworthiness. The term “business” as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.
- (18) Learned Treatises — To the extent called to the attention of an expert witness upon cross-examination or relied upon by the expert witness in a direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice.
- (21) Reputation as to Character—Reputation of a person’s character among associates or in the community.
- (22) Judgment of Previous Conviction—Evidence of a judgment finding a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the Government in a criminal prosecution for purposes other than impeachment, judgments against persons other than the accused.

Rule 804. Hearsay Exceptions; Declarant Unavailable

- (a) Definition of unavailability. “Unavailability as a witness” includes situations in which the declarant—
 - (1) is exempted by ruling of the Court on the ground of privilege from testifying concerning the subject matter of the declarant’s statement; or
 - (2) persists in refusing to testify concerning the subject matter of the declarant’s statement despite an order of the Court to do so; or
 - (3) testifies to a lack of memory of the subject matter of the declarant’s statement; or
 - (4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or
 - (5) is absent from the hearing and the proponent of a statement has been unable to procure the declarant’s attendance (or in the case of a hearsay exception under subdivision (b)(2), (3), or (4), the declarant’s attendance or testimony) by process or other reasonable means.

A declarant is not unavailable as a witness if exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of a statement for the purpose of preventing the witness from attending or testifying.

- (b) Hearsay exceptions-The following are not excluded by the hearsay Rule if the declarant is unavailable as a witness:
- (1) Former testimony-Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered or, in a civil action or proceeding, a predecessor in interest had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.
 - (2) 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 the declarant's death is imminent, concerning the cause or circumstances of what the declarant believed to be impending death.
 - (3) 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 believing it to be true. A statement tending to expose the declarant to criminal liability and offering to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.
 - (4) Statement of personal or family history-(A) A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, relationship by blood, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; (B) a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.
 - (5) Forfeiture by wrongdoing-A statement offered against a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.

Rule 805. Hearsay within Hearsay

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

Rule 902. Self-authentication

Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:

- (5) Official publications. Books, pamphlets, or other publications purporting to be issued by public authority.

- (6) Newspapers and periodicals. Printed materials purporting to be newspapers or periodicals.

Trial Roster-Prosecution/ Plaintiff

Colorado High School Mock Trial Program



Trial Roster forms are to be duplicated and completed by each team prior to each round and presented to the presiding judge, scoring panelists and opposing counsel before the round begins (5 duplicates per trial). Your team must be identified only by team code.

Team Code: _____

Round (circle one) 1 2 3 4 Championship Round

**NAME of STUDENT
ATTORNEYS**

TASKS (please circle one)

1.) _____
(Student's Name)

Opening / Direct / Cross / Closing

2.) _____
(Student's Name)

Opening / Direct / Cross / Closing

3.) _____
(Student's Name)

Opening / Direct / Cross / Closing

**NAME of STUDENT
WITNESSES
(Number in order of appearance)**

GENDER of WITNESS

ROLE to be PORTRAYED

4.) _____

M F

5.) _____

M F

6.) _____

M F

7.) _____

Timekeeper (may not communicate with team)

Team Member (s) Not Participating in this Round:

8.) _____

11.) _____

9.) _____

12.) _____

10.) _____

13.) _____

Trial Roster-Defense

Colorado High School Mock Trial Program



Trial Roster forms are to be duplicated and completed by each team prior to each round and presented to the presiding judge, scoring panelists and opposing counsel before the round begins (5 duplicates per trial). Your team must be identified only by team code.

Team Code: _____

Round (circle one) 1 2 3 4 Championship Round

**NAME of STUDENT
ATTORNEYS**

TASKS (please circle one)

1.) _____
(Student's Name)

Opening / Direct / Cross / Closing

2.) _____
(Student's Name)

Opening / Direct / Cross / Closing

3.) _____
(Student's Name)

Opening / Direct / Cross / Closing

**NAME of STUDENT
WITNESSES
(Number in order of appearance)**

GENDER of WITNESS

ROLE to be PORTRAYED

4.) _____

M F

5.) _____

M F

6.) _____

M F

7.) _____

Timekeeper (may not communicate with team)

Team Member (s) Not Participating in this Round:

8.) _____

11.) _____

9.) _____

12.) _____

10.) _____

13.) _____

Team Dispute Form-Outside the Bar

(Rule 7.1.3 or 7.1.4)

Colorado High School Mock Trial Program

Note: Do Not File During a Trial Round



Round (*circle one*): 1 2 3 4

PERSON LODGING DISPUTE: _____

AFFILIATED WITH: _____ (*Enter Team Code*)

Grounds for Dispute: _____

INITIALS OF TRIAL COORDINATOR: _____

TIME DISPUTE PRESENTED TO COORDINATOR: _____

HEARING DECISION OF DISPUTE PANEL (*circle one*): Grant Deny

Reason(s) for Denying Hearing: _____

Notes from Hearing: _____

Decision/Action of Dispute Panel: _____

Signature of Trial Coordinator

Date/time of Decision

Team Dispute Form-Inside the Bar

(Rule 7.1.1 & 7.1.2)

Colorado High School Mock Trial Program



Round (*circle one*): 1 2 3 4

TEAM LODGING DISPUTE: _____ (*Enter Team Code Only*)

Grounds for Dispute: _____

INITIALS OF TEAM SPOKESPERSON: _____

HEARING DECISION OF PRESIDING JUDGE (*circle one*): Grant Deny

Reason(s) for Denying Hearing or Response of Opposing Team: _____

INITIALS OF OPPOSING TEAM'S SPOKESPERSON: _____

Judge's Notes from Hearing:

DECISION AND RULING OF JUDGE REGARDING DISPUTE: _____

This form must be returned to a trial coordinator or courtroom monitor along with the score sheets of all the panelists.

Signature of Presiding Judge

SCORE SHEET

Round: **(Circle One)** 1 2 3 4

Team Codes: Plaintiff/Prosecution _____ Defense _____

Using a scale of 1 to 10, rate the P and D in the categories below
DO NOT award any fractions or zeroes • **NO TIES ALLOWED IN TOTAL POINTS**

Not Effective Fair Good Excellent Outstanding
1-2 3-4 5-6 7-8 9-10

Team Member's ROLE	PLAINTIFF/PROSECUTION	Points	DEFENSE	Points
	Opening Statement →	_____	Opening Statement →	_____
Plaintiff Counsel	Direct Examination →	_____		
			Cross Examination →	_____
Plaintiff First Witness	Witness Performance →	_____		
Plaintiff Counsel	Direct Examination →	_____		
			Cross Examination →	_____
Plaintiff Second Witness	Witness Performance →	_____		
Plaintiff Counsel	Direct Examination →	_____		
			Cross Examination →	_____
Plaintiff Third Witness	Witness Performance →	_____		
Defense Counsel			Direct Examination →	_____
	Cross Examination →	_____		
Defense First Witness			Witness Performance →	_____
Defense Counsel			Direct Examination →	_____
	Cross Examination →	_____		
Defense Second Witness			Witness Performance →	_____
Defense Counsel			Direct Examination →	_____
	Cross Examination →	_____		
Defense Third Witness			Witness Performance →	_____
	Closing Argument →	_____	Closing Argument →	_____
Professionalism Points: *	Plaintiff/Prosecution →	_____	Defense →	_____
	TOTAL POINTS →	_____	TOTAL POINTS →	_____

*Professionalism Points: Please award 0-3 points but no more than 3 points TOTAL between the two teams. (The Professionalism Points is only up to 3. No fractions or decimal points.)Ex: P 1 point D 2 points

Did the prosecution team pursue the charge of first degree murder? **(circle one)** Yes / No

If no, did you deduct points? **(circle one)** Yes / No

The WINNER of the round based on TOTAL POINTS was: (circle one)

PLAINTIFF/PROSECUTION

DEFENSE

Print Name _____ Signature of Scoring Panelist _____



Criteria for Scoring & Performance Ratings

CRITERIA FOR SCORING A TRIAL ROUND

The following criteria should be considered by scoring panelists during the course of a team's trial presentation. All points assessed in a trial round are subjective.

OPENING STATEMENT

- Provided a case overview
- The theme/theory of the case was identified
- Mentioned the key witnesses
- Provided a clear and concise description of their team's side of the case
- Stated the relief requested
- Discussed the burden of proof, if necessary
- Presentation was non-argumentative
- Captures and holds jurors attention
- Used time effectively

DIRECT EXAMINATIONS (STUDENT ATTORNEYS)

- Properly phrased questions – non-leading
- Used proper courtroom procedure
- Demonstrated understanding of facts, issues, and law
- Used case theme/theory appropriately/effectively during line of questioning
- Handled objections appropriately and effectively and did not overuse objections
- Did not ask questions that called for an unfair extrapolation from the witness
- Demonstrated an understanding of the modified Rules of Evidence
- Demonstrated ethical and professional sportsmanship.
- Handled exhibits appropriately and effectively

CROSS EXAMINATIONS (STUDENT ATTORNEYS)

- Properly phrased questions - leading
- Effective questioning
- Properly impeached witness
- Handled objections appropriately and effectively
- Did not overuse objections
- Did not ask questions that called for an unfair extrapolation from the witness
- Used various techniques, if necessary, to handle a non-responsive witness
- Demonstrated an understanding of the modified Rules of Evidence
- Demonstrated ethical and professional sportsmanship.
- Handled exhibits appropriately and effectively

WITNESS PERFORMANCE

- Gave responsive, factually accurate answers
- Credible portrayal of character
- Showed understanding of the facts of the case
- Sounded spontaneous, not memorized

- Poised and observed appropriate courtroom decorum
- Avoided unnecessarily long and/or non-responsive answers on cross examination
- Did not offer unsolicited information in effort to help teammate
- Treated both attorneys similarly, responded fairly to both examinations
- Did not embellish or introduce new facts to case beyond the witness' affidavit

CLOSING ARGUMENT

- Theme/theory continued in closing argument
- Summarized the evidence
- Emphasized the supporting points of their own case and weaknesses of the opponent's case
- Concentrated on the important, not the trivial
- Applied the applicable law
- Discussed burden of proof, if necessary
- Overall, the closing argument was persuasive
- Captures and holds jurors attention
- Used time effectively

EXPLANATION OF PROFESSIONALISM POINTS ON SCORE SHEET

- In performing the mock trial case, team members will be courteous, professional, observe general courtroom decorum, speak distinctly and clearly, and have general knowledge of the law and trial procedures. Points should not be rewarded to teams that behave in a contentious or unprofessional manner.
- Award 0-3 points but no more than 3 points TOTAL between the two teams.
- Professionalism Points is only up to 3.
- No fractions or decimal points please. Example P= 1 point and D=2 points

EXPLANATION OF PERFORMANCE RATINGS USED ON THE SCORESHEET

- Individual participants will be rated on a scale of **1-10** speaker points, according to their role(s) in the trial, as indicated in the Chart below.
- The scoring panelists are scoring INDIVIDUAL PERFORMANCE in each speaker category.
- The scoring panelists are NOT scoring the legal merits of the case.
- Scoring panelists may individually consider penalties for violation(s) of the Rules of the Competition.
- Penalties and/or a lack of professionalism will reduce point awards in the appropriate performance categories below.
- Penalties and/or a lack of professionalism will not be indicated separately on the official score sheet.
- Scoring panelists may NOT assign FRACTIONS in any scoring category.
- The team with the highest number of total points on a score sheet wins that score sheet (ballot).
- The team winning the majority of score sheets per trial wins that trial.
- Scoring Panelists need to fill out their nomination forms for outstanding attorney or outstanding witness. The appropriate form should be completed and signed by the each member of the scoring panel and returned to the trial coordinator/courtroom monitor with score sheets.

POINTS	PERFORMANCE	CRITERIA FOR EVALUATING STUDENT PERFORMANCE
1-2	Not Effective	Unsure of self, illogical, uninformed, not prepared, speaks incoherently, definitely ineffective in communication.
3-4	Fair	<i>Minimally</i> informed and prepared. Performance is <i>passable</i> , but lacks depth in terms of knowledge of task and materials. Communication lacks clarity and conviction.
5-6	Good	Good, solid, but less than spectacular performance. Can perform outside the script but with less confidence than when using script. Logic and organization are adequate, but not outstanding. Grasps major aspects of the case, but does not convey mastery of it. Communications are clear and understandable, but could be stronger in fluency and persuasiveness.
7-8	Excellent	Fluent, persuasive, clear and understandable. Organizes materials and thoughts well and exhibits mastery of the case and materials.
9-10	Outstanding	Excellent qualities listed for 7-8 points performance. Additionally, thinks well on feet, is logical, and keeps poise under duress. Can sort essential from nonessential and use time effectively to accomplish major objectives. Demonstrates the unique ability to utilize all resources to emphasize vital points of the trial.

Scoring evaluators are reminded to closely review their Score Sheets to:

- Total all scores
- Check for blanks
- Check all totals closely
- Print your name and sign the Official Score Sheet
- Return your Score Sheet to the courtroom monitor assigned to your courtroom.

THE PROBLEM

CASE SUMMARY

The Chautauqua High School Senior Formal was held in May, following the formal, several students went to the home of Sam Seaside. Sam's parents were out of town for the weekend. When Sam's parents returned, they learned of the unauthorized party after discovering a broken dining room window, a raided liquor cabinet, and a missing gun. Sam claimed no knowledge of the gun's whereabouts or who might have taken it. Mr. Seaside reported the stolen gun to the police. Sam was grounded until the end of the school year.

In spite of being grounded, Sam attended a pre-graduation party the following Friday at the home of classmate Roni Jaywow. Sam was seen at the party arguing with longtime friend Nicole ("Nicki") Shore. Sometime later, Sam and Nicki reportedly left in Nicki's car with Nicki's love interest, Jo Situation.

Nicki's mother reported Nicki missing the next day. She was last seen leaving the party with Jo and Sam. Nicki's car was found in the parking lot near the playground at a local park that Sunday. In the car, police found a bullet and CBI lab analysis revealed blood stains on the passenger-side interior.

Jo left for the Army. Before the police could locate and interview him/her. The police were unable to contact Jo as s/he had already reported for fast-tracked combat training and deployment to Afghanistan.

After interviewing witnesses and conducting extensive forensic analysis, the police arrested and charged Sam Seaside for the murder of Nicki Shore. Nicki's body was never found.

**TWENTIETH JUDICIAL DISTRICT COURT
COUNTY OF BOULDER
STATE OF COLORADO**

STATE OF COLORADO

vs.

**Sam Seaside
Defendant.**

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Jury Instructions

INSTRUCTION NO. 1

Members of the jury, the evidence in this case has been completed. In a moment, I will read you the law which you must apply in order to reach your verdict. But first, I want to mention a few things that you need to keep in mind when you are discussing this case in the jury room.

It is my job to decide what rules of law apply to the case. While the lawyers may have commented during the trial on some of these rules, you are to be guided by what I say about them. You must follow all of the rules as I explain them to you. Even if you disagree or don't understand the reasons for some of the rules, you must follow them. No single rule describes all the law which must be applied. Therefore, the rules must be considered together as a whole.

During the course of the trial you received all of the evidence that you may properly consider to decide the case. Your decision must be made by applying the rules of law which I give you to the evidence presented at trial. Neither sympathy nor prejudice should influence your decision.

If you decide that the prosecution has proved beyond a reasonable doubt that the defendant has committed the crime as charged, it will be my job to decide what the punishment will be. You should not try to guess what the punishment might be. It should not enter into your consideration at any time.

At times during the trial lawyers made objections to questions asked by other lawyers, and to answers by witnesses. Do not draw any conclusions from such objections or from my rulings on the objections. These only related to the legal questions that I had to determine and should not influence your thinking. If I told you not to consider a particular statement, you were told to put that statement out of your mind, and you may not consider any statement in your deliberations which you may have been instructed to disregard.

Finally, you should consider all the evidence in the light of your observations and experience in life.

INSTRUCTION NO. 2

The defendant is charged with committing the crime of Murder in the First Degree in Boulder County, Colorado, on or about May 20, 2011. The defendant has pleaded not guilty.

INSTRUCTION NO. 3

There are two types of evidence from which you may properly find the truth as to the facts of a case. One is direct evidence. The other is circumstantial evidence, that is, the proof of facts from which other facts may reasonably be inferred. The law makes no distinction between direct and circumstantial evidence.

INSTRUCTION NO. 4

The charge against the defendant is not evidence.

INSTRUCTION NO. 5

Every person charged with a crime is presumed innocent. This presumption of innocence remains with the defendant throughout the trial and should be given effect by you unless, after considering all of the evidence, you are then convinced that the defendant is guilty beyond a reasonable doubt.

The burden of proof is upon the prosecution to prove to the satisfaction of the jury beyond a reasonable doubt the existence of all of the elements necessary to constitute the crime charged.

Reasonable doubt means a doubt based upon reason and common sense which arises from a fair and rational consideration of all of the evidence, or the lack of evidence, in the case. It is a doubt which is not a vague, speculative or imaginary doubt, but such a doubt as would cause reasonable people to hesitate to act in matters of importance to themselves.

If you find from the evidence that each and every element has been proven beyond a reasonable doubt, you will find the defendant guilty. If you find from the evidence that the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt you will find the defendant not guilty.

INSTRUCTION NO. 6

The elements of the crime of murder in the first degree are:

1. that the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. after deliberation and with intent to cause death of a person other than himself/herself, causes the death of that person.

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of murder in the first degree.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of murder in the first degree.

INSTRUCTION NO. 7

The defendant may be found guilty of any lesser offense, if the evidence is sufficient to establish his guilt of a lesser offense beyond a reasonable doubt.

The evidence in this case may establish the offense of Murder in the Second Degree, Reckless Manslaughter, or Criminally Negligent Homicide.

The elements of the crime of Murder in the Second Degree are:

1. that the defendant,

2. in the State of Colorado, at or about the date and place charged,
3. knowingly,
4. caused the death of another person.

The elements of the crime of Reckless Manslaughter are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. recklessly,
4. caused the death of another person.

The elements of the crime of Criminally Negligent Homicide are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. caused the death of another person,
4. by criminal negligence.

You should bear in mind that the burden is always upon the prosecution to prove beyond a reasonable doubt each and every material element of any lesser offense; the law never imposes upon a defendant in a criminal case the burden of calling any witnesses or producing any evidence.

After considering all the evidence, if you decide the prosecution has proven each of the elements of any of the crimes charged or of any lesser offense, you should find the defendant guilty of the offense proven and should so state in your verdict.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements of the crimes charged or a lesser offense, you should find the defendant not guilty of the offense proven and should so state in your verdict.

While you may find the defendant not guilty of any or all of the charges, the defendant may only be found guilty of one of the following:

Murder in the First Degree

Murder in the Second Degree

Reckless Manslaughter

Criminally Negligent Homicide

INSTRUCTION NO. 8

Evidence of a defendant's flight may be relevant to show consciousness of guilt, but only if it can be shown the defendant was aware he was being sought.

INSTRUCTION NO. 9

A crime is committed when the defendant has committed a voluntary act prohibited by law, accompanied by a culpable mental state. Voluntary act means an act performed consciously as a result of effort or determination. Culpable mental state means intentionally, or with intent, knowingly, recklessly, or with criminal negligence, as explained in this instruction. Proof of the commission of the act alone is not sufficient to prove that the defendant had the required culpable mental state. The culpable mental state is as much an element of the crime as the act itself and must be proven beyond a reasonable doubt, either by direct or circumstantial evidence.

A person acts "intentionally" or "with intent" when his conscious objective is to cause the specific result proscribed by the statute defining the offense. It is immaterial whether or not the result actually occurred.

A person acts "knowingly" with respect to conduct or to a circumstance described by a statute defining an offense when he is aware that his conduct is of such nature or that such circumstance exists. A person acts "knowingly" with respect to a result of his conduct when he is aware that his conduct is practically certain to cause the result.

A person acts "recklessly" when he consciously disregards a substantial and unjustified risk that a result will occur or that a circumstance exists.

A person acts “with criminal negligence” when, through a gross deviation from the standard of care that a reasonable person would exercise, he fails to perceive a substantial and unjustified risk that a result will occur or that a circumstance exists.

INSTRUCTION NO. 10

You may have to decide what testimony to believe. You should carefully consider all of the testimony given and the circumstances under which each witness has testified.

Consider each witness’ knowledge, motive, state of mind, demeanor, and manner while on the stand. Consider the witness’ means of knowledge, ability to observe, and strength of memory. Consider also any relationship each witness may have to either side of the case; the manner in which each witness might be affected by the verdict; and the extent to which, if at all, each witness is either supported or contradicted by other evidence in the case. You should consider all facts and circumstances shown by the evidence which affects the credibility of the witness’ testimony.

You may believe all of the testimony of a witness, or part of it, or none of it.

INSTRUCTION NO. 11

The mere number of witnesses appearing for or against a certain proposition does not in and of itself prove or disprove said proposition.

INSTRUCTION NO. 12

The defendant is never compelled to testify, and the fact that he does not cannot be used as an inference of guilt and should not prejudice him in any way.

INSTRUCTION NO. 13

In a moment, you will receive the final arguments of counsel. At the conclusion of final arguments, the bailiff will escort you into the jury room. Upon reaching the jury room, you are first to select one of your members to be the foreperson of the jury. Your foreperson shall preside over your deliberations, and shall sign whatever verdict you reach.

The verdict must represent the considered judgment of each juror. In order to return a verdict, it

is necessary that each juror agree to it. Your verdict must be unanimous.

Only one portion of each verdict form shall be returned signed for each count, and the verdict form and these instructions shall remain in the possession of your foreperson until such time as they are called for in open court. Upon reaching your verdict, you will inform the bailiff of this Court, who will in turn notify the Court, and you will remain in the jury room until called into the Courtroom.

You will be provided with one form of verdict. When you have unanimously agreed upon your verdict, you will select the portion of the verdict form which reflects your verdict, and the foreperson will sign it as the Court has stated.

STIPULATED FACTS

1. All exhibits included in the problem are authentic and accurate in all respects, and no objections to the authenticity of the exhibits shall be entertained.
2. The signatures on the witness statements and all other documents are authentic.
3. Stipulations cannot be contradicted or challenged.
4. The Case Summary is of no legal consequence in terms of the trial and is not admissible for impeachment purposes or for any other purpose.
5. All pleadings and exhibits (and their pre-markings) are authentic. The parties reserve the right to dispute any legal or factual conclusions based on these items and to make objections other than to authenticity.
6. All police and forensic reports in exhibits are authentic and chain of custody for samples provided for lab reports is not at issue.
7. There is no statute of limitations bar to a prosecution for murder.
8. Jo Situation is unavailable to provide a statement or testify and has been since May 23, 2011.
9. Trace samples of human blood were taken from the passenger seat and side door interior of Nicki Shore's vehicle.
10. No test for gunshot residue on the interior of Nicki's vehicle was performed.
11. No usable fingerprints were found in Nicki's vehicle.
12. No DNA evidence from Jo Situation or Sam Seaside was found in the collected evidence in Nicki's vehicle.
13. Nicki's body has not been located or recovered.
14. The gun stolen from the Seaside residence has not been located or recovered.
15. Defendant's Motion in Limine to preclude admission of any evidence regarding the collection, testing or results of testing of the blood spot found on Sam Seaside's t-shirt worn at the party May 20, 2011 was denied, and the Court will not entertain any further argument regarding the issue.
16. The specific locations on the chromosomes used for the DNA profile in Exhibit 4 are those typically used by law enforcement for matching purposes.

WITNESS AND EXHIBIT LIST

The following witnesses shall be called by the parties.	
FOR THE PLAINTIFF	FOR THE DEFENSE
Devon Blasst	Sam Seaside
Cameron Paul	Roni Jaywow
Casey Vince	Parker Dee
The following exhibits may be used by teams in competition. They are pre-marked and are to be referred to by number as follows:	
EXHIBIT NUMBER	EXHIBIT DESCRIPTION
1	Photos of Nicole Shore's vehicle
2	Photos of Nicole Shore's vehicle
3	Excerpt from State Laboratory CSA Manual
4	State Laboratory Report of DNA Analysis
5	State Laboratory Report of Ballistics/Firearms Analysis
6	Police report filed by Michael R. Seaside
7	Statement of Qualifications of Cameron Paul
8	Statement of Qualifications of Casey Vince
9	Curriculum Vitae of Parker Dee

DEVON BLASST - WITNESS STATEMENT- PROSECUTION

1. My name is Devon Blasst. I am 19 years old. I have been a friend of Nicki Shore and Sam Seaside since elementary school. Over the years, we have been like the Three Musketeers. We were inseparable. We tried to get into the same classes and we hung out together all the time. Senior year was supposed to be the best time of our lives. It has turned out to be the worst. One of my best friends is missing – presumed dead – and the other has been charged with murder. The last thing in the world I want to do is hurt Sam, but I have to tell the truth.

2. Nicki and Sam were tight, but it has been one of those “love-hate” relationships. They acted like siblings. They were always getting into what I would call arguments and fights. Usually, they just had words, but occasionally they would engage in physical altercations. Nothing really serious. Just a lot of pushing and shoving and so forth. In fact, I don’t recall them ever throwing punches at each other, kicking each other, etc. But there have been times I was afraid one of them could do serious harm to the other.

3. When Nicki started dating Jo, things were tense with her and Sam. Even after they broke up, things with Nicki and Sam weren’t the same. All Sam talked about was going to college. Nicki had pretty much decided not to go to college. Nicki was constantly telling Sam how pointless it all was. She had started hanging out with some other kids from school that Sam wasn’t thrilled about. This apparently came to a head last year when all three of us attended a couple of parties on back-to-back weekends. It was in May, right before school was out, so everyone was in a mood to celebrate. Well, everyone except for Nicki. She was in such a bad mood that spring! When I asked her what was wrong she said she was grumpy because she had a really bad sinus infection that caused her nose to bleed constantly; yuck! I guess if my nose was bleeding all the time then I would be in a bad mood too, but I also got the impression that she was just angry at Sam. She was always commenting on how she was sick of Sam’s bad mood and temper tantrums which is funny considering her own poor attitude.

4. Anyways, the first party in May took place the weekend of the senior formal at Sam’s house. Actually, it wasn’t really supposed to be a party, just our group, you know, getting together after the

dance. But word got around that Sam's parents were out of town and a lot of people showed up. Sam wasn't happy at first, but s/he chilled out once things started rolling. Sam ended up having a really good time.

5. During the party, I saw Sam in the study with a bunch of people. They had gotten into the liquor cabinet and Sam was doing tequila shots. At some point, Sam started doing an impression of Mr. Seaside. It was a riot. Mr. Seaside is real straight, real serious. Sam pulled a gun out of Mr. Seaside's cabinet as part of the show. Somebody freaked out, but Sam showed that it wasn't loaded and said that Mr. Seaside kept the bullets in the desk drawer.

6. Sam did put it away after that, though. Well, anyway, Sam got into a whole lot of trouble when Mr. and Mrs. Seaside found out about the party. It was really bad because Mr. Seaside's gun got stolen. Sam was really upset at school that next week, not just because of the grounding. Sam was sure his/her grandmother would find out about it and wouldn't pay for college. Sam said that it was Nicki's fault.

7. Roni Jaywow had a pre-graduation party on the last Friday night of the school year. I got there early because I was going to spend the night with Roni after the party. Nicki and Sam didn't actually arrive until later in the evening. By the time the two of them got there, the party was rocking. There must have been about 50 kids there and there was liquor and beer. Nicki, of course, was drinking a lot. Sam was really getting irritated with her. I think s/he was still mad at Nicki for getting him/her into trouble after the formal. At one point, Nicki and Sam got into an argument because Nicki was blabbing about Sam being accused of plagiarism. That was a real sore spot for Sam. Nicki and I had both promised never to tell anyone about that. I would not call the argument heated or violent, just par for the course for those two. Jo broke it up and Sam left the room.

8. There wasn't anything physical. It wasn't like there was a fight or anything. They both kind of kept their distance from each other. I never saw them get together again that night. In fact, I didn't see Sam again at all that night. I was pretty toasted, but I do remember seeing Jo and Nicki leaving together a while later. I love Nicki and Sam. I can't believe any of this is really happening.

Subscribed and Sworn to on this 1 Day of August, 2011

Devon Blasst

Witness Signature

CAMERON PAUL – WITNESS STATEMENT – PROSECUTION

1. My name is Cameron Paul. I am a crime scene analyst with the Colorado Department of Public Health and Environment Laboratory Service Division, commonly known as the State Laboratory. I attended the University of Denver where I obtained a Bachelor of Arts degree in Criminology in 1988. My minor was in Physics. I then obtained a Masters Degree in Forensic Science from the University of Colorado, Colorado Springs in 1991. After obtaining my Masters Degree, I began to work for the state forensics unit. There, I served as a firearms and ballistics examiner for 16 years. I have served as Chief Crime Scene Analyst (CSA) for the State Laboratory in Boulder County for the past four years. Because of budget cuts and the retirement of our senior firearms examiner last year, I currently conduct all ballistics and firearms analysis for the State Laboratory, in addition to my duties as Chief CSA.
2. On Sunday, May 22, 2011, I received a call from a city patrol officer who had been called to Chautauqua Park to investigate an abandoned vehicle.
3. The officer reported to me that the vehicle may be connected to a report of a missing teenage girl filed the evening before. Before leaving the crime lab for the park, I printed out the DMV record on the Colorado license plate number 482 FWK, provided by the officer.
4. I also printed the Report of Missing Person (RMP) from the state police database. I confirmed that the vehicle tag was registered to a Le Mans titled in the name of Nicole Shore, 19 Anthony Lane, Boulder. According to the RMP, Nicole Shore, known as “Nicki,” was last seen on May 20, 2011, and was reported missing by her mother on May 21, 2011.
5. I arrived at Chautauqua Park and confirmed that the plate on the Le Mans matched the DMV record as registered to Nicole Shore. I noted what appeared to be a bullet and blood stains in the vehicle. I immediately paged Casey Vince, the Senior DNA Analyst on my team. A complete field analysis was performed by Agent Vince and myself. Agent Vince photographed the vehicle, including the bullet and bloodstains.

S/He then swabbed the bloodstains on the vehicle and the substance on the bullet. I instructed Agent Vince to go to the Shore residence and obtain a DNA sample, if possible, prior to returning to the crime lab. I removed the bullet from the vehicle and placed it in an evidence bag that I sealed and marked. I dusted the steering wheel and exterior door handles for fingerprints.

6. I then went to the Seaside residence to interview Sam Seaside, listed on the RMP as one of two individuals with whom Nicole Shore was reportedly last seen. Sam Seaside is now the defendant in this case. In the interview, the defendant stated that s/he had last seen Nicki Shore at approximately 11:30 p.m. on Friday, May 20, 2011, when s/he left her with Jo Situation after driving them from a party to Chautauqua Park. Jo Situation was also listed as last seen with the victim on the RMP. The defendant did report to me that there had been an argument between the defendant and the victim at the party. The defendant did not inform me of any physical altercation, however. Before leaving the Seaside residence I asked the defendant for the clothing s/he was wearing on the night of Friday, May 20, 2011. The defendant provided me with a t-shirt and a pair of jeans. I placed both in an evidence bag that I sealed and marked. Prior to placing the clothing in the evidence bag I noticed what appeared to be a spot of blood on the t-shirt.

7. I then went to the home of Jo Situation. I got no answer when I knocked and rang. There were no vehicles in the driveway. There was no answer at the phone number listed for the residence. A neighbor informed me that the Situations were on vacation and were not expected until the next morning. I then returned to the crime lab.

8. I first confirmed with the fingerprint analyst that there were no usable prints from the vehicle. The analyst was unable to determine whether or not the lack of prints was a result of tampering. However, based my experience, it is highly unusual that at least one usable print could not be lifted from a vehicle. Next, I personally conducted the ballistics analysis. My position requires that I maintain a familiarity with all weapons in production. The State Laboratory maintains a weapons repository of all weapons in production so that a weapon used in a crime may be test-fired against a comparison weapon. If the weapon used in the crime is found, it also will be test-fired. The bullets are then compared. The bullet I

retrieved from the Shore vehicle (Bullet 1) is a .22 caliber. It had been fired. It is copper plated and shows damage to the nose area. This damage could have resulted from contact with bone or from any other similarly hard material.

9. Examination of Bullet 1 revealed that it was fired by a .22 revolver with 6 lands and grooves and a right twist in the barrel. After being briefed by members of my team on the interviews of Devon Blasst and Roni Jaywow, I returned to the home of the defendant. The witnesses had reportedly indicated that the defendant had been seen brandishing a firearm at a party following the Chautauqua High senior formal at the Seaside residence the week prior to the victim's disappearance. I had retrieved a copy of the city police report filed by Michael R. Seaside, the defendant's father, alleging that his gun had been stolen. My search of the state police firearms database had indicated that there are 22 brands of firearms that have land and groove dimensions with a right twist that could have fired Bullet 1. One of those brands is the Harrington and Richardson (H & R) 9 shot .22 revolver.

10. This is the same brand and make of the gun that was reported as missing from the defendant's father's gun cabinet on May 16, 2011. In my second interview with the defendant, I asked about the party following the Chautauqua High senior formal and about the missing gun. The defendant denied taking the gun from the cabinet on that or any other occasion. While the defendant admitted that several friends were in the study throughout the evening, the defendant did not believe any of them would have stolen the gun. The defendant did state that s/he consumed alcoholic beverages at the his/her residence and that s/he did not remember all of the events of that night.

11. According to the defendant's parents, they purchased the revolver in 1996 for home defense. They provided me with a box of Winchester .22 cartridges. Mr. Seaside indicated that he had purchased the box new and had not opened it. When I examined the box, it had been opened. It contained forty-one unfired cartridges. Nine cartridges, which is a full cylinder in the 9-shot H&R, were missing.

12. The defendant stated that s/he had been given instruction by Mr. Seaside on how to use the revolver. Apparently the two had practiced shooting at Mr. Seaside's mother's home. After obtaining the

permission of the property owner, I retrieved three bullets (Bullets 2, 3, and 4) from a tree stump identified by the defendant and Mr. Seaside for comparison to Bullet 1.

13. Bullets 2, 3, and 4 are consistent with the bullet recovered from the victim's vehicle in that they all have 6 lands and grooves with a right twist, which means that they all could have been fired from the same gun as Bullet 1. All three bullets retrieved from the stump are heavily damaged. Bullet 4 also shows some individual agreement with Bullet 1. However, Bullet 4 was too heavily damaged to make an exact match.

14. We were unable to interview Jo Situation. When his parent's returned my call following their vacation, they informed me that Jo had joined the Army and was deployed to the Afghanistan. According to Army records, Jo had enlisted on May 23, 2011.

Subscribed and Sworn to on this 1 Day of August, 2011

Cameron Paul

Witness Signature

CASEY VINCE – WITNESS STATEMENT – PROSECUTION

1. My name is Casey Vince and I have been with the Colorado Department of Public Health and Environmental Laboratory Services Division as a DNA Forensic Analyst since 1999. My duties at the State Laboratory include processing of crime scenes, DNA analysis, and bloodstain pattern reconstruction.

2. On May 22, 2011, I received a call from the Chief CSA who gave me instructions to report to Chautauqua Park to assist in the investigation of a developing missing person investigation. Once I arrived, I fully processed an abandoned vehicle at the scene with the assistance of Chief Paul. I noted brownish-red stains on both the inside of the passenger door and directional droplet stains on the passenger seat. I took digital photos of the vehicle and of the two stain locations. A single bullet was found in the vehicle between the passenger seat and door, which I photographed and swabbed for analysis.

3. Additionally, I took swab samples from the stains on both the door and passenger seat, which I deposited in sterile tamper-proof containers and ultimately placed in my evidence lock-up, to which no one other than myself has access.

4. After leaving the scene, I traveled to the Shore residence on Anthony Lane, where I obtained the victim's hairbrush from her private bathroom for DNA comparison. On my return to the crime lab, I began my analysis of the crime scene swab samples, and a white cotton t-shirt that CSA Paul had collected from Sam Seaside. The first test I used was the ABACard (or HEMATrace). When this test is used, the presence of human blood is detected when human protein binds to a specific antibody. This generates a purple color band on the card. Upon testing, to a reasonable degree of scientific certainty, I determined the brownish-red stains from both the door, the passenger seat and the t-shirt contained human blood. Further, I determined that the bullet contained traces of human blood.

5. From the victim's brush, I removed one suitable hair from which I began DNA replication. Once a sufficient quantity was reached, I then began DNA sequencing. After sequencing the known sample, I repeated the protocol sequence for all three blood swabs obtained from the vehicle, a swab from the

bullet, and swab taken from a small stain on Seaside's t-shirt. Upon comparing the DNA profile of the crime scene samples to the known sample obtained from the hairbrush, I determined to a reasonable degree of scientific certainty that all samples from the abandoned auto were from the same individual. My test on the swab from Seaside's shirt revealed an additional sample of the victim's, though somewhat degraded. Therefore, my opinion to a reasonable degree of scientific certainty is that the human blood found on the door, the passenger seat, the bullet, and Seaside's shirt all belonged to the victim, Nicki Shore.

6. After conducting analysis of the blood samples collected from textile surfaces, I reviewed my photos of the bloodstains in the vehicle with emphasis on the patterns they created. Review of the bloodstain on the door revealed a pattern consistent with high-speed dispersal. When high-speed force is applied to blood, the blood will project out and away from the impact, as Newton's Third Law states. The greater the force applied to the blood, the smaller the pattern stains it will create. The bloodstains on the door were small, and as such were created by application of high-speed force. The smaller the droplets the less identifiable are the "tails" that indicate directionality of the dispersal force. In the Shore vehicle, a .22 caliber bullet was found between the seat of the passenger side and the door, which supports the conclusion that the high-speed pattern was from a gunshot exit wound. The blood pattern stains found on the door are consistent with an exit wound from close-range discharge of such a weapon. In my opinion, to a reasonable degree of scientific certainty, the pattern was created by gunshot based upon both pattern and location.

7. Next, I determined, based on the amount of blood in the vehicle, that a shot to the head could be ruled out as the probable source of the blood and wound. If there had been a shot to the head, I would have expected to find a much greater volume of blood. More likely, due to trace droplet tails and the angle of the blood spatter pattern on the door, the wound was to the victim's chest.

8. I then reviewed the bloodstain pattern on the passenger side seat. These stains were small and pooled without directional markers. Based upon my observations, they were either transfer stains from the gunshot wound or free-falling drainage of blood from a wound approximately fifteen inches above the

seat. A transfer or contact stain is produced when an object with blood comes in contact with an object or surface that does not have blood.

9. The passenger of the car was likely the victim, due to the location of the bloodstains on the front passenger seat showing the blood transfer on the seat or free-falling drainage of blood. Since there also was blood spatter on the passenger door, the most probable scenario was a shot originating from the opposite direction, placing the shooter most likely in the driver's seat. Directionality could not be determined as to the blood drop on Seaside's shirt, but the drop could have been partial blowback that landed on him as he sat in the driver's seat and shot the victim.

10. The assertion that the blood spatter in the Shore vehicle came from a nosebleed is technically possible but highly unlikely. It was exactly that kind of baseless speculation that got Parker Dee kicked out of the State Laboratory. Dee wasn't exactly fired, but pressured to resign. That agent could never close a case. It was one wild theory after another from "Professor Dee" as Parker was known in the division. The nickname was due to Dee always throwing credentials up in your face, that is, when Dee wasn't complaining about low pay and old equipment. Granted, we are underpaid and overworked, but we get the job done. We make do with what we have. Much of forensics investigation is instinct, common sense, and logic. The Professor deals in theories. We deal in facts. And in this case, the facts point to Sam Seaside.

Subscribed and Sworn to on this 1 Day of August, 2011

Casey Vince

Witness Signature

SAM SEASIDE – WITNESS STATEMENT – DEFENSE

1. My name is Sam Seaside. I am enrolled as a freshman at the University of Colorado - Boulder. I recently graduated from Chautauqua High School. Like the majority of my class, I chose to stay in my hometown to attend college.

2. I graduated from high school with mostly A's and B's. My favorite classes in high school were chemistry and biology. I wanted to be a doctor until I met a State Laboratory investigator on a field trip. Now I want to be a crime scene investigator. CSI is my favorite TV show. In fact, I won an award for my senior science fair project in which I compared different crime scene fingerprinting methods and attempted to develop a new method for lifting the fingerprints from the crime scene.

3. Nicki Shore was my best friend. I met Nicki in elementary school and we have been friends ever since. Like all friends, we have our disagreements. We did seem to be growing apart over the last couple of years. Nicki pretty much went out of control during senior year. She tried to act like she didn't care what people thought of her, but I think in her heart she did. Don't get me wrong. We stayed best friends. Our arguments were more playing around than anything. Looking back, it might not have appeared that way to other people. Devon Blasst, my other best friend, was always whining for us to stop fighting. Devon would say, "Ya'll are going to end up killing each other." I guess now s/he thinks I did it. But I didn't. I got irritated with Nicki sometimes, but I would never hurt her.

4. Nicki also hung out with Jo Situation. In fact, Nicki and Jo dated for a while. This romance only lasted a few months. Nicki broke up with him before the senior formal. They stayed friends, but I think that Jo still liked her as more than a friend. I did not hang out with Jo unless Nicki was around. I never really liked him. He came to Chautauqua High when we were sophomores. He and Nicki got along good from the beginning. She thought he was "mysterious." I just thought he was in a bad mood all the time.

5. To celebrate the end of the school year, Roni Jaywow, the most popular kid in school, had a party the week after senior formal. It was the last official weekend before graduation. Everyone was invited. Roni's parents were out of town and Roni's older brother bought us a keg for the party. Nicki picked me

up after dinner that Friday night. I didn't have my parent's permission to go to the party, but they went to dinner and to a movie that I knew wouldn't let out until midnight. I just planned to be back before they were.

6. I don't have a car. I usually drive my parents' car, when they let me. It is an automatic. Nicki's car is a stick shift. She taught me how to drive her car. It is a beat-up old Le Mans that her parents bought her used. Sometimes she let me borrow the car on the weekend when she was not using it. Nicki never gave me a set of the keys, though. I didn't want to ride with her to Roni's party because I was afraid that she would get drunk and I wouldn't be able to get home before my parents did. But I really didn't have a choice.

7. My parents were using their car and Devon was planning on spending the night at Roni's house. And I was not going to miss the best and probably the last party of my senior year.

8. We got to the party after everyone else. I thought my parents would never leave the house. Nicki and I split up when we got there. She started talking to Jo and some people I don't much care for. They showed up at my house after the formal and I had never even invited them. They got me in a lot of trouble. They got out of hand and messed things up. I don't see why Nicki hung out with those losers. I didn't see Nicki until a couple of hours later. I overheard her telling her new friends about when I was accused of plagiarism and almost got expelled from school.

9. Nicki always thought the story was funny, but she had promised me that she would not tell anyone. Basically, I did some research on the internet for one of my English papers but did not cite the resource in my paper. It turns out the part that I used was an exact quote from an article written by a close friend of my English teacher and published in a literary magazine. I didn't know that you had to cite references to anything that you find on the internet—I thought all of that information was public domain. It was a mistake. At first they wanted to suspend me, but my English teacher and the principal decided to let me serve a sort of probation by volunteering as a teacher's aide after school.

10. I am the first in my family to go to college. My father always told me that he didn't have time to go to college because he was too busy putting food on the table. My parents cannot afford to send me to

college and I didn't get enough financial aid. I was lucky, though, because my grandmother offered to pay my college tuition if I met certain conditions. First, I have to live at home, which is no big deal. Second, I have to stay out of trouble. I love my grandmother, but she is very old-fashioned and set in her ways. She means what she says, too. My cousin was caught sneaking test answers in his senior year of high school and my grandmother pulled the plug on him. He was all lined up to go to DU, but now he has to work full-time and take one course a semester at a community college. My grandmother is my only hope of getting a good education and a good job. Even if she sucks all the fun out of college, I don't care. I am willing to do whatever it takes not to mess this deal up. So far my grandmother does not know that I was accused of plagiarism. I was able to convince my parents not to tell her about it. Now with this criminal charge, I will be lucky if she doesn't refuse to pay even after I'm acquitted. Well, at the party, I told Nicki to stop telling the story. Nicki was drunk. She went from laughing at me to yelling at me. I pulled her aside and reminded her that my grandmother would cut me off if she found out. She knows how important this deal is to me. I told Nicki that I didn't want to end up like her dad sitting at home playing Nintendo all day pretending to be injured on a fake worker's compensation injury. This was the wrong thing to say. Nicki yelled at me even louder. She called me a mooch who had to cheat my way into college. I said at least I was going to college. Nicki had not even sent off her college applications. She had gotten to where it was like she didn't even care.

11. Lately, she had been talking about backpacking in Europe or catching a bus to California. In fact, when Nicki and Jo were dating, they talked about doing it together.

12. I told Nicki to shut up and that she was drunk. She said, "I guess you will have to drive me home then." Then she threw her car keys at me hitting me in the arm. That was the last straw. I sort of lunged at her, not to hit her, but to get a hold of her and get her to listen to me. At the same time, Nicki swung at me. About that time, Jo stepped between us. He raised his arm to block the blow and I guess he accidentally hit her in the face. I didn't see any blood, but she was holding her nose and mouth. I asked her if she was all right and she said to leave her alone, so I did.

13. I thought about throwing the keys back at Nicki. But I wanted just to get away from her and all of the eyes staring at me. So I picked up the keys and went out to her car. I sat in Nicki's car and turned on the radio trying to decide whether I should just take the car to teach her a lesson. But, I decided not to leave. I sat there alone for I don't know how long. Nicki eventually came out. She appeared to be sobering up a little, but still was not in a condition to drive. I could drive because I did not have any alcohol at the party. I was already in deep with my parents and didn't want to get caught sneaking out or worse, sneaking out and drinking. I figured if I lost my head, I wouldn't get home in time, or it would be obvious to them that I had been out.

14. When Nicki came out of Roni's house, Jo was with her. I heard the tail end of their conversation as they approached the car. Jo was telling Nicki that she needed to quit drinking so much because she was embarrassing herself. Jo was giving her a hard time about the way she had acted at my house the weekend before. Nicki was angry with him. I heard her say, "Don't tell me how to run my life. You sound like my father. *I dumped you, remember?*"

15. Jo asked me to drive them home. Jo and I actually live near each other. We live on opposite ends of the park. Nobody said anything during the drive. When we got to Nicki's house, she refused to get out of the car. So I drove around to the playground and parked in the parking lot. Nicki said that she had a headache and her face hurt where Jo "hit" her. That started it again between the two of them. I still didn't see any blood, so I figured she was just saying that to get to him. I didn't want to get into it with Nicki again, plus it was getting late, so I left. It's only a short walk to my house from the playground. When I left, Nicki and Jo were still by the car in the parking lot.

16. I got back to my house before midnight. My parents never knew I went out. I was grounded because of what happened at my house the week before. I didn't mean to have a party after the formal. My parents were visiting relatives in Baltimore, Maryland. Nicki, Devon, Roni, Jo and I were going to the formal as a group, no dates. My parents thought that was a good idea and said that it would be okay if they came over afterwards.

17. That was all I wanted anyway. It turned out that Nicki was drinking before the formal and was already drunk when we got there. Apparently, she went around and told everyone that there was a party at my house after. I didn't know about this until people started showing up. It really wasn't a lot of people, mainly this new group of friends of Nicki's. I guess it got pretty wild, but the cops weren't called or anything.

18. Anyhow, my parents blame me for the broken window in the dining room and the broken cabinet where they kept the liquor. My father also said that his revolver was missing after the party. He kept the gun in a cabinet in the study. He hid the key to the cabinet above the trim on top of the cabinet. He keeps the second key on his key ring. The study has a bathroom in it—it is the only bathroom on the first floor. I'm sure that everyone that was there went into the study at some point. However, I don't remember anyone in particular who went into the study. We never found the gun and my father reported it stolen to the police. I tried to tell them that somebody probably broke in and stole it. My friends may have broken into the liquor cabinet, but I am sure they didn't break the window. I didn't hear it and didn't even notice it until my parents came home that Sunday.

19. I didn't see anyone or talk to any of my friends on the Saturday after the party. My mom and I spent the day shopping for summer clothes. That night, late, Mrs. Shore called my house looking for Nicki. I told her that I had not seen his/her since Friday afternoon. I didn't tell her about the party or about leaving her and Jo at the park. I was afraid I would get in trouble, plus I figured her mom wouldn't have been thrilled about her being at the party either way. If I had known that she was actually missing and not off somewhere with Jo, I would have told Mrs. Shore everything. My mom woke me on Sunday to talk to a police officer who came by the house. The officer said that s/he was investigating Nicki's disappearance. S/he said that they found Nicki's car at the park, abandoned, and with bullet holes and blood all over it. The officer asked me questions of where I was Friday night, had I seen Nicki, and when did I last see her? Even though I knew I would get in trouble, I told the officer that I saw Nicki at the party and the last time I saw Nicki she was with Jo at the park. I tried to tell him/her everything I could

remember about that night, but I guess I was sort of in shock about Nicki being missing. I still can't believe that they think I killed her. This is a nightmare.

20. They aren't even looking for her. I'm not even ready to think about her being dead, and they are making me explain how I didn't kill her. This is the hardest thing I've ever had to deal with. I mean, Nicki and I have been best friends for as long as I can remember. I'm worried about her, and I want people to start doing more to find her.

21. The officer returned to my house to talk to me a couple of days later. The officer said that they identified the bullet they found in Nicki's car. The officer asked me if I knew anyone that had access to a gun. At first I said no, but then I recalled that my father had reported his gun missing after my party, but I don't know who could have taken the gun. I told the officer that I didn't recall exactly who went into the study during my party.

22. Nicki was notorious for having sinus infections and nosebleeds. She had nosebleeds before when I was with her and wearing the same t-shirt I wore the Friday night party. It was a favorite t-shirt of mine so I wore it often. I gave the officer the t-shirt when s/he asked for it.

23. The last time I saw Jo was when he was with Nicki at the playground. Apparently, Jo joined the Army. He is now somewhere in the Middle East. I don't know how to contact him. It's funny, but I don't remember Jo ever telling me he was planning on joining the Army before.

24. They still haven't found Nicki. They just assume she is dead and that I did it. All they found was her car, a bullet, and some blood. That doesn't mean she is dead. All I know is that I didn't do anything to hurt her. She was my best friend.

Subscribed and Sworn to on this 1 Day of August, 2011

Sam Seaside

Witness Signature

RONI JAYWOW – WITNESS STATEMENT – DEFENSE

1. My name is Roni Jaywow. I am 18 years old. I graduated fourth in my class at Chautauqua High School. I am now a freshman at CU Boulder. When I was in high school, I had good grades, but I also enjoyed attending an occasional party, just like anyone else. Of course, I did not let this become too much of a priority for me, since I knew I had to pay enough attention to my grades to get into CU. I was also active in a number of school activities. I was in student council, National Honor Society, and Beta Club. Much of my effort, however, was as captain of the tennis team. I hope it's not too much to say that I was probably considered fairly popular.

2. I knew Sam and Nicki fairly well. I understood they had been friends since elementary school, but they also seemed to have what I would call an unpredictable relationship. One minute, they would take care of each other and be around each other all the time, tight at the hip, and the next minute it was like total war between them. It was always interesting trying to figure out what their relationship would be from one day to the next. In the end, though, they always made up after their arguments, and they really did seem to care a lot about each other.

3. At the end of our senior year, we were all ready to relax and have a little fun. I guess that is why things got out of hand at Sam's house after the formal. Sam had been all college-this and college-that for the last few months of school. We couldn't get Sam to have any fun. I was hoping that would change at the formal. We all went together, you know, just a bunch of friends. It was a blast. We had all planned to party at Sam's house afterwards. I guess Nicki got the word out that Sam's parents were out of town. Sam was mad about it at first, but it didn't last. Sam partied hard that night like the rest of us.

4. Sam's party turned out to be a little wild. I saw Sam doing an impression of Mr. Seaside, his/her dad, which was pretty funny. Sam's dad is a real serious guy. He's all like Sergeant Major Seaside, you know. And Sam's impersonation was dead on. Sam might have been using Mr. Seaside's gun in the impersonation, but I don't remember. Everyone was in and out of the study during the party because the downstairs bathroom was in there. I do specifically remember Jo coming out of the study after pretty

much everyone had left. Jo had been acting weird all night. First of all, Jo didn't show up at the formal. Then Jo came to Sam's house dressed like a bum, wearing torn jeans and an oversized jacket. Everybody else was in, like, tuxes and gowns and stuff. Nicki and Jo had dated for a while, but it didn't work out. I don't think Jo really ever got over Nicki. Nicki had really wanted all of us to go to the formal together as friends. It was actually her idea. I think she was trying to smooth it over with Jo. When I saw Jo in the hall outside the study, I asked him what was up. Jo said that he was "tired of this whole scene" and was "making plans to leave this town behind." Anyway, I do remember Jo going into that study a couple of times that night. And I specifically recall Jo coming out of there toward the end of the party.

5. The party at Sam's was so wild that I knew I would probably have a real blowout at my house the next week. And, as it turned out, I did! The word seemed to get out all week that I was going to have a wild party, so everybody was really looking forward to it. They started coming early, like about 6:00, and most of them were saying they were going to stay all night. While I was a little concerned, I really didn't mind, since this was the weekend that my mom and dad were gone. Obviously, I was going to be busy cleaning up afterward, but I did want everyone to have a good time. Besides, Devon was going to spend the night and help me the next day before my parents got home.

6. Sam and Nicki came in late. I was a little surprised that they came to the party together. Things had been cold between them all week. Sam really caught it when Mr. and Mrs. Seaside found out about the party at their house. Sam blamed Nicki a little bit for things getting out of hand. Nicki just seemed to blow the whole thing off. In fact, Nicki was in a great mood at my party, if you know what I mean. She was flirting a lot and being really silly. Most people thought she was pretty funny, but there were a few who didn't like it. One of the people who seemed to be irritated with Nicki was Jo Situation. Jo was kind of following her around all night. I noticed that Sam wasn't drinking and figured that was because Nicki would need a ride home. I had only seen Nicki and Sam together a few times that night, and they seemed to be okay with each other. In fact, the only time I saw Nicki and Sam having any problem was when they were having an argument about something – I didn't even know what it was about, but it wasn't much.

Nothing unusual for them, you know. Jo got into the middle of it and told them to stop before they got in a fight.

7. Actually, I think Jo over-reacted. The argument wasn't really that big, and they probably really didn't need Jo in the middle of it, but he was there and it did seem to kind of heat things up. I certainly don't recall anyone getting hurt. Later I was on the porch and saw Jo walking out with Nicki. Jo was laying some heavy stuff on Nicki, telling her that she had embarrassed herself at Sam's the week before and that she needed to get her act together, or something like that. She told Jo to leave her alone because she had a headache. I followed them to Nicki's car. I didn't want them to leave because the party was just really getting going good. Sam was already in the car, in the driver's seat. I asked them where they were going. Sam said that s/he was going to drop off Jo at home and then take Nicki to her house and leave the car there. Sam was going to have to walk home because Nicki was too drunk to drive. I gave Sam a hard time about leaving early. Sam did not appear to be in a joking mood. I would say that Sam's mood wasn't just sober – it was fed up. Sam explained that s/he had to go ahead and leave to have enough time to walk home before Mr. and Mrs. Seaside got there. Sam was grounded and wasn't supposed to be out. Jo climbed in the back of the car and Nicki got in the front. Then they drove off. I didn't see Nicki or Jo again after that.

7. Mrs. Shore called me Saturday night and asked me if I had seen Nicki. I told her about seeing her leave my house with Sam and Jo. She said that Nicki never came home. She sounded worried.

8. I have learned a big lesson from all this. We partied and drank and whatnot, never thinking how bad things could turn out. When you are a teenager, you think you can do anything and no one will get hurt. This whole mess has caused me to open my eyes a lot.

9. There are a lot of parties and stuff at college, but I am there to get an education. I want to have fun and all, but drinking can lead to some bad stuff. I always thought alcohol just relaxed you and helped you have a good time, but now I realize it makes you do stupid, dangerous things that you wouldn't otherwise do. I don't know what happened to Nicki and I certainly don't think that Sam had anything to

do with her disappearance; but, if we had not been so messed up those last few weeks of school, I can't help but think that none of this would have happened.

10. Anyway, the point is I never saw Nicki or Sam get into any kind of violence at the party at my house. Sam was cool just about all night, and the only time I saw Nicki get hostile was when she was getting into it with Jo.

Subscribed and Sworn to on this 1 Day of August, 2011

Roni Jaywow

Witness Signature

PARKER DEE – WITNESS STATEMENT – DEFENSE

1. I am Parker Dee. I am an expert in the field of forensic DNA analysis and also bloodstain analysis. I started my career at the State Lab and then in the academic area as an instructor at CU. I worked for the State Laboratory for 20 years before starting my own private firm in 2001. My curriculum vitae has been provided, and speaks for itself.

2. Working at the State Laboratory was professionally rewarding, but, frankly, in my last several years there our budget had been cut so many times I felt that it was adversely affecting the quality of our work product. Our equipment was getting dated and there were cutbacks in training. In the private sector, there is more money available to maintain state-of-the-art equipment and training. I am often accused of being a perfectionist. I wouldn't go that far, but I do have high standards. People's lives and liberty are at stake in a criminal investigation so I do not see anything wrong with striving for perfection. It is difficult for me to work in an environment that does not support my standards. I am sure that some of my former colleagues at the crime lab were happy to see me go. I did make their jobs more difficult by insisting on accuracy and thoroughness.

3. I was not given access to the vehicle in question in this case, but I have been provided the test results and findings of the State Laboratory. I have personally reviewed the photos of the bloodstains and the vehicle. I would have liked to have been able to examine the vehicle to determine if more blood was present in other locations in the vehicle, as it is my experience that sometimes someone else's investigation could be incomplete, whether purposefully, by neglect, by improper training and lack of experience, or just by oversight.

4. Bloodstain patterns are created for many reasons. One reason is certainly by gunshot. However, my examination of this case reveals another source for the high-speed spatter on the vehicle door. That source is a sneeze by a person with a nosebleed; many people do not realize how much blood--how incredibly messy--how forceful--a nosebleed accompanied with a sneeze can be. A sneeze occurs with great force, very much like a gunshot. The spatter created from this circumstance can easily be confused

with that of a gunshot. In this case, the location of the spatter on the side of the door is consistent with someone sitting in the passenger seat and turning away from the driver to sneeze. In my opinion, to a reasonable degree of scientific certainty, the blood spatter pattern shown in the photos is just as likely to be created by a sneeze combined with a nosebleed as a gunshot. Further, it is impossible to be sure about either without being able to examine the victim's body to determine the location of the wound. Of course, this assumes there is a victim with a wound. Here there's no body; there's no victim we can see or ask if there was a gunshot or a sneeze combined with a nosebleed. Nicki Shore may be alive and well someplace; we don't know.

5. The blood on the seat also is consistent with a nosebleed. The size of the drops, even though they are soaked into the fabric, indicates that they are not from force. Blood is just like any other liquid and gravity will affect it. When a nose bleeds, pure blood drips downward. The drop location on the seat is consistent with blood falling from the nose of an individual in a seated position with his or her head turned slightly to the side. Such a pattern also could be created by someone simply cutting his hand and not covering the wound promptly. There are several viable explanations for the blood stain besides the prosecution's theory that only a gunshot could have caused that particular bloodstain pattern. Additionally, in my opinion, to a reasonable degree of scientific certainty, the amount of blood in the car was consistent with a nosebleed – not a fatal injury – not death. That narrow focus on only one possible explanation – when many alternatives were reasonably possible – contributed to my leaving the State Laboratory.

6. Hair is a reliable source for obtaining a DNA profile. Of course, it is extremely important to collect a known sample. If it were confirmed that the hair sample was in fact from Nicki Shore, I would not dispute the State Laboratory findings that blood from the vehicle, the bullet and Sam's t-shirt was also from Nicki Shore. In the case of Sam's t-shirt, who knows when or how any blood was deposited. However, without a body for such confirmation, I do not concede that finding is accurate.

7. As for the blood on the bullet, I do not dispute that it is a match to the other blood samples allegedly taken from the vehicle. However, in my opinion, the sample has not been conclusively shown to

be from Nicki Shore. In any event, the presence of blood on a bullet in the victim's vehicle certainly does not eliminate the nosebleed/sneeze theory. To the contrary. If the bullet had already been discharged into the vehicle, the blood could have dropped onto it just as it dropped onto the seat and door. Alternatively, the person with the nosebleed could have been holding a firearm and accidentally discharged it when s/he sneezed. The fact is, it is impossible to pinpoint the age of the blood or the date the bullet was fired. There is simply no conclusive evidence that the blood and the bullet are related other than by pure coincidence that both were found in the vehicle.

8. While not my primary expertise, I've seen enough ballistics analysis to know the results of testing the ballistics (Exhibit 5) were inconclusive. There's no evidence -- no certainty-- that the bullet found in Nicki Shore's vehicle came from the gun reported stolen by Sam Seaside's father.

9. I do charge for my services, as I am doing in this case. My fee, including my anticipated trial testimony, is \$2750.00, which is average for a private expert in my field with my level of education and experience. While I have done some work in connection with civil cases, I do testify primarily on behalf of defendants in criminal cases. I have been qualified as an expert in eighteen cases since starting my consulting firm. Incidentally, three of those cases were retrials of defendants whose convictions had been overturned because of mishandling of evidence by the State Laboratory agents (from counties other than Boulder County). I don't know of any case where evidence was falsified or deliberately "doctored" or tampered with. I would never accuse my former colleagues of that. My concern is cases like Sam Seaside's, where, once a suspect is identified, the investigators refuse to consider any other possible explanation.

Subscribed and Sworn to on this 1 Day of August, 2011

Parker Dee

Witness Signature

Exhibits

EXHIBIT 1



EXHIBIT 1

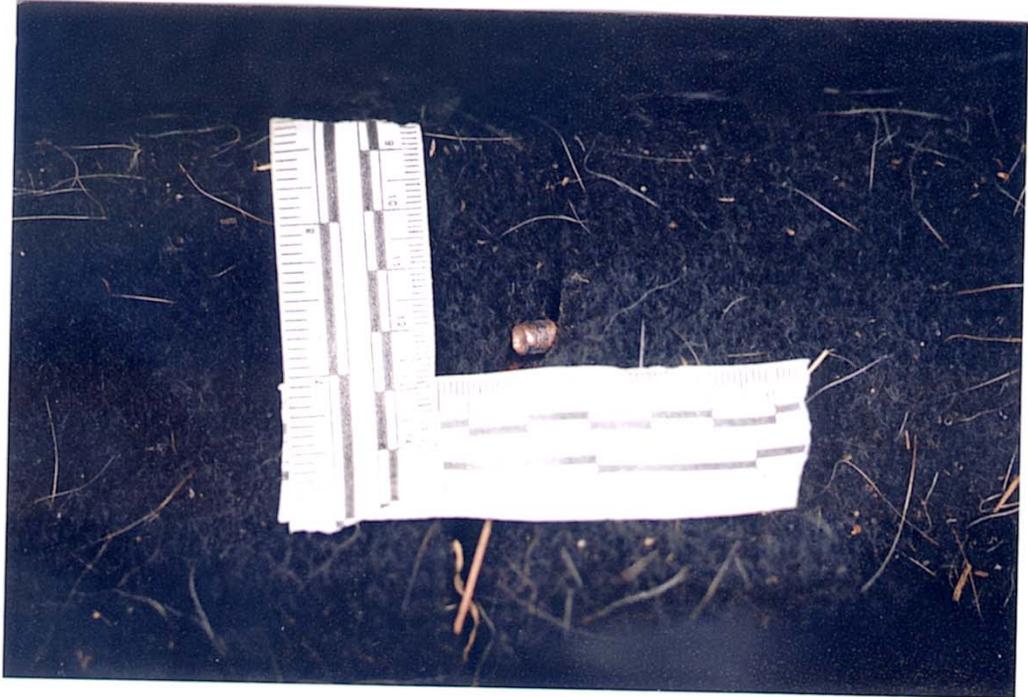


EXHIBIT 2

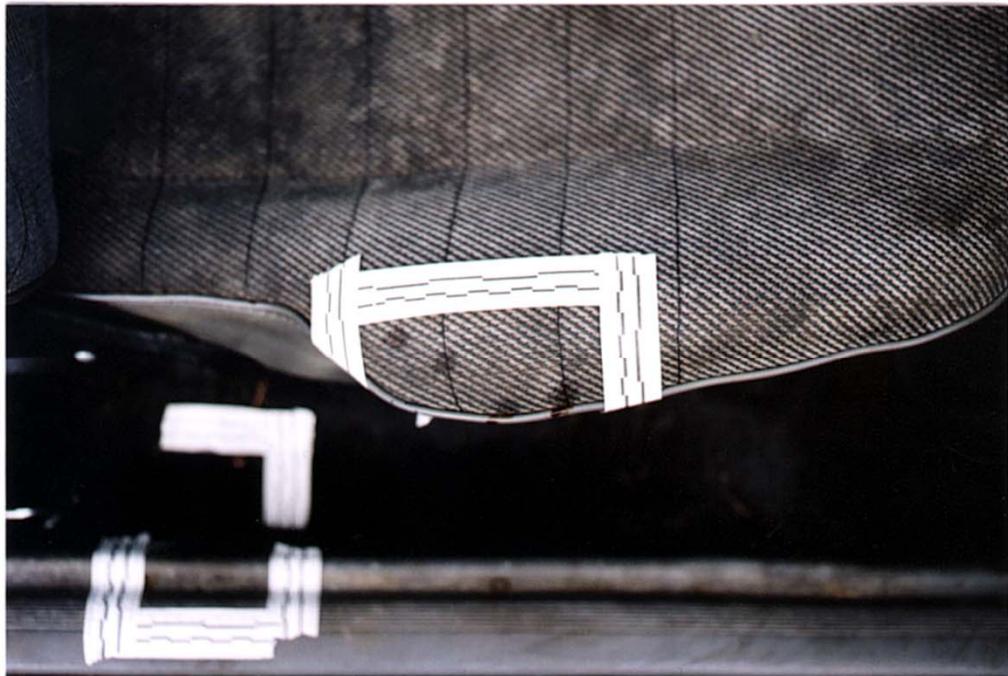


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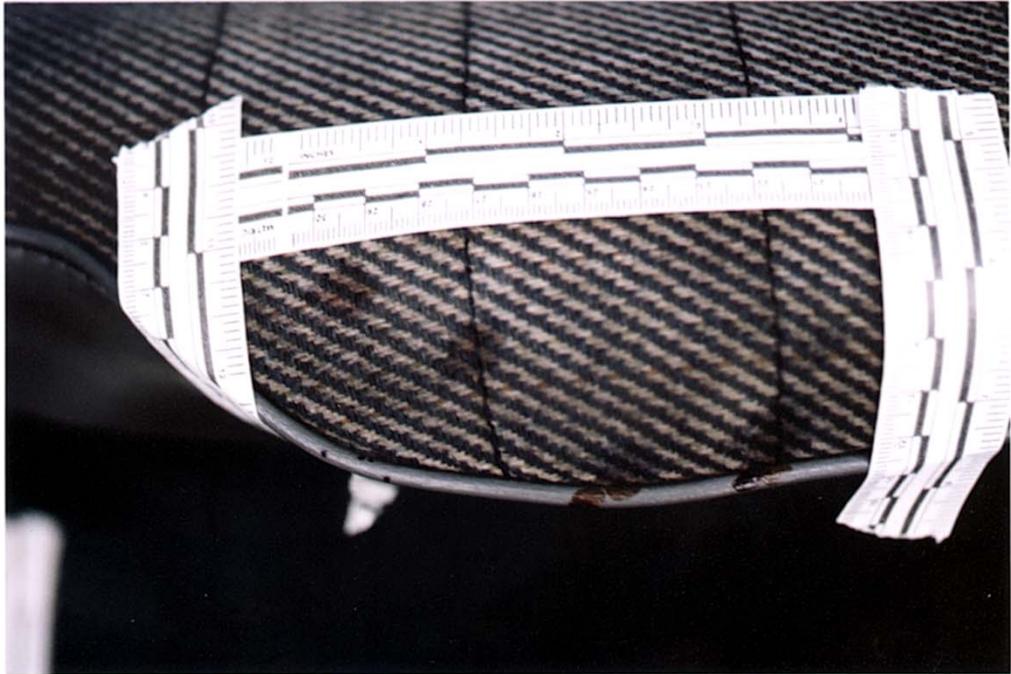


EXHIBIT 2



EXHIBIT 2

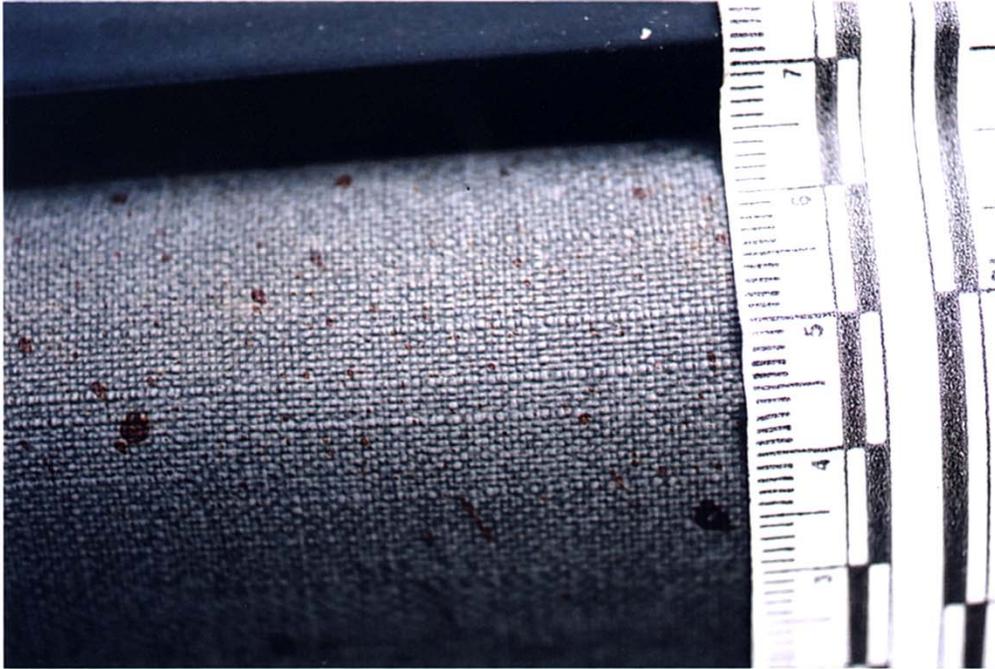


EXHIBIT 3

From the Colorado State Unit of Forensics Crime Scene Analysis Manual, 3rd edition

EXCERPT FROM CHAPTER 9 – DNA ANALYSIS

DNA stands for deoxyribonucleic acid. It is a very long complex molecule that is found in cells within our body. It is packaged as chromosomes within the nucleus of cells. When analyzing DNA a specific location on the chromosome is chosen, and the sequence of DNA at that particular location is looked at more closely. These locations are called locus (plural loci). The DNA sequence is made up of nucleotides. Within the DNA there are Short Tandem Repeats (STRs), which are 2 or more nucleotides that repeat within the sequence. The number of times a particular sequence is repeated varies among individuals, which allows for DNA profile to be developed.

Samples do not contain enough DNA to run analysis tests. Forensic examiners use a technique known as Polymerase Chain Reaction (PCR) to amplify the DNA, by making copies. Only the DNA at the locus of interest is amplified. Once amplified a method known as electrophoresis is used to determine the number of repeats of the STR present at that particular locus. For this analysis 9 loci were used. Additionally, the amelogenin site was tested, which is used for sex typing.

DNA samples can be obtained from a number of sources including blood, saliva, and hair. Each source is equally reliable for obtaining a DNA profile. There is no reliable scientific method presently available to determine the age of dried blood or loose hair.

EXCERPT FROM CHAPTER 14 – BLOOD SPATTER ANALYSIS

When force is applied, blood will project out and away from the impact force, thus creating a spatter pattern. The greater the force applied to blood, the smaller the spatter stains created. Therefore, examiners can tell the difference between high-speed spatter impact (gunshot or sneeze), medium-speed impact (blunt trauma), and low-speed impact (body in motion/gravitational pull) by the size of spatter drops projected out and away. Based on the location of spatter stains, an examiner might be able to determine the victim's position when the force was applied (standing, sitting, etc.).

Once an open wound has occurred, there will be blood that will exit the wound. The location of the wound on the body and the severity of the wound will determine the amount of blood loss without any treatment. In dealing with gunshot wounds, the smaller the caliber the bullet (again, based on wound location) may yield less blood loss than a larger caliber bullet. This does not apply to shotguns at close range. Head wounds, and in most cases, chest wounds, will create a greater pooling of blood than other parts of the body with open wounds excluding a severed artery. Blood, like any other liquid when flowing, will seek the lowest level. Bleeding inside of clothing will create transfer stains. Therefore, when blood makes contact with another surface instead of the free-flowing drops from an unprotected wound, the stains will have less volume of liquid and will appear differently.

EXHIBIT 4

Colorado State Unit of Forensics
Forensic DNA Analysis

Agent Casey Vince
DNA Analyst

Analysis Date: 05/26/11
CDPHE Lab No.: L03-3639
CSA Case No.: 2011-1445
Incident Date: 05/22/11
Victim: Shore, Nicole
Suspect: Unknown

SEROLOGY ANALYSIS

ITEMS SUBMITTED:

1. Swab from car door
2. Swab from front passenger seat
3. Swab from bullet recovered from vehicle
4. Hair collected from brush – victim standard
5. T-shirt

RESULTS OF EXAMINATION:

1. Human blood identified. See DNA Analysis
2. Human blood identified. See DNA Analysis
3. Human blood identified. See DNA Analysis
4. See DNA Analysis
5. Human blood identified. See DNA Analysis

DNA ANALYSIS

ITEMS ANALYZED:

- 1) Swab from car door
- 2) Swab from front passenger seat
- 3) Swab from bullet recovered from vehicle
- 4) Hair Standard
- 5) T-shirt

EXAMINATION

DNA profiles were developed from all items above using Short Tandem Repeat (STR) PCR DNA analysis. The results of the analysis are shown in Table 1.

Analysis Date: 05/26/11
 CDPHE Lab No.: L03-3639
 CSA Case No.: 2011-1445
 Page 2 of 2

RESULTS

The DNA profile developed from items 1, 2, 3 and 5 matches Nicole Shore. The probability of randomly selecting an unrelated individual from the population having a DNA profile matching items 1, 2, 3 and 5 is approximately 1 in 6.1 trillion.

Table 1 – Profiler Plus

Items	D3 S135 8	VW A	FGA	D8 S117 9	D21 S11	D18 S51	D5 S818	D13 S317	D7 S317	Amelogenin
Car Door (1)	15,16	16,17	21,23	12,14	29,30	17	11	11,13	10,12	XX
PassSeat (2)	15,16	16,17	21,23	12,14	29,30	17	11	11,13	10,12	XX
Bullet (3)	15,16	16,17	21,23	12,14	29,30	17	11	11,13	10,12	XX
Hair Std (4)	15,16	16,17	21,23	12,14	29,30	17	11	11,13	10,12	XX
T-shirt (5)	15,16	16,17	21,23	12,14	29,30	17	11	11,13	10,12	XX

These examinations were conducted by Agent Casey Vince, Forensic DNA Analyst, Colorado State Unit of Forensics, Boulder County Division.

_____/s/_____
 Casey Vince
 Forensic DNA Analyst

 Date 6/04/11

EXHIBIT 5

State Unit of Forensics
Ballistics/Firearms Analysis

	Analysis Date:	05/27/11
	CDPHE Lab No.:	L07-4572
	CSA Case No.:	2011-1445
	Incident Date:	05/22/11
Cameron Paul	Victim:	Nicole Shore
Firearms Analyst/CCSA	Suspect:	Seaside, Sam

ITEM(S) SUBMITTED:

- (1) One fired .22 caliber bullet recovered from car.
- (2) One fired .22 caliber bullet recovered from stump.
- (3) One fired .22 caliber bullet recovered from stump.
- (4) One fired .22 caliber bullet recovered from stump.

RESULTS OF EXAMINATION: Item 1 was weighed, examined, and found to be most consistent with bullets loaded into some .22 caliber cartridges manufactured by the Olin Corporation and marketed under the Winchester brand name.

Additional examinations revealed that Item 1 was fired out of a gun barrel having six (6) land and groove impressions with right twist. Based on these general rifling characteristics, a list of guns that could have fired Item 1 includes, but is not limited to, the following:

High Standard	Remington
H&R (Harrington & Richardson)	Targa
Ruger	Llama
Astra	MAB
Clerke	Omega
Eig Imports	Armcor
CDM	Herbert Schmidt
FIE	Cody
Madison Import	Kimel
American Firearms	Iver Johnson
Hawes	Regent

Analysis Date: 05/27/11
CDPHE Lab No.: L07-4572
CSA Case No.: 2011-1445
Page 2 of 2

RESULTS OF EXAMINATION, CONT:

Item 1 may be suitable for identification with a specific firearm should one be recovered.

The Item 2, Item 3, and Item 4 fired bullets were also weighed, examined, and found to be most consistent with bullets loaded into some Winchester brand .22 caliber ammunition.

Items 2, 3, and 4 were microscopically compared with each other and with Item 1. Sufficient class characteristic agreement was noted to conclude that all four bullets could have been fired out of the same gun barrel. However, due to severe surface abrasion, a positive conclusion could not be reached. Although Item 4 did exhibit several areas of individual agreement with Item 1, these were not sufficient to effect an identification.

These examinations and comparisons were conducted by Agent Cameron Paul, Firearms Analyst/ CDPHE, State Unit of Forensics, Boulder County Division.

_____/s/
Cameron Paul
Firearms Analyst/ CDPHE

5/27/11
Date

EXHIBIT 6

INCIDENT REPORT
 AGENCY ID: 08-47382
 CASE NO. 03-78999

	INCIDENT TYPE	COMPLETED	FORCED ENTRY	PREMISE TYPE	VICTIM TYPE	
	<i>Robbery</i>	<input type="checkbox"/> NO <input type="checkbox"/> YES	<i>Possible</i>	<i>Residence</i>	<i>Individual</i>	
EVENT	LOCATION <i>unknown</i>				ZIP	
	INCIDENT DATE (FROM) <i>unknown</i>	TIME <i>unknown</i>	DATE (TO)		TIME	
VICTIM #1	NAME <i>Seaside, Michael R.</i>		SEX <i>male</i>	DOB <i>12/07/57</i>	AGE <i>55</i>	
	ADDRESS <i>17990 Lake Ave.</i>		CITY <i>Boulder</i>	STATE CO	ZIP <i>80304</i>	
	HEIGHT <i>N/A</i>	WEIGHT <i>N/A</i>	EYES <i>N/A</i>	HAIR <i>N/A</i>	DAYTIME PHONE <i>(303)555-6698</i>	EVENING PHONE <i>(303)555-0071</i>
	VISIBLE INJURIES <input type="checkbox"/> NO <input type="checkbox"/> YES DESCRIBE: <i>N/A</i>			COMPLAINT OF NON-VISIBLE INJURIES <input type="checkbox"/> NO <input type="checkbox"/> YES DESCRIBE: <i>N/A</i>		
	VICTIM USING ALCOHOL <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE: <i>N/A</i>			VICTIM USING DRUGS <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE: <i>N/A</i>		
	NAME		SEX	DOB	AGE	
ADDRESS		CITY		STATE	ZIP	
HEIGHT	WEIGHT	EYES	HAIR	DAYTIME PHONE	EVENING PHONE	
SUSPECT #1	PHYSICAL PECULIARITIES			MEDICAL CONDITIONS		
	VISIBLE INJURIES <input type="checkbox"/> NO <input type="checkbox"/> YES DESCRIBE:			COMPLAINT OF NON-VISIBLE INJURIES <input type="checkbox"/> NO <input type="checkbox"/> YES DESCRIBE:		
	SUBJECT USING ALCOHOL <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE:			SUBJECT USING DRUGS <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE:		
	ARRESTED <input type="checkbox"/> NO <input type="checkbox"/> YES	AT/NEAR SCENE <input type="checkbox"/> NO <input type="checkbox"/> YES	ARREST DATE/TIME	ARRESTING OFFICER	# ARRESTED	

NARRATIVE	<p>DATE ENTERED: 05/16/11</p> <p><i>ON APPROX. 05/15/11 AT APPROX. 09:30, VICTIM CALLED BOULDER PD AND STATED THAT A GUN WAS STOLEN FROM RESIDENCE. UPON ARRIVAL AT THE RESIDENCE, R/O DID EXAMINE THE STUDY, DINING ROOM, AND KITCHEN. R/O OBSERVED LOCKED GUN CABINET WITH KEY PLACED ON THE TOP. R/O FURTHER OBSERVED A BROKEN WINDOW IN THE DINING ROOM. R/O WAS UNABLE TO DETERMINE IF THE WINDOW WAS BROKEN FROM INSIDE OR OUTSIDE THE RESIDENCE AS ALL DISPLACED GLASS HAD BEEN REMOVED.</i></p> <p><i>VICTIM REPORTED BEING OUT OF TOWN FROM 05/13/11 TO 05/15/11. BROKEN WINDOW AND MISSING FIREARM WERE DISCOVERED EVENING OF 05/15/11. VICTIM IDENTIFIED FIREARM AS HARRINGTON & RICHARDSON 9-SHOT 22 CAL REVOLVER. STATE FIREARM PERMIT NO. 96-89763.</i></p> <p><i>R/O INTERVIEWED SAM SEASIDE. SAM REPORTED HAVING FRIENDS OVER FOR A PARTY AT VICTIM'S RESIDENCE ON 05/14/11 AND GIVING ACCESS TO THE STUDY TO FRIENDS. SAM DENIED GIVING ACCESS TO THE GUN CABINET. SAM IDENTIFIED TWENTY-SEVEN INDIVIDUALS PRESENT AT THE RESIDENCE ON 05/14/11.</i></p>								
	PROPERTY	TYPE:	<i>firearm</i>	<i>window</i>					VALUE
		STOLEN:	<i>xxxxxxx xx</i>						<i>\$900.00</i>
		DAMAGE D:		<i>xxxxxxx xx</i>					<i>\$200.00</i>
RECOVERED:									
ADMIN	SUSPECT IDENTIFIED <input type="checkbox"/> NO <input type="checkbox"/> YES		SUBJECT LOCATED <input type="checkbox"/> NO <input type="checkbox"/> YES		<input type="checkbox"/> ARRESTED UNDER 18 <input type="checkbox"/> ARRESTED OVER 18		<input type="checkbox"/> ACTIVE <input type="checkbox"/> CLOSED <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> EXCEPTIONAL CLEARANCE		
	REASON FOR EXCEPTIONAL CLEARANCE: <input type="checkbox"/> SUSPECT DEATH <input type="checkbox"/> NO PROSECUTION <input type="checkbox"/> EXTRADITION DENIED <input type="checkbox"/> VICTIM DECLINED COOPERATION <input type="checkbox"/> JUVENILE TRANSFER								
	REPORTING OFFICER(S)		DATE		UNIT	APPROVING OFFICER			
	<i>SGT. Anna Bee, Boulder Police Dept.</i>		<i>05/16/11</i>		<i>08</i>	<i>CPT. Jessica Zacharias</i>			

EXHIBIT 7

STATE LABORATORY ANALYST STATEMENT OF QUALIFICATIONS

NAME: Cameron Paul
POSITION: Chief CSA
DIVISION: Boulder County
DISCIPLINE: Firearms/Ballistics

EDUCATION:

May 1988	Bachelor of Arts Degree in Criminology Minor in Physics University of Denver
May 1991	Masters Degree in Forensic Science University of Colorado, Colorado Springs

PROFESSIONAL WORK EXPERIENCE:

August 2007 to Present	Chief of Crime Scene Analysis State Unit of Forensics, Boulder County Division
March 1995 – August 2007	Senior Firearms and Ballistics Analyst State Unit of Forensics, Boulder County Division
August 1991 – March 1995	Firearms and Ballistics Analyst Colorado State Unit of Forensics Headquarters, Denver

OTHER TRAINING:

Colorado Criminal Justice Academy (May 1991 – August 1991)
Association of Firearms and Toolmarks Examiners Certification (April 1995)
Explosives and Bomb Scene Investigation Clinic – Denver P.D. (November 1996)
Counter-Terrorism Clinic – FBI Headquarters, Washington, D.C. (1997)
FBI National Academy (September 1998 – December 1998)
Advanced Techniques in Firearms Identification Seminar (July 1999)
Sniper Techniques and Surveillance Clinic – Denver P.D. (2001)
Barretta Armorers School (2001)
State Laboratory Senior Management Seminar (2007, 2008, 2009, 2010)

PROFESSIONAL AFFILIATIONS:

Association of Colorado Law Enforcement Officers, January 1992 – present
Association of Firearms and Toolmarks Examiners, January 1995 – present

EXHIBIT 8

CDPHE DNA ANALYST STATEMENT OF QUALIFICATIONS

NAME: Casey Vince
POSITION: Senior Analyst
DIVISION: Laboratory Services
DISCIPLINE: DNA/Crime Scene Blood Analysis

EDUCATION:

May 1999	Master's of Science Degree in Forensics University of Colorado, Boulder, CO
August 1996	Bachelor of Science Degree in Chemistry, Serology emphasis University of North Carolina, Greensboro, NC

PROFESSIONAL WORK EXPERIENCE:

June 1999 to Present	Forensic DNA Analyst Colorado Department of Public Health and Environment, Laboratory Services Division, Denver, CO
September 1996 to June 1999	Trace Evidence Examiner Colorado Department of Public Health and Environment, Laboratory Services Division, Denver, CO

OTHER TRAINING:

May, 2002	Advanced DNA Technology Workshop The Bode Technology Group
October, 2001	Statistics Workshop 12 th International Symposium on Human Identification Promega Corporation
August, 2001	Short Tandem Repeat Analysis by Capillary Electrophoresis FBI Academy, Quantico, VA.
December 2000	Homicide Bloodspatter/Violent Crime Profile Seminar CDPHE, Denver, CO
June 1998	Bloodstain Pattern Interpretation, Short Course University of Tennessee, Memphis, TN

PROFESSIONAL AFFILIATIONS:

International Association of Bloodstain Pattern Analysis, January 2000 – present
Association of Colorado Law Enforcement Officers, January 1997 – present

Contributing editor, Chemical Rubber Company (CRC) Press (project-based), including work on Hank, Stuart L., Schoemer, Nicolae J., "Crime Scene Interpretation of Bloodstain Evidence," 3rd Ed, CRC Press 2001, and Peever, Timms; Gross, Rondelle K., "Medium and High Speed Pattern Analysis" CRC Press 2007.

Consulting expert, National Association of Criminal Attorneys, Champion Magazine, September 2009-present

EXHIBIT 9

Parker Dee
Crime Scene Analysis, LLC
100 S. Main Street, Suite 160
Boulder, CO 80302
(303) 555-4435 (telephone)
(303) 555-1010 (facsimile)

PROFESSIONAL EXPERIENCE

President
Crime Scene Analysis, LLC June 2001 - Present

Senior DNA Analyst at State Laboratory
Colorado Department of Public Health and Environment, Aug. 1981 – June 2001
Laboratory Service Division
Promoted to Senior in 1992 because of awards, outstanding performance, and extensive forensic contributions to police investigations

Instructor of Forensics
University of Colorado, Boulder, CO Aug. 1983 - Present

EDUCATION

Masters of Forensic Sciences, magna cum laude May 1981
University of Colorado, Boulder, CO

Bachelor of Science in Biochemistry, magna cum laude Dec. 1979
University of Colorado, Boulder, CO

ACHIEVEMENTS

Journal of Forensics Science, Managing Board 2004 - Present

Journal of Forensic Sciences Articles:
Latest Developments in Bloodstain Patterns Jan. 2010
Bloodstain Pattern Analysis – Gunshot or Not? April 2005
DNA Identification Using Blood Samples Sept. 2001

Testified as an expert witness for prosecution (1984 – 2001) and for defense (2001 – present)

ADVANCED TRAINING

FBI Training Academy, Quantico, VA
14 programs on DNA, bloodstains, and more; presented twice on bloodstains

International Association for Identification (IAI)
17 programs on DNA, bloodstains, ballistics, and more

PROFESSIONAL AFFILIATIONS

Colorado Association of Law Enforcement Officers Jan. 1984 – Dec. 2001

International Association for Identification (AIA) Jan. 1984 - present

International Association of Bloodstain Pattern Analysts Jan. 1984 – present