



TRIAL COMPONENTS

Opening Statements provide a clear and concise overview, or “road map,” of the case, told in story form, summarizing the testimony and evidence that will be presented during the trial. Students receiving the highest marks should have established a theme and should have presented their statement in a passionate manner. The opening statement should not be argumentative.

Direct Examinations elicit, in a coherent and organized fashion, the information the witness has to contribute to the case. The examiner’s questions should be short, simple and clear, neither “leading” (suggesting the answer) nor overly broad (calling for a rambling narrative). The goal of direct examination is to keep the focus of attention on the witness and, within the confines of the question and answer format, to allow the witness to convey the testimony in a believable and understandable way.

Cross Examinations undermine the testimony of the witness by demonstrating its unreliability, e.g., by pointing out prejudice or bias, contradictions of prior statements, lack of truthfulness, etc. The cross examiner’s questions, unlike those of the direct examiner, should be “leading” (e.g., “Isn’t it true that . . .” or “. . ., didn’t you?”) and should attempt to limit the witness’ responses to “Yes” or “No” answers. Open-ended questions should be avoided. A good cross-examiner is able to guide and control the witness’ responses without being quarrelsome, harassing, contentious, rude or intimidating.

Redirect Examinations are permitted following cross-examination of each witness at the Presiding Judge’s discretion. Redirect should be brief and limited to the scope of issues raised in cross-examination. Repetitive testimony should be avoided. Redirect is optional and should be used only when necessary to rehabilitate a witness’ credibility or to give the witness an opportunity to explain a misunderstanding or misimpression created during cross-examination. Redirect examination should consist of open-ended questions.

Re-cross Examinations are also permitted at the Presiding Judge’s discretion, following any redirect examination, at the. The same principles noted immediately above apply to re-cross as well as to redirect; however, re-cross examination questions should consist of close-ended questions.

Closing Arguments summarize clearly and persuasively the issues of the case in terms of the applicable law and describe how the evidence presented during the trial dictates a favorable verdict.

The argument should review the testimony of the witnesses and the documents introduced into evidence, noting the strengths of one's own case and the weaknesses of the other side's case. Ideally, closing arguments reintroduce the theme that the team has presumably used throughout the opening statement and examination phases of their performance.

Witnesses should be knowledgeable about their roles, and the information contained within their affidavits. They should be confident in their answers, and believable in whatever personality traits they demonstrate when answering. Witnesses need to be responsive to both direct and cross-examining attorneys and answer questions appropriately within their character's role. They should be credible, persuasive, passionate, characteristic, engaging, and capture and hold the jury's attention.

Other aspects of the trial to consider as you evaluate the students' performances include the following:

- During the examination of witnesses, objections may be raised as to the admissibility of specific testimony or other evidence. The Presiding Judge will rule upon these objections, using the Mock Trial Rules of Evidence. The Presiding Judge will also rule upon any objections raised regarding violations of the Rules of the Competition and the Rules of Procedure
- Less critical is the judges' rulings (i.e., whether the objection is sustained or overruled) than the way in which the students are able to state and respond to the objections. Student objections and responses to objections during the trial provide opportunities to observe the students' abilities to think quickly on their feet and to use what they know about the rules to make logical arguments to the Presiding Judge. The score of a student attorney should include the ability to make and rebut objections effectively.
- During the examination of witnesses, various exhibits may be introduced; however, students are not required to introduce evidence during witness examinations. Students are provided with a model procedure for the introduction of exhibits. The score of a student attorney who introduces such evidence during her/his examination of a witness should include the ability to perform this task effectively.
- Throughout the trial, students should be able to adapt their trial management to the events unfolding in the courtroom. Their responses to a witness who gives an unexpected answer or to an unforeseen evidentiary ruling by the Presiding Judge are indications of their level of preparedness and insight into the case. Examining attorneys should listen carefully to the answers they receive from witnesses and frame their next questions accordingly; closing arguments should be crafted to reflect how the trial actually transpired, rather than delivered exclusively from a "canned" script.

- Good witnesses can make or break a trial. Witness performances on direct-examination should be well prepared, well performed and reflect knowledge and understanding of case issues. Additionally, witnesses should be able to withstand difficult cross-examination. Look for the witness' ability to create their character's role and to stay in that role, to anticipate lines of questioning without becoming excessively non-responsive or evasive, to avoid becoming flustered under cross-examination, and to project her/his character's believability and trustworthiness. Witnesses should perform with conviction and passion within their role.