

# **Mock Trial**

**a script and how-to guide**

for the case:

**Wicked Witch v. Snow White**



**Kindergarten - 6th Grade**

*Wicked Witch*

v

*Snow White*

Mock Trial  
Script and How-to Guide

Grades K through 6



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## MOCK TRIAL SCRIPT

THE QUEEN,  
Plaintiff

v.

SNOW WHITE,  
Defendant

(For Pre-School Children Through Primary Grades)

Prepared by  
Carol Anshaw  
Chicago, Illinois

## PARTICIPANTS IN TRIAL

Judge

Princess Snow White

The Queen (S. White's Wicked Stepmother)

The Queen's Huntsman, Ralph

Seven Dwarfs: Dopey, Sleepy, Sneezy, Grumpy, Bashful, Happy and Doc

Plaintiff's Counsel

Defendant's Counsel

Jurors

Bailiff

SCENE:

A rainy morning at The Edge of the Forest Courthouse. The Bailiff enters the courtroom and calls the case of The Queen, also known as Snow White's Wicked Stepmother, versus Snow White. The Queen is seated with her attorney at the plaintiff's table. Her attorney is forced to sit at the far end since all the space available is taken up by her royal robes and cape and train. Snow White is seated with her attorney at the defendant's table. She is dressed in a simple jumper and blouse. Her friends, the Seven Dwarfs, are seated on a bench behind the parties and their attorneys. One of the dwarfs has already fallen asleep while another is sneezing constantly. The gallery is filled with forest animals. The courtroom smells like damp fur.

JUDGE:

This is the case of the Queen versus Snow White. As I understand the pleadings filed in this case, the charge against Snow White is that she stole the Queen's trademark - "The Fairest One of All." Do counsel for the parties wish to make any opening statements?

Q ATTY:

Your honor and members of the jury, in this case we will show that the defendant, Snow White, mistreated her own loving stepmother, the Queen, hurting her feelings terribly. We will show that, instead of trying to make her stepmother happy, Ms. White stole the Queen's trademark, "The Fairest One of All" by tricking the Queen's Magic Mirror into naming Snow White as the Fairest One of All. Thank you, your honor and kind members of the jury.

*(The attorney for the Queen smiles broadly at the jury as he/she takes his/her seat next to the Queen at the table.)*

JUDGE:

Does counsel for S. White wish to make an opening statement?

SW ATTY:

Your honor, members of the jury. The Queen has made a foolish charge out of pure vanity. We will show that Snow White did nothing whatsoever to trick the Magic Mirror. The mirror simply spoke the truth. The Queen cannot have a valid trademark in the title, "The Fairest One of All" if she no longer is the most beautiful person in the kingdom. We will show that Snow White did nothing wrong. She is merely the unwitting victim of her

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stepmother's jealousy. Thank you, your honor and members of the jury.

JUDGE: Very well. Call your first witness.

Q ATTY: I call the Queen as my first witness.

*(The Queen gets up, and goes forward to be sworn in.)*

JUDGE: Bailiff, please swear the witness.

BAILIFF: Please raise your right hand.

*(The Queen does so.)*

Do you swear that the evidence you are about to give is the truth, the whole truth, and nothing but the truth?

QUEEN: How dare you even ask such an impertinent question, young woman. I am the Queen, after all.

JUDGE: Just say "I do," if you please, Your Majesty.

QUEEN: I do.

JUDGE: Please be seated.

Q ATTY: Please state your name.

QUEEN: Queen. If you wish to be less formal, you may call me "Your Majesty."

Q ATTY: Address?

QUEEN: Well, the palace, of course.

Q ATTY: And it is in the palace that the Magic Mirror is on display?

QUEEN: Yes. In the royal bedchamber.

Q ATTY: Where precisely in the royal bedchamber?

- QUEEN: On the wall, of course. You know - "Mirror, mirror, on the wall..." I used to just have it propped on the floor, but somehow "Mirror, mirror on the floor, who's the one we all adore?" didn't have quite the right ring to it...
- Q ATTY: Yes, quite. But could you also tell us where you came by such an unusual decorative item as a Magic Mirror?
- QUEEN: Well, the truth is I was driving through Transylvania one summer and these witches were having a garage sale. Boy, if you ever wanted to stock up on eye of newt...
- Q ATTY: Ah yes...well...let's move along to the morning of April 17, 1995. Did anything unusual happen that morning?
- QUEEN: Well, it was a perfectly horrible morning. I was in my bedchamber. My handmaidens were helping me dress. And then I saw this tiny spot on my royal robes, and so we had to call in the royal drycleaner. Then I broke a nail and had to summon the royal manicurist. It's not that I'm vain. It's that so many people come to pay their respects to me.
- Q ATTY: I'm sure. We all know you are a well-loved monarch.
- QUEEN: I make sure of that -- by chopping off the heads of those who don't love me.
- Q ATTY: Ah, yes, well...Please go on.
- QUEEN: Well, finally I was just about receive that day's visitors. I stopped by the Magic Mirror for a moment, you know, to check it out.
- Q ATTY: Check it out?
- QUEEN: Yes, I always ask it, "Who Is the Fairest One of All?"
- Q ATTY: What happened next?

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QUEEN: Well, the foul thing said that Snow White was the Fairest One of All. At first I thought it must be a technical glitch - you know, something in the software. So I banged on it a little. It's like the Coke machine in the palace basement. Sometimes you have to give it a good whack to get it to cough up.

Q ATTY: What, if anything, did you see when you walked out of your chambers on the morning of April 17, after the incident you have just described?

QUEEN: I saw Snow White walking away from my chambers toward the great guildhall at the center of the palace.

Q QTTY: Was her bed chamber in that part of the palace, near the royal bedchamber?

QUEEN: Most assuredly not! She doesn't sleep in the palace.

Q ATTY: How often did you ask the Magic Mirror who is the "Fairest One of All?"

QUEEN: Every day. I like to keep on top of the situation.

Q ATTY: And had the Magic Mirror ever named anyone other than you as the "Fairest One of All?"

QUEEN: Why, never, of course. Why would it?

Q ATTY: Had you registered your trademark, "Fairest One of All?"

QUEEN: Yes, I had the royal attorney do that for me.

*(Queen's attorney takes the certificate from the Fairytale Trademark Office and has it marked as an exhibit.)*

Q ATTY: Your Majesty, I now hand to you what has been marked as Plaintiff's Exhibit A. Is that your trademark certificate?

QUEEN: Yes it is.

Q ATTY: I have no further questions for this witness.



SW ATTY: I'd like to cross-examine the witness briefly, if I may.

*(Snow White's attorney steps up to the witness stand.)*

SW ATTY: Your Majesty, did you register your trademark in the Federal Trademark Office?

Q ATTY: Objection! That is irrelevant! It is only necessary to register the trademark in the Fairytale Trademark Office!

JUDGE: I agree. Objection sustained. Do you have any other questions for this witness?

SW ATTY: One more, your Honor. Even though Snow White is your stepdaughter, you force her to work as servant in the palace, isn't that correct?

QUEEN: So? Does the girl no harm that I can see. Actually, I look at as an act of kindness. Scrubbing floors gives her a good aerobic workout and she doesn't have to join a health club.

*(Scattering of boos and hisses and "Balderdashes" from dwarfs on bench.)*

JUDGE: Order in my court!

SW ATTY: Isn't it true, then, that while scrubbing those floors, she would have good reason to be anywhere in the palace, that her presence near the royal bedchamber needn't arouse the slightest suspicion?

QUEEN: Well, I suppose, if you're going to get technical about it. But I don't think for a minute that it was coincidental that day!

SW ATTY: I have no further questions for this witness.

JUDGE: You may step down, your Majesty.

*(The queen leaves the witness stand, assisted by her attorney.)*

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JUDGE: Plaintiff, you may call your next witness.

Q ATTY: Your Honor, that is all of our evidence. The Queen rests.

JUDGE: Then counsel for the defendant, please call your first witness.

SW ATTY: Your Honor, as my first witness, I will call Ms. S. White, otherwise known as Snow White.

*(Snow White leaves the defendant's table, receiving little pats on the back from various dwarfs as she stands up. She walks forward, raises her right hand to be sworn. The bailiff administers the oath. Snow White responds in a sweet voice, then sits down.)*

SW ATTY: Please state your name.

S. WHITE: Snow White

SW ATTY: Do you have parents?

S. WHITE: My father and real mother are dead. The Queen is my wicked stepmother.

Q ATTY: Objection! Witness is trying to prejudice the jury through character assassination of my client.

JUDGE: Objection sustained. The defendant will please refrain from giving opinions on the plaintiff's character.

S. WHITE: *(meekly)* It's just a little nickname, but all right.

SW ATTY: Would you please identify your wick...uh your step-mother for the members of the jury?

S. WHITE: *(sweetly)* She is sitting over at that table, the woman with the pimple on her nose.

*(Snow White points to the Queen at the plaintiff's table.)*

QUEEN: Pimple?! What pimple?!

SW ATTY: Where do you live?

S. WHITE: In the forest, with my friends, the Seven Dwarfs. I fix them porridge in the morning and then they go "Heigh Ho, Heigh Ho" and it's off to work they go at the jewel mine. Then I come over and clean the palace for my stepmother.

SW ATTY: Then why don't you live there with her?

S. WHITE: When the Magic Mirror first told my stepmother, the Queen, that she was no longer The Fairest One of All, she tried to have me killed. I don't think it's a good idea for me to live in the palace with her.

SW ATTY: Killed?! How did she try to have you killed?

S. WHITE: First, she ordered her huntsman, Ralph, to stab me with his dagger, then, as proof of my death, to cut my heart out and put it in a box, and bring it to the Queen. Nice, eh?

Q ATTY: Objection. We don't need this sort of commentary from the defendant.

JUDGE: Sustained. The defendant will please keep to the facts of the matter and keep her opinions to herself.

SW ATTY: How did you find out about this murder plot?

S. WHITE: Well, Ralph took me into the forest to kill me, but instead he told me what the Queen had ordered him to do. He warned me to hide from her.

Q ATTY: Objection, your Honor! I move to strike as hearsay the testimony of Snow White about what the Huntsman said the Queen told him.

SW ATTY: Your Honor, if the Queen said this, the jury should know about it.

JUDGE: I agree! All admissions by the Queen will be allowed into evidence. The motion to strike is denied. Counsel, will

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the Huntsman testify in this trial? I would like to hear more on this matter.

SW ATTY: Yes, he will, your Honor. But right now I have a few more questions for this witness.

JUDGE: Very well. Please continue.

SW ATTY: Ms. White, did you trick the Magic Mirror into saying that you were The Fairest One of All?

S. WHITE: No, of course not. I don't care about that sort of thing at all. It's her stupid mirror. I think she picked it up at a garage sale some witches were holding. It has its own powers. No one can influence it one way or another. It's going to say what it says.

SW ATTY: I have no further questions.

JUDGE: Counsel for Her Majesty, do you wish to cross-examine the witness?

Q ATTY: No. I have no questions for this witness.

JUDGE: Then please call the next witness.

SW ATTY: Defendant calls the Huntsman, Ralph.

*(He takes the witness stand, glancing nervously at the Queen.)*

BAILIFF: Please raise your right hand.

*(Bailiff swears in huntsman.)*

SW ATTY: Sir, could you please describe the events that occurred on the day in question -- April 18, 1995?

RALPH: Well, following her Majesty's orders, I told Snow White we were going for a walk. I took her deep into the forest. She was having such a happy time, gathering flowers and ferns, talking with her friends, the birds and woodland animals. When we reached the heart of the forest,

I drew my dagger. As I crept up behind Snow White, she turned and screamed. She knew what was coming. When I saw the fear and sense of betrayal in her eyes, I knew I couldn't do it. I dropped to my knees and begged her forgiveness. I told her it was her stepmother'd ordered it, on account of getting disrespect from that mirror of hers. Then when I got back to the palace, I fooled the Queen by putting a pig's heart inside of the box instead of Snow White's. Of course, this didn't work because the first thing her Majesty did was run over to that mirror to check out the situation. "Mirror, Mirror on the Wall," she said, "Now who is the Fairest One of All?" And of course the mirror, which was no dummy and knew the whole story, tells her, "Over the seven jeweled hills, beyond the seventh fall, in the cottage of the seven dwarfs dwells Snow White, Fairest One of All."

SW ATTY: Can you recall the Queen's reaction?

RALPH: Well, she went ballistic.

*(He looks nervously over at the Queen, not wanting to offend.)*

In a regal way, of course.

SW ATTY: I have no further questions for this witness.

JUDGE: Is there any cross-examination?

Q ATTY: No, your Honor.

JUDGE: Huntsman Ralph, you may step down. Counsel, please call your next witness.

SW ATTY: Defendant rests, your Honor.

JUDGE: Counsel for Her Majesty, do you have any rebuttal, or does that conclude the evidence?

Q ATTY: It does. I have nothing further.

JUDGE: Are there any closing arguments?

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Q ATTY: Yes, your honor. We think it is clear from the case we've made that, on the morning of April 17, 1995, Snow White did willfully and maliciously tamper with the personal property of my client, the Queen, namely her Magic Mirror, and rig it so it would declare her, Snow White, the "Fairest of Them All," thereby violating her Majesty's properly registered trademark. We hope you will see the justice of our case and give a verdict of guilty.

JUDGE: Counsel for Ms. White?

SW ATTY: Yes, your Honor. Esteemed members of the jury. We think the facts as presented clearly show that the Magic Mirror speaks only the truth, and the truth is that Snow White is "The Fairest of Them All." Magic Mirrors, particularly this one, which was manufactured by witches in Transylvania, a country is not bound by the Fairytale Nations Trade Agreement, are not held responsible under our trademark laws. They are responsible only to the objective truth. We are sure you will see the inherent justice of this position and judge Snow White not guilty.

JUDGE: You have now heard the evidence. It is your job to decide whether Snow White is guilty of violating the Queen's trademark, or whether she is not guilty, by virtue of objectively being The Fairest of Them All. Please go with the Bailiff to the jury room and, after you have decided, please come back and inform the Court of your verdict.

BAILIFF Send someone out when you are done. I will be right outside the door. And you may, of course, if you choose to, whistle while you work.

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*(Jurors come back with their verdict.)*

JUDGE: Have you reached a verdict?

JUROR: Yes, we have, your Honor.

JUDGE:

What is that verdict?

JUROR:

The jury has voted and we find Snow White...

## GUIDE TO CONDUCTING MOCK TRIALS \*

### *INTRODUCTION*

The mock trial has proven to be an effective learning tool for elementary and secondary school students. It helps students develop useful knowledge about the law, questioning techniques, critical thinking, and oral advocacy skills.

Good mock trials will also leave student participants with an appreciation of the difficulties that judges, lawyers and juries face in attempting to present all relevant facts and legal arguments and insure the just resolution of the issues involved.

Below is a brief outline explaining the various types of mock trials that can be presented, how to prepare for and conduct mock trials in the classroom, and how to conduct mock trial competitions with other classes and schools.

### *TYPES OF MOCK TRIALS*

The mock trial begins where actual trials begin -- with a conflict or a dispute that the parties have been unable to resolve on their own. Mock trials may draw upon historical events, trials of contemporary interest, school and/or classroom situations, or hypothetical fact patterns. Most mock trials use some general rules of evidence and procedure, an explanation of the basic facts, and brief statements for each witness. Other mock trial formats range from free-wheeling activities where rules are created by the student participants (sometimes on the spot) and no scripts are used, to serious attempts to simulate the trial process based on simplified rules of evidence and procedure, to dramatic reenactments of historical trials in which scripts are heavily relied upon.

### *ELEMENTARY MOCK TRIALS*

Most of the suggestions in this section apply to secondary mock trials. Some of these are applicable to elementary students as well, but with modifications required by the age of the children.

*Before the mock trial:* Ask children to read the fairy tale, or read it to them. Ask them what happened in the story, and provide opportunities for questions and answers. Then the teacher (or lawyer) may want to introduce the children to the roles of people in the courtroom, and appropriate legal vocabulary. Explain that the children

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\* This Guide has been taken from the main article "From Classroom to Courtroom: The Mock Trial," which appeared in the ABA magazine, *Update on Law-Related Education*. It was written by Lee Arbetman and Ed O'Brien, both attorneys and former classroom teachers who are currently on the staff of Street Law, Inc., 918 16th Street, NW, #602, Washington, DC 20006, Phone: 202/293-0088, Fax: 202/293-0089.



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will be conducting a trial to determine guilt or innocence in a criminal trial or to determine liability (fault) in a civil trial. Then pass out the mock trial, and assign parts.

*The trial itself:* Kids will enjoy putting on the play--probably before an audience of parents, siblings, and well-wishers. The trial can end with the verdict, or you could go on to ask each jury member to present reasons for reaching the verdict.

*After the trial:* If a guilty verdict is reached, ask students about appropriate punishment. In a civil case, ask what damages are appropriate if liability is found. Kids can follow up by converting other fairy tales to mock trials. An attorney could be a resource person throughout the writing process. This will help children learn more about procedures, appropriate questions, objections, and courtroom roles.

### PREPARING FOR A MOCK TRIAL

After teaching students about the purpose of trials and the procedure involved, we suggest the following:

- A. Distribute mock trial materials to the students. The facts and basic law involved should be discussed with the entire class. Teachers may develop fact patterns and witness statements (e.g., brief summaries of each witness' testimony), have students develop them, or use the materials provided in this package.
- B. Try to match the trial to the skills and sophistication of your students. For example, if your students are unfamiliar with mock trials, you probably should begin with a simple exercise. Remember that the aim of mock trials isn't always to imitate reality, but rather to create a learning experience for students. Just as those learning piano begin with simple exercises, so those learning mock trials can begin simply and work up to cases which more closely approach the drama and substantive dimensions of the real thing.
- C. Students should be selected to play attorneys and witnesses, and then groups formed to assist each witness and attorney prepare for trial. A case could easily involve the entire class. For example, at least two could be assigned as witnesses and twelve students can serve as the jury.

Such a division of tasks directly involves approximately two dozen students, and others can be used as bailiff, court reporter, judge, and as possible replacements for participants, especially witnesses, in the event of an unexpected absence.

Still other students may serve as radio, television or newspaper reporters who observe the trial and then "file" their reports by making a presentation to the class in the form of an article or editorial following the trial.

- D. Students work in the above mentioned task-groups in class for one or more class periods, with the assistance of the teacher and an attorney or law student. During the preparation time, jurors might explore the role of the jury, the historical development of the jury system, and other topics related to their part in the mock trial.

Student attorneys should develop questions to ask their own witnesses and rehearse their direct examination with these witnesses. Witnesses should become thoroughly familiar with their witness statements so that their testimony will not be inconsistent with their witness statements. (These statements, which may be considered to be sworn-to pretrial depositions or affidavits, can be used by the other side to impeach a witness who testifies inconsistently with the statement).

On direct examination (that is, either the plaintiff's or defendant's attorneys questioning their own witnesses), questions should not be leading -- they should not have the answer included as part of the question. Leading questions may, however, be used in cross-examining a witness in order to impeach the witness' credibility in the testimony.

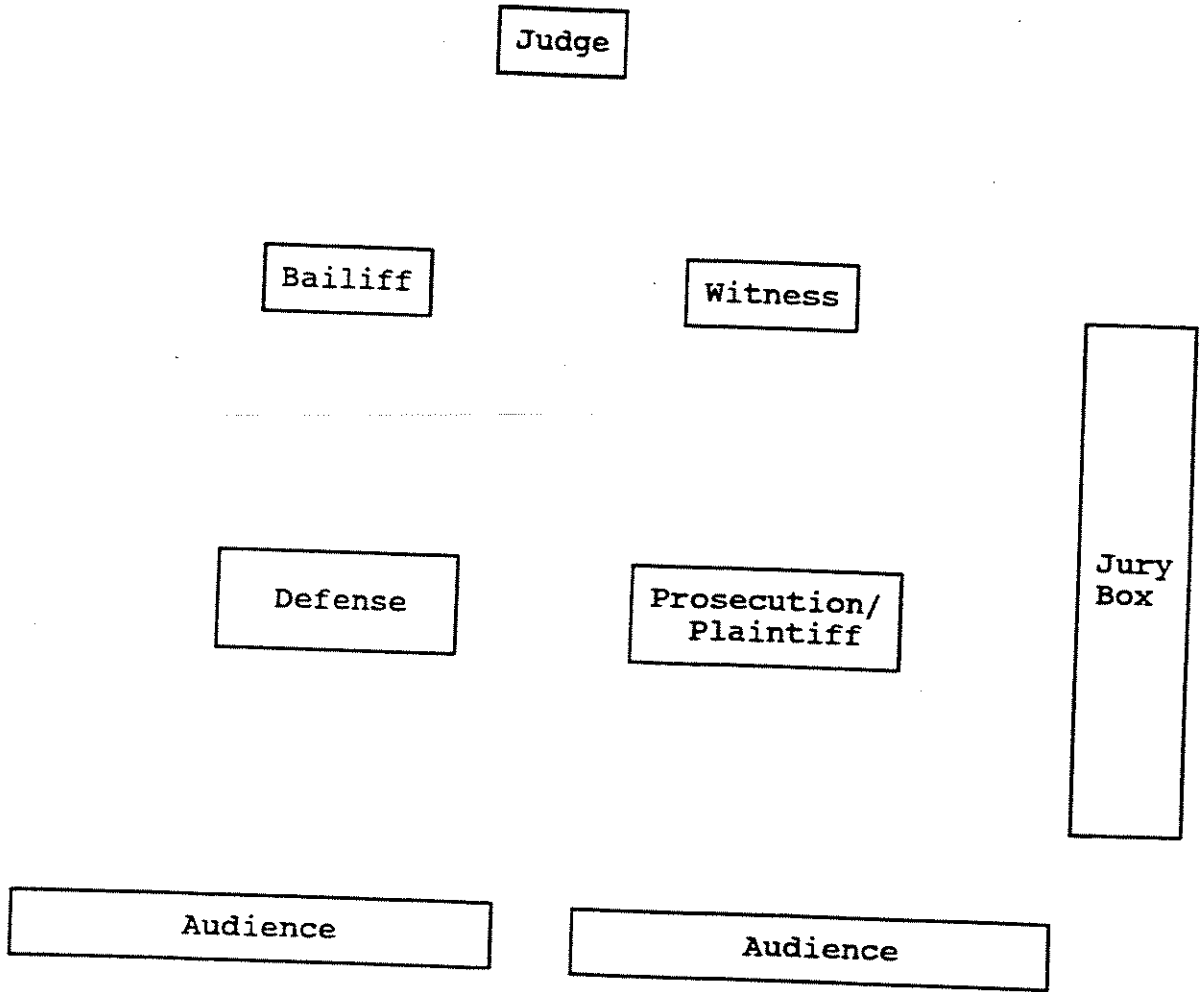
While some attorney-witness groups are constructing the questions and testimony for direct examination, other attorneys should be thinking about how they will cross-examine the witnesses for the other side. As mentioned, the purpose of cross-examination is to make the other side's witnesses seem less believable in the eyes of those determining the facts of the case (i.e., the jurors in a jury trial or the judge if no jury is used). Leading questions, sometimes requiring only a yes or no answer, are permitted. Frequently it is wise to ask relatively few questions on cross-examination so that the witness will not have an opportunity to reemphasize strong points to the jury.

During cross-examination, for example, the attorneys for the plaintiff might try to suggest that the testimony of the defense witnesses is inconsistent.

### **CONDUCTING A MOCK TRIAL**

- A. Once all preparation has been completed, convert the classroom into a courtroom by rearranging desks as shown in the diagram. It is also helpful to have long tables for each attorney's team to work from; the teacher's desk can serve as the judge's bench.

Layout of Classroom:



- B. Conduct the trial with a teacher, students or resource person (perhaps a law student, lawyer or actual judge) as a judge. A student jury may be used. The role of the jury is often minimized in television trials. Students should understand that the jury determines the facts in a case, primarily through their acceptance or rejection of the testimony offered by various witnesses for both sides. The judge deals with questions of law and explains to the jurors the key legal issue in the case.

Participants:

judge (could be a visitor to class with legal experience)

prosecutor(s) or plaintiff's attorney(s) in a civil case

defense attorney(s)

witnesses for the prosecution

witnesses for the defense

bailiff (swears in witnesses and marks evidence)

jury composed of twelve persons, one of whom should be named jury foreman; alternates may also be designated.

C. *Simplified Steps in a Trial:*

1. *Calling of case by bailiff:* "All rise. The Court of \_\_\_\_\_ is now in session. Honorable Judge \_\_\_\_\_ presiding."
2. *Opening statement:* First the prosecutor (criminal case) or plaintiff's attorney (civil case), then the defendant's attorney, explain what their evidence will be and what they will try to prove.
3. *Prosecution's or plaintiff's case:* Witnesses are called to testify (direct examination) and other physical evidence is introduced. Each witness called is cross-examined (questioned so as to break down the story or be discredited) by the defense.
4. *Defendant's case:* Same as the third step except that defense calls witnesses for direct examination; cross-examination is done by prosecution/plaintiff.

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5. *Closing statement:* An attorney for each side reviews the evidence presented and asks for a decision in his/her favor.
6. *Jury instructions (Jury trials only):* The judge explains to the jury appropriate rules of law that it is to consider in weighing the evidence. As a general rule, the prosecution (or the plaintiff in a civil case) must meet the burden of proof in order to prevail. In a criminal case this burden is very high. In order that innocent persons do not lose their freedom, the prosecution must set out such a convincing case against the defendant that the jurors believe "beyond a reasonable doubt" that the defendant is guilty. In a civil case, plaintiff has burden of proving his/her case by "a preponderance of the evidence." In most states the entire jury has to be convinced, though a Supreme Court case permits (but does not require) 9-3 verdicts in state noncapital criminal cases. Understanding that a unanimous (or 9-3) decision by the jury is required will help students understand why jury deliberations are sometimes so lengthy.
7. *Deliberation and decision:* In making a decision, the judge or jury considers the evidence presented and decides which witnesses were most credible.

For educational purposes, it may be best to have the jury deliberate in front of the entire class, instead of retiring to a private place as occurs in actual trials. This will enable students to see first-hand the process of decision making, enabling them to learn what evidence was persuasive and why. Since the student jury may be representative of the community, their deliberations should provide a good analogy to real jury deliberations.

Once the jury reaches a verdict, the jury foreman writes the verdict on a slip of paper and hands it to the judge who reads it in "open court."

8. *Sentencing (criminal trials only):* After a defendant is found guilty, a study of the defendant's background is usually prepared by a probation officer, who then makes a sentencing recommendation. The judge pronounces sentence.
- D. Don't interrupt the trial to point out errors. If a witness comes up with an off-the-wall comment, or if a student playing an attorney fails to raise an obvious objection, let it go. Wait until the debriefing, when you'll be able to put the whole exercise in perspective.

- E. Set aside time for debriefing what happened in the trial. The debriefing is the most important part of the mock trial exercise. It should bring the experience into focus, relating the mock trial to the actors and processes of the American court system.

Students should review the issues of the trial, the strengths and shortcomings of each party's case, and the broader questions about our trial system. Does our judicial system assure a fair trial for the accused? Are some parts of the trial more important than others? Would you trust a jury of your peers to determine your guilt or innocence? Students should also explore their reactions to playing attorneys, witnesses, jurors, and the judge. What role does each play in the trial process?

If a resource person has participated in the mock trial, the debriefing is an excellent way to make the most of his or her experience and insights. Since the mock trial is a common frame of reference, the resource person has a natural vehicle for expressing ideas and observations, and students should be better able to grasp the points that are being discussed.

### **MOCK TRIAL COMPETITIONS**

A variety of spin-offs have come from mock trials. One of the most rewarding is the area-wide mock trial competition. These competitions are like single elimination basketball tournaments. That is, teams from different schools compete against each other, with the losers eliminated and the winners proceeding to the next round. (Of course, the same model could be used for competitions between classes within a school.) The Street Law project has been conducting city-wide mock trials in Washington since 1972, and we'd be glad to send you information on how you can set up your own competition. *Just write to us at Street Law, Inc., 918 16th Street, NW, #602, Washington, DC 20006, Phone: 202/293-0088, Fax: 202/293-0089.*

These competitions are real attention-grabbers, which build students' interest, involve volunteers in a creative way, and provide excellent public relations and publicity for your program. The competitions need not be expensive. They can usually take advantage of time donated by lawyers and judges, and judges or law schools can often make courtrooms available at no cost.

There is one point to remember that applies to mock trials at any level. Don't forget that the objective is not the precise replication of an actual trial but a learning experience for you, your students, and even for any resource persons who may be helping out. The emphasis shouldn't be on perfection, but on a nonthreatening exercise with plenty of time for debriefing, enabling the class to go over key points in the trial and better understand the whole experience. To put it another way, don't forget that mock trials should be both fun and a learning experience.

## Glossary of Legal Terms

### A

**acquittal** A verdict after a trial that a defendant in a criminal case has not been proven guilty beyond a reasonable doubt of the crime charged. Note that the defendant is not found "innocent." The defendant does not have to prove anything; rather, the state is found not to have proved its case.

**admissible** Evidence which can be legally and properly introduced in a civil or criminal trial.

**adversary system** The trial methods used in the U.S. and some other countries, based on the belief that truth can best be determined by giving opposing parties full opportunity to present and establish their evidence, and to test by cross-examination the evidence presented by their adversaries, under established rules of procedure before an impartial judge and/or jury. An **adversary proceeding** is one having opposing parties; contested (differs from **ex parte proceeding**).

### B

**bailiff** A court attendant who keeps order in the courtroom and has custody of the jury.

**bench** The seat occupied by the judge; more broadly, the court itself, as in **bench trial**, a trial heard by a judge without a jury.

**best evidence** Primary evidence; the best evidence available; evidence short of this is "secondary"; i.e., an original letter is the "best evidence," a photocopy is "secondary evidence."

**beyond a reasonable doubt** The standard in a criminal case requiring that the jury be satisfied to a moral certainty that every element of a crime has been proven by the prosecution. This standard of proof does not require that the state establish absolute certainty by eliminating all doubt, but it does require that the evidence be so conclusive that all reasonable doubts are removed from the mind of the ordinary person.

**burden of proof** In the law of evidence, the necessary or duty of affirmatively proving a fact or facts in dispute on an issue raised between the parties in a lawsuit. The responsibility of proving a point—the burden of proof—is not the same as the standard of proof. "Burden of proof" deals with which side must establish a point or points; "standard of proof" indicates the degree to which the point must be proven. For example, in a civil case the burden of proof rests with the plaintiff, who must establish his or her case by such standards of proof as "a preponderance of evidence" or "clear and convincing evidence."

### C

**charge to the jury** The judge's instruction to the jury concerning the law which applies to the facts of the case.

**circumstantial evidence** Evidence which merely suggests something by implication. For example,

physical evidence, such as fingerprints, from which an inference can be drawn. Circumstantial evidence is indirect, as opposed to eyewitness testimony, which is direct.

**clear and convincing evidence** Standard of proof commonly used in civil lawsuits and in regulatory agency cases. It governs the amount of proof that must be offered in order for the plaintiff to prevail.

**conviction** A judgment of guilt against a criminal defendant.

**corroborating evidence** Supplementary evidence that strengthens or confirms the initial evidence.

**cross-examination** The questioning of a witness produced by the other side.

## D

**damages** Money awarded by a court to a person injured by the unlawful act or negligence of another person.

**defendant** In a civil case, the person being sued. In a criminal case, the person charged with a crime.

**direct evidence** Proof of facts by witnesses who saw acts done or heard words spoken, as distinguished from circumstantial, or indirect, evidence.

**direct examination** The first questioning of witnesses by the party on whose behalf they are called.

**due process of law** The right of all persons to receive the guarantees and safeguards of the law and the judicial process. Includes such constitutional requirements as adequate notice, assistance of counsel, and the rights to remain silent, to a speedy and public trial, to an impartial jury, and to confront witnesses.

## E

**ex parte** On behalf of only one party, without notice to any other party. For example, a request for a search warrant is an ex parte proceeding, since the person subject to the search is not notified of the proceeding and is not present during the hearing. An **ex parte proceeding** is one in which only one side is represented (differs from adversary system or proceeding).

**exclusionary rule** The rule preventing illegally obtained evidence to be used in any trial.

## H

**hearsay** Evidence that is not within the personal knowledge of the witness but was relayed to the witness by a third party. Hearsay evidence generally is not admissible in court, although there are many exceptions under which it can be admitted.

**hostile witness** A witness whose testimony is not favorable to the party who calls him or her as a



witness. A hostile witness may be asked leading questions and may be cross-examined by the party who calls him or her to the stand.

**hung jury** A jury that cannot reach a verdict.

## I

**impeachment of a witness** An attack on the credibility (believability) of a witness, through evidence introduced for that purpose.

**inadmissible** That which under the rules of evidence cannot be admitted or received as evidence.

**instructions** (also called **charge**) Judge's directions to the jury regarding the law in the case and its authority to determine the facts and to draw inferences from the facts in order to reach a verdict.

## J

**jury** A certain number of persons selected according to law and sworn to inquire into matters of fact and declare the truth about matters of fact before them. A **grand jury** is traditionally composed of as many as 23 people who decide whether the facts of a criminal case are sufficient to issue an indictment charging a person with a crime. A **petit jury** is an ordinary or trial jury, composed of six to twelve persons, which hears either civil or criminal cases.

## L

**leading question** A question which suggests the answer desired of the witness. A party generally may not ask one's own witness leading questions; leading questions may be asked only of hostile witnesses and on cross-examination.

**liable** Legally responsible for.

## M

**mistrial** A trial which is terminated before a verdict is reached, either because of some extraordinary circumstance, because of fundamental error prejudicial to the defendant (such as an improper drawing of jurors), or because of a hung jury.

## O

**objection** The process by which one party takes exception to some statement or procedure. An objection is either sustained or overruled by the judge.

**overrule** Judge's decision not to allow an objection.

## P

**plaintiff** The person who brings a civil lawsuit.

**preponderance of the evidence** Greater weight of the evidence, the common standard of proof in civil cases.

**prosecutor** A trial lawyer representing the government in a criminal case.

**public defender** Government lawyer who provides free legal defense services to a poor person accused of crime.

## R

**rebuttal** Evidence disproving other evidence previously given or reestablishing the credibility of challenged evidence.

**re-direct examination** Opportunity to present rebuttal evidence after one's evidence has been subjected to cross-examination.

**rules of evidence** Standards governing whether evidence in a civil or criminal case is admissible.

## S

**self-incrimination, privilege against** The constitutional right of people to refuse to give testimony against themselves that could subject them to criminal prosecution. The right is guaranteed in the Fifth Amendment to the U.S. Constitution. Asserting the right is often referred to as "taking the Fifth."

**sentence** A court's determination of the punishment to be inflicted on a person convicted of a crime.

## T

**testimony** Evidence given by a witness under oath; does not include evidence from documents and other physical evidence.

## V

**verdict** Conclusion, as to fact or law, that forms the basis for the court's judgment.

## W

**witness** One who testifies to what he or she has seen, heard or otherwise experienced.

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