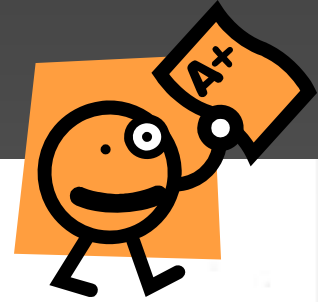


Street Law 2 Moot Court Guest Judges June 7,8,9,10 7th period

Tuesday	6/7	Suffolk County Judge Paul Baisley
Wednesday	6/8	Donald Kiley, Esq.
Thursday	6/9	Patricia Fernandez, Esq.
Friday	6/10	Kathleen Evers, Esq.



ONE ON ONE
CIVIL LAW MOOT COURT CONTEST

RATING SHEET

1 POINT 2 POINTS 3 POINTS 4 POINTS
GOOD VERY GOOD EXCELLENT SUPERIOR

FEEL FREE TO CHANGE THE POINT VALUE FOR EACH OF THE FOUR RATINGS. YOU MAY ALSO WISH TO USE A 10-POINT MUST SYSTEM FOR THE WINNER OF EACH CATEGORY. AT BEST, THIS IS A GUIDELINE FOR YOUR RATING THIS CONTEST.

CASE # _____ PLAINTIFF'S NAME _____

DEFENDANT'S NAME _____

PLAINTIFF'S ATTORNEY _____

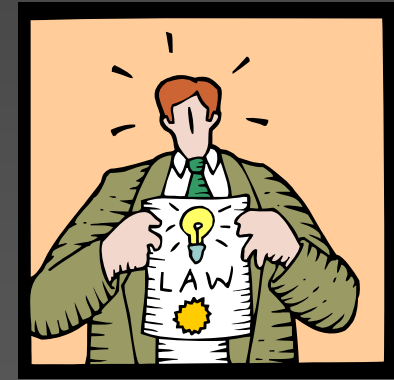
DEFENDANT'S ATTORNEY _____

CATEGORY:

OPENING STATEMENT	PLAINTIFF _____	DEFENDANT _____
DIRECT EXAMINATION	PLAINTIFF _____	DEFENDANT _____
CROSS-EXAMINATION	PLAINTIFF _____	DEFENDANT _____
OBJECTIONS	PLAINTIFF _____	DEFENDANT _____
CLOSING STATEMENT	PLAINTIFF _____	DEFENDANT _____
LOGICAL OR CREATIVE REASONING	PLAINTIFF _____	DEFENDANT _____
USE OF LEGAL LANGUAGE	PLAINTIFF _____	DEFENDANT _____
USE OF WITNESS	PLAINTIFF _____	DEFENDANT _____
DIFFICULTY OF CASE	PLAINTIFF _____	DEFENDANT _____
PRESENTATION OF THE LAW AND ESSENTIAL FACTS / CLARITY	PLAINTIFF _____	DEFENDANT _____
TOTAL	PLAINTIFF _____	DEFENDANT _____

COMMENTS:

JUDGE



- DETERMINE ROLES IN CASES
- DETERMINE LAW PREMISE FOR YOUR CASE
- PREPARE OPENING STATEMENT (INDEX CARDS)
- PREPARE YOUR WITNESSES (BIOGRAPHY, INDEX CARDS)
- PREPARE LINE OF QUESTIONING FOR DIRECT EXAM
- PREPARE LINE OF QUESTIONING FOR CROSS EXAM, KEEP IN MIND THAT SOME OF YOUR QUESTIONS WILL FORM AS YOU LISTEN TO TESTIMONY. REMEMBER THERE IS NO REDIRECT OR RECROSS, LISTEN CAREFULLY THE FIRST TIME!
- PREPARE CLOSING STATEMENT REMEMBER RESTATE, ADD PASSION AND CONVINCING THE JUDGE OF YOUR CLIENTS CASE.
- BE TOTALLY PREPARED TO ASSUME RESPONSIBILITY OF ANY OF YOUR TEAMMATES. (YOU MUST KNOW EACH ROLE, WRITE OPENING, BIO, QUESTIONS, POSSIBLE CLOSING TOGETHER)
- ALL ILLEGAL (UNVERIFIED ABSENCES) WILL AFFECT YOUR GRADE.
- PARTICIPATION AND ATTENTION DURING JURY DUTY IS ALSO MANDATORY AND 50% OF YOUR GRADE.
- THIS IS AN EASY “A”
- DRESS APPROPRIATELY FOR CASE!
- WORK HARD
- WORK TOGETHER
- BRAINSTORM
- HAVE FUN
- FIRST CASE TBA

CRITERIA OR GOALS	4	3	2	1
<p>Written documentation and preparedness (ready) Opening Direct (logical) Questions for cross (think like the other side) Possible closing statements Again logical and passionate</p>	Organized, readable, logical order, note cards, highlighted information	Note cards, organized, good flow	Loose leaf, little organization	<p>No organization Lapses in information No continuity</p> 
<p>Research •Case law •Descriptive elements •Strategies/logic</p>	Case law applied Explains elements Excellent logic	Organized Good use of descriptive elements, strategies applicable to case	Used information given Useful information utilized	Little attempt made to support case, little to no logic applied
<p>Opening statement</p>	Perfect! Passionate, good eye contact with judge and jury, uses the room well	Some eye contact with judge and jury, easily heard, logical, travels the room at times.	Thoughtful, introduced self and defendant/plaintiff, states intent, “short but sweet”	Makes little sense, needs more substance, difficult to follow.
<p>Use of objections •Adaptability</p>	4 or more logical use	3 or 4 used as distraction sometimes logical use	2 used	1 or less, little relativity to the case
<p>Physical appearance</p>	Use of props and costumes i.e.: suit, professional dress	Neat and appropriate, attempt made to look professional, no props.	Acceptable school attire.	Sloppy, apathetic, no real attempt made to visibly play the assigned roles.

Opening Statement Instructions



PASSION, PASSION, PASSION

(GRAB THE JUDGE AND JURY NOW, ITS EASIER TO “KEEP THEM” THEN TO “GET THEM.”)

How??

- 1. Introduce yourself.** Make sure the judge and jury know your name. Also introduce your client and any other counsel on your side.
 - **“Good Morning Judge, ladies and gentlemen of the jury, my name is _____ and today I represent _____.”**
- 2. Tell your story.** Let the judge and jury know why you are there. Give a brief rundown of your argument and what you plan to prove.
- 3. Begin the bonding process.** Make ties with the jury.
 - Look each member in the eye and try to identify with him. The judge and jury need to feel comfortable with you to believe what you say.
- 4. Present an overview** of any witnesses and evidence you will present during the case.
 - **Use key expressions and legal language regarding your specific case**
- 5. Be honest and upfront. Admit negative facts** about your client that are likely to come out during the trial.
 - Negative facts always sound better when you bring them to light yourself.
- 6. Tell the jury what you want its decision to be. Be sure to sound confident and sincere.**
 - **Damages and or Specific performance**



FYI: When you start preparing an opening statement. You will need a theory of your case, something that you can reiterate over and over again and explains the [legal](#) theory and facts of the case. To start your opening, you will want to state your theory of the case, then give the jury a brief introduction. Its important to use roadmaps to explain to the jury what they will need to cue in on later (for example, the witness will tell you....). Make sure you personalize your client in some way and in a way the jury can relate to. At the end of your opening, restate your theory of the case and then tell the jury what you are looking for. For example, we ask that you find the defendant guilty of all charges. During opening, it is important that you do not argue or overstate your position.

Read more: [How to Win a Trial Moot Court Competition | eHow.com](#)



Any questions so far???



. . . SAMPLE . . .

CASE A

. . . SAMPLE . . .

Plaintiff, Miss Nelson, is suing the Defendant, Mr. High, for damages due to the Defendant's negligence.

PLAINTIFF: MISS NELSON

I was eating lunch in Mr. High's restaurant. For dessert, I had a piece of blueberry pie. I took a bite of the pie and when I swallowed, I felt a sharp pain in my throat. To make a long story short, I had swallowed a tack, which necessitated an operation for removal. I claim that it was due to Mr. High's negligence in allowing the tack to be baked in the pie, which, incidentally, was baked in his very own kitchen.

DEFENDANT: MR. HIGH

I admit that the type of tack that Miss Nelson swallowed is just like the one used in making the boxes the blueberries come in. I've been in business for 18 years and this is the first time I have ever seen a tack in the blueberries. I use every care possible in the preparation of the food in my kitchen. I couldn't say how the tack got into the blueberries, nor do I see how anyone else can. Therefore, I don't see how I can be held responsible.

The Supreme Judicial Court of Massachusetts held that it is a well-settled fact that it is the duty of a restaurant to use due care to furnish wholesome food fit to eat, but, there is nothing in the record to show that the injury to Miss Nelson resulted from any failure of duty on the part of Mr. High. The precise cause of The injury was left to conjecture. *(An opinion or conclusion formed on the basis of incomplete information.)*

Decision for the defendant

. . . SAMPLE . . .

CASE B

. . . SAMPLE . . .

The Plaintiff, Mr. Armstrong, is suing the Defendant, Mr. Williams, for damages to the Plaintiff's boat.

PLAINTIFF: MR. ARMSTRONG

My wife, child, and I were out sailing on Schooner Lake. When we left the dock, the weather was calm and beautiful. We had just about reached the opposite shore of the lake and were turning around to go home when a terrible storm came up. There was nothing we could do except seek shelter. We saw this small island just off the shore and headed for it. When we got there, we tied our boat to the small landing and went ashore. Just then, this Mr. Williams and his hired hand came running down to the dock and told us we were on private property and had no right being there. He told us to leave and when we explained we were unable to go because of the storm, he became infuriated and told his hired hand to untie our boat. As a result of this, the boat was driven up on the shore and destroyed. I claim that Mr. Williams had no right to untie my boat and cause its destruction.

DEFENDANT: MR. WILLIAMS

I don't care what he claims. He and his family were trespassing on my land. The boat was tied to my property and I have every right to untie it. The storm was responsible for the damage to his boat, not I; and anyhow, a trespasser has no legal rights when he enters another person's property.

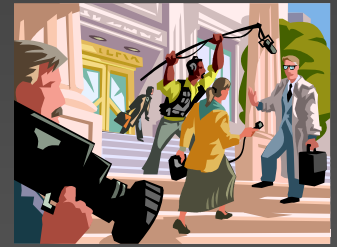
The Supreme Judicial Court of Vermont held ordinary people cannot trespass on another's land, entry upon the property of another may be justified by the necessity caused by an emergency situation.

Decision for the plaintiff



- **Direct Examination**

- A successful direct examination can be accomplished by **controlling the witness without hampering her ability to testify freely, truthfully and honestly. This balance can only be reached by thoroughly preparing for the questioning.**



•Preparing For The Direct

- To prepare the direct examination, you should: review the law; determine what essential elements must be proven through each witness; and list the facts and elements that will be established through the witness. Next, you should outline all of the key points that must come out through the testimony of each witness that you are presenting at trial.
- You should prepare a file for each witness. The file should include your outline, copies of the exhibits that will be used with the witness and the relevant deposition.
- Prepare to meet with the witness before the trial in order to evaluate the witness's personality, ability to speak, and manner of dressing. Provide the witness with some suggestions on how she should dress at trial, and how she should handle herself before the jury. Go over the expected testimony with the witness.
- Give the witness a copy of the deposition.
- Establish a good relationship with the witness by being considerate and pleasant to work with.

•Direct Examination at Trial

- During the trial, develop the direct examination through the use of conversational language. Avoid reading questions to the witness. This will bore the jury and leave them with the feeling that the presentation was rehearsed. You may have your outline present, but use it only as a reference and not as a script. Remember to guide the witness through the testimony so that she does not ramble.

- HINT: Consider mentally placing yourself in the shoes of a news reporter or investigator at the scene of a breaking story. Wipe out the knowledge that you have of the case and attempt to become educated on the issues through the witness on the stand. Ask the types of questions that a reporter or investigator would ask to become fully informed of what happened in the case. This technique will allow you to view the case from the jury's perspective. Remember you may know everything about the case, but the jury is hearing the testimony for the first time at trial.*



• The jury's focus of the direct examination should be on the witness and not on you. Unlike cross-examination, you should limit your use of leading questions during a direct examination. The majority of questions should be open-ended allowing the witness to provide the answer. If you are having a hard time formulating a proper question, start your question with, who, what, why, when, where and how.

• *HINT #2: Avoid repeating the witness's answer, as well as the use of "habit" utterances such as "uh- huh", "okay", "alright", etc. Try not to jingle your keys or pocket change when questioning. Do not play with your pen, curl your hair or create any other physical distractions that will take the jury's attention away from the witness. Stay focused on the questions, listen to the answers and appear very interested.*

• Do not use a monotone. Instead, change the tone of your voice based upon the importance of the testimony. Highlight the key points of the testimony with the use of voice inflection. Avoid legalese; speak clearly and to the point. Use action words and "word pictures," adjectives and adverbs in presenting your questions. This will make your presentation powerful.

• Open and close the direct examination with the strongest testimony. Jury psychologists have established that jurors remember best what is heard first and last. *Anticipate and isolate the troubling testimony in the middle of the presentation. Placing the difficult part of the testimony in the middle allows you to diffuse your opposition's anticipated cross-examination.*



A direct examination must appear fresh, interesting, flowing, and conversational. This sounds easy, but requires a lot of work, research and preparation. Never underestimate the importance of the direct examination. Set aside enough time in your trial preparation to properly prepare for an effective direct of each witness you anticipate to call at trial. A strong direct examination is an important building block that will lead to your success at trial.





- Always REMEMBER

At the end of an examination, **thank** the witness and sit down.

Attempt to appear confident during the entire direct and cross-examination.

**THANK
YOU**

The Cross Examination

- In the cross examination, you question the other side's witness, immediately following the direct.
- Always look through the affidavit of the witness you are crossing, and determine what points are clearly helpful to your side. (Ex: the witness can verify the whereabouts of one of your side's witnesses.)



•**HINT#1:** look at points that are harmful to the other side. (Ex: the witness says something bad about another witness on their side.) If necessary and relevant, anything in your crossing witness's affidavit that discredits him or her is good to bring out as well. You will know what you are definitely asking on cross before trial. *However, your cross may change slightly, depending on the direct examination of that witness. You can never know exactly what a lawyer will ask, so be listening carefully to the direct to make sure you don't need to add or leave out a few questions.*

•**HINT #2:** Remember to ask **LEADING** questions. The witness's answer should be limited to **yes or no** by the question. Also, keep the questions fairly simple –

•**HINT# 3:** only one question at a time, to avoid a “compound question” objection. It is important to be firm with your witness, but be careful about how aggressive your cross becomes. You never want to sound like you are yelling at or arguing with a witness.

•**HINT# 4:** LEADING QUESTION, WHAT TO DO:

•You were on the 30th floor at 8:45 p.m., weren't you?



•***NEVER EVER ASK A QUESTION that is open ended or allows the witness to go into a lengthy explanation, such as any question beginning with “why”.***



- When your direct witness is being crossed –
- you are his or her “protection.”

• ***Listen carefully for questions that are objectionable.*** Make sure the crossing lawyer isn't arguing with your witness, or repeating questions. Sometimes, if the crossing lawyer is really on a role and asking very damaging questions, you might just want to object to throw them off (only in extreme cases). Always listen very carefully and use your own judgment.

•For the WITNESSES:

•*KEEP IN MIND: The cross examination is not an attack on you – it is merely an examination from a different perspective.*

1.You will need to think quickly and answer questions carefully and cleverly.

2.You don't have to make sure you only agree or disagree with everything the crossing lawyer asks you –

3.Be confident of your observations and opinions.

4.Remember what is helpful and hurtful for your side, and if you can, skew your answers in favor of your side.

•*Don't contradict your affidavit or blatantly invent facts.* The only time you are not bound by your affidavit is if the crossing lawyer asks you something completely outside of your affidavit (but you still cannot contradict yourself). *Memorize your affidavits carefully and plan ahead for potential problem areas.* Also, you are entitled to explain all answers.

• Remember – if you can't answer a question with just a yes or no, say so.



Persuasion at Trial: Closing Arguments



- 1. Closing arguments are the final opportunity attorneys have to persuade jurors.***

3. Unlike opening statements, attorneys know what evidence is before the jury, and they are able to use their persuasive skills and techniques in a relatively unrestricted manner.

3. Through closing arguments attorneys show jurors how the evidence supports a verdict in favor of the client and they motivate jurors to return such a verdict.

4. An effective closing motivates the jurors to reach a desired verdict. Emotions, passion and use of physical communicators are the keys to motivating people.

5. Persuasive closing arguments capitalize on persuasion techniques.

6. Speaking in a Powerful and Confident Manner. Persuasive closing arguments are presented in a powerful, confident manner. The language is direct and uncomplicated.

•Recommendations

1.Reinforce the Theme. State the theme of the case near the beginning of the argument. Reinforce it later in the argument, particularly near the end of the argument.

2.Be Clear and Organized. Present your closing argument in a clear and organized manner. Employ summary statements where needed to help jurors remember important points in the presentation. Digressions should be avoided. They tend to distract from the argument.

3.Address Your Weak Points. Do not ignore your weaknesses. Your opponent will attack your weak points. Address your own weaknesses placing them in the best possible light.

4.Remind Jurors of the Opponent's Credibility Problems. Bring into question the credibility of key opposing witnesses. Point out inconsistent or contradictory statements made by witnesses. Also, take advantage of “bad” nonverbal communication by opposing witnesses. Remind jurors of the opposing witness who “couldn't look you in the eye” when he testified.

5.Address the Opponent's Broken Promises. When opponents overstate their cases in opening statements, alert the jury to this fact. These broken promises only hurt the opposition when jurors are made aware of them.

6.Reinforce the Credibility of Favorable Witnesses. Particularly in lengthy trials, remind jurors of what it was that made favorable important witnesses credible. The bond between the testimony and the credibility of the witness weakens over time. Restating the basis for high credibility strengthens the bond and reestablishes the power of the testimony.

7.Use Persuasion Defenses. Capitalize on techniques that increase the jurors' resistance to persuasion by your opponent.

8.Start Strong and End Strong. Start the argument on a strong point and end it in a strong manner.

Features of Persuasive Closing Arguments

- A **well--organized presentation** forms the foundation for persuasion.
- The **theme** of the case, which is **presented in the opening statement** and **supported in the questioning**, is the **corner stone of the closing**.
- *The theme is reinforced several times during the closing argument.*

- **Redundancy** serves to reinforce important information, provided
- the redundant information is sufficiently varied so that it does not bore the jury.

• **Persuasive closing arguments provide a detailed description of the party's testimony.** *The strengths of favorable testimony are reinforced. Weak or potentially damaging evidence is addressed by putting it in the best light.* This defuses the opponent's arguments (and potential arguments made by jurors) and reinforces the credibility of the attorney.

• **Closing arguments attack** the opponent's case, **highlighting the weaknesses** in the opponent's case. Any failures to deliver on promises made during the opening statement are revealed. The jurors' memory for inconsistent, contradictory, and otherwise damaging evidence in the opponent's case is refreshed. Any credibility problems with the opposing witnesses, party, and attorneys (where appropriate) are brought into focus. Finally, anticipating the opponent's arguments or addressing them, once raised, serves to defuse them.



•+++++ *So Important*+++++

•**Use Both Closings.** If you are the defense, you will be closing first. Do it well, reiterate your strong points, try and anticipate what the plaintiff will close with. If you are the plaintiff you will be the last voice that the jury hears before they make a decision. Use the closing of the defense to enhance any already planned closing if you think it will work to your advantage.

•**Escape From the Podium a.k.a. the front of the room..** Where allowed by the court, move from behind the podium to demonstrate critical events. The movement will increase the jurors' attention and facilitate understanding for what is being said.

•**Make Eye Contact.** When addressing important points with particular jurors be sure to make eye contact with them. This eye contact serves to underscore the points being made with these jurors.

•**Be Sincere.** People who believe in what they say are more persuasive. Attorneys who communicate sincerity through their demeanor and their language increase the persuasiveness of their argument.

As you know: Closing arguments mark the final opportunity attorneys have to persuade jurors.





Any questions so far???

