



Arkansas High School Mock Trial Program

Mock Trial Unit Plan

A unit plan aligned with 2014-2015 curriculum standards for the following subjects:

- Civics
- Communications
- Debate
- English/Language Arts
- Forensics
- Gifted & Talented
- Social Studies

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Finally, the Mock Trial Committee would like to thank all of the volunteers, including teachers, attorneys, judges, paralegals, and law students, who donate their time and resources to the Arkansas High School Mock Trial Competition. We could not do this without them.

Curriculum Frameworks

These curriculum standards and draft unit plans are provided for example purposes only; teachers should exercise independent professional judgment in preparing a lesson plan for implementation of Mock Trial in the classroom, and are responsible for ensuring any lesson plan, as implemented, meets appropriate curriculum standards. For each standard shown, there are additional, more specific standards which should also be consulted and observed.

If you are interested in learning more about how to obtain course approval regarding these materials, you may contact Mr. Thomas Coy from the Arkansas Department of Education. His e-mail address is thomas.coy@arkansas.gov and his phone number is (501) 682-4250.

In addition, you can find a copy of the course approval application you need to submit at the following website:

http://www.arkansased.org/public/userfiles/Learning_Services/Curriculum%20and%20Instruction/Course%20Approv/course_approval_01292014.pdf.

MOCK TRIAL UNIT PLAN

Time: Four Weeks

Materials:

- Current Arkansas High School Mock Trial case (available in mid-late October), Rules of Competition, and Rules of Evidence, available at <http://ace.arkbar.com/ARMockTrial/statetournament/casematerials>
- “Make Your Case,” available at <http://www.scholastic.com/americanjustice/>
- Arkansas High School Mock Trial Program Teacher-Coach Manual, available at http://files.arkbar.com/userfiles/file/MockTrial/Resources/MT_Teacher_Coach_Manual.pdf
- Teacher-made handouts and tests (examples included)

Optional Resource Materials:

- Classroom sets of Sharpie 8-color highlighters
- “Winning Ways in Mock Trial”; Ross, Donna; National Association of State High School Associations; pamphlet cost \$3.25
- Other Training Materials, available at <http://ace.arkbar.com/ARMockTrial/resources/trainingmaterials>

Objectives:

- **To recognize the vital importance of the U.S. Constitution and its vital relationship to our state constitution.**
- **To further an understanding of the law, court procedures, and our criminal and civil legal system.**
- **To promote better communication and cooperation among legal professionals, educators, students, and community participants.**
- **To increase the understanding of the dynamic nature of constitutional liberties for teacher and student participants, as well as for the friends, parents, and community members who will attend trials.**
- **To increase students’ proficiency in basic life skills such as listening, speaking, reading, and reasoning.**
- **To motivate and recognize students’ academic and intellectual achievements.**
- **To heighten career consciousness of law-related professions.**

Mock Trial Unit Plan (Common Core Standards for Lang. Arts and Soc. Studies)

Day	Topic	Activities	Evaluation	COMMON CORE STANDARDS	
				English Language Arts	Literacy in History/Social Studies, Science & Technical Subjects
1	Introduction to the conventions of Mock Trials	“ <i>Make Your Case</i> ” game available at Arkansas Bar Association website	<ul style="list-style-type: none"> Game score Quiz on :Make Your Case” and Mock Trial Rules 	Speaking & Listening: 1, 2, 3 Language: 3, 4, 5, 6 Writing: 7, 8, 9 Reading: 2, 4, 6, 8, 9	Writing: 7, 8, 9 Reading: 2, 4, 6, 8, 9
2	Analysis of Case Specific Counts or Charges and Jury Instructions	Case Distribution from Arkbar.com Group or teacher-guided completion of teacher-made graphic organizers designed to promote analysis of dense non-fiction such as: <ul style="list-style-type: none"> circle diagrams or “mind-mapping” 	<ul style="list-style-type: none"> Teacher observation of group dynamics Written evaluation of pen & paper tasks 	Speaking & Listening: 1, 2, 5 Language: -- Writing: -- Reading: 2, 3, 7	Writing: -- Reading: 2, 3, 7
3-10	Discussion of Rules of Evidence and their basis in US Constitution; Oral Reading of Case, Team Assignments Drafting Case Story & Theme	<ul style="list-style-type: none"> Completion of Evidence to Elements Chart as case is read aloud; Completion of “Color- the- Case” activities as case is read aloud Distribution of Team Assignments 	<ul style="list-style-type: none"> Written evaluation using teacher-made key; Test over case content and Rules of Evidence 	Speaking & Listening: 1, 2, 3, 4, 5, 6 Language: 1, 3, 4, 5, 6 Writing: 1 - 10 Reading: 1 - 10	Writing: 1 - 10 Reading: 1 - 10
11	Direct Examination	<ul style="list-style-type: none"> Discussion of Direct Examination Techniques Dyad completion of Direct Examination Plan Sheet 	<ul style="list-style-type: none"> Teacher observation of group dynamics Written rubric evaluation of pen & paper tasks 	Speaking & Listening: 1, 2, 3, 4, 6 Language: 1, 3, 4, 5, 6 Writing: 1, 5, 8, 9, 10 Reading: 1, 3, 6, 7, 8, 9, 10	Writing: 1, 5, 8, 9, 10 Reading: 1, 3, 6, 7, 8, 9, 10

12	Cross Examination	<ul style="list-style-type: none"> • Discussion of Cross Examination Techniques • Dyad completion of Cross Examination Plan Sheet 	<ul style="list-style-type: none"> • Teacher observation of group dynamics • Written rubric evaluation of pen & paper tasks 	Speaking & Listening: 1, 2, 3, 4, 6 Language: 1, 3, 4, 5, 6 Writing: 1, 5, 8, 9, 10 Reading: 1, 3, 6, 7, 8, 9, 10	Writing: 1, 5, 8, 9, 10 Reading: 1, 3, 6, 7, 8, 9, 10
13	Opening Statements & Closing Arguments	<ul style="list-style-type: none"> • Discussion of Opening Statement Techniques • Discussion of Closing Argument Techniques • Team completion of Opening Statement & Closing Argument Plan Sheet 	<ul style="list-style-type: none"> • Teacher observation of group dynamics • Written rubric evaluation of pen & paper tasks 	Speaking & Listening: 1, 2, 3, 4, 6 Language: -- Writing: 1, 2, 3, 4, 5, 10 Reading: 6, 7, 8, 9, 10	Writing: 1, 2, 3, 4, 5, 10 Reading: 6, 7, 8, 9, 10
14-17	Team in-class practice		Teacher observation of group dynamics	Speaking & Listening: 1, 2, 3, 4, 5, 6 Language: 1, 3, 4, 5, 6 Writing: 1, 2, 3, 4, 5, 7, 8, 9, 10 Reading: 1 - 10	Writing: 1, 2, 3, 4, 5, 7, 8, 9, 10 Reading: 1 - 10
18-19	Class Trials for invited audiences		Mock Trial Ballots	Speaking & Listening: 1, 2, 3, 4, 5, 6 Language: 1, 3, 4, 5, 6 Writing: 1, 2, 3, 4, 5, 7, 8, 9, 10 Reading: 1 - 10	Writing: 1, 2, 3, 4, 5, 7, 8, 9, 10 Reading: 1 - 10
20		Unit Test		--	--

COMMON CORE STANDARDS FOR ENGLISH LANGUAGE ARTS

College and Career Readiness Anchor Standards for Reading

Key Ideas and Details

1. Read closely to determine what the text says explicitly and to make logical inferences from it; cite specific textual evidence when writing or speaking to support conclusions drawn from the text.
2. Determine central ideas or themes of a text and analyze their development; summarize the key supporting details and ideas.

3. Analyze how and why individuals, events, and ideas develop and interact over the course of a text.

Craft and Structure

4. Interpret words and phrases as they are used in a text, including determining technical, connotative, and figurative meanings, and analyze how specific word choices shape meaning or tone.

5. Analyze the structure of texts, including how specific sentences, paragraphs, and larger portions of the text (e.g., a section, chapter, scene, or stanza) relate to each other and the whole.

6. Assess how point of view or purpose shapes the content and style of a text.

Integration of Knowledge and Ideas

7. Integrate and evaluate content presented in diverse formats and media, including visually and quantitatively, as well as in words.*

8. Delineate and evaluate the argument and specific claims in a text, including the validity of the reasoning as well as the relevance and sufficiency of the evidence.

9. Analyze how two or more texts address similar themes or topics in order to build knowledge or to compare the approaches the authors take.

Range of Reading and Level of Text Complexity

10. Read and comprehend complex literary and informational texts independently and proficiently.

College and Career Readiness Anchor Standards for Writing

Text Types and Purposes

1. Write arguments to support claims in an analysis of substantive topics or texts, using valid reasoning and relevant and sufficient evidence.

2. Write informative/explanatory texts to examine and convey complex ideas and information clearly and accurately through the effective selection, organization, and analysis of content.

3. Write narratives to develop real or imagined experiences or events using effective technique, well-chosen details, and well-structured event sequences.

Production and Distribution of Writing

4. Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

5. Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach.

6. Use technology, including the Internet, to produce and publish writing and to interact and collaborate with others.

Research to Build and Present Knowledge

7. Conduct short as well as more sustained research projects based on focused questions, demonstrating understanding of the subject under investigation.

8. Gather relevant information from multiple print and digital sources, assess the credibility and accuracy of each source, and integrate the information while avoiding plagiarism.

9. Draw evidence from literary or informational texts to support analysis, reflection, and research.

Range of Writing

10. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of tasks, purposes, and audiences.

College and Career Readiness Anchor Standards for Speaking and Listening

Comprehension and Collaboration

1. Prepare for and participate effectively in a range of conversations and collaborations with diverse partners, building on others' ideas and expressing their own clearly and persuasively.

2. Integrate and evaluate information presented in diverse media and formats, including visually, quantitatively, and orally.

3. Evaluate a speaker's point of view, reasoning, and use of evidence and rhetoric.

Presentation of Knowledge and Ideas

4. Present information, findings, and supporting evidence such that listeners can follow the line of reasoning and the organization, development, and style are appropriate to task, purpose, and audience.
5. Make strategic use of digital media and visual displays of data to express information and enhance understanding of presentations.
6. Adapt speech to a variety of contexts and communicative tasks, demonstrating command of formal English when indicated or appropriate.

College and Career Readiness Anchor Standards for Language

Conventions of Standard English

1. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.
2. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

Knowledge of Language

3. Apply knowledge of language to understand how language functions in different contexts, to make effective choices for meaning or style, and to comprehend more fully when reading or listening.

Vocabulary Acquisition and Use

4. Determine or clarify the meaning of unknown and multiple-meaning words and phrases by using context clues, analyzing meaningful word parts, and consulting general and specialized reference materials, as appropriate.
5. Demonstrate understanding of figurative language, word relationships, and nuances in word meanings.
6. Acquire and use accurately a range of general academic and domain-specific words and phrases sufficient for reading, writing, speaking, and listening at the college and career readiness level; demonstrate independence in gathering vocabulary knowledge when considering a word or phrase important to comprehension or expression.

COMMON CORE STANDARDS FOR LITERACY IN HISTORY/SOCIAL STUDIES, SCIENCE, AND TECHNICAL SUBJECTS

College and Career Readiness Anchor Standards for Reading

Key Ideas and Details

1. Read closely to determine what the text says explicitly and to make logical inferences from it; cite specific textual evidence when writing or speaking to support conclusions drawn from the text.
2. Determine central ideas or themes of a text and analyze their development; summarize the key supporting details and ideas.
3. Analyze how and why individuals, events, or ideas develop and interact over the course of a text.

Craft and Structure

4. Interpret words and phrases as they are used in a text, including determining technical, connotative, and figurative meanings, and analyze how specific word choices shape meaning or tone.
5. Analyze the structure of texts, including how specific sentences, paragraphs, and larger portions of the text (e.g., a section, chapter, scene, or stanza) relate to each other and the whole.
6. Assess how point of view or purpose shapes the content and style of a text.

Integration of Knowledge and Ideas

7. Integrate and evaluate content presented in diverse formats and media, including visually and quantitatively, as well as in words.*
8. Delineate and evaluate the argument and specific claims in a text, including the validity of the reasoning as well as the relevance and sufficiency of the evidence.
9. Analyze how two or more texts address similar themes or topics in order to build knowledge or to compare the approaches the authors take.

Range of Reading and Level of Text Complexity

10. Read and comprehend complex literary and informational texts independently and proficiently.

College and Career Readiness Anchor Standards for Writing

Text Types and Purposes

1. Write arguments to support claims in an analysis of substantive topics or texts using valid reasoning and relevant and sufficient evidence.
2. Write informative/explanatory texts to examine and convey complex ideas and information clearly and accurately through the effective selection, organization, and analysis of content.
3. Write narratives to develop real or imagined experiences or events using effective technique, well-chosen details and well-structured event sequences.

Production and Distribution of Writing

4. Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.
5. Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach.
6. Use technology, including the Internet, to produce and publish writing and to interact and collaborate with others.

Research to Build and Present Knowledge

7. Conduct short as well as more sustained research projects based on focused questions, demonstrating understanding of the subject under investigation.
8. Gather relevant information from multiple print and digital sources, assess the credibility and accuracy of each source, and integrate the information while avoiding plagiarism.
9. Draw evidence from literary or informational texts to support analysis, reflection, and research.

Range of Writing

10. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of tasks, purposes, and audiences.

Mock Trial Unit Plan (Debate, Forensics, and Oral Communications)

Day	Topic	Activities	Evaluation	Curriculum Frameworks		
				Debate I	Forensics I	Oral Comm
1	Introduction to the conventions of Mock Trials	“ <i>Make Your Case</i> ” game available at Arkansas Bar Association website	<ul style="list-style-type: none"> Game score Quiz on “Make Your Case” and Mock Trial Rules 	DI:1	FI:1	
2	Analysis of Case Specific Counts or Charges and Jury Instructions	Case Distribution from Arkbar.com Group or teacher-guided completion of teacher-made graphic organizers designed to promote analysis of dense non-fiction such as: <ul style="list-style-type: none"> circle diagrams or “mind-mapping” 	<ul style="list-style-type: none"> Teacher observation of group dynamics Written evaluation of pen & paper tasks 	DI:1	FI:1 FI:2	
3-10	Discussion of Rules of Evidence and their basis in US Constitution; Oral Reading of Case, Team Assignments Drafting Case Story & Theme	<ul style="list-style-type: none"> Completion of Evidence to Elements Chart as case is read aloud; Completion of “Color- the- Case” activities as case is read aloud Distribution of Team Assignments 	<ul style="list-style-type: none"> Written evaluation using teacher-made key; Test over case content and Rules of Evidence 	DI:1 DI:2	FI:1 FI:2	CC 1 CP 2 CS 3 PC 4
11	Direct Examination	<ul style="list-style-type: none"> Discussion of Direct Examination Techniques Dyad completion of Direct Examination Plan Sheet 	<ul style="list-style-type: none"> Teacher observation of group dynamics Written rubric evaluation of pen & paper tasks 	DI:1 DI:2 DI:3 DI:4	FI:1 FI:2 FI:3 FI:4	CC 1 CP 2 CS 3 PC 4
12	Cross Examination	<ul style="list-style-type: none"> Discussion of Cross Examination Techniques Dyad completion of Cross Examination Plan Sheet 	<ul style="list-style-type: none"> Teacher observation of group dynamics Written rubric evaluation of pen & paper tasks 	DI:1 DI:2 DI:3 DI:4	FI:1 FI:2 FI:3 FI:4	CC 1 CP 2 CS 3 PC 4

13	Opening Statements & Closing Arguments	<ul style="list-style-type: none"> • Discussion of Opening Statement Techniques • Discussion of Closing Argument Techniques • Team completion of Opening Statement & Closing Argument Plan Sheet 	<ul style="list-style-type: none"> • Teacher observation of group dynamics • Written rubric evaluation of pen & paper tasks 	DI:1 DI:2 DI:3 DI:4	FI:1 FI:2 FI:3 FI:4	CC 1 CP 2 PC 4
14-17	Team in-class practice		Teacher observation of group dynamics	DI:1 DI:2 DI:3 DI:4	FI:1 FI:2 FI:3 FI:4	CC 1 CS 2 PC
18-19	Class Trials for invited audiences		Mock Trial Ballots	DI:1 DI:2 DI:3 DI:4	FI:1 FI:2 FI:3 FI:4	CC 1 CP 2 PC 4
20		Unit Test				

Debate I Curriculum Framework (2012)

Debate Content Standard 1: Read and collect research from textual evidence to prepare for debates.

Debate Content Standard 2: Demonstrate understanding of the fundamentals of oral advocacy.

Debate Content Standard 3: Participate in debate using a variety of debate formats.

Debate Content Standard 4: Demonstrate fundamental oral communication competencies.

Forensics I Curriculum Framework (2012)

Forensics Content Standard 1: Engage in inquiry and research to prepare a foundation for communicating to various audiences.

Forensics Content Standard 2: Organize literary selections and informational text into effective oral presentations.

Forensics Content Standard 3: Perform interpretations of literature and deliver presentations conveying concepts and ideas to a variety of audiences.

Forensics Content Standard 4: Demonstrate fundamental oral communication competencies.

Oral Communication Curriculum Framework (2012)

Communications Challenges Standard 1: Evaluate various communication challenges.

Communication Process Standard 2: Demonstrate the communication process.

Collaborative Communication Standard 3: Use effective forms of collaborative communication.

Public Communication Standard 4: Use effective forms of public communication.

Mock Trial Unit Plan (Gifted/Talented and Civics)

Day	Topic	Activities	Evaluation	Curriculum Frameworks	
				Gifted/Talented	Civics
1	Introduction to the conventions of Mock Trials	“ <i>Make Your Case</i> ” game available at Arkansas Bar Association website	<ul style="list-style-type: none"> Game score Quiz on :Make Your Case” and Mock Trial Rules 	CRIT 1	CIT 1 CIT 2 GOV 3 CON 6 CON 7 STR 8 LAW 9
2	Analysis of Case Specific Counts or Charges and Jury Instructions	Case Distribution from Arkbar.com Group or teacher-guided completion of teacher-made graphic organizers designed to promote analysis of dense non-fiction such as: <ul style="list-style-type: none"> circle diagrams or “mind-mapping” 	<ul style="list-style-type: none"> Teacher observation of group dynamics Written evaluation of pen & paper tasks 	CRIT 1 CRIT 2 CRET 1 PG 1	CIT 1 CON 7 STR 8 LAW 9
3-10	Discussion of Rules of Evidence and their basis in US Constitution; Oral Reading of Case, Team Assignments Drafting Case Story & Theme	<ul style="list-style-type: none"> Completion of Evidence to Elements Chart as case is read aloud; Completion of “Color- the- Case” activities as case is read aloud Distribution of Team Assignments 	<ul style="list-style-type: none"> Written evaluation using teacher-made key; Test over case content and Rules of Evidence 	CRIT 1 CRIT 2 CRET 1 IGI 1 PG 1	GOV 3 CON 7 STR 8 LAW 9
11	Direct Examination	<ul style="list-style-type: none"> Discussion of Direct Examination Techniques Dyad completion of Direct Examination Plan Sheet 	<ul style="list-style-type: none"> Teacher observation of group dynamics Written rubric evaluation of pen & paper tasks 	IGI 1 PG 1	STR 8 LAW 9

12	Cross Examination	<ul style="list-style-type: none"> • Discussion of Cross Examination Techniques • Dyad completion of Cross Examination Plan Sheet 	<ul style="list-style-type: none"> • Teacher observation of group dynamics • Written rubric evaluation of pen & paper tasks 	IGI 1 PG 1	STR 8 LAW 9
13	Opening Statements & Closing Arguments	<ul style="list-style-type: none"> • Discussion of Opening Statement Techniques • Discussion of Closing Argument Techniques • Team completion of Opening Statement & Closing Argument Plan Sheet 	<ul style="list-style-type: none"> • Teacher observation of group dynamics • Written rubric evaluation of pen & paper tasks 	PG 1	STR 8 LAW 9
14-17	Team in-class practice		Teacher observation of group dynamics	CRIT 2 IGI 1 PG 1	STR 8 LAW 9
18-19	Class Trials for invited audiences		Mock Trial Ballots	PG 1	STR 8 LAW 9
20		Unit Test			

Core Process Goals for Gifted and Talented Seminars

Critical Thinking Standard 1: Demonstrate understanding of core processes fundamental to a differentiated curriculum.

Critical Thinking Standard 2: Apply reasoning techniques to demonstrate understanding of core processes.

Creative Thinking Standard 1: Demonstrate understanding of core processes fundamental to a differentiated curriculum.

Independent and Group Investigation Standard 1: Demonstrate understanding of core processes fundamental to a differentiated curriculum.

Personal Growth Standard 1: Demonstrate understanding of core processes fundamental to a differentiated curriculum.

Civics – Social Studies Curriculum Framework (2006)

Citizenship Standard 1: Examine Citizenship.

Citizenship Standard 2: Examine rights, responsibilities, privileges, and duties of citizens.

Government Standard 3: Analyze the purposes of government.

U.S. Constitution Standard 6: Analyze the organization and structure of the United States government as defined by the United States Constitution.

U.S. Constitution Standard 7: Analyze the fundamental rights of individuals as incorporated in the United States Constitution.

Structure of Government Standard 8: Analyze the organization, authority, and function of the federal and state government.

Laws Standard 9: Evaluate federal, state, and local laws.

Mock Trial Unit Plan Documents and Rubrics

The following documents are supporting materials and handouts for use with the Mock Trial Unit Plans found on the previous pages.

“Make Your Case” Simulation, an Introduction to the Conventions of Mock Trial

Objectives:

1. The student will become familiar with the rules and conventions of a mock trial.
2. The student will be able to participate effectively in the mock trial simulation, “Make Your Case.”
3. The student will be able to answer objective questions over Mock Trial Rules of Competition and “Make Your Case.”

Time	Lesson Activities and Strategies	Assessment
Prior to Day 1	Make certain students understand basic terminology associated with courts as they function in the US justice system. Ascertain that students have a working definition of at least the following terms: court, plaintiff, judge, jury, defendant, defense, objection, verdict, hearsay, speculation	Oral Questions Written quiz.
Prior to Day 1	Distribute copies of the Mock Trial Rules of Competition and assign them to be read as homework, or use the chart included	Oral Questions Written quiz.
5 -10 min.	<p>Quickly discuss the rules of mock trial:</p> <ul style="list-style-type: none"> • The case is complete. Nothing may be fabricated or altered. • All parts are gender neutral. • Appropriate courtroom behavior is very important, so today we are pretending to be in court. • In mock trial teams, half the team plays witness parts; half the team plays attorney roles; actual attorneys make up the jury and serve as judges. • Trials consist of opening statements which serve as previews; direct examination which serves to provide testimonial evidence to prove key points; cross-examination which serves to discredit the evidence; and closing arguments which explain to the jury what the evidence proved and why it favors one side or the other. • Today we will participate in a mock trial simulation. The witness roles are being portrayed on the screen based on decisions you make. • Divide the class into Plaintiff and Defense Sides 	Oral questions Written quiz
60 min	<ul style="list-style-type: none"> • Run “Make Your Case” on a computer screen or SmartBoard. http://www.scholastic.com/americanjustice/ Pause the simulation as needed to allow teams time to read statements and make group decisions. 	Team Score
10 min	<ul style="list-style-type: none"> • Distribute Quiz 1. 	
5-10 min	<ul style="list-style-type: none"> • Collect papers. Discuss answers. 	

Mock Trial Rules of Competition*

Rule	Page	SUMMARY
1	3—4	Administration
1.1	3	<i>Rules:</i> Competition is governed by rules followed. Anything not part of the rules will not be permitted. Interpretation of these rules is within the discretion of the Mock Trial Committee.
1.2	3	<i>Code of Conduct:</i> The Rules of Competition must be followed by at all times. Mock Trial Committee may disqualify, evict from the Championship, and forfeit fees and awards.
1.3	3	<i>Emergencies:</i> Presiding judge declares emergency. During adjournment, no communication between bar and gallery.
1.4	4	<i>Timekeepers:</i> Each team required to bring timekeeper. Official timekeeper is required to attend timekeeper orientation. Timekeeper may not communicate with team during trial.
2	4—6	The Problem
2.1	4	<i>The Problem:</i> No disputes on stipulation. No altercation on witness statements. Either gender can play all witnesses. Contain statements of facts, indictment, stipulations, witness statements, jury charges, exhibits.
2.2	4—5	<i>Witnesses Bound by Statements:</i> Witnesses bound by statements. Fair extrapolation allowed.
2.3	5	<i>Unfair Extrapolation:</i> Fair extrapolation is neutral. Information not in witness statement should be consistent with the statement. May object but closing arguments preferred.
2.4	5	<i>Gender of Witnesses:</i> All wt. are gender neutral. Change in pronoun is allowed.
2.5	5—6	<i>Voir Dire:</i> Voir dire examination of a witness is not permitted.
3	6—8	Teams
3.1	6	<i>Team Eligibility:</i> Teams are a maximum of eight students. Members may not switch roles during trial.
3.2	6	<i>Team Composition:</i> Six per round. Three attorneys and three witnesses. Roster cannot be changed after becoming official at the time of on-site registration.
3.3	7	<i>Team Presentation:</i> Can either be plaintiff/prosecution or defendant/defense. Teams shall use three students as attorneys and three students as witnesses
3.4	7	<i>Team Duties:</i> Each atty. with one direct & cross. Direct atty. is the only one that can object during cross by opponent & vice versa. No recalling of witness. Opening given by both sides. All three witnesses must be called. No witnesses may be recalled.
3.5	7—8	<i>Team Roster Form:</i> Must be completed and duplicated prior to each round. No origin given in the form. Teams exchange TRF, and give one to judges. Gender is to be given.
4	8—14	The Trial
4.1	8	<i>Courtroom Setting:</i> Prosecution/Plaintiff sits closest to the jury box. No rearranging without permission.
4.2	8	<i>Stipulation:</i> Stipulation will be considered a part of the record and admitted into evidence.
4.3	8	<i>Reading into the Record not Permitted:</i> Stipulations, the indictment, and the Charge to the Jury will not be read into the record.
4.4	8	<i>Swearing of Witnesses:</i> Witnesses will swear that testimony they will give will faithfully and truthfully conform to the facts and the rules of the mock trial competition. Judge can assume that witnesses are sworn in, or be sworn in by (a) presiding judge (b) bailiff (c) examining attorney.
4.5	8—9	<i>Trial Sequence and Time Limits:</i> 1. Opening of Court 2. Opening-5 min 3. Direct-25 min (w/5) 4. Cross-20 min (w/6) 5. Redirect 6. Recross 7. Closing - 5 min. This is for each side. P gives opening 1 st , and closing 1 st . May save portion of closing for rebuttal in scope of D's closing.
4.6	10	<i>Timekeeping:</i> (a) Timekeepers are to act as neutral entities. (b) Time limits are mandatory and will be enforced. Introduction prior to openings are not part of time limit. Time stops for objections, questioning from judge, or administering the oath. Does not stop for introduction of exhibits. (c) More than a 15 sec discrepancy, presiding judge will rule.
4.7	10	<i>Time Extension and Scoring:</i> Presiding judge grants time extensions. Points may be deducted.
4.8	10	<i>Motions Prohibited:</i> Motion for directed version, acquittal, or dismissal not permitted. No written pretrial motions. Motion for recess allowed only in an emergency.
4.9	11	<i>Sequestration:</i> Teams may not invoke the rule of sequestration.
4.10	11	<i>Bench Conferences:</i> May be granted by presiding judge. Made from the counsel table.
4.11	11	<i>Supplemental Material - Costumes:</i> No illustrative aids of any kind, unless from the case packet. No enlargements of case materials. No props and costuming. Allowed are exhibits as they are introduced and TRF. Exhibits may be marked but cannot be admitted if done so.
4.12	11	<i>Trial Communication:</i> No communications from outsiders. No disruptive communication inside the bar.
4.13	11—12	<i>Viewing a Trial:</i> Directly associated cannot view others, if their team remains in competition.
4.14	12	<i>Videotaping/Photography:</i> Any team can refuse these. Media coverage is allowed.
4.15	12	<i>Jury Trial:</i> The case will be tried as if to a jury. Judges may be addressed as the jury.
4.16	12	<i>Standing During Trial:</i> Atty. will stand during opening, closing, direct, cross, and all objections.
4.17	12	<i>Objections during Opening/Closing Statement:</i> No objections during opening/closing. One of atty. should be recognized afterwards and address it. No rule on this objection. No rebuttal.

4.18	12—13	<i>Objections:</i> Other than Rules of Procedure or Rules of Evidence, following objections may be made: 1) Argumentative Question-can't be asked. 2) Lack of Proper Predicate/Foundation-lay a proper foundation prior to moving the admission of evidence. The exhibit may still be objected to on other grounds even after it has been offered into evidence. 3) Assuming Facts not in Evidence-no questions that assume unproved facts. An expert wt. may be asked a question based upon stated assumptions, the truth of which is reasonably supported by evidence, or hypothetical question. 4) Questions Calling for Narrative or General Answer-questions must call for specific answer. 5) Non-Responsive Answer-if wt. fails to respond to the question, it is objectionable. 6) Repetition-questions designed to elicit the same testimony or evidence previously presented in its entirety are improper if merely offered as a repetition of same testimony or evidence from the same or similar source.
4.19	13	[Reserved]
4.20	13—14	<i>Procedure for Introduction of Exhibits:</i> 1) Evidences be pre-marked as exhibits. 2) Permission to approach the wt. 3) Show the exhibit to opposing counsel before approaching. 4) Approach and ask the wt. to identify the exhibit. 5) Ask ques. that give proof of admissibility. 6) Foundation laid, offer the exhibit into evidence. 7) Ask for objection. 8) Answer no or yes with arguments. 9) Admitted or not after the argument has been concluded.
4.21	14	<i>Use of Notes:</i> Atty. may use notes. No notes for wt. Attorneys may consult with each other at counsel table verbally or through the use of notes. No electronic devices.
4.22	14	<i>Redirect/Recross Examination:</i> Permitted, if they conform to the restrictions in Rule 611(d) of RoE.
4.23	14	<i>Scope of Closing Arguments:</i> Closing arguments must be based upon the actual evidence and testimony presented during the trial.
4.24	14	<i>The Critique:</i> Judging panel is allowed 10 min. for debriefing. No results can be discussed.
4.25	14	<i>Offers of Proof:</i> No offers of proof shall be requested or tendered.
5	14—18	Judging and Team Advancement
5.1	14	<i>Finality of Decisions:</i> Decisions of judging panel are Final .
5.2	15	<i>Composition of Judging Panels:</i> 1 presiding + 2 scoring judges. Championship round may have a larger panel. In emergency of judges, dispute resolution committee must be informed.
5.3	15	<i>Score Sheets/Ballots:</i> Must earn 2 out of 3 ballots to win the round. Ballot votes determine rank. Ballots available upon request.
5.4	15—16	<i>Completion of Score Sheets and Evaluation Process:</i> Scores 1-10. No tie is allowed in the total points box
5.5	16	<i>Team Advancement:</i> Ranked by 1. Win/Loss record 2. # of ballots 3. # of points 4. Point Spread
5.6	17	Power matching/seeding: Random method for first round. Power match for all other rounds. Two teams with strongest record goes to final round after three rounds. First place will only be determined by ballots from final round.
5.7	17—18	<i>Selection of Sides:</i> In championship round: 1. Team with letter/numerical code that comes first alphabetically or numerically will be considered the "Designated Team" 2. Coin will be tossed 3. Heads, Designated Team is plaintiff/prosecution. Tails, Designated Team is defendant.
5.8	18	<i>Odd Number of Teams Participating in Championship:</i> Team receiving bye will win a win and three ballots for that round. Subsequent rounds' averages will adjust the total at the end of each round.
6	18	Dispute Resolution
6.1	18	<i>Reporting a Rules Violation/Inside the Bar:</i> Disputes must be filed immediately after that round. Student attorney should fill out the dispute form. No outside help can be given from coaches.
6.2	19	<i>Dispute Resolution Procedure:</i> Presiding judge reviews and decides whether dispute is to be heard or denied. Denied, the judge will record the reason. Heard, the opposing side will be shown the dispute. Spokesperson from each side gets 3 min. to prepare and 3 min. to present. Spokesperson may be questioned by the judge. The decision is recorded in writing.
6.3	20	<i>Effect of Violation on Score:</i> The dispute may or may not affect the score.
6.4	20	<i>Reporting of Rules Violation/Outside the Bar:</i> Disputes outside the bar may only be brought by the team's teacher sponsor or attorney coach. Dispute resolution panel will (a) notify all pertinent parties; (b) allow time for a response; (c) conduct a hearing; (d) rule on the charge. Dispute resolution panel will be designated by the Mock Trial Committee.
7	19—21	Miscellaneous
7.1	19—20	<i>Eligibility of Students Participants/Teams:</i> All team members must be high school students. Schools permitted up to two teams composed of different students.
7.2	20	<i>Dress and Conduct of Participants:</i> Properly attired for attending court. No gum, food, drinks, cell phones. Leave facilities as clean as possible. Adult must be with teams at all times.
7.3	20—21	<i>Questions Regarding Rules:</i> Questions regarding rules should be directed to Mock Trial Coordinator. Check website periodically for updates and clarifications.

* Original prepared as a class assignment by Luke Kim, Parkview Arts/Science Magnet High School. Updated by Mock Trial Committee to reflect rules as of the 2015 competition.

Mock Trial Quiz 1: “Make your Case” and Mock Trial Behavior

Section I: True/False

- ___ 1. Attorneys should ask leading questions (those for which an answer is implied) to the witnesses for their side.
- ___ 2. Attorneys should ask leading questions (those for which an answer is implied) to the witnesses for the opposing side.
- ___ 3. Sallye Sue was sitting in front of her teacher on a bench watching a trial in which she was not competing. She was holding up signs with rule numbers on them to help her team. Her teacher could not see her, but Bar Association officials could. Under the rules, only her teacher could have evicted her from the courtroom.
- ___ 4. Each team is responsible for having an official timekeeper present.
- ___ 5. A fair extrapolation is one that is neutral and helps neither team in any important way.
- ___ 6. Girls must play female witnesses and boys must play male witnesses.
- ___ 7. If it is not in the rules, it is not permitted.
- ___ 8. Directed verdicts at the end of the prosecution's case are not permitted.
- ___ 9. A good strategy during mock trials is to have alternates go watch other trials so they can scout on the cases of the other teams.
- ___ 10. If you are not in the first trial, you may chew gum, answer your texts, and slump down on the bench and go to sleep.
- ___ 11. If the other team is cheating by holding up signs with answers on them, student attorneys may invoke disputes by notification to the presiding judge during the trial, or they can complain after the trial and get their teacher to file the complaint for them.
- ___ 12. Attorneys should sit unless the judge tells them to stand.
- ___ 13. Witnesses may use notes.
- ___ 14. Attorneys may use notes.

Section II. Short Answer

15. What is the name of the plaintiff in “Make Your Case”? _____
16. What is the name of the defendant in “Make Your Case”? _____
- List three things the plaintiff wants:
17. _____
18. _____
19. _____
20. What is the defense position? _____

The Structure of the Arkansas Judiciary & The Role of Courts

The United States government, at both the federal and state levels, is composed of three different branches that are intended to check and balance each other's power. In Arkansas, the legislative function in Arkansas is performed by the Arkansas General Assembly, which meets every two years. It consists of the Arkansas Senate, with 35 members, and the Arkansas House of Representatives with 100 members. The General Assembly passes the laws that the executive branch must then implement. The Governor oversees the executive branch, which consists of a variety of state agencies such as the Arkansas State Police, the Arkansas Department of Health, and the Arkansas Department of Finance and Administration. The third branch of government is the courts, which is the focus of this lesson

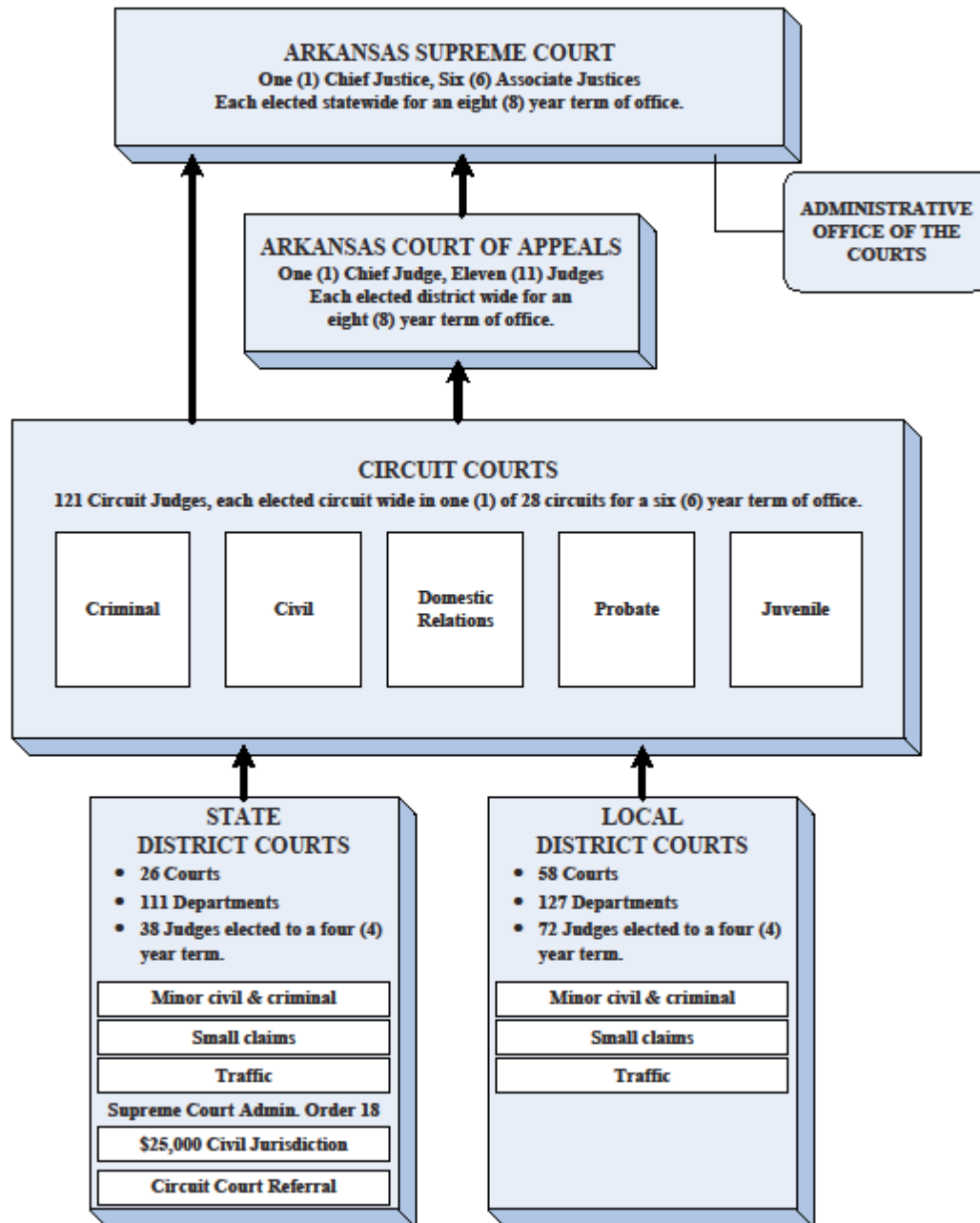
The Arkansas courts are divided into four layers. At the top is the Arkansas Supreme Court, which has seven justices who are elected in state-wide elections to serve staggered terms. Below the Arkansas Supreme Court is the Arkansas Court of Appeals, which was created in 1978 by Amendment 58 to the Arkansas Constitution. The Arkansas Court of Appeals consists of 12 judges who are elected from seven districts throughout the state. The Arkansas Circuit Courts are the basic trial courts in Arkansas. They are divided into 23 circuits, and there are approximately 121 circuit judges in Arkansas. Below the Circuit courts are the Arkansas District Courts. They hear minor matters such as small claims and traffic violations.

The Arkansas courts hear both civil and criminal claims. Civil cases are usually brought by a private party in order to recover monetary damages or to prevent some sort of civil harm. For example, when one company sues another for breaching a contract by failing to pay for something, that is a civil case. However, civil cases are not limited to business. When people divorce and dispute custody of their child, that too is a civil dispute that would be heard in the circuit courts. If your neighbor builds a fence on your property, then an appropriate response is to file a lawsuit in order to require your neighbor to remove the fence. In order to prevail in a civil case, the party that files the lawsuit, the plaintiff, must demonstrate by a "preponderance of the evidence" that the facts are in their favor. The "preponderance of the evidence" standard is sometimes thought of as scale that is equally balanced until just enough evidence is placed on one side to get the scale to move. That is the "preponderance of the evidence." Criminal cases are brought by the

state against people who are believed to have violated one or more criminal laws. If found guilty, they can be sentenced to prison. In criminal cases, the state must prove guilt “beyond a reasonable doubt.” This means that there can be no reasonable doubt in the mind of a reasonable person that the defendant is guilty.

Regardless of whether a case is criminal or civil, most cases of significance start in the circuit court. This is sometimes called the “trial level” because if the parties have disputes over the facts (e.g., was the stoplight green or red when a car drove through the intersection), then a trial must occur so the finder of fact (either a judge or a jury) can decide the fact in dispute. The party that loses at the circuit court level is entitled to file an appeal with the Arkansas Court of Appeals. In some narrow instances a party may be able to file an appeal directly with the Arkansas Supreme Court. For those who do not have that right, they have the option of asking the Arkansas Supreme Court to exercise its discretion to hear an appeal from the Arkansas Court of Appeals. Both appellate courts usually focus on whether the trial court correctly applied the law. They generally do not second-guess factual determinations made the finder of fact.

ARKANSAS COURT STRUCTURE



State District Courts and Local District Courts as of 9/3/2014

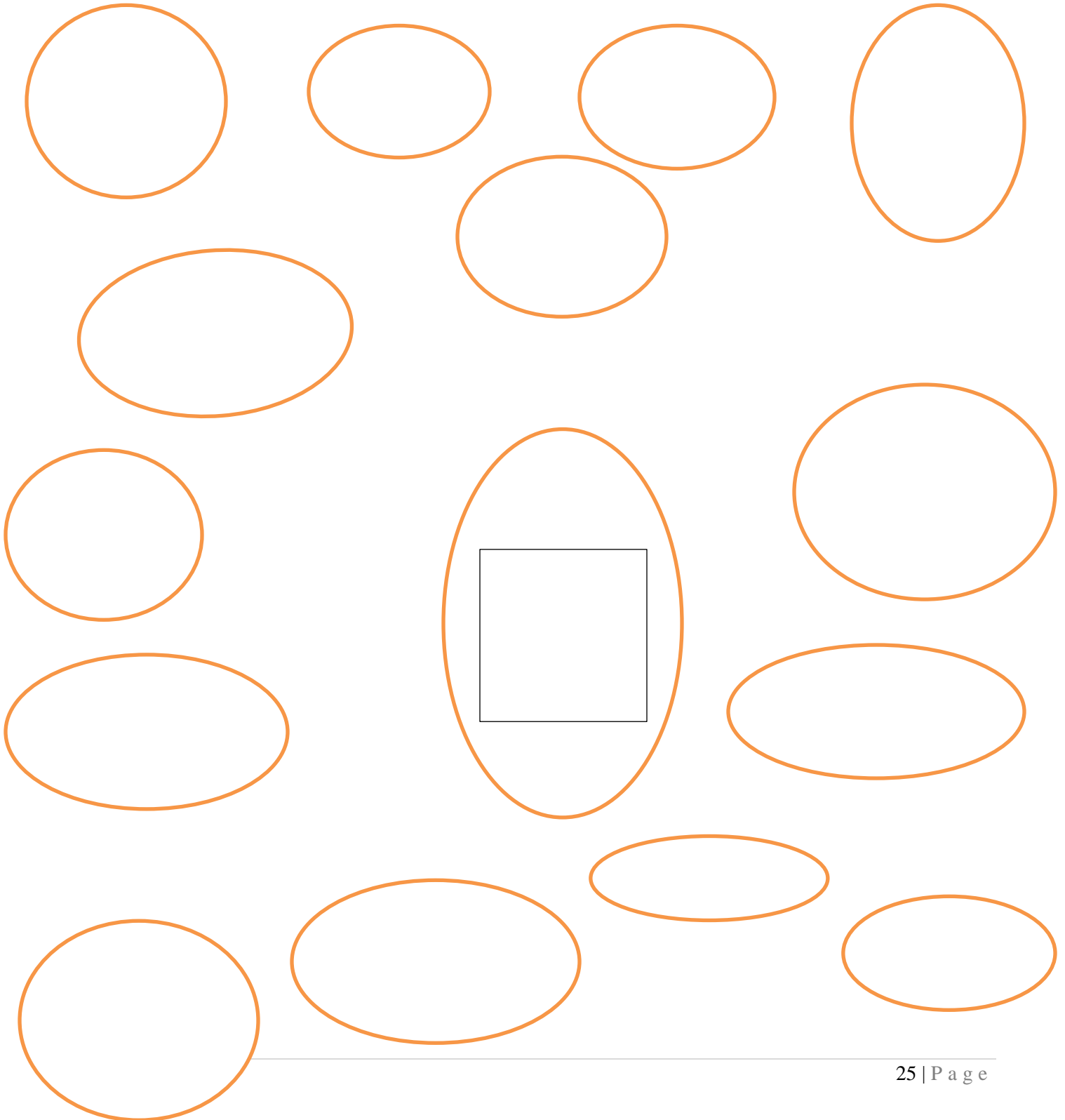
What Are We Proving?

Case Example: *Wilson v. Gander's, Inc.*

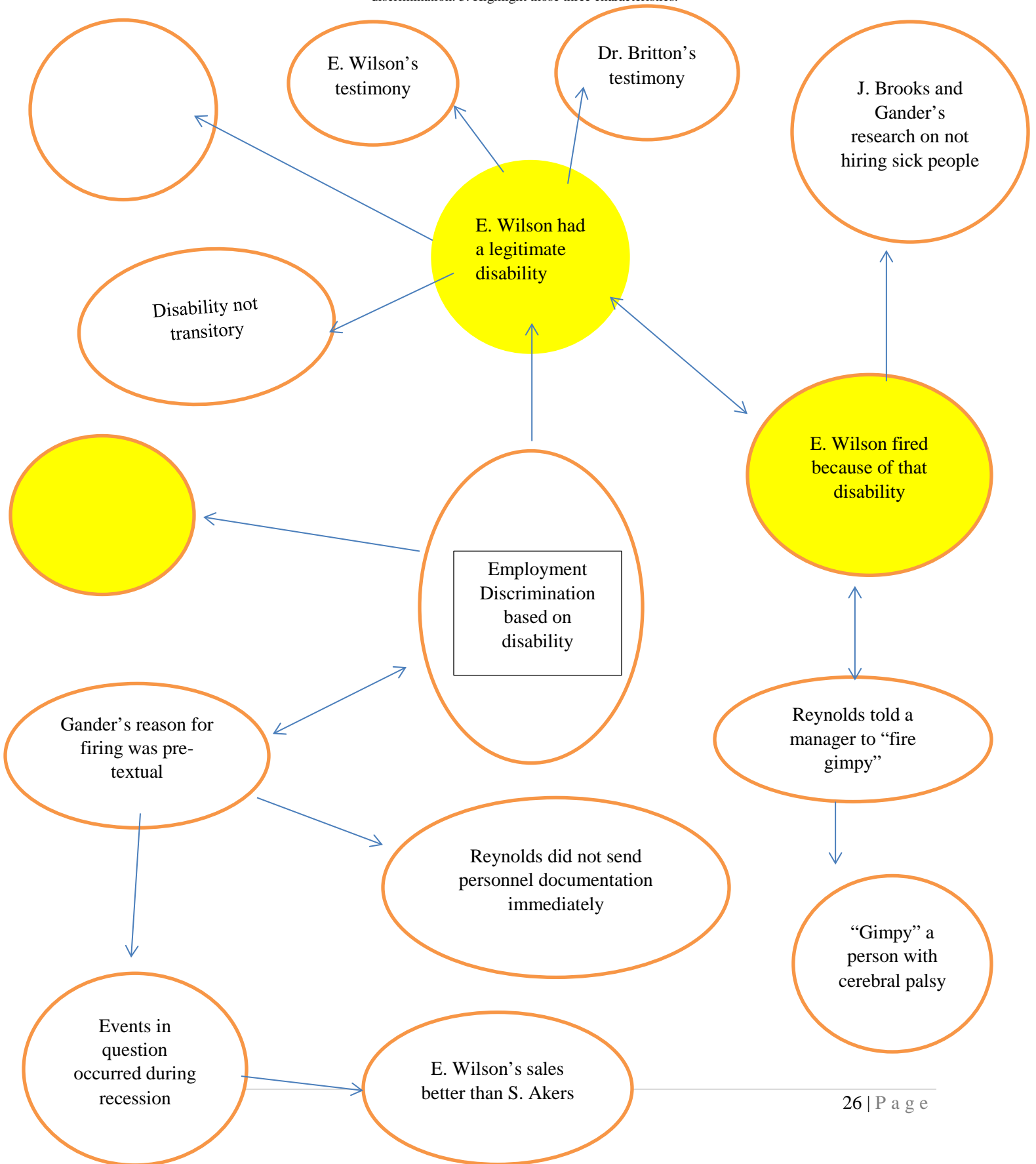
Time	Lesson Activities	Assessment
5 min	<ul style="list-style-type: none"> Distribute copies of “What are we Proving?” (one copy per count/charge). Distribute copies of case legal documents (criminal indictment, civil pleadings, statutes, jury instructions). 	
10 min	<ul style="list-style-type: none"> Have students form groups of 4-6. Guide the groups as they identify each count/charge. Instruct students to place the name of each count/charge in the middle circle. There should be one page per count/charge. 	Visual checks to make certain students are following instructions accurately
25-30 min	<ul style="list-style-type: none"> Instruct the students to perform the following group tasks: <ul style="list-style-type: none"> Read the legal documents provided. In the satellite circles, place items the plaintiff/prosecution must prove to win. Discuss it with your group if you are uncertain that an item belongs in a circle. Make new circles or connect your circles in any way you feel best. 	Visual checks to make certain students are following instructions accurately
20 min	<ul style="list-style-type: none"> Have each group appoint a representative to report for the group. Hear reports from each group and discuss the degree to which the group included all pertinent information. 	Oral assessment using teacher-made key
20 min	<ul style="list-style-type: none"> Distribute more copies as need of handout “What are we Proving” Now instruct the students to look at the case from the defense point-of-view and to perform the following tasks: <ul style="list-style-type: none"> Read the legal documents provided In the satellite circles, place items the defense must prove to win may present to win a not guilty verdict Instruct students to begin documents in their groups, and complete them for homework. 	Written assessment using teacher-made key

What Are We Proving?

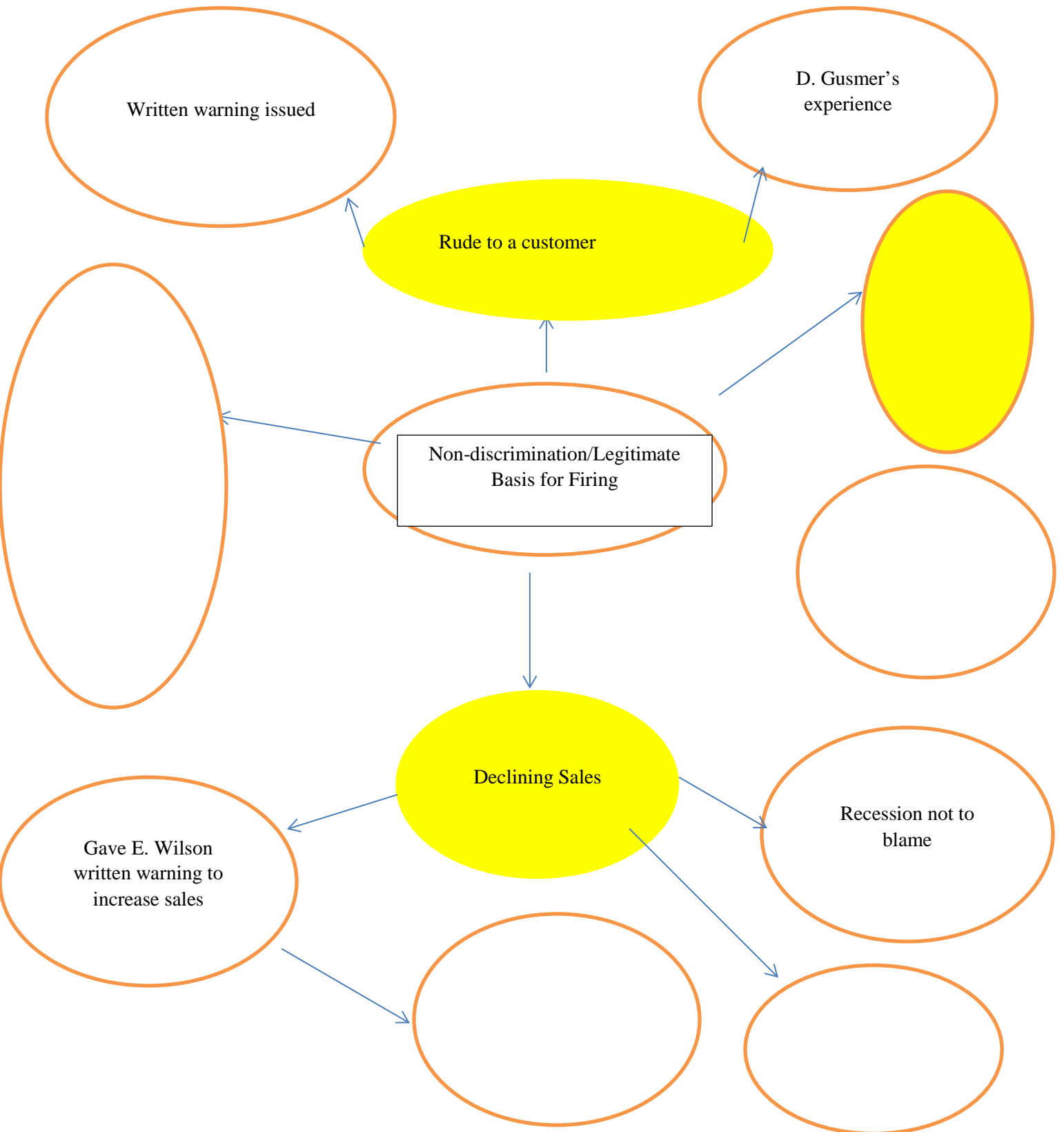
1. Place element of charge/claim in the circles. Some circles may not be used. Create more circles if needed.
2. Connect sub-ideas to main idea with an arrow.
3. Connect ideas that are linked with a double-headed arrow.
4. In your group, decide which three characteristics are the three main characteristics of charge/claim.
5. Highlight those three characteristics.



Example Key (Plaintiff) from *Wilson v. Gander's, Inc.* employment discrimination case. 1. Place characteristic of employment discrimination in the circles. Some circles may not be used. Create more circles if needed. 2. Connect sub-ideas to main idea with an arrow. 3. Connect ideas that are linked with a double-headed arrow. 4. In your group, decide which three characteristics are the three main characteristics of employment discrimination. 5. Highlight those three characteristics.



Example key (Defendant) from *Wilson v. Gander's, Inc.* employment discrimination case. 1. Place characteristic of non-discrimination in the circles. Some circles may not be used. Create more circles if needed. 2. Connect sub-ideas to the main idea with an arrow. Connect ideas with are linked with a double-headed arrow. Decide which characteristics are the main characteristics of non-discrimination. Highlight those characteristics.



Matching the Evidence to the Case Elements

Case example: *Wilson v. Gander's, Inc.*

Time	Lesson Activities	Assessment
5 min	<ul style="list-style-type: none"> • Distribute copies of Fact Pattern Charts. • Distribute copies of the case counts/charges on an easy to follow one-page document. • Distribute copies of the case. • Instruct students to arrange chairs in seminar seating or a circle conducive to group reading and discussion. 	
10-20 min	<ul style="list-style-type: none"> • Discuss the information on the “What are We Proving” diagrams from previous class meeting(s). • Make certain students understand what they are proving. • Explain that students will now begin to analyze testimony to determine the facts that are relevant to the case. • Relevant facts are those which make one or more of the charges or counts more or less true. 	
25-30 min	<ul style="list-style-type: none"> • Have students take turns as the testimony of the first witness is read aloud. • Stop often and ask if anyone can suggest an item that should go on the chart because it helps either the Prosecution/Plaintiff or the Defense side. • Ask students to use their count/charges handout to determine what count/charge the testimony supports or negates. 	Visually determine that all students are recording information as per the directions
25 min	<ul style="list-style-type: none"> • After the first witness has been completed, distribute Rules of Evidence Charts and corresponding sets of highlighters. • Explain that even though the testimony may be relevant, it will not always be allowed to be heard in court. <ul style="list-style-type: none"> ○ Some evidence such as hearsay or speculation is not reliable; ○ Some evidence such as testimony about the character of a defendant or victim is overly prejudicial; ○ The Federal Rules (mock trial version) govern which evidence may be heard in court. • Discuss the rules chart and allow students to look over the charts to ask questions. • Guide the students as they complete the OBJ (objections column) on their Evidence to Elements charts 	Oral questions Visual assessment that students are completing the OBJ column as instructed
20 min	<ul style="list-style-type: none"> • Using the chart, highlight the sections of the case document that will likely draw objections using the appropriate color: 100s-dark blue; 200s and 300s-pink; 400s-yellow; 500s-lanvender; 600s-orange; 700s-green; 800s-light blue <p>**Alternative Assignment for upper grades, advanced students, and competitive teams:</p> <ol style="list-style-type: none"> 1. Distribute full version of Rules of Evidence one week prior to the start of the unit. 2. Require students to create a summary chart of the rules that is no longer than one double-sided page. 3. Award no grade higher than a C- for charts that exceed one double-sided page. 	Visual assessment that students are highlighting the appropriate sections

Day 4	<ul style="list-style-type: none">• Complete remaining witnesses using procedure outlined above.• Assign unfinished portions as homework.	
Day 5	<ul style="list-style-type: none">• Discuss themes and case stories from handout.• Divide class into teams. (Teams or teacher may make role assignment within team.)• Require teams to complete case story and theme handout.	

Witness Analysis: Elements to Evidence

Case Title: Wilson v. Gander's Inc. Witness Name: S. Akers P or D (circle one)

Testimony supporting P	Count/Charge	Admissible	Testimony supporting D	Count/Charge	Admissible
Aaron/Erin was the model employee with an incredible work ethic.	Issue 1 – Performed job satisfactorily	R. 701	Hiking and rock climbing have fallen by the wayside.	Issue 1 – Is Plaintiff “Disabled” by a substantial limit on a major life activity	R. 401, 601, 602
Aaron/Erin was fired.	Issue 1 – An Adverse Employment Action occurred	R. 601, 602 (?)	Aaron/Erin did not have a business background	Issue 2 – Legitimate Reason to Fire	R. 401, 402 (?)
My sales were less than Aaron/Erin’s	Issue 3 – Pretext	R. 601, 602 (?)	S. Reynolds swore out a warrant against me after I resigned.	N/A Witness credibility	R. 607, 608, 609
S. Reynolds would tell employees how much makeup to wear or to lose weight	Issue 3 – Pretext	R. 801			

Example of Charges/Counts Handout from *Wilson v. Gander's Inc.*

ISSUE 1: Violation of the Americans with Disabilities Act of 1990 (the “ADA”)

The burden of proof is on the Plaintiff. More particularly, the Plaintiff must prove by a preponderance of the evidence:

- (1) that the Plaintiff is a qualified individual with a disability,
 - a. a Plaintiff must establish that although s/he is disabled,
 - i. One is disabled if s/he has a physical or mental impairment that substantially limits his/her ability to perform one or more major life activities. Such life activities may include, without limitation, things like caring for oneself, walking, seeing, hearing, reading, breathing, concentrating, or processing thoughts.
 - ii. The relevant inquiry is not whether the Plaintiff was disabled at the time of the trial but, rather, whether the Plaintiff is disabled at the time employment action was taken.
 - b. s/he can perform the essential function of his/her position with or without reasonable accommodation.
- (2) that s/he performed his/her job satisfactorily, and
- (3) that s/he suffered an adverse employment action.
 - a. Adverse employment actions shall include termination, demotion, or any other employment action resulting in the loss of the tangible benefits of employment. An adverse employment action by the supervisor is an action of the employer.

ISSUE 2: Legitimate Reason For The Adverse Employment Action

The Defendant has the burden of production on whether the Defendant had a legitimate, non-discriminatory reason for the adverse employment action taken against the Plaintiff. A burden of production does not require proof by a preponderance of the evidence. Rather, the Defendant satisfies the burden of production if it offers *some* evidence that its reason for the action was legitimate and non-discriminatory.

- In determining whether the Defendant’s proffered reason for employment action is non-discriminatory, the jury may consider such factors as the industry in which the Defendant is engaged and the purpose or purposes for which the Defendant’s business exists.

If the jury finds the Defendant has offered a legitimate, non-discriminatory reason for the action, the Plaintiff bears the burden of proving by a preponderance of the evidence that the

Defendant's stated reason for the action was merely a pretext for discrimination.

ISSUE 3: Defendant's Reasons For The Adverse Employment Action Are Pretextual

The Plaintiff is not required to produce direct evidence of unlawful motive.

- The jury may infer knowledge and/or motive as a matter of reason and common sense from the existence of other factors, such as tendered explanations that are pretextual (i.e., false, not the real reason) in nature.

If the jury finds that the Plaintiff has proven that the proffered reason or reasons were pretextual, and that unlawful discrimination was a determinative or but-for cause of the adverse employment action, then the jury must resolve this issue in favor of the Plaintiff.

Mock Trial Rules of Evidence*

Rule	Page	Summary
101	21	Scope: These rules govern.
102	21	Purpose and Construction: Secure fairness, eliminate delays, and promote law of evidence.
201	21	Judicial Notice of Adjudicative Facts: a) this rule is not on legislative fact; b) Court may judicially notice something of undisputable nature of math and scientific certainty; c) court must notify if requested from party and supplied with necessary information; d) party can be heard on propriety of taking the notice and the nature of the fact; e) in civil case, court must instruct the jury to accept notice as conclusive. It is not so in criminal case.
300	21	Presumptions in Civil Actions and Proceedings – Not Applicable
401	22	Test for Relevant Evidence: a) evidence that makes any fact more probable or less probable than it would be without evidence; b) fact is of consequence in determining the action
402	22	General Admissibility of Relevant Evidence – Irrelevant Evidence Inadmissible
403	22	Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time: If unfair, confuse, mislead the jury, undue delay, wastes time, needless cumulative evidence.
404	22	Character Evidence; Other acts or Crimes: a) <i>Character Evidence</i> – (1) Prohibited – to prove that person acted in accordance with trait on the occasion (2) Criminal only: A) Defendant offers the defendant’s character; B) Defendant offers alleged victim’s character, prosecutor may (i) rebut or (ii) offer the same of the defendant; C) prosecutor offers evidence of alleged victim’s peacefulness in homicide (3) Exceptions – provided in Rules 607, 608, and 609. b) <i>Other Crimes, Wrongs, or Acts:</i> (1) Prohibited: in 404(a)(1). (2) Permitted Uses: to prove motive, opportunity, intent, preparation, plan, knowledge, identity, etc.
405	23	Methods of Proving Character: a) <i>Reputation or Opinion</i> – When admissible, to R or in O. CX may ask regarding relevant, specific conduct. b) <i>Specific Instance of Conduct</i> – If character trait is an essential element of a charge, claim, or defense, proof can be made.
406	23	Habit; Routine Practice: Evidence of habit of person or routine practice of organization, whether corroborated or not & regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization was in conformity with habit/RP.
407	23	Subsequent Remedial Measures: Subsequent remedial measures to prove negligence, culpable conduct, defect in a product or its design, or a need for warning or instruction not allowed. Can be used for ownership, control, or impeachment, or the feasibility of precautionary measures.
408	23	Compromise and Offers to Compromise: a) <i>Prohibited Uses</i> – not admissible to argue validity, amount of disputed claim, or impeach: (1) Furnishing, accepting, offering or promising to furnish or accept (2) conduct or statement made during compromise negotiations about the claim; except in criminal case and when related to a claim by public office in the exercise of its regulatory, investigative, or enforcement authority. b) <i>Exception</i> – Proving a witness’s bias or prejudice; negating a contention of undue delay; proving an effort to obstruct criminal prosecution
409	24	Offer of payment of Medical and Similar Expenses: Not admissible for liability for the injury.
410	24	Inadmissibility of Pleas, Plea discussions, and Related Statements: a) prohibited against defendant of the plea or participant in the discussion: (1) a plea of guilty withdrawn; (2) a plea of <i>nolo contendere</i> ; (3) statement made during either of above; (4) statement with an attorney if discussion did not result in a guilty plea or withdrawn pleas. b) Exceptions for 410(a)(3) or (4): (1) another statement made during same plea or discussion requires statements to be considered together (2) criminal proceeding for perjury or false statement if defendant made it under oath
411	24	Liability Insurance (Civil only): not admissible for whether the person acted negligently or wrongfully. Admissible for proof of agency, ownership, control, bias or prejudice of a witness.
501	24-25	General Rules: Excluded from evidence are comm. between (1) husband & wife (2) attorney and client (3) grand jurors (4) secrets of state (5) psychiatrist and patient
601	25	General Rule of Competency: Every person is competent to be a witness.
602	25	Need for Personal Knowledge: Witness may not testify to a matter unless evidence is introduced to support a finding that the witness has personal knowledge of the matter.
607	25	Who May Impeach: Credibility of witness may be attacked by any party.
608	25	Evidence of Character and Conduct of Witness: a) <i>Opinion and Reputation Evidence of Character:</i> evidence of credibility may be entered after attacked. b) <i>Specific Instance of Conduct</i> – not admissible except for 609. Court may allow inquiry in CX if probative of the character of (1) witness (2) or another witness who is being testified about by the witness being CXed. Witness doesn’t waive any privilege against self-incrimination for testimony that relates only to the witness’s truthfulness by testifying.
609	26	Impeachment by Evidence of Conviction of Crime: a) <i>General Rule</i> – for attacking truthfulness by evidence of criminal conviction (1) for a crime punishable by death or imprisonment for more than a year (a) must be admitted in 403 if witness is not defendant (b) must be admitted in criminal case if the probative value outweighs prejudicial effect to defendant (2) any crime requiring as elements dishonesty or false statements. b) <i>Evidence of</i>

		<i>a conviction after 10 years admissible if more probative. c) Conviction not admissible if: (1) subject of a pardon, annulment, certificate of rehabilitation and the person has not been convicted of a later crime punishable by death or imprisonment over one year; (2) subject of pardon, annulment, or equivalent procedure based on finding of innocence. d) Juvenile Adjudication admissible if (1) offered in criminal case (2) was of a witness other than defendant (3) an adult's conviction for that offense would be admissible to attack adult's credibility; and (4) admitting the evidence is necessary to fairly determine guilt or innocence. e) Pendency of an appeal is admissible, convictions that satisfies this rule is admissible even if an appeal is pending.</i>
610	26	Religious Beliefs or Opinions: Not admissible attack or support credibility.
611	27	Mode and Order of Interrogation and Presentation: a) The Court control over the question of witnesses and presenting evidence to (1) make procedures effective for determining truth (2) avoid wasting time (3) protect witness from harassment. b) The scope of CX not limited to the scope of DX. c) Leading questions are allowed in (1) CX (2) when party calls hostile witness. d) Redirect and Recross should not be repetitive and limited only to examination right before. e) motion to strike is the only motion allowed
612	27	Writing Used to Refresh Memory: Written statements used to refresh the memory of a witness will be inspected by adverse party, and CXed.
613	27	Prior Statements: a) examining witness concerning prior statement – the statement not to be shown nor its contents disclosed to the witness, but must be shown to opposing attorney. b) Extrinsic evidence of prior inconsistent statement of witness – inadmissible unless witness explains/denies it, and opposing party is given an opportunity to examine witness about it, or if justice so requires. Does not apply to 801(d)(2).
701	28	Opinion Testimony by Lay Witness: testimony is based on (1) perception and (2) helpful to a clear understanding of the witness's testimony and (3) not based on specialized knowledge.
702	28	Testimony by Experts: If scientific knowledge helps understating of evidence, witness qualified as an expert by knowledge, skill, experience, training, or education may testify in form of opinion.
703	28	Bases of Opinion Testimony by Experts: Experts can base opinion on facts in the case that has been made aware or personally observed by the expert. If the facts are relied on reasonably, they need not be admissible. If fact is inadmissible, the probative value can be questioned.
704	28	Opinion on Ultimate Issue: a) not objectionable. b) No testimony to DF's mental state or condition constituting an element of the crime charged.
705	28	Disclosure of Facts or Data Underlying Expert Opinion: Expert doesn't have to reveal the underlying facts or data, unless the court orders. Might be required during CX.
801	29	Definition: a) <i>Statement is oral, written, or nonverbal assertion.</i> b) <i>Declarant is a person who makes a statement.</i> c) <i>Hearsay is a statement (1) not made while testifying by declarant (2) offered for truth of the matter asserted in the statement. d) Not hearsays if (1) declarant's prior statement (A) inconsistency (B) consistency (C) identification; (2) Offered by opposing party (A) made by the party (B) party believed it to be true (C) made by person authorized by the party (D) made by party's agent or employee on matter within the scope of that relationship and while it existed (E) made by conspirator during and in furtherance of the conspiracy. Statements by itself establish declarant's authority under (C), existence or scope of relationship under (D), or existence of conspiracy or participation in it under (E).</i>
802	29	Hearsay Rule: Hearsay is not admissible, except as provided by these Rules.
803	30	Hearsay Exceptions, Regardless of Declarant's Availability: (1) Present sense impression. (2) Excited utterance. (3) Then Existing condition (4) Statements for purposes of (A) medical diagnosis or treatment (B) medical history. (5) Memorandum or record (6) Records of regularly conducted activity in business (A) made during or near the time (B) in the course of regular activity (C) making of record was a regular activity (D) conditions are shown by qualified witness (E) neither the source or circumstance suggest untruthfulness. (7) Absence of records (A) to prove that matter did not occur (B) 803(6)(C). (C) 803(6)(E). (8) Public records (i) office's activities (ii) matter observed under a legal duty to report (iii) factual findings from legally authorized investigations. (10) Absence of Public records (16) Ancient documents of 20 or more years old; (18) Statements in learned treatises, periodicals, or pamphlets (21) reputation concerning character (22) judgment of previous conviction (A) after trial or guilty plea (B) 609(a)(1) (C) prove any fact essential to the judgment. (D) offered by prosecutor for purpose other than impeachment.
804	31	Hearsay Exceptions; Declarant Unavailable: a) defined unavailable if (1) exempted by ruling of the court (2) refuses to testify (3) testifies to a lack of memory (4) is unable to be present at the hearing b/c of death or illness (5) unable to procure the declarant's attendance. b) Exceptions are (1) former testimony (2) statement under belief of impending death (3) Statement against interest (4) Personal or family history (6) statement offered against a party that wrongfully caused the declarant's unavailability.
805	32	Hearsay within Hearsay: Included if each part of the combined conforms w/ an exception.

*Originally prepared as a class assignment by Luke Kim, Parkview Arts/Science High School. Updated to reflect the rules as of the 2015 competition

Team Assignment Sheet

Case example: *Wilson v. Gander's, Inc.*

1. Meet in teams.
2. Assign roles.
 - a. Each member must play at least one role. Complete all items of chart.
 - b. Directs must be complete by the end of next meeting. Witness should write his/her own answers.
 - c. Each team will be either plaintiff/prosecution or defendant. No class member should be out of his/her group.

Witness	Played By	Directed By	Crossed By	Key Testimony & Exhibits
Plaintiff				
Aaron/Erin Wilson				
Terry Britton, M.D.				
Stephen/Stephanie Akers				
Defendant				
Don/Donna Gusmer				
Jamie Brooks				
Samuel/Samantha Reynolds				

Team Case Story and Theme

Case example: *Wilson v. Gander's, Inc.*

Case Story:

The case story is a brief explanation of what happened. It should display the following characteristics:

- One paragraph or less. Easy to understand. Easy to communicate. Makes sense.
- Explains all or most of the material in the case in a way advantageous to your side.
- Explains who did what when where and why? The entire team must agree.

As a team, agree on a case story and write the story below:

Case Theme: A case theme is like a great attention getter in a speech. You should also end with it, too. In fact, a good case theme will be featured from all of your witness. It does not have to be highly creative, but it must be clear. See Case Theme Handout. Examples:

Rush to judge

It could have been anybody

Hell hath no fury like a lover scorned

Romero was killed for the good of the company, just like Caesar was killed for the good of Rome

Greed got the best of her

Drugs, alcohol, and driving don't mix

He just snapped.

He flew too high to the sun.

Speed kills

Direct Examination Planning Guide

NAME OF WITNESS: _____ DIRECTING ATTORNEY _____

Circle Type of Witness:

Occurrence Character Expert Victim Police Records Defendant

Directions:

1. Using your own paper, type questions and answers for each direct examination below.
2. Q & A may be edited and rearranged after completion.
3. Completion is the key word. Be certain you explore every possible way this witness may help make your case.

I. Introductions and Background

- a. Ask a series of questions allowing the witness to explain how they fit into the case.
- b. Ask a series of questions designed to humanize the witness and build credibility with the jury.
 - i. Type both questions and answers.
- c. Scene
 - i. Ask a series of questions designed to allow the witness to paint a word picture the scene they saw. The jury should be able to visualize it by listening to the witness.
 - ii. Use detailed sensory images while avoided distracting details (such as the table was about 32 inches high) which are not in dispute.
 - iii. Whenever possible, have the witness demonstrate.
 - iv. Type both questions and answers.

II. Action

- a. Context and Foundation
 - i. Ask a serious of quick questions designed to speed up action through portions of testimony which serve only to establish context and lay foundation.
 - ii. Ask specific foundational questions as per Evidentiary Foundations.
 - iii. Type questions and answers.
- b. Essential elements
 - i. List Essential Elements supported or denied by action testimony.
 - ii. Type questions and answers to a series of very specific questions to zoom in on essential-element testimony.
- c. Dramatized and Humanized
 - i. What will the witness do to dramatize the testimony?
 - ii. What will the witness do to humanize the testimony?
 - iii. Type non-repetitive questions and answers that serve those purposes.

- III. EXHIBIT – Use exhibits to highlight essential testimony (Skip if you do not plan to enter an exhibit)
- a. Identify kind of exhibit and list foundational requirements:
 - i. Real evidence (tangible object – beads, gun, hat, etc.)
 - ii. Demonstrative (photo, diagram, map, model, etc.)
 - iii. Writing (contracts, checks, wills, signatures must be identified)
 - iv. Business Records (kept regularly for business, relied upon in business)
 - b. General Foundation: Type Q&A to establish the following:
 - i. Witness is competent – has first-hand knowledge of facts underlying exhibit.
 - ii. Evidence is relevant and reliable
 1. Relevance (establish through witness testimony or judge examination) and;
 2. Reliability (non-hearsay or hearsay exception)
 - iii. Evidence is authenticated (exhibit is what it purports to be)
 - c. Highlight essential testimony using exhibit.
 - d. Establish or deny essential elements using exhibit.
 - i. Describe nonverbal interaction with exhibit.
 - ii. Type specific questions asked about the exhibit.
 - iii. In your questions, type “Permission to publish to the jury, Your Honor?” at the point you wish to put the exhibit in the hands of the jury members.
- IV. End Strong
- a. Plan a memorable ending to highlight key testimony and end on a memorable high note.
 - b. Never end on a lost objection.
- V. **Planning for a 10:** Ballot comments for witness/attorney pairs who score high cluster around two characteristics: (1) highly emotional in a believable way or (2) highly informative in an interesting way. Describe how this direct examination will merit scores of 10 for both participants.

Resources:

- Harvard Mock Trial Ass’n, *High School Seminar 2013*. (Harvard University 2013)
- Edward J. Imwinkelried and Edward L. Barrett, *Evidentiary Foundations* (8th ed. 2012)
- Thomas A. Mauet, *Trial Techniques* (5th ed. 2000)

Direct Examination Evaluation Rubric

WITNESS _____ DIRECTING ATTORNEY _____ DATE _____

	F (50-59)	D (60-69)	C (70-79)	B (80-89)	A (90-100)
Background	Background was not included	Basic background was discussed. +The jury can identify	+The jury members can recognize how they are like the witness. Objection answers are on-point & clear, with rule numbers	+Admirable items from background were discussed. The jury can believe the witness and side with the witness. Attorney questions are looped to previous answer.	+ Q & A Feed the case, story, and explain away that which hurts the story Objection answers are on-point, clear, feature <i>FROEWO</i> wording, include numbers & + rationale arguments. Attorney signals transition verbally and nonverbally
Scene	Basic time and place were disclosed.	+A few details were given. Technical terms such as exact numbers and distances were avoided.	+The scene is described physically. Lighting, temperature, noise level, and weather are included	+The witness uses imagery which paints a word-picture. Descriptive gestures are used. The jury can see it. The team may close with "witness with best memory" comparison. Attorney questions are looped to previous answer.	+Feeds the case story, and explains away that which hurts the story Attorney signals transition verbally and nonverbally Importance of the scene description is apparent on the attorney face.
Action Organization	No discernible organizational pattern was apparent. OR Attorney remains still, and expressionless Questions are Fired in a robotic and monotonous way.	Events presented clearly in chronological order Attorney appears competent, but not interested. Hands move, but not purposefully	+Organization was apparent. chronological or order-of-importance employed to best effect. Objection answers on-point & clear, with numbers Attorney signals answer importance verbally and nonverbally. Hands highlight important points.	+Apparent organization was heightened through the use of signposts and transitions. +Objection answers are on- point, clear, include numbers Attorney questions are looped to previous answer.	+Q & A Feed the case story, and explain away that which hurts the story. +Objection answers are on- point, clear, feature <i>FROEWO</i> wording, include numbers + rationale argument. Attorney signals transition verbally and nonverbally
Action Humanization	The events were listed, but were not memorable Attorney remains still, and expressionless Questions are Fired in a robotic and monotonous way.	+The events were memorable Attorney appears competent, but not interested.	+The events were humanized through explanation Attorney appears interested verbally and nonverbally.	+The events were made real through the use of creative analogies and examples . Attorney questions are looped to previous answer.	+Q &A Feeds the case story, and explain away that which hurts the story during direct and cross. Understanding and appreciation of analogies and examples is apparent on attorney face. Attorney signals transition verbally and nonverbally

<p>Action Dramatization</p>	<p>Helpful events were included</p>	<p>+The helpful parts were slowed down, while the hurtful parts were speeded.</p> <p>Witness rate mirrors attorney rate changes.</p>	<p>+The helpful testimony was dramatized with voice.</p> <p>Attorney responds nonverbally</p>	<p>+Dramatization included use of full body and voice. The witness demonstrates and uses descriptive gestures. Memory of event is apparent on the face.</p> <p>Concern is apparent on attorney face. Questions are looped to previous answer.</p>	<p>+Witness puts us inside the action through use of voice and body.</p> <p>Vocal intensity varies. The voice builds to a high, and then there is a dramatic fall.</p> <p>Witness body & voice remain constant during cross.</p>
<p>Exhibits (where applicable)</p>	<p>Witness has first-hand knowledge and exhibit is entered correctly.</p>	<p>+Foundation for exhibit relevance is established</p>	<p>+Foundation for exhibit reliability is established. Objection answers are clear with numbers</p>	<p>+Exhibit reinforces key element(s) w/o distraction Objection answers are on point, clear, include numbers</p>	<p>+Q&A Feed the case story and, explain away that which hurts. Witness demonstrates off-stand. +Objection answers are on point, clear, feature <i>FROEWO</i> wording, include numbers & rationale.</p>

Cross-Examination Planning Guide

NAME OF WITNESS: _____ CROSSING ATTORNEY _____

Circle Type of Witness:

Occurrence Character Expert Victim Police Records Defendant

Directions:

1. Use your own paper to plan your cross examination of an opposing witness.
 2. This should be planned exclusively by an attorney.
 3. At its best, a cross should be a great attorney performance that includes a few pauses allowing the witness to give a one-word response.
 4. The focus should be on the attorney.
 5. All questions should lead the witness. The best questions will not be questions at all, but statements which the witness must confirm. Example:
 - a. Q: It was dark?
 - b. A: It was.
 6. The tone should be friendly and matter-of-fact.
 7. Use the umbrella question technique.
 - a. First ask a question the witness is likely to agree with such as, “You say you saw the defendant very clearly?”
 - b. Then ask a series of questions to show that statement cannot be true such as, “and you indicated you were 100 feet away and the street light was not working?”
 - c. Never go one question too far by asking, “So you really could not see anything, could you?” One question too far allows the witness to explain.
 - d. Let your facial expression tell the jury when to doubt.
- I. Elicit Favorable Testimony
- a. Have witness repeat favorable testimony revealed in direct examination. (Type question and desired one-word answer).
 - b. Using your Evidence to Elements Chart, write a bullet list of items in witness statement that can help your side.
 - c. Get admission of other testimony *contained in* the statement that can help your case theory, theme, or labels.
 - i. List each item that **MUST** be admitted by the witness because it is in the statement. (Just pause at the end of each item and expect the witness to say yes.)
 - ii. Get admission on that which **SHOULD** be admitted. (Ex.: it was dark, there was a party, it happened fast).

- II. Discredit Unfavorable Testimony
- a. Limit or discredit the testimony due to an honest flaw in one of the following human abilities:
 - i. Perception (light, distance, noise, attention focused on movement, startled)
 - ii. Memory (Question the details of the scene to show witness may have forgotten details. Use of the diagram may be good for this. How many bushes were in the front yard? How many gates? How many cars were in the driveway?)
 - iii. Communication (ability accurately estimate and describe time and distance)
 - b. Discredit the conduct. List items of conduct that do not match the testimony. You say you did nothing wrong? But you hid in the bushes when the cops showed up?)
 - c. Impeach the witness.
 - i. Use great care and judgment. If the witness was very helpful to your case, then do not make the witness out to be a liar or crook.
 - ii. Impeach, if necessary, on the following situations:
 1. Bias, interest, or motive to favor a side
 2. Prior convictions
 3. Prior bad acts
 4. Prior inconsistent statements
 5. Contradictory statements
 6. Contradictory facts
 7. Reputation for untruthfulness
 8. Treatises (statements in which witness has adopted a belief

Resources:

- Harvard Mock Trial Ass'n, *High School Seminar 2013*. (Harvard University 2013)
- Thomas A. Mauet, *Trial Techniques* (5th ed. 2000)

Cross Examination Evaluation Rubric

WITNESS _____ ATTORNEY _____ DATE _____

	F (50-59)	D (60-69)	C (70-79)	B (80-89)	A (90-100)
ELICIT Favorable Testimony					
Repetition of favorable testimony.	witness repeats favorable testimony		The pace of admissions is rapid for excitement, slowed for the most important admissions.	Witness explanations are controlled in a variety of ways as to limit all answers except yes/no :EXP: Hand movements; Did you answer yes? Repeat & insist on yes/no; Objection :unresponsive; Approach and read from statement	The entire cross is delivered as an informative/persuasive oratory with appropriate pauses for witness confirmation. The focus is on the cross-examiner
Admission of other helpful statement testimony	Admission gained of what MUST be admitted by the witness because it is in the statement	+Admission gained on that which SHOULD be admitted because it's a fact. Exp: it was midnight so it was dark?	+The pace of admissions is rapid for excitement, slowed for most helpful admission.	The importance of the admission is underscored verbally and nonverbally	+The cross examiner upstages the witness forcing the witness to look away from the jury; or The cross-examiner rivets jury attention so that they do not look at witness.
Discredit unfavorable Testimony					
Limit testimony – due to an honest flawed human ability	Memory – flawed ability to remember entire scene is exposed	+ Communication - Flawed ability to communicate clearly Is exposed	+Flawed perception due to light, distance, noise, attention focused on movement, startled by event is exposed.	The importance of the limiting factor is underscored verbally and nonverbally	+Cross-examiner maintains a modulated voice and friendly facial expressions.
Discredit Conduct Show it does not match testimony. Exp: You did nothing wrong? But you hid?	Contrasting testimony/conduct was confirmed	+ Contrasting testimony/conduct was juxtaposed.	+ Contrasting testimony/conduct was presented through a series of “umbrella” questions	The importance of the contradiction in conduct vs testimony is underscored verbally and nonverbally	++Facial expressions and non-verbal behavior of cross examiner indicate to the jury when damaging testimony has been extracted.

<p>Impeach ON: Bias, interest and motive to favor a side; 2. prior convictions, 3. Prior bad acts; 4. Prior inconsistent or contradictory statements. or facts; 5. Bad character for truthfulness; 6. treaties.</p>	<p>Bias, interest and motive to favor a side are suggested carefully with good taste. Relationships promoting bias are exposed.</p>	<p>Contradictory statements;. Contradictory facts; and/or Prior bad acts are impeached</p>	<p>Character for truthfulness and/or Prior convictions are impeached</p>	<p>CCC is used–</p> <ul style="list-style-type: none"> • Commitment is gained from answer, • Credit is given to blow up importance; • Confrontation is used to show prior inconsistency. 	<p>+The Cross is delivered with a tone of respect and/or sympathy.</p> <p>Thundering disgust and indignation is reserved for prior bad acts; and for liars.</p>
<p>Cross/Direct Attorney Interaction</p>					
<p>(-3) Impeachment for truthfulness after witness testimony significantly helped your team’s case story</p>	<p>(-2) Unfair extrapolations and asked and answered are excluded on cross</p>	<p>(+2) Leading or narratives on direct are pointed out and re-phrased</p>	<p>(+3) Hearsay, character evidence, improper opinions & no personal knowledge are excluded during direct by crossing attorney</p>	<p>(+4) Objections/ Answers</p> <ol style="list-style-type: none"> 1. Exclude/include essential elements; 2. Use FROEWO wording. 3. Feature numbers. 4. Feature rationale tied to the people or the defendant. 	<p>(+5) Essential testimony or exhibits lacking foundation are excluded during direct based on crossing objections</p>

Opening Statement Planning Guide

Case Name: _____ Side: **P** or **D** (circle one)

Directions: On your own paper, construct an opening statement that includes the following elements:

I. INTRODUCTION (45 seconds)

- a. Attention-getter: This functions just as the attention-getter for any good speech. The purpose is to capture the panel mentally, and focus them on the issues important to your side. It must be arresting. A quote from the case, a quote from literature, or an arresting action all may work here. This must be a “glitter” moment. The first ten seconds will determine how the panel views the entire team.
- b. Theme: This case is about Theory of the Case: That’s because

II. THE STORY/NARRATIVE (135 seconds)

- a. Essential Background Before the Story: **Who, what, when, where?** This entire portion exists only to allow the attorney to tell the story narrative which will follow without interruptions to explain things. Get the background explained with as few sentences as possible. Include these five things:
 - i. Parties (order determined by side)
 1. Plaintiff(s)/victim(s): Speak of activities at work, home, and play. Make them human and sympathetic to the jurors.
 2. Defendant: Speak of activities at work, home, and play. Make them human and sympathetic to the jurors.
 - ii. Key Witnesses: Tell the jury not just who they are, but more important why what they have to say is important.
 - iii. Scene: Give enough, but only enough, detail to allow the jury to form a mental picture of the scene that brought us to court. Describe the scene as they enter a particular location.
 - iv. Instrumentality: Describe as you would the scene any vehicles, machinery, equipment, or other products that are important in this case. Skip if not present.
 - v. Date, time, weather, lighting, etc.
- b. Tell a dramatic version of **what** happened. This must be an uninterrupted description of the actual event involved with force and pace that recreates the event and makes it come alive. It must be
 - i. A plausible picture
 - ii. A logical progression
 - iii. Simply yet forcefully stated. Use active voice, present tense/first person (“I swim away in darkness, and I cannot find the anchor rope”) or second person (“You try to find the anchor rope, but you are becoming unable to breathe.”)
 - iv. Paced for easy understanding and interest (speed up for the exciting parts, slow down on the most important parts)
 - v. From the perspective most advantageous to your side

III. STATUTES and BURDENS (45 seconds)

- a. Issue: **Why are we here** – the essence of the dispute that landed us in the courtroom. On defense, briefly state the charges/claims and vigorously deny them. However, there should not be any argument here.
- b. Bases of liability/non-liability or guilt/non-guilt. Mention laws and facts that entitle your side to win. This should be the high point for plaintiffs/prosecutors and delivered forcefully. Defendants should suggest that plaintiff's/prosecutor's version will not be convincing and emphasize defendant's picture.
- c. Anticipate and refuse the other side (sometimes not possible)

IV. WITNESSES (45 seconds)

- a. Hopefully, you can find a way to put your witnesses in the dramatic story above.
- b. Focus on why your witnesses have important information for the jury and are credible and knowledgeable.
- c. Anticipate weaknesses from opposing witnesses.

V. CONCLUSION (30 seconds)

- a. Tell the jury what you want them to do.
- b. Tell the jury the facts that will support the verdict.
- c. Return to the theme.

Closing Argument Planning Guide

Case Name: _____ Side: **P** or **D** (circle one)

Directions: On your own paper, construct an opening statement that includes the following elements:

I. INTRODUCTION (45 seconds)

- a. Proper address to the Court and thank you to the jury.
- b. Remind the jury about your theme and theory of the case

II. STATUTES and BURDENS (45 seconds)

- a. Remind the jury of the law they will be asked to apply.
 - i. Burden of proof
 - ii. Elements of Liability

III. THE EVIDENCE TELLS THE STORY (135 seconds)

- a. Recount your version of events from your opening, except allow the witnesses and exhibits to tell your story.
 - i. “You heard Ms. Smith testify that Jim was a good worker.
 - ii. “I asked Mr. Jones to explain to you why sales increased from 2011 to 2012, as shown by Exhibit D, and Mr. Jones had no explanation.”
- b. Like the opening, this should be an uninterrupted description of the actual event involved with force and pace that recreates the event and makes it come alive. It must be
 - i. Totally consistent with the actual evidence/testimony
 - ii. A logical progression
- c. Be specific. Your goal is to arm jurors who are sympathetic to your side with concrete evidence they can use in the jury room to persuade other jurors that your side should prevail.

IV. JURY INSTRUCTIONS (45 seconds)

- a. Explain the jury instructions

V. CONCLUSION (30 seconds)

- a. Tell the jury what you want them to do.
- b. Briefly revisit with the jury the facts evidence will support the verdict.
- c. Return to the theme.

Mock Trial Tryout Documents

The following documents can be used to gather information from students who are interested in trying out for the team.

Mock Trial Tryout Contract

By submitting an application to try out for the _____ High School mock trial team, I acknowledge the following:

1. If I am selected to compete on the mock trial team, I will attend all of the team's practices. I will not miss practice because of an obligation to another extra-curricular activity. I will not miss practice because of my employment. I agree that I am responsible for transporting myself to and from all mock trial team practices.
2. If I need to miss practice because I am ill, I will promptly notify the teacher sponsor at least twelve (12) hours before missing practice.
3. If I am selected to compete on the mock trial team, I will attend the Arkansas High School Mock Trial Competition. I acknowledge that the competition will occur on a Friday and Saturday, and I will attend and remain at the competition for as long as the team continues to compete. I also acknowledge that I will comply with any applicable standards of conduct during mock trial events.
4. If I am selected to compete on the mock trial team, I will wear clothing that is appropriate to a courtroom setting, and I will allow the teacher sponsor to approve of my attire and my general appearance.
5. You must meet the academic standards established by the Arkansas Activities Association ("AAA") in order to compete. By submitting the mock trial try-out application, you agree that you are eligible to compete under AAA standards.
6. I understand that my failure to abide by any of the above, or poor performance in other mock trial duties, is grounds for dismissal from the mock trial team. I accept the responsibility of preparing for the mock trial competition. I will work as a team with all the other members of the mock trial team.

Name: _____

Date: _____

Mock Trial Tryout Application

Name: _____ Phone: _____

Date of Birth: _____ Grade: _____

Address: _____

City: _____ State: _____ Zip: _____

Parent or Guardian's Name: _____

Parent or Guardian's Phone: _____

Are any of your parents or guardians an attorney?: Yes / No

Do you have a close friend or relative who is an attorney?: Yes / No

Please list any food allergies or preferences: _____

What role would you prefer to play? Check the box that applies.

- I ONLY want to be a lawyer.
- My first choice is to be a lawyer, but I will be a witness if I'm not selected as a lawyer.
- I ONLY want to be a witness.
- My first choice is to be a witness, but I will be a lawyer if I'm not selected as a witness.

Please list any and all other extra-curricular activities or employment in which you are involved:

Please attach a copy of your class schedule to this application.

In-Class Mock Trial Documents

The following documents can be used for in-class mock trial assignments.

ACKNOWLEDGEMENT AND INVOCATION OF RIGHTS

Upon my arrest, I was informed of my constitutional rights as guaranteed by the Constitution of the United States and the Constitution of the State of Arkansas. I acknowledge that the law enforcement officer(s) who arrested me informed me of the following rights as required by the United States Supreme Court in Miranda v. Arizona:

- ✓ I have the right to remain silent. Anything I say can and will be used against me in a court of law.

- ✓ I have the right to consult an attorney before speaking to police and to have an attorney present during questioning now or in the future. If I cannot afford an attorney, one will be provided to me by the Court, at no expense to me.

- ✓ If I decide to answer questions now, without an attorney present, I still have the right to stop answering at any time until I consult an attorney.

Knowing and understanding my rights as they have been explained to me, I hereby invoke my constitutional rights and decline to respond to any questioning by police at this time.

NAME

DATE

**DISTRICT COURT FOR
_____ HIGH SCHOOL**

IN THE MATTER OF THE SEARCH OF _____)
describe the property to be searched or identify the person) **CASE NO. CR-201_-1**

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a law enforcement officer or prosecuting attorney requests a search of the following person or property:

(identify the person or describe the property to be searched and give its location)

I find that the affidavit attached to the warrant application establishes probable cause to search and seize the person or property described above, and that such search will reveal evidence of a crime.

YOU ARE COMMANDED to execute this warrant on or before the _____ day of _____, 201__.

By the authority vested in me as the judge of the District Court for _____ High School, you are authorized to search and seize the person or property described above.

DISTRICT JUDGE

DATE

**DISTRICT COURT FOR
_____ HIGH SCHOOL**

STATE OF ARKANSAS

PLAINTIFF

V.

CASE NO. CR-201_-1

DEFENDANT

SUBPOENA TO APPEAR AND TESTIFY AT A TRIAL

To: _____
(name of witness)

YOU ARE COMMANDED to appear in the _____ High School District Court at the place, time and date set forth below to testify at a trial in this criminal action. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

PLACE:	DATE AND TIME:
(insert classroom/auditorium)	(insert)

Issued on this _____ day of _____, 201____, by the Clerk of the District Court of _____ High School.

CLERK

DATE