

2003



**Thirteenth Annual
National Criminal Justice
Trial Advocacy Competition**

**The John Marshall Law School
and
The Criminal Justice Section of
The American Bar Association**

**Case File and Rules
People v. Martin Zeller
(Attempted Murder; Aggravated Battery)**

**THE NATIONAL CRIMINAL JUSTICE
TRIAL ADVOCACY COMPETITION
THE JOHN MARSHALL LAW SCHOOL
AND THE AMERICAN BAR ASSOCIATION,
CRIMINAL JUSTICE SECTION**

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**April 3-4-5, 2003
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**THIRTEENTH ANNUAL
NATIONAL CRIMINAL JUSTICE TRIAL ADVOCACY
COMPETITION**

sponsored by
**The Criminal Justice Section of the American Bar Association
and
The John Marshall Law School
April 3, 4, 5, 2003**

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The Catholic University of America School of Law	DC
Cornell Law School	NY
DePaul University College of Law	IL
Georgetown University Law Center	DC
The George Washington University Law School	DC
The University of Georgia School of Law	GA
Harvard Law School	MA
The Honourable Society of the Inner Temple	UK
The John Marshall Law School	IL
University of Maryland School of Law*	MD
George Mason University School of Law	VA
University of the Pacific, McGeorge School of Law	CA
University of Puerto Rico School of Law	PR
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Temple University, James E. Beasley School of Law	PA
University of Toledo College of Law	OH
The University of Tulsa College of Law	OK
Willamette University College of Law	OR

The Competition's case file, *People v. Martin Zeller*, has been prepared by Professor Ronald C. Smith, Director of The National Criminal Justice Trial Advocacy Competition, with Vanessa Cici, Esq., and the team of Charles Aron, Esq., Dr. Thomas Fry, M.D., and Arthur Yuan, whose contributions, comments, and criticisms were indispensable to the creation of these materials.

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**THE NATIONAL CRIMINAL JUSTICE
TRIAL ADVOCACY COMPETITION**

April 3-4-5, 2003

TABLE OF CONTENTS

	<u>Page</u>
Information for Participants.....	1
Sample Score Sheet, Sample Comment Sheet.....	5
News Articles	8
Transcript of 911 Telephone Call.....	16
Statement of Marty Zeller	17
Statement of Patrice Zeller.....	30
Statement of Jamie Byrnes.....	44
Statement of Alec Brown.....	59
Grand Jury Materials.....	70
Criminal Code	71
Exhibits.....	72
A: Floor Plan of Byrnes' Number One Pharmacy, on September 12, 2001	
B: Label of ByrMart aspirin bottle, Batch #	
C: Article on Cyanide, found at Zeller home	
D: Photo of aspirin bottle recovered at Zeller home	
E: Photo of bottle of cyanide recovered at Zeller home	
F: Letter from Charles Byrnes to James Byrnes, copied to Martin Zeller	
G: Application for employment, Martin Zeller	
H: Application for employment, Alec Brown	
Criminal History Printout of Alec Brown.....	82
Pretrial Order	83
Stipulations	86
Instructions to Jury, Verdict Forms	88

INFORMATION FOR PARTICIPANTS
2003 NATIONAL CRIMINAL JUSTICE TRIAL ADVOCACY COMPETITION

The 2003 National Criminal Justice Trial Advocacy Competition is sponsored by The John Marshall Law School and the Criminal Justice Section of the American Bar Association. This invitational competition is being held in Chicago, Illinois, on Thursday, Friday, and Saturday, April 3, 4, and 5, 2003. Law school teams will prosecute and defend the case of *People v. Martin Zeller* (Attempted Murder; Aggravated Battery).

The Competition will begin with an advisors' meeting and informal reception for the teams on Thursday afternoon, April 3 at 4 p.m. in the courtroom on floor 3E. The John Marshall Law School will set aside its East Building's third floor reception area for the participants, from midday Thursday until Saturday evening.

The Competition consists of three initial rounds of mock trials, a semifinal round between the four teams with the highest scores, and a final round matching the winners of the semifinal round. During each mock trial each student advocate is expected to conduct a direct examination of a witness, a cross examination of a witness, and present either the opening statement or the closing argument of the case. The advocates are also evaluated on their professionalism in making routine objections and handling exhibits. A judge and a "jury" of experienced criminal trial attorneys will score the performances.

During the three preliminary rounds each team will present the prosecution and defense of the case at least once. In the semifinal and final rounds, teams will prosecute or defend as follows: if the teams have met before (which is unlikely), the teams will switch sides; otherwise they may agree on which side to represent, or have a coin toss determine the assignment of sides.

The first round of mock trials will be held Thursday evening, April 3, 2003, starting at about 5:30 p.m.; the second round, Friday morning beginning at times according to the availability of sitting judges and courtrooms; the third round, Friday evening. The four teams with the most wins according to the highest scores (and other factors in the event of ties) will proceed to the semifinal round on Saturday morning. The two teams winning these trials will meet in the championship round on Saturday afternoon. Each trial should last about three hours, followed by a short period of comment by the evaluators.

The final trial will be evaluated by several outstanding trial practitioners. The trial and the ensuing comments by the evaluators and judge will be videotaped. A complimentary copy of this videotape will be made available to each participating team.

On Saturday evening there will be an awards ceremony and reception for all the participants, evaluators, and their guests.

THE TRIAL PROBLEM AND THE GENDER OF STUDENT-WITNESSES

Each team must consist of four law students, i.e., students who are enrolled, in good standing, currently attending the law school which they represent, and working towards a J.D. degree or its equivalent. A team should be accompanied by a faculty advisor.

In each trial round, two students will be advocates and two students will be witnesses for their own trial team. A student may be an advocate or a witness in any trial, but cannot be both advocate and witness in the same trial. For example, the two student advocates who act as prosecutors may act as witnesses when their team is handling the defense: the students who are the prosecution witnesses would then be defense counsel when the team represents the defendant. Or, two students may act as advocates for both sides throughout the competition, while the other two student team members act as witnesses. Or, one student may be both prosecution and defense advocate, with the second student being a witness throughout the competition, the third student being a prosecutor and defense witness, and the fourth student being a defense attorney and prosecution witness--according to which side the team represents in any round. This choice is for each participating team to make.

The witnesses are:

Prosecution: (1) Jamie Byrnes and (2) Patrice Zeller.

Defense: (1) Alec Brown and (2) the defendant, Martin Zeller.

Patrice Zeller is a female; Martin Zeller is a male; the other two witnesses may be either male or female.

The file contains copies of "news articles" which carry some information about the events surrounding the indictment of the defendant. These articles may or may not be admissible, and may contain matters that cannot be brought into evidence at trial, or matters which cannot be verified by any available witness.

EVALUATIONS

PRELIMINARY ROUNDS:

A judge will preside over each trial and will rule according to the Federal Rules of Evidence. During the first three rounds, each mock trial will be evaluated by at least three attorneys (or two attorneys and a judge). These evaluators will act as jurors and will give scores to the advocates. If three people are evaluating a trial, all will have scoring ballots; three ballots will be pre-marked for use in breaking ties; the Director of the Competition has sole discretion as to which three ballots will be tie-breaking ballots.

Because the rules provide that evaluators not award the same score to more than one student advocate in a round, in effect the scoring system requires that the evaluators rank the participants.

The evaluators are also asked to prepare written comments on each advocate's performance, and to render a verdict independent of the performance scores. The written comments and verdict are not considered in the scores, and are only for the instruction of the participants.

The team with the higher number of performance points from all the ballots wins that round. In the event an evaluator gives a tie in the number of points awarded, the points are counted but (for tie-breaking purposes) the defendant wins that ballot. While the directions to the judges and evaluators forbid ties, it happens that evaluators sometimes ignore directions. As the burden of proof is on the prosecution, a tie indicates that the prosecution has not sustained its burden.

The four teams progressing to the semifinals will be determined as follows:

- 1) Teams with best win records (e.g., if only four teams have 3 - 0 win-loss records based on the above rules, these four teams progress without further consideration of scores).
- 2) Teams with the best evaluator scoring for wins. (E.g., if only two teams have 3 - 0 records, they progress to the semifinal round; the other two teams to progress will be selected according to the number of wins based on the evaluators' performance scores. Suppose six teams have 2 - 1 records, and only two of those teams have won based on the scores of seven of the nine evaluators [i.e., they have evaluators' votes of 3 - 0, 3 - 0, and 1 - 2, for a record of 7 - 2 votes], then those two teams progress. Or, suppose five teams have 3 - 0 records, and four of the teams have won unanimously; the team which did not win unanimously would not participate in the semifinal round.)
- 3) Teams with highest total point scores. (E.g., three teams have won 3 rounds, these three teams progress to the semifinal round; of the teams which have won two rounds, only two teams have won evaluator votes 7 - 2. Between these two teams, the team

which has the higher number of total points progresses. [The highest number of points any team can acquire in three rounds is 63 points: 10.5 points x 2 advocates x 3 rounds].)

4) If there are still teams tied, then the scores on the evaluations given by the trial judges will be used to break these ties.

5) Finally, if there is still a tie, then the tie will be resolved by a coin toss. The team winning the toss will progress to the semifinal round and will act as surrogate for the team losing the toss of the coin. Arrangements will be made to provide awards to any team which ties but which does not win the coin toss.

SEMIFINAL AND FINAL ROUNDS:

An uneven number of evaluators will vote in each of these trials. If there are an even number of evaluators in the jury box, the judge's evaluation will count so that there will be an uneven number of votes. Therefore there cannot be ties. Each evaluator's award of points will determine the vote of that evaluator. If the evaluator awards a tie, the team representing the defense wins that evaluator's vote.

During the Competition, participants will be identified by number, and not by the school they attend. The judges and evaluators will award points to each team member's number. Teams are not to identify the school they are representing to the evaluators or judges, and are asked to exercise caution and good faith in this respect. If a judge or evaluator comes to learn the identity of the school a team represents, the judge should immediately refer the matter to the director or his representative so that a substitution can be made promptly.

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EVALUATOR'S SCORE SHEET

ROUND I II III

Directions: The overall performance of a student, including the opening statements, direct examination, cross examination, objections, foundations, use of exhibits, closing argument, etc., should be considered in arriving at a score. Each student advocate will wear a number, and you are asked to note the number throughout your notes and comments. The students are permitted to introduce themselves by name, and to refer to each other by name throughout the trial, but your score should be awarded to the identification number the student wears.

RANK THE FOUR ADVOCATES BY AWARDING DIFFERENT SCORES.

YOU MUST AWARD FOUR DIFFERENT SCORES TO THE FOUR PARTICIPANTS. (FOR EXAMPLE, YOU MAY CIRCLE ONLY ONE "10", ONE "9", etc.) DO NOT AWARD POINTS FOR A "WINNING" TEAM. SCORE PERFORMANCES ONLY.

CIRCLE ONE SCORE:	<u>FAIR</u>	<u>GOOD</u>	<u>EXCELLENT</u>							
PROSECUTOR # _____	4	5	6	7	8	8.5	9	9.5	10	10.5
PROSECUTOR # _____	4	5	6	7	8	8.5	9	9.5	10	10.5
DEFENSE ATTY # _____	4	5	6	7	8	8.5	9	9.5	10	10.5
DEFENSE ATTY # _____	4	5	6	7	8	8.5	9	9.5	10	10.5

Total Prosecution points from above: _____ }
 Total Defense points from above: _____ } Please do not give a tie.

THE TEAM RECEIVING THE HIGHER NUMBER OF POINTS WILL BE THE WINNER OF THE ROUND.

Signature of Judge/Evaluator

SCORING STANDARDS

Points

Definition

9 to 10.5

The highest quality performances I would expect a law students to give.

7 to 8.5

Above average performances.

5 or 6

Adequate performances.

4

Falls below the standard of average or adequate performance I would expect from a law student.

[Sample Comment Sheet: Four of these forms will be provided to each evaluator and judge: one pre-marked by number for each student advocate. The evaluators will be asked to make their notes on the appropriate sheet. These evaluation sheets and the score sheets will be distributed to the participants, by team, at the end of the Competition.]

EVALUATOR'S COMMENTS, NOTES PROSECUTOR [DEFENSE] # _____

JUDGE/EVALUATOR: THIS IS FOR YOUR USE DURING THE TRIAL. Please make your notes and comments for the above-numbered participant on this form. At the end of the Competition, the students will receive these written observations, criticisms, and compliments. You may wish to use this form to keep notes on during the trial. Please take a few moments after the trial to write out at least one or two additional comments. As you listen to the presentations you may wish to circle an evaluation on this sheet. THIS IS NOT THE OFFICIAL SCORE SHEET. The official score sheet requires that you rank the competitors by assigning each competitor a different numerical score. Fill out that official score sheet only when the trial is over.

OPENING STATEMENT or CLOSING ARGUMENT	(weak)	(fair)	(good)	(very good)	(excellent)
DIRECT EXAMINATION	(weak)	(fair)	(good)	(very good)	(excellent)
CROSS EXAMINATION	(weak)	(fair)	(good)	(very good)	(excellent)
OBJECTIONS, FOUNDATIONS, USE of EXHIBITS	(weak)	(fair)	(good)	(very good)	(excellent)
STYLE, Demeanor	(weak)	(fair)	(good)	(very good)	(excellent)

BASED ON HOW I BELIEVE A JURY WOULD HAVE REACTED OVERALL TO THIS CASE, I FIND FOR THE:

PROSECUTION _____
DEFENDANT _____
TOO CLOSE TO CALL _____

(Please tell each student how you think a real jury would have decided this case. The jury verdict is not part of the score.)

Signature of Judge/Evaluator