

INFORMATION FOR PARTICIPANTS
2002 NATIONAL CRIMINAL JUSTICE TRIAL ADVOCACY COMPETITION

The Twelfth Annual National Criminal Justice Trial Advocacy Competition is sponsored by The John Marshall Law School and the Criminal Justice Section of the American Bar Association, and is being held in Chicago, Illinois, on Thursday through Saturday, April 4, 5, and 6, 2002. Law school teams will prosecute and defend the case of *People v. Terry Gaffner*. The Competition begins at 4 p.m. on Thursday with an advisors' meeting and informal reception for the teams, on the third floor of the School's East Building.

The Competition consists of three rounds of trials, followed by a semifinal round in which the four teams with the highest scores compete. The two winners of the semifinal round compete in the final round. During each trial, each student advocate must conduct a direct examination of a witness, a cross examination of a witness, and present either the opening statement or the closing argument. The student advocates also are evaluated on other skills such as making objections and handling exhibits. A judge and a "jury" of experienced criminal trial attorneys score the students on their demonstrated skills.

The Federal Rules of Evidence apply.

The three rounds of trials are scheduled for Thursday, April 4, at 5:15 p.m.; Friday, April 5, in the morning (or possibly in the afternoon, depending on the availability of judges and courtrooms); and Friday evening at 5:15. The four teams with the best records (according to the rules) proceed to the semifinal round on Saturday morning. The two teams winning these trials 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 is evaluated by several nationally prominent criminal trial practitioners.

During the three preliminary rounds each team must prosecute and defend the case at least once. In the semifinal and final rounds, teams prosecute or defend as follows: if the teams have met before, the teams switch sides; if they have not met before, they decide sides by coin toss.

A complimentary copy of the videotape of the final trial and comments of the evaluators and judge is made available to each participating team. This videotape will be available later for other participants, on request.

After the third round on Friday evening, all participants, judges, evaluators, and friends meet for complimentary food and refreshments at a nearby restaurant. The four semifinalists are declared around 10:30 p.m. On Saturday evening there is another reception for all law school teams, the judges and evaluators of the final round, and their guests; the participants receive memorabilia and their written evaluations; and various awards are announced.

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. The Director may waive these requirements for participants representing schools from outside the United States.

In each trial round, two students act as advocates and two students are 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) Oz Harter, (2) D. Diamonte.

Defense: (1) Crocker McGrath, (2) the defendant, Terry Gaffner.

The witnesses may be either male or female.

The file contains copies of "news articles" which carry some information about the events in the trial problem. These articles may contain matters which cannot be brought into evidence at trial, or matters which, unless indicated otherwise, cannot be verified by any available witness. Even so, they should give the advocates information about the case they will be preparing.

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), who will award scores to the advocates. If there are more than three evaluators, all will have scoring ballots and comment sheets. Only three of these ballots will be used in the event of a need to break a tie. The Director of the Competition has sole discretion as to which such evaluators will have tie-breaker ballots. The judge's ballot will be counted as an evaluator's. It is possible, moreover, that the judge's evaluation scores will be counted twice in the event of a tie: the trial judge's evaluation would be used in the initial tabulation of the scores; the judge's evaluation also can be used as a tie breaker to determine the semifinalists.

Because the rules provide that the evaluator not award the same score to more than one student advocate in a round, in effect the scoring system asks 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 wins that round. In the event there is a tie in the number of points awarded, the defendant wins that round. 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 tie-breaker 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 three tie-breaker evaluators' performance scores. These three tie-breaker evaluators will have been designated by the Director before the trial begins. The presiding judge's ballot will usually be one of the tie-breaking evaluations. Suppose six teams have 2 - 1 records, and only two of those teams have won based on the scores of seven of the nine designated tie-breaker 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 tie-breaker point scores. (E.g., three teams have won three 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 tie-breaker 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 of 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:

More than three evaluators may be scheduled to observe the semifinal and final rounds of trials on Saturday. 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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sponsored by
THE JOHN MARSHALL LAW SCHOOL
and
THE CRIMINAL JUSTICE SECTION OF THE A.B.A.

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

<u>Points</u>	<u>Definition</u>
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