

# **GENESEE COUNTY BAR ASSOCIATION 2017 HIGH SCHOOL MOCK TRIAL COMPETITION**



## **PEOPLE OF THE STATE OF MICHIGAN v. FRANCIS LAWRENCE**

Genesee County Circuit Court  
900 S. Saginaw Street  
Flint, Michigan 48502

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# COURTHOUSE RULES

## I. DRESS CODE

### A. Apparel Not Permitted

1. No shorts, tee-shirts, tank-type shirts, sweatshirts, sweat suits, jogging suits, or similar attire;
2. No hats, sunglasses, or outdoor jackets shall be worn when appearing formally before the Court;
3. No baggy pants or pants that drag on the ground.
4. No mini-skirts or “mini” dresses

### B. Encouraged Dress Code

1. Business casual;
2. Shirt and tie for males;
3. Pants other than blue jeans;
4. Neat and clean shoes.

## II. OTHER COURTROOM RESTRICTIONS

### A. **NO CELLPHONES, PAGERS, RECORDING DEVICES, iPADS, TABLETS, IPODS, LAPTOPS, VIDEO CAMERAS OR ANY OTHER RECORDING DEVICES** are allowed in the Courthouse.

1. Students and/or volunteers will not be allowed into the courthouse with a cellphone or camera.
2. The Genesee County Bar Association, its attorney members, and/or staff will not be responsible for lodging any cellphones that are brought to the courthouse or the luncheon by students or volunteers.

### B. **NO WEAPONS** are allowed in the Courthouse such as explosives, chemical or aerosol sprays or cutting instruments of any kind including knives, scissors or anything with a sharp or cutting edge.

### C. **NO FOOD OR DRINK** whatsoever shall be brought into the courtroom.

### D. Courtroom tables may not be moved. If chairs are moved, they must be returned to their original location.

### E. Programs and all other materials must be removed upon completion of the Mock Trial.

## **TIPS FOR MOCK TRIAL TEACHERS**

- A. If the attorney advisor does not contact you, do not hesitate to contact them first.
- B. If possible try to schedule regular visitations with the attorney.
- C. Meet with the team on a regular basis as a follow-up to the attorney visits.
- D. If possible, schedule practice sessions in front of an audience such as a classroom.
- E. Advise the students to dress and act professionally in the courtroom giving all due respect to ALL court officials and personnel. The dress code **WILL BE ENFORCED**, and any student, whether they are serving as an attorney, witness, or juror, will not be allowed in the courtroom if they do not adhere to the dress code. To avoid any embarrassment for you, the student, the court, and the bar association, please emphasize this rule prior to the trial.
- F. To assist in efficiency of security clearance, advise students to leave cellphones, book/duffel bags, purses and/or briefcases at home. Heavy metal jewelry, metal belts, and steel-toed shoes (among other things) should also be avoided. Pocket change will also activate the detector. Students who are wearing belts may be required to remove them before going through the metal detector.
- G. Students are not allowed to bring any electronic devices into the courthouse. These devices include but are not limited to the following: cellular phones, games, pagers, and other communication devices which are a distraction to the learning process. They are not needed for the Mock Trial experience and are not permitted by the Courthouse Security.
- H. Please advise students that **LOUD, OBNOXIOUS, UNRULY BEHAVIOR IS NOT ACCEPTABLE**. Remember we are guests of the court. Disciplined behavior is a necessary component to that visit.
- I. Please advise the students that there should not be any planned outbursts or other theatrics during the Mock Trials. The purpose of the Mock Trial is to provide exposure to the courts and the legal system in a respectful manner. Our Attorney Advisors are teaching their respective teams how to present their cases in a respectful and appropriate manner. Planned outbursts or other theatrics are not appropriate behavior in a courtroom.

## **INSTRUCTIONS AND RULES FOR COMPETITION**

The Genesee County Bar Association Mock Trial Competition is governed by these instructions and rules as set forth below. They should be studied carefully before beginning preparation of the case. These instructions and rules are designed to promote/insure excellence in presentation and fairness in judging all trials.

We want to thank the Michigan Center for Law Related Education for their assistance with competition instructions and rules.

### **I. GENERAL INSTRUCTIONS**

#### **A. Rules**

All trials will be governed by the Michigan Rules of Evidence. No additional sources of authority should be cited during a trial.

#### **B. The Case**

The case consists of eight witness statements, exhibits, stipulations, and jury instructions. Witness statements are not to be changed in order to create a more favorable fact situation for either party.

#### **C. Competition Structure**

There are two sides in this case: prosecution and defense. Teams will be randomly determined before the Mock Trial date. Each school will be advised as to which side that the school will represent prior to the Mock Trial.

### **II. THE TRIAL**

#### **A. Team Presentation**

Each team must be prepared to present its appointed side of the case. The case will be tried before a jury.

#### **B. Team Composition**

Your team must have two attorneys, three witnesses, and eight to ten jurors. You may have two alternate members.

##### **1. Attorneys (two)**

- a. One attorney shall give the opening statement and the other attorney shall give the closing argument(s). The Prosecuting Attorney who gives the closing argument shall also give the rebuttal argument.

- b. Each attorney shall conduct the direct examination of one of the witnesses for the attorney's side and the cross examination of one opposing witness. The attorney who conducts the direct examination of a witness shall conduct the redirect examination of the witness and shall make and argue the objections, if any. The attorney who conducts the cross examination of an opposing witness shall make and argue objections, if any, during the cross examination of a witness.
- c. Attorneys may confer with one another at any time.
- d. On cross examination, the examining attorney may not impose restrictions on the form of the witness' answer, except that the answer must be responsive. However, the Judge may instruct the witness to answer the questions "yes" or "no," if possible. If not possible for the witness to respond yes or no, the Judge may instruct the witness to respond to the best of his/her ability.
- e. An attorney may not recall a witness once that witness has completed testifying.

## 2. Witnesses

- a. Witnesses may not refer to any notes while testifying.
- b. Witnesses may not be sequestered.
- c. Each side is allowed to call three of their witnesses to the stand. Prosecution may only call Prosecution Witnesses and Defense may only call Defense Witnesses.
- d. Pursuant to the Fifth Amendment of the U.S. Constitution, the Defendant is not required to testify on his/her own behalf. If the Defendant decides not to testify, his/her silence cannot be used against him/her.
- e. A witness is bound by his/her statement.

## 3. Jurors

- a. The jurors from each school will be split among the courtrooms that are holding Mock Trials.
- b. Two jurors from each school will be placed in each courtroom.
- c. Jurors will not be placed in a courtroom where their school is participating in a Mock Trial.

## C. Witness Statements

### 1. Witness Bound by Statement

A witness' statement is to be treated as a statement made by the witness under oath. Each witness must admit that he/she made the statement. Minor extrapolations of facts not in the record are allowed, provided they may be reasonably inferred from the case material, since some additional information may be necessary to make the case realistic. As an example of a fair extrapolation, background information such as date or place of birth would be a minor extrapolation and would be allowed to amplify or humanize the case. Unfair extrapolations that would not be allowed include

information pivotal to the particular facts at issue. **ONLY THOSE FACTS WHICH ARE NEUTRAL TO BOTH SIDES ARE FAIR EXTRAPOLATIONS.** If you have a question as to whether a particular added fact would be allowable background information, or if you believe it might be an unfair extrapolation, do not add the questionable fact. As a general rule of thumb, the more the “supplemental” information helps your case, the more cautious you should be in adding it to the witness’ testimony. **WHEN IN DOUBT, LEAVE IT OUT!**

## 2. Unknown Information

It is virtually impossible to provide witnesses with detailed answers to every conceivable question that attorneys can ask. The witness statements are not intended as a complete life history, and for the most part, information not in the statements will be irrelevant and should be subject to objection. If an attorney’s question solicits unknown information, the witness may supply an answer of his/her choice, so long as it does not materially affect the witness’s testimony. Try to avoid a rigid mechanical approach to the trial (the witness statements are not scripts), but stay within the bounds of honest competition. Just as in our legal system, lawyers must deal with the facts as they exist.

## 3. Unfair Extrapolations

- a. A team may best attack unfair extrapolations through impeachment and closing arguments.
- b. Each witness should understand that if he/she is asked for information not contained in the witness statement, he/she must either give an answer which is consistent with the statement and does not materially affect the balance of the case, or if the question otherwise would elicit an unfair extrapolation, the witness may answer, “there is no information in the statement of facts to answer this question.”
- c. Attorneys for the opposing team may refer to this Rule in a special objection, such as “unfair extrapolation” or “this information is beyond the scope of the statement of facts.”
- d. Judge’s Ruling on Unfair Extrapolation

The Judge will determine whether an unfair extrapolation has occurred. **THE JUDGE’S RULING IS FINAL.** The objections and ruling will be dealt with in open court during the course of the trial. The purpose of the ruling is to avoid an irrelevant digression from the statement of facts whether through attorney questions or witness response. Participants should understand that any ruling by the Judge is not an indication of the eventual outcome of the trial. Do not become overly obsessed with handling extrapolations.

The Judge’s ruling on an objection due to unfair extrapolation may consist of the following:

- i. No extrapolation has occurred.
- ii. A fair extrapolation has taken place.
- iii. An unfair extrapolation has taken place and the testimony will be stricken from the record.

- iv. Ruling taken under advisement. (After another question or answer, the Judge may rule or respond to another objection.)

D. Preparation and Supplement Material

The Mock Trial Notebook contains all materials necessary to participate. **TEAMS MAY ENTER INTO EVIDENCE ONLY THOSE DOCUMENTS AND EXHIBITS GIVEN IN THIS TRIAL NOTEBOOK.** No enlargements of any kind shall be used during the trials unless provided by the Genesee County Bar Association Law Day Committee. If a chalkboard is available in a courtroom, it may be used during the course of the trial. Attorneys are encouraged to call the court's attention to particular parts of the stipulation and the Competition Rules that support the attorney's position.

E. Time Limits

**THE MOCK TRIAL MAY NOT EXCEED TWO HOURS. TIME LIMITS ARE MANDATORY.** The Judge will have the ultimate responsibility for enforcing these time limits. The time limits are as follows:

Prosecution's Opening Statement	5 minutes
Defendant's Opening Statement	5 minutes
Prosecution's Direct Examination	21 minutes (7 per witness)
Defendant's Cross Examination	21 minutes (7 per witness)
Defendant's Direct Examination	21 minutes (7 per witness)
Prosecution's Cross Examination	21 minutes (7 per witness)
Prosecution's Closing Argument incl rebuttal	8 minutes
Defendant's Closing Argument	8 minutes
Jury Instructions	4 minutes
Participants, Judge's Comments	6 minutes

The time for making and arguing objections is to be counted as part of the time of the side examining the witness. If the Judge believes one team is deliberately using up the other team's time with objections, the Judge may address the problem by allowing the other team additional time. Whenever there is an allegation of a violation, timing will halt.

Attorneys are not required to use the entire time allotted to each part of the trial. It should be noted however, that time left over in one part of the trial cannot be carried over to another part of the trial.

F. Motions

Pursuant to Michigan Court Rules (MCR) 6.419, a defendant may make a motion for directed verdict of acquittal on any charged offense as to which the evidence is insufficient to support conviction after the prosecution's case-in-chief and before the defendant presents proofs.



Attorneys may make a motion for a directed verdict or dismissal of the case, however, this motion will be taken under advisement and the trial will continue. If there is an extreme health or safety emergency, an attorney may make a motion and the Judge may grant a recess.

### **III. COURTROOM DECORUM**

Observe the following rules in the courtroom at all times:

1. No food or drink is allowed in the courtroom.
2. Do not smoke in the courtroom.
3. Cellular telephones, recording devices, iPads, Tablets, iPods, laptops, video cameras, pagers, or any other recording devices are not allowed.
4. All participants must be properly attired.
5. Rise when addressing the Judge, when the Jury enters or leaves the courtroom, or when the Judge enters or leaves the courtroom.
6. Direct all remarks to the judge or witness – **NEVER** to opposing counsel.
7. Natural movement of attorneys during trial is encouraged.
8. Do not approach the bench, witness, or jury box without permission of the Judge.
9. No outbursts or other planned theatrics are allowed by participants.

## **QUICK REMINDERS**

1. Prosecution may only call three witnesses. The three witnesses shall only be those witnesses that are labeled Prosecution Witness on their Affidavit.
2. Defense may only call three witnesses. The three witnesses shall only be those witnesses that are labeled Defense Witness on their Affidavit.
3. No team may request that witnesses be sequestered. This is a learning experience for everyone involved and we would like the students to observe the entire process.
4. The Prosecution may not call the Defendant as a Witness but it may cross-examine him/her if he/she chooses to testify. Pursuant to the Fifth Amendment of the U.S. Constitution, the Defendant is not required to testify on his/her own behalf. If the Defendant decides not to testify, his/her silence cannot be used against him/her.
5. Defendant's statement cannot be used as an Exhibit if Defendant chooses not to testify. The Affidavit can be used to cross-examine the Defendant only.
6. No planned outbursts or theatrics will be allowed in the Mock Trial. Please advise students that they are to act in a respectful and appropriate manner within the courtroom. The purpose of the Mock Trial is to provide exposure to the courtroom and provide guidance on how to act appropriately while in the presence of a Judge and Jury.

## **TRIAL PRESENTATION**

The following remarks are intended only to aid teams in “technique”. They should not be interpreted as rules unless so indicated.

### **A. OPENING STATEMENTS**

The opening statement allows you to introduce yourself and your client as well as acquaint the jury and judge with the nature of the case. You should outline the case from your point of view which includes mentioning key witness’ testimony. Also, you should tell the jury and judge what relief you are seeking.

In your opening statement, you should avoid too much narrative detail about witness testimony, exaggeration and overstatement of the facts which may not be proven. You cannot argue or discuss the law as it is not permitted in opening statements. Try to avoid reading your opening statement and do not repeat undisputed facts.

### **B. PRESENTING EVIDENCE**

#### **1. Direct Examination**

The purpose of direct examination is to present evidence that supports your case with clarity to the judge and jury. You want your witnesses at their best. When questioning a witness, keep it simple by avoiding complex and verbose questions. You should take the witness through his or her testimony by small steps and do not attempt to elicit conclusions from the witnesses. Reaching conclusions is the jury’s job. During your questioning, avoid redundant, monotonous questions. Further, try to avoid narrative testimony as it could prove dangerous if your witness gets out of control. When the facts are in evidence, stop questioning the witness.

#### **2. Cross Examination**

The purpose of cross examination is to discredit the witness and to discover flaws in his or her testimony. You want to try to secure admissions which help your case. But, you want to avoid hostility toward the witness because the jurors usually resent it. Do not give the witness a chance to clarify damaging statements. When you have an answer favorable to your side, drop the matter and wait for closing arguments to emphasize the point.

If a witness contradicts his or her statement, wait until cross examination to confront the witness with the inconsistency. A witness’ testimony can be impeached by asking the witness whether he or she has ever testified differently in a signed statement. The attorney should ask whether the statement was made under oath, at a time much closer to the events in controversy, and contained all that the witness could remember. The attorney can show the witness the statement (first showing it to the judge and opposing counsel) and ask him or her to admit that he or she made it and signed it. The attorney can read aloud, or ask the witness to read aloud, the part of the statement the attorney claims is inconsistent with the witness’ testimony. The attorney may then further question the witness about the inconsistency. The attorney may want to:

- A. Leave the matter and point out in closing argument the contradiction between the statement and witness' testimony (both of which were made under oath);
- B. Ask the witness why his or her testimony is different today under oath than it was when he or she gave the statement which was also under oath and given much closer in time to the events in question (**NOTE: It can be dangerous to give a witness an opportunity to explain such a discrepancy because you may not like the answer you get!**);
- C Ask the witness whether he or she was lying under oath when he or she gave the statement or lying under oath today when he or she testified (**Note: This can also be a dangerous question unless the contradiction is very clear, definite, and material.**) Witnesses must admit making their statements when directly confronted with the question. "Do you remember making and signing this statement under oath?" or a similar question. Don't waste impeaching on matters that are not material to your case.

### C. INTRODUCTION OF EVIDENCE

The following steps will be used for introduction of evidence:

1. All evidence should be pre-marked as exhibits before the trial begins.
2. Show opposing counsel the proposed exhibit.
3. Ask permission to approach the witness.
4. Give the exhibit to the witness and go back to the podium. Then state, I have shown you People's/Defendant's Exhibit Number 1. Can you tell me what that is?
5. The witness will state what it is.
6. If it is a picture, ask the witness the following questions:
  - a. Is this a reasonable and accurate depiction of the area in question?
  - b. When was the picture taken?
7. After the witness has identified the exhibit, the attorney may ask the Court that the exhibit be admitted into evidence as the authenticity of the exhibit has been stipulated.
8. The Court will then ask opposing counsel whether there are any objections.
9. If no objections, then the exhibit will be admitted into evidence.
10. Once the exhibit is admitted into evidence, the attorney may not solicit testimony on its contents.
11. If an attorney wants to show it to the jury, then the attorney should ask the Judge whether he or she can publish the exhibit to the jury (**Note: Give the jury an opportunity to review the exhibit before proceeding further because if you continue then the jury will be distracted.**)
12. After completion of questions regarding an exhibit, return it to the Judge.

## D. OBJECTIONS

When an attorney raises an objection, the attorney is presenting a rule of evidence to the Judge which would bar an answer to the question asked (or result in striking from the record the answer, if already given.) Special objections may also be used to bring a procedural problem to the Judge's attention such as unfair extrapolation or continuing past the expiration of allowable time.

When making an objection, the attorney shall stand. The attorney should direct all objections and arguments to the Judge. In making objections, counsel shall stand as soon as the objectionable question is asked and say "I object, your Honor", "Your Honor, I object", or "Objection" and then state your basis for the objection. **(NOTE: Jurors usually do not like a party that objects too much.)**

### 1. Allowable Objections:

- a. **Leading Questions:** "Counsel is leading the witness" or "The questions are leading." Leading questions suggest the answer and are generally not allowed on direct examination but are proper on cross examination. The Judge may allow leading questions on direct examination for preliminary matters.
- b. **Hearsay:** "The question calls for Hearsay." Hearsay is evidence of an out-of-court statement offered to prove the truth of the matter asserted in the statement.
  - i. EXCEPTIONS to Hearsay:
    - a. **Admission against Interest:** Hearsay is admissible if the out-of-court statement was made by a party in the case and contains evidence which goes against that party's side. Admissions against interest are permitted because they are thought to be more trustworthy than other hearsay, since people generally do not make statements that are against their own interest unless they are true.
    - b. **Excited Utterance:** A statement relating to a startling event or condition by someone other than the witness testifying is admissible when the statement was made under the stress of excitement caused by the event or condition. Any other statement made under circumstances which, in the judgment of the Judge gives substantial assurance of the truth of the matter asserted.
  - c. **Irrelevant:** A question is irrelevant if it seeks information which has no logical bearing on the existence of a material issue before the court, or if its logical bearing is small in comparison to its inflammatory nature.

- d. **Lacks Personal Knowledge/No Proper Foundation.** This objection asserts that there has been no showing that the witness has personal knowledge about the matter to which the question is directed. For example, if there has been no evidence that the witness was present at a certain event, there is no foundation for the witness to testify as to what occurred at that time.
- e. **Assumes Facts not in evidence.**
- f. **Argumentative.** The attorney is not asking a question, but instead is arguing with the witness or making an argument to persuade the jury.
- g. **Asked and Answered.** On cross examination, an attorney can ask a question previously asked on direct examination.
- h. **Badgering the Witness.**
- i. **Narrative Statement.** Questions such as “what happened on” a certain date call for a narrative from the witness which prevents opposing counsel from objecting in advance to objectionable material. Questions should be more specific, such as “Who was present?”, “Did she see that person do anything at that time?”, “What did you see him or her do?”, “Did you see anyone else do anything at that time?” An attorney may ask “what happened next?”
- j. **Opinion.** However, opinion evidence is proper on a subject on which the witness has been qualified as an expert or on which a non-expert’s opinion would be helpful to understand the evidence.
- k. **Unfair Extrapolation.** See page 5 of this Trial Notebook.
- l. **Outside the Scope of Cross Examination.** If an attorney re-directs (see below) a witness and asks questions that were not raised in the cross examination, then an objection may be made.
- m. Any other objections based on reason or justice, including but not limited to “the question is ambiguous”

## **E. REDIRECT/RECROSS (OPTIONAL)**

The purpose of redirect is to rehabilitate a witness or repair damage done by your opponent. If credibility or reputation for truthfulness of the witness has been attacked on cross examination, the attorney whose witness has been damaged may wish to ask several more questions. These questions should be limited to the damage the attorney thinks has been done and should be phrased so as to try to “save” the witness’ truth-telling image in the eyes of the jury. Redirect examination is limited to issues raised by the attorney on cross-examination. If questions on

other matters are asked, a proper objection would be: “Objection. Counsel is asking the witness about matters that did not come up in cross examination.”

## **F. CLOSING ARGUMENTS**

Closing arguments are an opportunity to summarize your case. As the attorney, you can point out testimony that supports your theory of the case and that which damages your opponent’s case. This is where you put the pieces together for the jury and the judge. Argue what you feel is important and discard the unimportant. Be an advocate by forcefully arguing your point of view. Be dynamic by avoiding a boring view of the facts. State your case so you are sure it is fully understood. You may use all exhibits which have been admitted into evidence. Point out bias, credibility, or self-interest of a witness.

In your closing argument, do not assume that the judge or jury have understood the impact of all the testimony. You should correct any misunderstandings that the jury or judge may have about the testimony or other evidence. Be cautious in using ridicule. Avoid illogical or confusing argument. Organize in advance by anticipating your opponent’s argument. You should avoid using weak words, such as “we believe” and “we think” etc.

The Prosecution’s rebuttal is limited to the scope of the defendant’s closing argument.

## ETHICAL CONDUCT

The purpose of the Genesee County Bar Association Mock Trial Competition is to stimulate and encourage a deeper understanding and appreciation of the American legal system. This purpose is accomplished by providing students the opportunity to participate actively in the learning process. Education of high school students is the primary goal of the mock trial program. Healthy competition helps to achieve this goal. Other important objectives include improving proficiency in speaking, listening, reading and reasoning skills; promoting effective communication and cooperation between the educational and legal communities; providing an opportunity to compete in an academic setting; and promoting cooperation among students of diverse interests and abilities.

As a means of diligent application of the Genesee County Bar Association Mock Trial Competition Rules, the Law Day Committee has adopted the following Code of Ethical Conduct for all participants:

1. Students promise to compete with the highest standards of deportment, showing respect for their fellow students, opponents, judges, court staff, evaluators, attorney-coaches, teacher-sponsors and mock trial personnel. All competitors will focus on accepting defeat and success with dignity and restraint. Trials will be conducted honestly, fairly, and with the utmost civility. Students will avoid all tactics they know are wrong or in violation of the rules of the competition in spirit or in practice.
2. Teacher-Advisors agree to focus attention on the educational value of the Mock Trial Competition. They shall not encourage willful violations of the rules. Teachers will instruct students as to proper procedure and decorum and will assist their students in understanding and abiding by the competition's rules and this Code of Ethical Conduct.
3. Attorney-Advisors agree to uphold the highest standards of the legal profession and will zealously encourage fair play. They will promote conduct and decorum in accordance with the competition's rules and this Code of Ethical Conduct. Attorney-Advisors are reminded that they are in a position of authority and thus serve as positive role models for the students.
4. All participants (including school observers) are bound by all sections of this code and agree to abide by the provisions. Teams are responsible for insuring that all observers are aware of the code.
5. The Code of Ethical Conduct governs all participants, observers, guests, and parents at the competition.
  - A. Ban on Coaching.
    1. Once the trial begins no coaching is permitted by ANYONE for the duration of the trial. Student attorneys may consult with one another and with their witnesses.



2. To avoid even the appearance of impropriety, the attorneys trying the case and the witnesses should not engage in any conversation with any other team members, coaches or observers until after closing arguments.
3. Any student team member (including team members not participating in the trial) who observes any violation of this rule shall report it immediately to the Judge who shall inquire into the circumstances of the allegation. The Judge may penalize any team for a violation of this rule.

#### **B. Statement of Principles for Mock Trial Jurors**

The mock trial competition, because it does represent a “mock” situation, obviously does not involve the “life and death” circumstances that would apply in an actual Circuit Court jury trial. On the other hand, in order that all mock trial participants, including those students who assume the role of jury members, might achieve maximum benefits (educational and otherwise) from their participation, mock trial jurors are strongly urged to fill their roles with the following principles in mind:

1. Like real jurors, mock trial jurors should do their utmost to pay careful attention to, and follow the instructions given them by the judge at the beginning of trial.
2. Mock trial jurors should recognize that the many hours of hard work and preparation undertaken by the other participants in the mock trial competition are deserving of the mock trial jurors’ careful attention during the course of the trial presentation.
3. Similarly, mock trial jurors should do their utmost to respect and enhance the efforts and experience of all other mock trial participants by paying careful attention to, and following the court’s instructions at the conclusion of trial.
4. Consistent with these principles, and perhaps more important than any one of them, mock trial jurors should make every effort to conduct their jury deliberations, to the extent humanly possible, as though the ultimate decision made were a “real” one with “real” consequences for “real” people.

#### **A. Violation of Competition Rules During Trial**

Any violation of a competition rule observed during trial should immediately be called to the attention of the Judge by one of the attorneys trying the case.

#### **B. Judge’s Instructions**

1. Materials.

All judges should have a copy of the competition materials.

2. Role of the Judge.

The Judge has a delicate task. A trial is an adversarial proceeding. Yet the central goal is to give the young people participating a positive educational experience. Obviously, the Judge must be evenhanded. In addition, the judge should take special care to avoid intimidating the student lawyers and witnesses so they feel comfortable and free to act at the true level of their capacity. The judge should be encouraging to both sides and still maintain the essential form of a trial.

### 3. Enforcement of Code of Ethical Conduct.

To assist in enforcing the code, the Judges, upon taking the bench before the start of the trial, will handle the following pre-trial matters:

- a. Ask each side if it is ready for trial.
- b. Ask each side to provide the Judge with a copy of the team roster.
- c. Ask each side for a witness list of those to be called.
- d. Ask each member of the team to rise and identify himself or herself by name and role.
- e. The Judge will remind the participants about the ban on coaching.
- f. The Judge will remind the jurors about the Statement of Principles for Mock Trial Jurors.

### 4. Questions Regarding Mock Trial Rules.

If questions arise regarding application of the Mock Trial Rules, the Judge should entertain arguments by the attorneys regarding the construction of the rules and should encourage the attorneys to make reference to the rule in question. The Judge has the sole authority to make decisions about the conduct of the trial.

## **CASE MATERIALS**

**People of the  
State of Michigan  
v  
Francis Lawrence**

### **TYPE OF CASE:**

This case involves a criminal prosecution. The People of the State of Michigan are represented by the Prosecuting Attorneys. The Defendant is Francis Lawrence who is represented by the Defense Attorneys.

### **SUMMARY OF FACTS:**

Defendant Francis Lawrence was in a romantic relationship with Chandler Ortega. Chandler is sixteen years old. Francis is seventeen years old. On October 30, 2015, Chandler and Francis went on a date at a local restaurant. During dinner, they talked. After dinner, they went to a secluded parking lot and talked for a short time. While parked, Chandler asserts that Francis placed his/her hand on Chandler's leg near his/her genital area and attempted to pursue sexual relationships with Chandler. Chandler told Francis to stop. Then, an argument occurred when Chandler told Francis that he/she did not want to have sex.

After being taken home, Francis initiated contact by sending a text message with a picture. Then, Chandler and Francis talked via Skype. When that conversation ended, Francis sent another picture asking Chandler to return a sexy picture. While in the bathroom, Chandler was about to get into the shower when he/she received Francis' text. Chandler leaned against the sink and took a picture from over his/her head then immediately sent the picture via text to Francis. The picture showed Chandler's naked body including genitals and buttocks. The following day, Chandler asserts that Francis sent the nude photograph via text message to over a 100 people at school.

Francis claims that (i) he/she did not send the nude photograph to anyone and (ii) Chandler is attempting to destroy Francis by starting rumors because Chandler did not like Francis hanging around Chandler's friend, Glenn Olivier. Francis asserts that someone accessed his/her cellphone in an attempt to "set him/her" up. Francis now faces four counts in Circuit Court. The four counts are as follows: Count I, Causing or Allowing Child Sexually Abusive Activity; Count II, Distributing Child Sexually Abusive Activity; Possessing or Accessing Child Sexually Abusive Activity; and Count IV, Using a Computer to Distribute Child Sexually Abusive Activity.

### **STATUTES / CASE LAW**

1. "Child" is defined as a person who is less than 18 years of age. *See* MCLA 750.145c(1)(c).
2. "Child sexually abusive material" means any depiction, whether made or produced by electronic, mechanical, or other means, including a developed or undeveloped photograph,

picture, film, slide, video, electronic visual image, computer diskette, computer or computer-generated image, or picture, or sound recording which is of a child or appears to include a child engaging in a listed sexual act; a book, magazine, computer, computer storage device, or other visual or print or printable medium containing such a photograph, picture, film, slide, video, electronic visual image, computer, or computer-generated image, or picture, or sound recording; or any reproduction, copy, or print of such a photograph, picture, film, slide, video, electronic visual image, book, magazine, computer, or computer-generated image, or picture, other visual or print or printable medium, or sound recording. MCLA 750.145c(1)(o).

3. "Computer" means any connected, directly interoperable or interactive device, equipment, or facility that uses a computer program or other instructions to perform specific operations including logical, arithmetic, or memory functions with or on computer data or a computer program and that can store, retrieve, alter, or communicate the results of the operations to a person, computer program, computer, computer system, or computer network. Computer includes a computer game device or a cellular telephone, personal digital assistant (PDA), or other handheld device. MCLA 750.145d(9)(a).

4. "Erotic Nudity" is defined as the lascivious exhibition of the genital, pubic, or rectal area of any person. As used in this definition, "lascivious" means wanton, lewd, and lustful and tending to produce voluptuous or lewd emotions. *See* MCLA 750.145c(1)(h).

5. "Make" is defined as bringing into existence by copying, shaping, changing, or combining material, and specifically includes, but is not limited to, intentionally creating a reproduction, copy or print of child sexually abusive material within the same digital storage device or the same piece of digital storage media. MCLA 750.145c(1)(j).

6. A person who accosts, entices, or solicits a child less than 16 years of age, regardless of whether the person knows the individual is a child or knows the actual age of the child, or an individual whom he or she believes is a child less than 16 years of age with the intent to induce or force that child or individual to commit an immoral act, to submit to an act of sexual intercourse or an act of gross indecency, or to any other act of depravity or delinquency, or who encourages a child less than 16 years of age, regardless of whether the person knows the individual is a child or knows the actual age of the child, or an individual whom he or she believes is a child less than 16 years of age to engage in any of those acts is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$4,000.00, or both. MCLA 750.145c(2).

7. A person who distributes or promotes, or finances the distribution or promotion of, or receives for the purpose of distributing or promoting, or conspires, attempts, or prepares to distribute, receive, finance, or promote any child sexually abusive material or child sexually abusive activity is guilty of a felony, punishable by imprisonment for not more than 7 years, or a fine of not more than \$50,000.00, or both, if that person knows, has reason to know, or should reasonably be expected to know that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child. MCLA 750.145c(3).

8. A person who knowingly possesses or knowingly seeks and accesses any child sexually abusive material is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$10,000.00, or both, if that person knows, has reason to know, or should reasonably be expected to know the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child. MCLA 750.145c(4).

9. If a person used the internet or a computer, computer program, computer network, or computer system to communicate with any person for the purpose of committing, attempting to commit, conspiring to commit, or soliciting another person to commit conduct under section 750.145a or 750.145c in which the victim or intended victim is a minor or believed by that person to be a minor is guilty of a felony punishable by imprisonment of not more than 10 years or fine of not more than \$5,000, or both. MCLA 750.145d(1)(d).

10. In any criminal proceeding regarding an alleged violation or attempted violation of this section, the court shall deny any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any photographic or other pictorial evidence of a child engaging in a listed sexual act if the prosecuting attorney makes that evidence reasonably available to the defendant. Evidence is considered to be reasonably available to the defendant under this subsection if the prosecuting attorney provides an opportunity to the defendant and his or her attorney, and any person the defendant may seek to qualify as an expert witness at trial, to inspect, view, and examine that evidence at a facility approved by the prosecuting attorney. MCLA 750.145c (10).

## **STIPULATIONS**

1. There are statements from four witnesses for each party. Each statement is designated as Prosecution Witness or Defense Witness. Each party may call only three witnesses to the stand. It will be up to each team to determine which witnesses will testify at trial. The Defendant may invoke his or her 5<sup>th</sup> Amendment right and not testify at trial. If the Defendant does not testify, then the prosecution cannot use the defendant's affidavit as support for their case but may use statements made to the police officer. Further, a party may not call a witness that is designated for the opposing party. For example, the Prosecuting Attorney may not call Defendant's witness to testify at trial.
2. Chandler Ortega took a picture of himself/herself with his/her cellphone in the bathroom while sitting in front of the mirror while he/she was nude.
3. After taking the picture, Chandler texted the picture to Francis Lawrence on his/her cellphone.
4. Francis Lawrence is being tried as an adult.
5. The presiding judge will conduct the trial according to the Michigan Rules of Evidence. Trial will be by jury.

6. The jury will be instructed on the elements of the offense according to the jury instructions beginning on page 21.

7. The presiding judge will entertain no motions prior to trial.

**COMMENTS AND SUGGESTIONS:**

The 2017 Mock Trial is a fictitious case. Any names, descriptions or events described herein are purely coincidental. Most witnesses were created to be gender-neutral.

All admissible exhibits and information relating to the case are contained in these case materials. Students are not allowed to introduce at trial: cases, exhibits not contained in the case materials, or a witness from the opposing party.

## JURY INSTRUCTIONS

The court instructs the jury regarding the general features of a case, defines the offense, and explains what must be proven to establish the offense. The following instructions are taken from the Criminal Jury Instructions currently in effect in Michigan and will be used in this Mock Trial.

### CJI2d 3.2 *Presumption of Innocence, Burden of Proof and Reasonable Doubt*

- (1) A person accused of a crime is presumed to be innocent. This means that you must start with the presumption that the defendant is innocent. This presumption continues throughout the trial and entitles the defendant to a verdict of not guilty unless you are satisfied beyond a reasonable doubt that he/she is guilty.
- (2) Every crime is made up of parts called elements. The prosecutor must prove each element of the crime beyond a reasonable doubt. The defendant is not required to prove his/her innocence or do anything. If you find that the prosecutor has not proven every element beyond a reasonable doubt, then you must find the defendant not guilty.
- (3) A reasonable doubt is a fair, honest doubt growing out of the evidence or lack of evidence. It is not merely an imaginary or possible doubt, but a doubt based on reason and common sense. A reasonable doubt is just that – a doubt that is reasonable, after a careful and considered examination of the facts and circumstances of this case.

### CJI2d 3.3 *Defendant Not Testifying*

Every defendant has the absolute right not to testify. When you decide the case, you must not consider the fact that he/she did not testify. It must not affect your verdict in any way.

### CJI2d 3.5 *Evidence*

- (1) When you discuss the case and decide on your verdict, you may only consider the evidence that has been properly admitted in this case. Therefore, it is important for you to understand what is evidence and what is not evidence.
- (2) Evidence includes only sworn testimony of witnesses, the exhibits admitted into evidence, and anything else I told you to consider as evidence.
- (3) Many things are not evidence, and you must be careful not to consider them as such. I will now describe some of the things that are not evidence.
- (4) The fact that the defendant is charged with a crime and is on trial is not evidence.
- (5) The lawyers' statements and arguments are not evidence. They are only meant to help you understand the evidence and each side's legal theories. The lawyers' questions to witnesses are also not evidence. You should consider these questions only as they give meaning to the witnesses' answers. You should only accept things the lawyers say that are supported by the evidence or by your own common sense and general knowledge.
- (6) My comments, rulings, questions, and instructions are also not evidence. It is my duty to see that the trial is conducted according to the law, and to tell you the law that applies to this case. However, when I make a comment or give an instruction, I am not trying to influence your vote or express a personal opinion about how you should decide this case.

You must pay no attention to that opinion. You are the only judges of the facts, and you should decide this case from the evidence.

- (7) At times during the trial, I have excluded evidence that was offered or stricken testimony that was heard. Do not consider those things in deciding this case. Make your decision only on the evidence that I let in, and nothing else.
- (8) Your decision should be based on all the evidence, regardless of which party produced it.
- (9) You should use your own common sense and general knowledge in weighing and judging the evidence, but you should not use any personal knowledge you may have about a place, person, or event. To repeat once more, you must decide this case based only on the evidence admitted during this trial.

#### *CJI2d 4.1 Defendant's Statements as Evidence Against the Defendant*

- (1) The prosecution has introduced evidence of a statement that it claims the defendant made.
- (2) Before you may consider such an out-of-court statement against the defendant, you must first find that the defendant actually made the statement as given to you.
- (3) If you find that the defendant did make the statement, you may give the statement whatever weight you think it deserves. In deciding this case, you should think about how and when the statement was made, and about all other evidence in the case. You may consider the statement in deciding the facts of the case [and in deciding if you believe the defendant's testimony in court].<sup>1</sup>

#### *CJI2d 4.3 Circumstantial Evidence*

- (1) Facts can be proved by direct evidence from a witness or an exhibit. Direct evidence is evidence about what we actually see or hear. For example, if you look outside and see rain falling, that is direct evidence that it is raining.
- (2) Facts can be proved by indirect, or circumstantial, evidence. Circumstantial evidence is evidence that normally or reasonably leads to other facts. So, for example, if you see a person come in from outside wearing a raincoat covered with small drops of water that would be circumstantial evidence that it is raining.
- (3) You may consider circumstantial evidence. Circumstantial evidence by itself, or a combination of circumstantial evidence and direct evidence, can be used to prove the elements of a crime. In other words, you should consider all the evidence that you believe.

#### *CJI2d 5.11 Police Witness*

You may have heard testimony from a witness who is a police officer. That testimony is to be judged by the same standards you use to evaluate the testimony of any other witness.

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<sup>1</sup> Use the bracketed phrase only if the defendant testifies at trial and the prior statement is used to impeach his or her testimony.



*CJI2d 20.38 Child Sexually Abusive Activity - Causing or Allowing*

(1) The defendant is charged with the crime of causing or allowing a child to engage in sexually abusive activity in order to create or produce child sexually abusive material. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant persuaded / induced / enticed / knowingly allowed a child under 18 years old to engage in child sexually abusive activity.

(3) Child sexually abusive activity includes:

(a) erotic nudity, which is showing the genital, pubic, or rectal area of someone in a way that tends to produce lewd or lustful emotions.

(4) Second, that the defendant caused or allowed the person to engage in child sexually abusive activity for the purpose of producing or making child sexually abusive material. Child sexually abusive materials are pictures, movies, or illustrations, made or produced by any means, of a person under 18 years old engaged in erotic nudity.

(5) Third, that the defendant knew or reasonably should have known that the person was less than 18 years old.

*CJI2d 20.38b Child Sexually Abusive Activity - Distributing*

(1) The defendant is charged with the crime of distributing child sexually abusive material. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant distributed child sexually abusive material.

(3) Child sexually abusive materials are pictures, movies, or illustrations of a person under 18 years old engaged in erotic nudity, which is showing the genital, pubic, or rectal area of someone in a way that tends to produce lewd or lustful emotions.

(4) Second, that the defendant knew or should reasonably have known that the person shown in the sexually abusive material was less than 18 years old, or failed to take reasonable precautions to determine whether the person was less than 18 years old.

*CJI2d 20.38c Child Sexually Abusive Activity - Possessing or Accessing*

(1) The defendant is charged with the crime of possessing or accessing child sexually abusive material. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant possessed child sexually abusive material.

(3) Child sexually abusive materials are pictures, movies, or illustrations of a person under 18 years of age engaged in erotic nudity, which is showing the genital, pubic, or rectal area of someone in a way that tends to produce lewd or lustful emotions.

(4) Second, that the defendant knew or should reasonably have known that the person shown in the sexually abusive material was less than 18 years old, or failed to take reasonable precautions to determine whether the person was less than 18 years old.

(5) Third, that the defendant knew that he / she possessed the material.

CJI2d 35.10 *Use of a Computer to Commit Specified Crimes*

(1) The defendant is charged with using a computer to solicit another to commit the offense of Causing or Allowing Child Sexually Abusive Activity under the age of 18. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant used the Internet / a computer / a computer program / a computer network / a computer system to communicate with any person.

(3) Second, that the communication was done for the purpose of soliciting another to commit Causing or Allowing Child Sexually Abusive Activity under the age of 18

(4) Third, that Chandler Ortega was a minor or the defendant believed he / she was a minor.

(5) The elements of Causing or Allowing Child Sexually Abusive Activity under the age of 18 are

(a) That the defendant persuaded / induced / enticed / knowingly allowed a child under 18 years old to engage in child sexually abusive activity.

(i) Child sexually abusive activity includes: erotic nudity, which is showing the genital, pubic, or rectal area of someone in a way that tends to produce lewd or lustful emotions.

(c) That the defendant caused or allowed the person to engage in child sexually abusive activity for the purpose of producing or making child sexually abusive material. Child sexually abusive materials are pictures, movies, or illustrations, made or produced by any means, of a person under 18 years old engaged in erotic nudity.

(d) That the defendant knew or reasonably should have known that the person was less than 18 years old.

**STATE OF MICHIGAN  
IN THE 7<sup>TH</sup> CIRCUIT COURT**

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PEOPLE OF THE STATE  
OF MICHIGAN,  
Prosecution

Case No. 16-000135-FH

v.

JUDGE

FRANCIS LAWRENCE,  
Defendant.

\_\_\_\_\_/   
School Name  
PROSECUTING ATTORNEY

\_\_\_\_\_/   
School Name  
ATTORNEY FOR DEFENDANT

**VERDICT FORM<sup>2</sup>**

Count I: Child Sexually Abusive Activity – Causing or Allowing

Not Guilty \_\_\_\_\_ (Go to Count III)

Guilty \_\_\_\_\_ (Go to Count II)

Count II: Use of a Computer to Commit Child Sexually Abusive Activity – Causing or Allowing

Not Guilty \_\_\_\_\_ (Go to Count III)

Guilty \_\_\_\_\_ (Go to Count III)

Count III: Child Sexually Abusive Activity - Distributing

Not Guilty \_\_\_\_\_ (Go to Count V)

Guilty \_\_\_\_\_ (Go to Count IV)

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<sup>2</sup> Please return the verdict form to the Genesee County Bar Association with the results of your school's verdicts.

Count IV: Use of a Computer to Commit Child Sexually Abusive Activity - Distributing

Not Guilty \_\_\_\_\_ (Go to Count V)

Guilty \_\_\_\_\_ (Go to Count V)

Count V: Child Sexually Abusive Activity – Possessing or Accessing

Not Guilty \_\_\_\_\_ (Stop)

Guilty \_\_\_\_\_ (Go to Count III)

Count VI: Use of a Computer to Commit Child Sexually Abusive Activity – Possessing or Accessing

Not Guilty \_\_\_\_\_ (Stop)

Guilty \_\_\_\_\_ (Stop)

## EXHIBITS

## **Class Times**

7:30 a.m. to 8:25 a.m. First Period

8:30 a.m. to 9:20 a.m. Second Period

9:30 a.m. to 10:20 a.m. Third Period

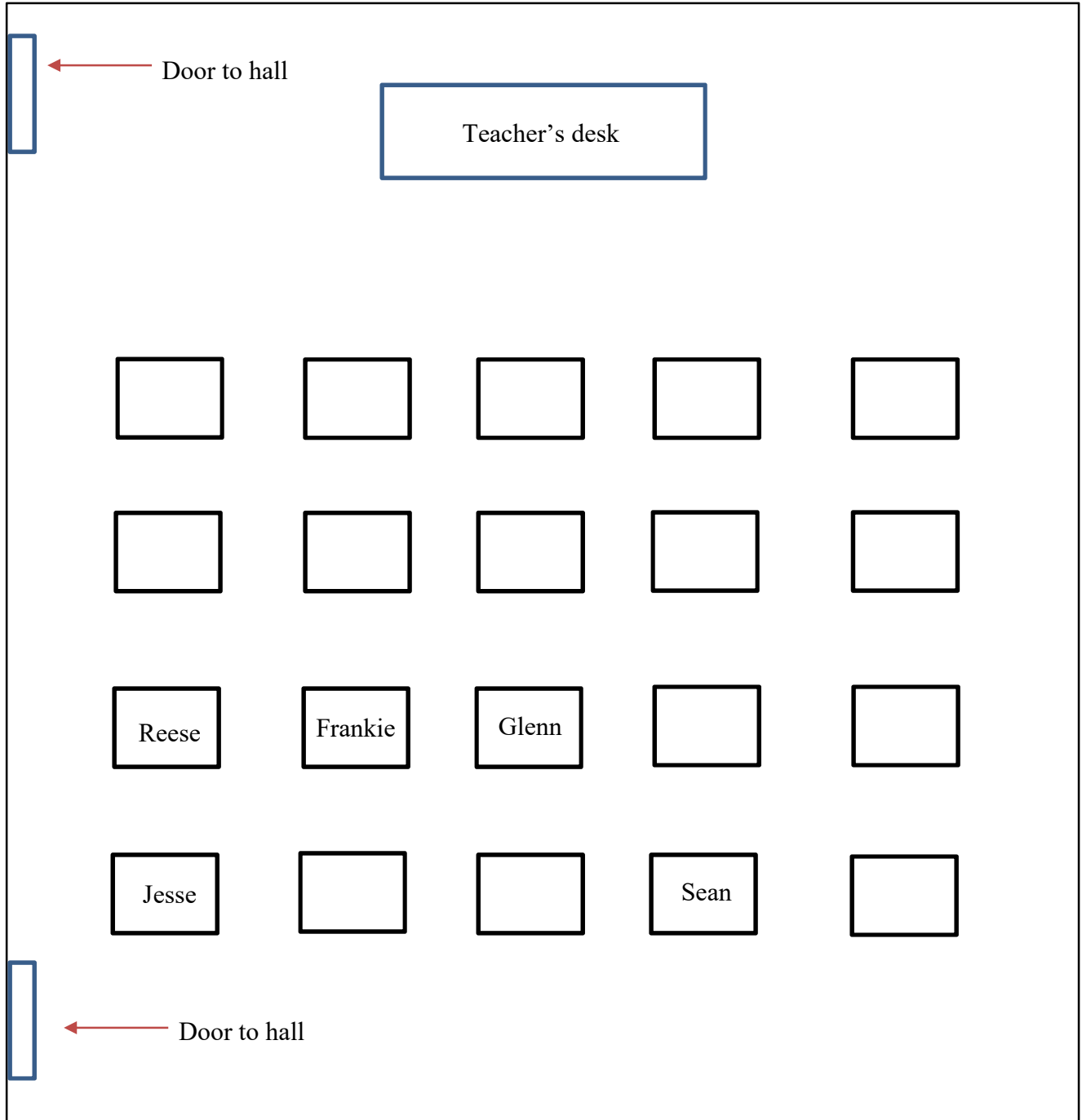
10:25 a.m. to 11:15 a.m. Fourth Period

11:20 a.m. to 12:20 p.m. Lunch

12:25 p.m. to 1:05 pm. Fifth Period

1:10 p.m. to 2:10 p.m. Sixth Period

# Fifth Period Class



## STATEMENTS



## STATEMENT OF CHANDLER ORTEGA

### Prosecution Witness

1. My name is Chandler Ortega. I am 16 years old and attend Webber High School in Gaines Township, Michigan.
2. At the time of this incident, I was dating Francis Lawrence. We dated for a few months. Francis goes by Frankie. Frankie is a senior who plays basketball and soccer at Webber High School. He/she is one of the popular kids at school. He/she has a lot of friends.
3. This year, I sat on the bleachers by the soccer field. I did not want to go straight home after school. Sitting outside relaxed me. Before soccer practice was over, I would start to walk home. One day, Frankie saw me and called out to me. We began walking home together after his/her soccer practice then we started dating.
4. I know there are rumors that I stalked Frankie but Frankie came after me. I did not initiate us talking. People are sometimes just rude when they start rumors. Yes, my social status in school changed after dating Frankie. I became more popular than before. People noticed me once I started dating him/her.
5. On October 30, 2015, I saw Frankie talking to Glenn Olivier in school during lunch. Glenn continuously flirts with Frankie even in front of me. I think that he/she wants to be with Frankie.
6. Frankie and Glenn were standing at Glenn's locker. I saw Frankie gently move a piece of hair that was hanging in Glenn's face above his/her right eye. Glenn started laughing. The bell rang and they walked to class together. I walked behind them into the same classroom. I do not think that they saw me at all. I was so furious at Frankie.
7. That night, Frankie and I went on a date. First, we went to a restaurant and had dinner. Frankie sat next to me in a booth. We talked about school and other students. Frankie brought up the subject about sex because he/she heard a rumor about a couple of people that we know in school who claim to have had sex together. Frankie said that a lot of his/her friends were having sex. I told him/her that I was not comfortable talking about the subject because we had only been dating a few months. Shortly after, the check came and we agreed that we would pay for our own dinners.
8. After dinner, we went to a deserted parking lot and began talking some more. We started to kiss, when Frankie reached over and put his/her hand on my leg, near my genitals. I moved his/her hand. Again, I told him/her that I did not want to have sex. Frankie became mad and stated that his/her friends were having sex. I reminded Frankie that we were only dating a few months and I was not ready. Frankie was upset.
9. I told Frankie that I did not think either one of us was ready as a couple to have sex because of Glenn. Frankie laughed and told me that I was being silly because nothing

was going on between them. I explained that he/she crossed the line when he/she was talking to Glenn earlier in the day. I wanted him/her to stop talking to Glenn altogether.

10. Frankie told me that I was being overly possessive and that he/she could have friends. He/she stated that I needed to understand that Glenn was a friend before we were in a relationship and they would be friends now. He/she asked if the discussion was over. I explained that I was still upset.
11. Frankie placed his/her hand on my leg again, near my genitals. I told Frankie to stop. Frankie leaned in and I pushed him/her away. I was not going to have sex with him/her. Frankie stated that he/she only placed his/her hand on my leg and leaned in to kiss me. Frankie called me immature and started the car. I wanted to go home.
12. Frankie never brought up the subject of us having sex in front of anyone. It was between the two of us.
13. When we got to my house, I told Frankie that we were through because I did not like his/her constant efforts at having sex as well as his/her interaction with Glenn. I did not want to be disrespected like that in front of the school.
14. A few hours later, I received a text message from Frankie. The message asked me to please forgive him/her for his/her insensitivity because he/she truly loved me.
15. A few minutes later, Frankie asked me to send him/her a picture to show him/her that I still loved him/her. I took a "selfie." Frankie asked if we could video chat which I agreed to. We talked about school and friends. Frankie apologized.
16. We Skyped for some time before my mom told me that I had to go to bed. We ended the call on a very good note. I told Frankie that I loved him/her. Frankie said the same to me.
17. I was getting ready for bed when I received a picture from Frankie who had this big goofy smile on his/her face. Frankie was lying in bed in the picture and he/she asked for a picture back that would make him/her ache for me.
18. When I received the picture, I was in the bathroom. I was preparing to take a shower. I decided why not. I leaned against the sink countertop and lifted the cellphone over my head, closed my eyes and took the picture. I did not look at it before I sent it. When I did look at it, I could see my naked butt in the mirror because I held the cellphone at an angle that caught the mirror behind me. You could see all of me, naked. I was horrified.
19. Frankie did not reply.
20. I went to school the next day and avoided Frankie. I was so embarrassed. I did not see Frankie until lunch time. Frankie approached me and kissed me on the cheek. He/she

smiled then said that we would talk later because he/she had to get to his/her next class. Frankie left just before lunch was over.

21. After Frankie left, I talked with my best friend, Reese Baston. I told him/ her about Frankie talking to Glenn at Glenn's locker yesterday. I was still upset. Reese has a few classes with both Frankie and Glenn. He/she states that they sit next to each other and passes notes during class time. I was upset.
22. I told Reese about the picture that I accidentally sent to Frankie and how embarrassed I was. Reese asked if Frankie deleted it. I explained that he/she never responded when I sent the text to delete it and I have been too embarrassed to talk to Frankie about it today.
23. Reese stated that they had a class together and would check Frankie's phone if he/she had time enough with Frankie looking away. I told Reese that I will most likely end my relationship with Frankie because I felt pressured to send the picture in order to keep him/her interested in me. I told Reese that Frankie has been pressuring me into having sex with him/her. Now, I am totally embarrassed. After our conversation, I walked to my locker.
24. When I walked into the hallway after lunch, I saw Frankie talking to Glenn again at Glenn's locker. They were laughing. Glenn saw me and said "Hello Chandler. Nice outfit." Then Glenn started laughing. I was so embarrassed. Frankie must have shown Glenn the naked picture of me.
25. I went to my locker and took out my fifth period book then went to class. Frankie and Glenn walked past me and went to their fifth period together. Reese came up behind as I started walking and I told Reese what happened. Reese said that he/she would handle it.
26. After fifth period, people started smiling and staring at me. Then, I started to hear some snickers. I was not sure what that was about but assumed that they must have seen the picture of me. As I was walking to sixth period, I stepped into the hallway and it felt like everyone was watching me.
27. After sixth period, Reese came up to me and pulled me into the bathroom. Reese took out his/her cellphone and showed me the picture that I took last night. I saw the number on the text message and it was sent from Frankie's phone. I could not believe it. How could Frankie send out this picture to people? Was that why people kept staring at me and smiling in class. I was mortified.
28. I asked, "how did you get it?" Reese stated that Frankie sent it. Reese stated that he/she received another text from another friend with the picture. I was so furious. I felt sick and violated. I went immediately home.
29. Frankie called me but I refused to talk to him/her. He/she texted me that he/she did not send the picture to anyone and that someone must have used his/her cellphone to do it. I called Frankie and told him/her that everyone at school had the picture. Frankie said that

he/she did not send it to anyone. Frankie said that he/she was sorry that this happened and promised to get to the bottom of it.

30. My mother came to my bedroom to talk to me. Reese's parents told her what happened. She told me that I was not to see Frankie again. She would deal with it now. She called the police.
31. Office Sonny Moten came to the house and asked what happened. I told him/her what happened.
32. I stayed out of school for the following week. When I returned to school, I heard people laughing and snickering when I walked down the hallway. When I got to my locker, there was a picture of me with "WHORE" written on it. I was mortified. I tried to stay strong and go to my first class.
33. When I entered the room, all eyes were on me including the teacher. I put my head down and walked to my chair. As I sat down, I heard someone pretend to cough but said "SLUT." I got up and left the class. I wanted to go home.
34. During the week when this incident happened, I had a few major exams in my classes and was under a lot of pressure to get good grades. Further, my grandmother had a mini stroke and was in the hospital.

*Chandler Ortega*

Chandler Ortega

## STATEMENT OF REESE BASTON

### Prosecution Witness

1. My name is Reese Baston. I am 16 years old and attend Webber High School. My best friend is Chandler Ortega. He/she and I live two doors down from each other.
2. Chandler and I have known each other since we were in kindergarten. Chandler and I both had a crush on Frankie since 7<sup>th</sup> grade. Frankie's real name is Francis Lawrence. When we started 9<sup>th</sup> grade, Chandler began to hang around the soccer field when Frankie had practice and started walking home the same way that Frankie did. Basically, Chandler stalked Frankie. Chandler and I live two blocks from Frankie.
3. After practice, Chandler and Frankie were walking home together and began talking. Before Chandler began dating Frankie, we were invisible to the popular kids. Once Chandler started dating Frankie, he/she became popular. Chandler and I were still friends but I was hurt because she was dating Frankie.
4. I did receive some benefit from Chandler dating Frankie. I began to hang around with some of the popular kids. Frankie's friend, Sean Montgomery, and I started to see each other. But Sean was not Frankie.
5. On October 31, 2015, I went to lunch with Chandler. Frankie kissed Chandler on the head and stated that he/she could not stay to talk. Chandler was upset. He/she told me that he/she observed Frankie and Glenn Olivier talking at Glenn's locker. They appeared to be flirting. Chandler was upset. Further, Chandler stated that Frankie was pressuring him/her to have sex and he/she was not ready for that. It was only a few months since they started dating.
6. Chandler explained what he/she did last night. He/she explained that Frankie asked for a sexy picture. This was after Frankie attempted to have sex with Chandler. Chandler explained that he/she leaned against the bathroom sink to take the picture. After sending the picture via text message to Frankie, Chandler looked and saw that the picture was showing him/her completely naked. Chandler was mortified.
7. Chandler was scared that Frankie would share it with other people. I told Chandler that I would talk to Frankie about the picture and ask him/her to delete it.
8. We walked out of the lunchroom and I saw Frankie talking with Glenn at Glenn's locker. Frankie's locker is close to Glenn's locker. When we left the lunchroom, Glenn said that Chandler had a nice outfit. Again, I told Chandler not to worry, I would take care of it.
9. I walked to fifth period which is Algebra 3, Trigonometry. Frankie and Glenn are in the class as well. Glenn sat on one side of Frankie and I sat on the other side. Usually, I sit next to my boyfriend/girlfriend, Sean Montgomery, but I needed to talk to Frankie about Chandler.

10. Frankie looked at me then I leaned in to talk. I told Frankie that Chandler was very upset that he/she continuously talks to Glenn when Frankie knows that it bothers Chandler. Further, I told him/her that Chandler wanted to end the relationship. Frankie shrugged his/her shoulders and began talking to Glenn.
11. We had a substitute teacher. Frankie had his/her cellphone on his/her desk. Frankie grabbed his/her cellphone and showed Glenn something. Glenn started laughing out loud and the teacher told Glenn to be quiet.
12. I overheard Glenn tell Frankie that he/she should text it to him/her. Then, Frankie did something on his/her phone. Glenn then picked up his/her phone as it started to vibrate.
13. During class, I heard a few people starting to laugh and snicker. I looked up from the assignment and I saw Frankie's cellphone on his/her desk. He/she went to use the restroom. Frankie was gone for about 5 minutes when I grabbed Frankie's phone and checked it out. There was no password on it.
14. I checked Frankie's text messages and saw a text to Glenn that included the picture. The text had additional numbers on it but I did not recognize the telephone numbers except for Sean Montgomery's number. Shortly after I put Frankie's cellphone on his/her desk, Frankie came back into the classroom.
15. While Frankie was gone, the teacher walked down our aisle between Frankie and my desks. The teacher must have bumped the cellphone and it fell onto the floor. I picked it up and put it back on Frankie's desk.
16. When Frankie came back to class, there were a few minutes before class would be dismissed. He/she picked up his/her cellphone. As the bell rang, my cellphone started to vibrate. I received a text message from Frankie with the nude picture of Chandler.
17. The bell rang and I walked out of class. Frankie and Glenn walked out of class together. I was unable to see Chandler before sixth period. I went to class.
18. During class, I received another text message but this was from Glenn's friend. It had the naked picture of Chandler.
19. After sixth period, I ran into Chandler in the hallway and pulled him/her into the bathroom. I showed Chandler the text message. Chandler asked me who sent it. I told him/her that it was from Frankie and a second one from Glenn's friend, Joey. Chandler screamed. He/she was so angry. Chandler stormed out of the bathroom and I saw him/her go to the attendance office.

20. Chandler wanted to break up with Frankie because Frankie continuously put pressure on Chandler for sex. Further, Frankie kept flirting with Glenn. It is my opinion that Frankie sent this text with the picture in order to get back at Chandler for ending their relationship.

*Reese Baston*

Reese Baston

## STATEMENT OF SEAN MONTGOMERY

### Prosecution Witness

1. I am a junior at Webber High School. I am friends with Francis Lawrence who goes by Frankie. Frankie and I play basketball and soccer for Webber High School as well as attend church and bible study together.
2. Frankie and I attend bible study every Monday night. We also attend church on Sunday mornings.
3. I am on the Honor Roll at Webber High School and have the second highest GPA in the junior class. Frankie and I are both part of the National Honor Society.
4. Frankie is a senior at Webber High School and king/queen of the school.
5. Frankie and I are friends but we do not hang in the same circle which is fine with me. Some of his/her friends are mean and vindictive.
6. I am dating Reese Baston who is a sophomore at Webber High School. Reese and I started dating in September of this year. I met him/her during the driver's education course. We sat next to each other in class and got to know each other well.
7. I took driver's education late because I was not ready when I was a sophomore. I had too many other things to do like sports, grades, and volunteer work at a local senior center.
8. Frankie, Reese, Glenn Olivier and I have the same fifth period class. On October 31, 2015, Frankie sat between Reese and Glenn. I was on the other side of the room, one row back. Reese usually sits next to me but not today. I was curious as to why Reese did not sit next to me. I never did find out why because there was too much drama after class.
9. We had a substitute teacher on this date. During class, the teacher gave us an in-class assignment that we could work on with partners. I worked on the assignment with the person to my right.
10. Frankie and Glenn appeared to be working together. While they were working together, I heard Glenn laughing loudly then say "how embarrassing." I looked over to Glenn to see what was happening as the teacher told them to be quiet. Glenn asked Frankie to text him/her the picture. I saw Frankie on his/her phone right after Glenn stated it. Then the two began whispering between them. Frankie went on his/her phone again.
11. My partner and I completed the assignment and turned it into the teacher. As I was turning in the assignment, Frankie asked the teacher to use the restroom. This was about 12:55 p.m.



12. The substitute teacher walked between Reese and Frankie's desk. I looked away then looked back to Frankie's desk when I saw Reese place a cellphone on Frankie's desk. Frankie walked into the room shortly after.
13. Shortly before the bell rang to dismiss class, I received a text message from Frankie with a nude picture of Chandler. The text message included several other telephone numbers but it did not include Glenn's telephone number.
14. I do know that Frankie knows how to set his/her phone to send a delayed text because I showed him/her how to do it. Frankie and I were at church when Frankie asked me if there was a way to do it because he/she wanted to go to a party but not let Chandler know. I showed Frankie on his/his Samsung phone to write the text then hit the three dots on the top right to show a menu. Then it will allow you to pick the time that you want to send it. I did not understand why Frankie wanted to do it since he/she always carries his/her phone.
15. I know Glenn's number because we are friends.
16. Frankie came back into the room shortly before the bell dismissing class rang.
17. Frankie and Glenn walked out of class together. I tried to reach Frankie but I had to get to my sixth period.

Sean Montgomery  
Sean Montgomery

## STATEMENT OF SONNY MOTEN

### Prosecution Witness

1. My name is Sonny Moten. I am a Sheriff's Deputy with the Genesee County Sheriff's Department. I have been employed by the Sheriff's Department since 2009.
2. I am assigned to the Investigation Division as a Detective. I became Detective in June 2015. We are assigned cases on rotation. This is the first time that I handled a case like this.
3. On November 1, 2015, I was assigned a case involving Chandler Ortega. Complainant, Sally Ortega, reported that a naked picture of her sixteen-year-old child, Chandler, was sent via text message from Francis Lawrence to other individuals at Webber High School.
4. As part of the investigation, I talked to the reporter, Sally Ortega at her residence. With Mrs. Ortega present, I talked with Chandler Ortega. Chandler Ortega advised that he/she and Francis Lawrence have been dating since August 2015. Francis and he/she went on a date on October 30, 2015. During the date, Francis made several sexual advances to which Chandler denied. They got into an argument and Chandler went home.
5. Once home, Francis sent a text message apologizing for his/her behavior. At which time, the two began a Skype session. After the Skype communication ended, Francis sent a text message with a "selfie" attached. Chandler showed me the selfie which was of Francis's face only. The next text message included a request for return of a "selfie" from Chandler.
6. Chandler showed the text message that he/she returned to Francis. It was a picture of Chandler in the bathroom resting against the bathroom counter. The camera appeared to be held over his/her head. Chandler was naked in the picture and it showed both his/her genital area and buttocks. The telephone number that Chandler sent it to was 810-555-0211.
7. Chandler advised that his/her friend, Reese Baston, received a text message from Francis that included the picture.
8. After ending my conversation with Chandler Ortega, I met with Reese Baston and his/her father, Orlando Baston. Reese entered a passcode into his/her cellphone and showed a text message with the phone number of 810-555-0211 which belongs to Francis Lawrence.
9. The text contained a picture of Chandler Ortega leaning against a bathroom sink with no clothes on. The picture showed Chandler's genitals as well as his/her buttocks in the mirror behind him/her. It was the same picture that Chandler showed me.

10. Reese confirmed that he/she received the text from Francis at approximately at about 1:05 p.m. on October 31, 2015.
11. After speaking with Reese, I met with Francis Lawrence along with his/her mother, Rachael Lawrence. I asked Francis about the date with Chandler on October 30, 2015. Francis mentioned that he/she and Chandler went out to dinner then to an empty parking lot where we sat and talked. Francis stated that he/she placed his/her hand on Chandler's leg. Chandler became upset and they got into an argument because Francis talked with Glenn at school. Francis mentioned that Chandler was overly possessive and did not want him/her talking to the opposite sex. Francis drove Chandler home.
12. After Francis was home, he/she sent a selfie to Chandler with a crazy face then Chandler began to Skype with him/her. They talked for about a half hour. After ending the conversation, Francis sent another "selfie" and asked for a beautiful picture in return. Afterwards, he/she talked to a friend then went to sleep.
13. The next morning, Francis overslept and had to hurry to get to school. Once at school, Francis was in class. At lunchtime, Francis met with Chandler for a short period of time. Chandler was angry but he/she did not understand why.
14. Francis denied sending the naked picture of Chandler to the anyone else. He/she did not see the naked picture until he/she went to send a text to Glenn with a picture of when he/she split his/her pants.
15. I requested a subpoena to obtain Francis's texting records. According to Sprint, the naked picture was texted to over 100 other numbers at approximately 1:05 p.m.

*Sonny Moten*

Sonny Moten

## STATEMENT OF FRANCIS LAWRENCE

### Defense Witness

1. My name is Francis Lawrence but my friends call me “Frankie.” I am a senior at Webber High School. I am the President of the National Honor Society, President of Student Counsel, the captain of the soccer team and basketball team, and have a 3.9 GPA. Further, I am taking a couple of classes at University of Michigan – Flint for early admission.
2. I am also very active in my church. I attend church on Sundays at 9:00 a.m. then I stay with the smaller children during the next mass. On Tuesdays, I attend Bible Study. I am a member of the choir and participate in many events involving my church.
3. Chandler is younger than I am. I met him/her after soccer practice one day. I noticed Chandler for a few weeks prior to when I first talked to him/her. Chandler sat in the bleachers for two weeks before I approached him/her. When practices were completed, Chandler began walking home the same way that I did. I learned that he/she lived two blocks away from me. One day, I decided to talk to him/her on the way home. He/she was funny and intelligent. Then, we started to talk and date. Our first date was in the beginning of September 2015.
4. On October 30, 2015, Chandler and I went out to eat at a restaurant. After dinner, we went to a secluded parking lot to talk. While we were talking, Chandler became agitated because he/she observed me talking to Glenn Lawrence in the hallway during school. I told Chandler that I did not want to be with Glenn because I wanted to be with him/her.
5. I told Chandler that he/she was being too possessive. I can be friends with whomever I chose to be friends with. I explained to him/her that I only wanted to be with him/her. I put my hand on his/her leg in an attempt to calm him/her down. It did not calm him/her down. Chandler became even angrier.
6. Chandler told me that he/she was not going to have sex with me. I did not know what Chandler was talking about since sex was the last thing that I was thinking about. I was hurt that Chandler would think that I would try to have sex with him/her when he/she was expressing his/her anger.
7. I decided to take Chandler home because I was upset about how he/she was acting. During the date, Chandler never mentioned that we were through. After I left Chandler at his/her house, I replayed the night in my head. Chandler has been under a lot of pressure lately. He/she had a couple of exams this week and his/her grandmother was sick in the hospital.
8. When I got home, I took a goofy “selfie” and sent it to Chandler through a text message. In order to make Chandler happy, I apologized even though I did nothing wrong. Shortly after Chandler received it, he/she called me using Skype. We talked for about an hour

when I heard Chandler's mother that he/she had to get off the phone. We ended the conversation.

9. After the call to Chandler ended, I took another picture while I was lying in bed. I sent it to Chandler. I did ask that he/she send a picture back but I did not ask for a nude picture back. I would be crazy; you get in trouble for that stuff.
10. After sending the picture, I called my friend, Jesse Rosas. We talked about practice and student council. My phone was almost dead and we ended the call. I plugged my phone into the charger then went to bed. I did not receive the picture from Chandler.
11. I overslept on October 31, 2015 and was running late for school. I grabbed my phone on the way out of the house, turned off the sound and put it in my backpack. We are not allowed to have the volume on during school.
12. I did see Chandler for a few moments at lunch. I told him/her that I had to do some things but we would talk later. I kissed Chandler on the forehead and left.
13. My fifth period class is with Reese Baston and Glenn Olivier. When I got into my chair and before the class bell rang, I took my cellphone out of my bag and checked it. That is when I found the text from Chandler with the naked picture. I was shocked. I cannot deny that I liked it but I was surprised that he/she sent it. I turned the cellphone over on my desk and did not say anything about it to anyone. I needed to talk to Chandler about it.
14. Glenn came into the room and sat to the right of me. Reese came in next and sat on my left. He/she usually sits next to Sean Montgomery who he/she is dating. Sean was sitting on the other side of the room.
15. After Reese sat down, he/she stated that Chandler was upset because I did not reply to her text last night and that I was talking to Glenn again. I explained to Reese that I just saw the text before he/she entered the classroom. I asked Reese what Chandler was thinking when he/she sent the picture.
16. The class bell rang. The substitute teacher gave us an assignment that we could work on in pairs. I chose Glenn because he/she was in the National Honor Society as well. While we were working, we started talking about embarrassing things. I told him/her that I slipped on the ice and my pants ripped down the whole inseam of my pants. Glenn laughed and said "how embarrassing." It was loud. My friend, Drew Tetherington, took a picture of me on the ground with the ripped pants then sent me the text. Glenn wanted to see the picture. I took out my cellphone and showed him/her the picture.
17. Glenn then told me an embarrassing story about himself/herself. We laughed throughout class. Near the end of the class, I had to use the restroom. The teacher gave me a hall pass. I left my cellphone on my desk. It is not password protected. I left to use the restroom about 12:45 p.m.

18. I returned to the class at about five minutes later. Shortly after I returned the bell ending class rang. I grabbed my phone and went to sixth period. I had no idea that a text message was sent to over 100 people with the naked picture of Chandler until my friend, Drew, asked me why I did it.
19. I told Drew that I did not send it. I explained that someone must have used my cellphone and sent it to everyone.
20. After sixth period, I tried to find Chandler because I had to talk to him/her about wanting to break up with me. I did not understand why Chandler would send me a naked picture last night then want to break up with me today. I was baffled. Reese told me that Chandler went home after Reese showed Chandler the text message from me.
21. When I got home, I called Chandler but he/she refused to talk to me. I wanted to explain to Chandler that I did not do this to him/her. I would never disrespect him/her like that.
22. The next day, Office Sonny Moten came over to my house to discuss the text message.
23. I went to school the next school day. My classmates were giving me a high five and congratulating me for the picture. I told them that I did not send it. I was not happy that someone used my cellphone to hurt someone that I cared for. I felt horrible because someone that I cared about was hurt. I stopped going to soccer practice. My grades dropped. I sought forgiveness and penance at church. There are things that I would do differently knowing what I know now. For example, I would have deleted the text message from Chandler with the nude picture.
24. Chandler was out of school for a week after the photo leaked. He/she had a difficult time when he/she came back to school. Chandler would not talk to me or let me explain.

*Francis Lawrence*

Francis Lawrence

## STATEMENT OF GLENN OLIVIER

### Defense Witness

1. My name is Glenn Olivier. I am a senior at Webber High School. At Webber High School, I am the Vice President of the Student Council, Captain of the Swim team, and on the National Honor Society.
2. After school, I volunteer at the local CAN (Child Abuse Network) Council location as a receptionist. I want to be a child psychiatrist when I grow up. This is an excellent opportunity to help children who have been victimized.
3. I have known Francis Lawrence since we were in 3<sup>rd</sup> grade. Francis answers to Frankie. Frankie and I have always had this flirty relationship but nothing ever comes of it.
4. I could not believe that Frankie was dating Chandler Ortega. He/she is not a catch and only a sophomore. Apparently, he/she is very possessive of Frankie and Chandler wanted Frankie to stop being my friend which will never happen. We are pretty close. I will never stop being Frankie's friend.
5. Frankie and I have fifth period together. We walked to class together and sat next to each other like we always do. Reese Baston sat on the other side of Frankie. When Reese sat down, I was surprised because he/she usually sits next to Sean Montgomery.
6. After Reese sat down, he/she leaned over to Frankie and whispered something to him/her. Frankie seemed a little upset. The teacher came into the room as the bell rang and gave us an assignment to do in pairs. Frankie and I worked together.
7. Frankie seemed irritated. In order to lighten the mood, I told Frankie about an embarrassing moment that I suffered recently. I told him/her a story about swimming that happened a few days ago. I explained that I was at practice when I was racing another teammate. I was so focused on my strokes that I ran into the wall with my head. It knocked me out. Frankie smiled. I asked him/her about an embarrassing moment in his/her life.
8. Frankie explained that last winter that he/she and Drew Tetherington were walking home from church when Frankie slipped and fell on the ice. When Frankie fell, his/her pants ripped all down the inseam of his/her pants. Drew grabbed Frankie's cellphone and took a picture. I said that "was so embarrassing." Apparently, I said it too loud because the teacher told me to be quiet. I asked to see the picture.
9. Frankie grabbed his/her cellphone and showed me the picture. The rip in his/her pants went from just above the ankle to above the knee. It was funny. We began to laugh and Frankie's mood seem to lift.
10. About 15 minutes before class ended, Frankie requested to go to the bathroom. When he/she left, I saw that Frankie left his/her cellphone on the desk. I began talking to the

person on my right. A few minutes later, I looked and Frankie's cellphone was gone. Reese was on a cellphone. The teacher walked down the aisle between Reese and Frankie's desks. After the teacher walked by, I saw Reese place a cellphone that looked like the one he/she was using on Frankie's desk.

11. Frankie came back into the room and my cellphone vibrated. Frankie began to talk to me as I was picking up my cellphone. Then the bell ending class rang. Frankie got up and I walked out with him/her.
12. Frankie had to get his/her class. As I was walking to sixth period, I looked at my cellphone. I received a text message from Frankie with a naked picture of Chandler Ortega. I was speechless. I was shocked that the little boy/girl, Chandler, had nerve to send a nude picture.
13. I do not like Chandler because I think he/she is using Frankie and treating Frankie like crap but telling him/her who he/she can see or talk to. Chandler is very possessive. One day, Chandler was walking down the hallway without Frankie. When Chandler saw me, he/she walked near me and told me to stay away from Frankie. Then Chandler pushed his/her shoulder into me. I told Chandler that Frankie and I are just friends. Further, I told Chandler that I would not stop hanging out with my friend. Chandler yelled back "F you," but he/she actually said the "F" word.
14. When I saw the picture, I immediately deleted it. I did not say anything to anyone until I was approached on this case.
15. I have known Frankie for most of my life. I do not think that he/she would have done something like this. It is not in his/her personality to do it. I would not put it past Chandler to cook up some scheme to hurt Frankie and make Frankie look bad.

*Glenn Olivier*  
Glenn Olivier



## STATEMENT OF JESSE ROSAS

### Defense Witness

1. My name is Jesse Rosas. I am a student at Webber High School.
2. I am in the same fifth period class as Reese Baston, Francis Lawrence, Glenn Olivier and Sean Montgomery.
3. On October 30, 2015 at about 10:30 p.m., Frankie and I talked on the phone regarding student council and the soccer team. Frankie did mention that he/she and Chandler had a fight on their date and Chandler was upset. We talked about a half hour then I was getting tired and ended the call.
4. On October 31, 2015, I sat behind Reese in fifth period. To his/her right was Frankie and then Glenn. Sean sat on the other side of the room. Usually, Reese and Sean sit next to each other but not today.
5. When Reese entered the room, Frankie and Glenn were already sitting and talking. Reese tapped Frankie on the shoulder in order to talk to him/her. They leaned into to each other. I overheard a portion of the conversation. Reese stated that if Frankie did not stop talking to Glenn then Chandler would stop dating Frankie. Frankie seemed agitated. He/she told Reese that Glenn was just a friend. At that point, the teacher came into the classroom. Reese and Frankie were still talking but I could not hear them over the teacher.
6. The teacher gave out an assignment that was to be completed in pairs. Reese and I did the assignment together. Glenn and Frankie did the assignment together. While we were working on the assignment, Frankie showed Glenn something on his/her cellphone and Glenn said, "so embarrassing." Glenn laughed. The teacher admonished Glenn for being loud.
7. During class, Frankie left the room about 12:50 p.m. After he/she left, Reese grabbed Frankie's cellphone and was looking at it. Reese turned his/her back to me. Frankie was gone for about five minutes. Just before he/she got back, Reese put the cellphone back on Frankie's desk. This was after the teacher walked by my desk.
8. There was about ten minutes left in class when Frankie came back. Reese turned around and we completed the assignment. I did not see Frankie get back on his/her cellphone. The cellphone was in front of him/her and his/her back was to me.
9. When the class bell rang, my cellphone buzzed. I looked at my cell and there was a text from Frankie with an attachment. I opened the attachment and it was a naked picture of Chandler Ortega.

*Jesse Rosas*

Jesse Rosas

**STATEMENT OF DREW TETHERINGTON**  
Defense Witness

1. My name is Drew Tetherington. I am a senior at Webber High School. I am a member of the soccer and basketball teams.
2. I have known Francis Lawrence since 7<sup>th</sup> grade. Francis goes by the name of Frankie at school. During the summer prior to 7<sup>th</sup> grade, my family and I moved in next door to Frankie. As we were moving into the house, Frankie and his/her mother came over to our house to welcome us to the neighborhood. They brought us lemonade and sandwiches. Frankie and I have been good friends since then.
3. Frankie has been dating Chandler Ortega since September. I have seen Chandler yell at Frankie for talking to other people and disrespecting him/her. I have never seen Frankie flirt or try and get with another person while dating Chandler. As far as I can remember, Chandler was the first boyfriend/girlfriend that Frankie had.
4. Frankie is shy. He/she does not usually initiate a relationship. Frankie is focused on his/her grades, soccer, basketball, and church.
5. The rumor around school was that Chandler stalked Frankie for a few weeks in order for Frankie to notice him/her. I did not know who Chandler was until Frankie started walking home with him/her. Chandler would continuously walk by Frankie's locker which is near Glenn Olivier's locker. Then, he/she would sit in the stands watching soccer practice. When we would go out as a group, Chandler would show up. It was creepy.
6. On October 31, 2015, when fifth period bell was about to ring, I received a text from Frankie's cellphone with an attachment. I opened the attachment and it was a nude picture of Chandler. I wondered why Frankie had sent such a photograph of Chandler. Since I have sixth period with him/her, I was going to find out.
7. In sixth period, I asked Frankie why he/she would send a naked picture of Chandler to a lot of people via text message. Frankie looked shocked when I said that. He/she truly acted like he/she did not know what I was talking about. I showed Frankie the text message and attachment. Frankie's face turned white as a ghost.
8. Frankie stated that he/she did not send it. As soon as the class bell rang, he/she ran out asking people if they had seen Chandler. Frankie ran into Reese who said that Chandler had left because he/she was embarrassed.
9. Frankie walked away looking terrible. After he/she was out of earshot, I heard Reese state that is what he/she gets for choosing Chandler over him/her. I do not think that Reese knew that I was standing there. When I walked by, Reese turned around and walked the opposite way.

10. Over the next few weeks, I saw Frankie's demeanor change. He/she no longer showed up for practice. Frankie did not do his/her homework. He/she went to church even more than before.

**Drew Tetherington**

Drew Tetherington

## **DEBRIEFING THE MOCK TRIAL**

The debriefing may well be the most important part of the Mock Trial. It should bring into focus the role play which has taken place, relating the events of the Mock Trial to the American court system and its role in maintaining the rule of law. The videotapes that Circuit Court will provide will assist with debriefing.

The following outline is meant only to serve as a guide and can of course be adjusted to meet the specific needs and interests of your group. The participants should first be asked how they each felt in their roles and whether they perceive their mock trial to have been realistic. The group should then discuss the procedures of a trial, the participants in a trial, and the American court system.

- I. What are the major parts of a trial?
  - A. Jury Selection
    1. How are jurors selected?
    2. Why might an attorney prefer that a particular juror not serve in his case?
      - a. How may an attorney challenge such a juror?
  - B. Opening Statement
    1. What is its purpose?
      - a. To inform the jury of the nature of the case.
      - b. To acquaint the jury with the essential facts.
    2. What should the opening statement include?
      - a. Name of case.
      - b. Name of attorney.
      - c. Name of client.
      - d. Name of opponent.
      - e. Facts and circumstances of the case.
      - f. Simple and concise statement.
      - g. What the attorney will prove in the case.
  - C. Direct Examination
    1. What is its purpose?
      - a. To present enough evidence to warrant a favorable verdict.
      - b. To present facts with clarity and understanding.
      - c. To present your witness to the greatest advantage.
      - d. To establish your witness's credibility.
    2. How does one conduct a direct examination?
      - a. Clear and simple questions.
      - b. Elicit information through questions and answers.
      - c. Never ask a question to which you don't know the answer.
    3. How does one get evidence before the court?
      - a. Through the testimony of witness.
      - b. Through the introduction of real evidence (photographs, murder weapon, etc.).

#### D. Cross Examination

1. What is the purpose?
  - a. To negate your opponent's case.
  - b. To discredit the testimony of his witness.
  - c. To discredit real evidence which has been presented.
2. What is its scope?
  - a. Can usually only ask questions relating to testimony made during direct examination.
  - b. Attempt to explain, modify, or discredit that which has been introduced as evidence.
3. How does one conduct cross-examination?
  - a. Use narrow, leading questions.
  - b. Do not have witness repeat statements unless you are leading somewhere.
  - c. Do not ask questions to which you do not know the answer.

#### E. Redirect and Re-Cross examination

1. If either attorney wishes, he can conduct redirect or re-cross examination.
2. This is most often done to either reestablish or again discredit statements by the witnesses.

#### F. Closing Argument

1. What is its purpose?
  - a. To synthesize for the jury all the facts and evidence of the case.
  - b. To state clearly, simply and logically the case for your client
  - c. To stress all the equities in the case, while advocating your clients' position.

#### G. Judge's charge to the jury

1. What is its purpose?
  - a. To indicate to the jurors the law in the case.
  - b. To summarize the arguments made for either side.
  - c. To explain possible alternative judgments to the jury.
2. What should it contain?
  - a. Summary of the charges.
  - b. Summary of the law.
  - c. Summary of the arguments for each side.
  - d. Summary of the alternatives available to the jury.

#### H. Jury retires to determine verdict

1. What does a jury do?
  - a. Each juror discusses his reaction to the arguments presented.
  - b. Jury discusses the validity of these arguments.
  - c. To reach a verdict bases upon their judgment and the law in the case.
2. How many votes are necessary for a verdict?
  - a. Depends upon jurisdiction in which case is heard.
  - b. Usually a unanimous verdict is required.

c. If there is a hung jury (one which neither finds the defendant innocent nor the number of votes necessary to find him guilty) an entire new trial may be held.

I. Clerk reads verdict

J. Judge determines sentence

1. What does the judge consider in determining the sentence?
  - a. Minimum and maximum sentence according to law.
  - b. The nature of the crime.
  - c. Defendant's prior record, if any.
  - d. Defendant's reputation in the community.
  - e. Defendant's responsibilities in the community.
2. What kind of sentence can a judge impose?
  - a. Must conform to the limits prescribed by law.
  - b. Can, however, suspend the sentence or put the defendant on probation.

II. Review the major participants in a trial

A. Clerk

1. Has charge of clerical side of court business.
2. Keeps records, seals and care of papers pertaining to judicial process.

B. Judge

1. Umpire between opposing attorneys.
2. Rules on objections of attorneys.
3. Sees that the trial moves along.
4. Charges jury as to the law.
5. Decides sentence.

C. Attorneys

1. Plaintiff's or Prosecuting Attorney's duty to overcome burden of proof and "sell" his/her case to the jury.
2. Defendant's attorney must anticipate Plaintiff's/Prosecuting Attorney's case and not allow him/her to overcome the burden of proof.

D. Foreman

1. Acts as chairman and spokesman of the jury.
2. Presides over discussions in the jury room.
3. Delivers verdict to the court.

E. Witnesses

1. Deliver testimony regarding relevant issues before the court.
2. Serve to either validate or discredit allegations made by other witnesses.

III. Questions about the actual case

- A. What was the charge against the defendant?
- B. What issues were raised in the case?
- C. What were the arguments of each attorney?
- D. Why did they make these arguments?
- E. What evidence was presented for each side?
- F. What facts, evidence or arguments were not presented?
- G. What was the decision of the court?

H. Why was that decision reached?

I. Can the losing party appeal his case to a higher court?

IV. Questions about our trial system

A. Does our judicial system insure that the defendant receives a fair trial?

B. What provisions in our system insure that the defendant receives a fair trial?

C. Are some part of the trial more important than others?

D. What is the importance of the sequence of events of a trial?

E. Are some trial participants more important than others?

F. In what ways can this procedure be improved?

G. What changes, if any, would you recommend in our judicial system?