

From Classroom to Courtroom

Mock Trial Four Day Program

MOCK TRIAL PROCEDURE

Handout

NOTE TO ALL PARTICIPANTS: Always address the judge by saying “Your Honor.”

Opening of Trial:

Bailiff: Please rise. The Court of the Second Judicial Circuit, Criminal Division, is now in session, the Honorable _____ presiding.

Judge: Everyone but the jury may be seated. Ms./Mr. _____ (Bailiff’s name), please swear in the jury.

Bailiff: Please raise your right hand. Do you solemnly swear or affirm that you will truly listen to this case and render a true verdict and a fair sentence as to this defendant? (Jury should answer “I do”). You may be seated.

Judge: Mr./Ms. _____ (Bailiff’s name), what is today’s case?

Bailiff: Your Honor, today’s case is _____.

Judge: Is the prosecution ready?

Prosecuting Attorneys: (stand up) Yes, your Honor. (Be seated)

Judge: Is the defense ready?

Defense Attorneys: (stand up) Yes, your Honor. (Be seated).

-Prosecution will give Opening Statement-

-Defense will give Opening Statement-

Direct Examination (Prosecution)

Judge: Prosecution, you may call your first witness.

Prosecuting Attorney: Thank you, your Honor. I call to the stand _____.

Judge: Will the witness please stand to be sworn in by the bailiff. (Witness stands)

Bailiff: (to the witness) Please raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?

Witness: I do.

-Prosecution Questions Witness #1-

-Defense Cross Examines-

Judge: Prosecution, you may call your second witness.

Prosecuting Attorney: Thank you, your Honor. I call to the stand _____.

Judge: Will the witness please stand to be sworn in by the bailiff. (Witness stands)

Bailiff: (to the witness) Please raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?

Witness: I do.

-Prosecution Questions Witness #2-

-Defense does Cross Examines-

Judge: Prosecution, you may call your third witness.

Prosecuting Attorney: Thank you, your Honor. I call to the stand _____.

Judge: Will the witness please stand to be sworn in by the bailiff. (Witness stands)

Bailiff: (to the witness) Please raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?

Witness: I do.

-Prosecution Questions Witness #3-

-Defense Cross Examines-

Direct Examination (Defense)

Judge: Defense, you may call your first witness.

Defense Attorney: Thank you, your Honor. I call to the stand _____.

Judge: Will the witness please stand to be sworn in by the bailiff. (Witness stands)

Bailiff: (to the witness) Please raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?

Witness: I do.

-Defense Questions Witness #1-

-Prosecution Cross Examines-

Judge: Defense, you may call your second witness.

Defense Attorney: Thank you, your Honor. I call to the stand _____.

Judge: Will the witness please stand to be sworn in by the bailiff. (Witness stands)

Bailiff: (to the witness) Please raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?

Witness: I do.

-Defense Questions Witness #2-

-Prosecution Cross Examines-

Judge: Defense, you may call your next witness.

Defense Attorney: Thank you, your Honor. I call to the stand _____.

Judge: Will the witness please stand to be sworn in by the bailiff. (Witness stands)

Bailiff: (to the witness) Please raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?

Witness: I do.

-Defense Questions Witness #3-

-Prosecution Cross Examines-

Closing Arguments

Judge: Both the prosecution and the defense have now rested their cases. The attorneys will now present their final arguments. Please remember, what the attorneys say is NOT evidence. However, do listen closely. They are intended to aid you in understanding the case. Prosecution, you may begin.

-Prosecution Closing Argument-

-Defense Closing Argument-

Jury Deliberation

After hearing the judge's instructions, the jurors must decide guilty or not guilty and then give their decision to the judge.

Judge: Members of the jury, you have heard all of the testimony concerning this case. It is now up to you to determine the facts. You and you alone, are the judges of the fact. Once you decide what facts the evidence proves, you must then apply the law as I give it to you to the facts as you find them.

The defendant is believed to be innocent of the charges. This presumption remains with the defendant throughout every stage of the trial and is not overcome unless you are convinced beyond a reasonable doubt that the defendant is guilty. The defendant is not required to prove his innocence.

The prosecution has the burden of proving the guilt of the defendant beyond a reasonable doubt. This burden remains on the prosecution through the trial. The prosecution must prove that a crime was committed and that the defendant is the person who committed the crime. However, the prosecution is not required to prove guilty beyond all possible doubt or to a certain percentage. Nor is the prosecution required to disprove every conceivable circumstance of innocence.

A reasonable doubt is a doubt founded upon reason. Proof beyond a reasonable doubt requires such proof that would convince you to rely upon a fact enough to make an important decision in your own business or personal affairs. However, if you are not satisfied of the defendant's guilt to that extent, then reasonable doubt exists and the defendant must be found not guilty.

The LAW (Choose appropriate box for case you are doing):

For Jesse Sunderson Case

Section 609.595 DAMAGE TO PROPERTY: Aggravated criminal damage to property. Whoever intentionally causes damage to physical property of another without the latter's consent may be sentenced to imprisonment for not more than five years or to payment of a fine not more than \$10,000, or both if the damage to property caused a reasonably foreseeable risk of bodily harm.

Section 624.61 SALE AND USE OF FIREWORKS PROHIBITED. Except as otherwise provided in sections 624.20 to 624.25, it shall be unlawful for any person to offer for sale, expose for sale, sell at retail or wholesale, possess, advertise, use, or explode any fireworks.

OR

For Alli McGraw Case

Section 1213.12 POSSESSION OF MARIJUANA. It is a petty misdemeanor to possess or give away a small amount of marijuana. A small amount of marijuana is defined as 5 grams or less. For the first offense, the court may fine the person up to \$200 and require him or her to participate in a drug rehabilitation program.

In just a moment, the bailiff will take you to the jury room to consider your verdict. One of the first things you will want to do is to select a foreperson that will preside over your deliberations the way that a chairperson does at a meeting. It will be the foreperson's duty to sign the verdict form when you have agreed on a verdict. Whatever verdict you render must be unanimous. That is each and every person must agree on the same verdict. The Bailiff will now escort you to the deliberation room.

(When the Jury Returns)

Judge: Have you reached a verdict?

Jury Foreperson: We have, your Honor.

Judge: What say you?

Jury Foreperson: (Read the verdict form)

Judge: Thank you, jury, for your work (continue with discussion from Judge's Instructions).