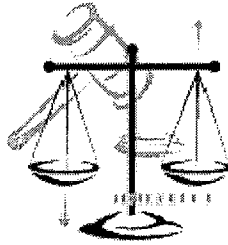


2012 Delaware High School Mock Trial Competition



State of Delaware
v.
Les Hayes

CORRECTIONS TO CASE PROBLEM AND BLACKLINE SHOWING CHANGES

February 24-25, 2012
New Castle County Courthouse

Contact Information:

Mock Trial Office
Delaware Law-Related Education Center, Inc.
301 Market Street, Wilmington, DE 19801
Phone: (302) 778-0643
Fax: (302) 658-5212
www.delrec.org

**REPLACEMENT PAGES FOR PAGES
3, 4, 5, 59, 65, AND 66**

CASE BACKGROUND

At Elite Preparatory High School, certain students who are deemed to be among the “popular crowd” are invited to belong to a social club. The club is very exclusive and the members pride themselves on admitting only the elite, the “best of the best.” The school does not officially recognize the club, but the school has not banned it either because students of well-established, wealthy families in the community, and significant contributors to the school, are among its primary members. The club is called *Carpe Diem* (seize the day) to represent their carefree, overflowing life. At the beginning of their meetings, club members chant “*Carpe diem quam minimum credula postero,*” i.e. “Seize the day, trusting as little as possible in the future.”

The club follows certain traditions, rituals and ceremonies. At the start of each school year, members of the group scout out the 10th graders, usually 15 and 16 year old students, they feel would fit into their group. They then invite this select group to “rush,” a three-week time period, giving everyone an opportunity to get to know one another at various social gatherings. When rush is completed, there is an elimination of pledges who did not make the “cut.” The senior members of the club identify those pledges who are deemed worthy to be part of the exclusive “pledge class.” The students who accept the invitation to pledge begin an additional six-week period during which they are forced to serve the members of the club and do whatever they are told. *Carpe Diem* prides itself on the severity of its hazing. Every pledge class ends the pledge period with the “Running of the Gauntlet” at Arcane Park.

In the 2009-2010 school year, the senior members of *Carpe Diem* included President Duke Kenilworth, and Rush Chair Austin Tayshus. As the top of the club’s chain of command, they had the last word on the membership selection process. Les Hayes was one of the eight students in the pledge class. Les was new to the school. At the Running of the Gauntlet festivities, all was going as planned, starting with the pledges reciting the Club Motto, followed by swatting the pledges with paddles, dousing them with ketchup, mustard and raw eggs, and having them swallow live goldfish. Humiliating “awards” were given to some of the pledges, including the “Flunky” award, which was given to Les. Duke and Austin warned the pledges that this was just the beginning, and that it would only get worse.

Alcohol was also present, and the pledges were ordered to serve the Club officers beer in special beer mugs that were specially engraved with each officer’s name. Shortly after Austin saw Les serve Duke his beer, Duke complained of stomach pains, a headache, and dizziness. Duke began vomiting, and eventually collapsed. The police and EMTs arrived, but they were

unable to revive Duke, and he was pronounced dead at the scene. The police issued citations for underage drinking and called for the students' parents to take them home. The medical examiner ruled Duke's death was the result of alcohol poisoning. However, eight months after his death, the police received an anonymous tip suggesting that Duke had been murdered by someone poisoning his drink at the Running of the Gauntlet. Duke's body was exhumed, and the new medical examiner determined that Duke had died from arsenic poisoning. Les was arrested and charged with murder.

Prosecution Witnesses:

Student – Austin Tayshus
Police Detective – Jo/Joe Friday
Coroner – Dee Muir

Defense Witnesses:

Defendant – Les Hayes
Teacher – Mel Lowe
Former Coroner – I.M. Wright

The Case Background is not to be used as evidence or for any other purpose at trial, but rather is provided for background purposes only. This case is a work of fiction. The names and events described herein are intended to be fictional. Any similarity or resemblance of any character to an actual person or entity should be regarded as only fictional for purposes of this mock trial exercise.

6. Repetition: Questions designed to elicit the same testimony or evidence previously presented in its entirety are improper if merely offered as a repetition of the same testimony or evidence from the same or similar source.

Teams are not precluded from raising additional objections which are available under the *Delaware High School Mock Trial Rules of Evidence*.

Rule 4.19. Reserved

Rule 4.20. Procedure for Introduction of Exhibits

As an example, the following steps effectively introduce evidence:

1. All evidence will be pre-marked as exhibits.
2. Ask for permission to approach the bench. “Your honor, may I approach the witness with what has been marked as Exhibit No. ___?”
3. Show the exhibit to opposing counsel.
4. Ask the witness a series of questions that are offered for proof of the admissibility of the exhibit. These questions lay the foundation or predicate for admissibility, including questions of the relevance and materiality of the exhibit.
5. Offer the exhibit into evidence. “Your Honor we offer Exhibit No. ___ into evidence.”
6. Court: Is there an objection?
7. Opposing Counsel: “No, Your Honor” or “Yes, Your Honor.” If the response is “yes,” the objection will be stated for the record. Court: “Is there any response to the objection?”
8. Court: “Exhibit No. ___ (is/is not) admitted. If admitted, questions on content may be asked.

Rule 4.21. Use of Notes

Attorneys may use notes in presenting their cases. Witnesses are not permitted to use notes while testifying during the trial. Team members involved in that trial may consult with each other at counsel table verbally or through the use of notes.

Rule 4.22. Redirect/Recross

Redirect and Recross examinations are permitted, provided they conform to the restrictions in Rule 611(d) in the *Delaware High School Mock Trial Rules of Evidence*.

Rule 4.23. Scope of Closing Arguments

Closing Arguments must be based on the actual evidence and testimony presented during the trial.

Rule 4.24. The Critique

The judging panel is allowed 10 minutes for debriefing. Presiding judges are to limit critique sessions to a combined total of ten minutes. Judges shall not make a ruling on the legal merits of the trial. Judges may not inform the students of score sheet results.

**DELAWARE HIGH SCHOOL MOCK TRIAL
CHAMPIONSHIP RULES OF EVIDENCE
(AMENDED 6/1/2009)**

Table of Contents

Article I. General Provisions

Rule 101	Scope.....	67
Rule 102	Purpose and Construction	67

Article II. Judicial Notice (Not Applicable)

Article III. Presumptions in Civil Actions and Proceedings (Not Applicable)

Article IV. Relevancy and its Limits

Rule 401	Definition of “Relevant Evidence”	67
Rule 402	Relevant Evidence Generally Admissible: Irrelevant Evidence Inadmissible	67
Rule 403	Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time.....	68
Rule 404	Character Evidence Not Admissible to Prove Conduct; Exceptions; Other Crimes.....	68
Rule 405	Methods of Proving Character	68
Rule 406	Habit; Routine Practice	68
Rule 407	Subsequent Remedial Measures	69
Rule 408	Compromise and Offers to Compromise	69
Rule 409	Payment of Medical or Similar Expenses	69
Rule 410	Inadmissibility of Pleas, Plea Discussions and Related Statements	69
Rule 411	Liability Insurance (civil case only)	70

Article V. Privileges

Rule 501	General Rule	70
----------	--------------------	----

Article VI. Witnesses

Rule 601	General Rule of Competency	70
Rule 602	Lack of Personal Knowledge	70
Rule 607	Who May Impeach.....	70
Rule 608	Evidence of Character and Conduct of Witness	70
Rule 609	Impeachment by Evidence of Conviction of Crime (this rule applies only to witnesses with prior convictions.).....	71
Rule 610	Religious Beliefs or Opinions	71
Rule 611	Mode and Order of Interrogation and Presentation	71
Rule 612	Writing Used to Refresh Memory.....	72
Rule 613	Prior Statements of Witnesses	72

Article VII. Opinions and Expert Testimony

Rule 701	Opinion Testimony by Lay Witness	72
Rule 702	Testimony by Experts	72

Rule 703	Bases of Opinion Testimony by Experts	73
Rule 704	Opinion on Ultimate Issue	73
Rule 705	Disclosure of Facts or Data Underlying Expert Opinion	73

Article VIII. Hearsay

Rule 801	Definitions	73
Rule 802	Hearsay Rule.....	74
Rule 803	Hearsay Exceptions, Availability of Declarant Immaterial	74
Rule 804	Hearsay Exceptions, Declarant Unavailable.....	75
Rule 805	Hearsay within Hearsay	76

**Article IX. Authentication and Identification
(Not Applicable)**

Article X. Contents of Writings, Recordings, and Photographs (Not Applicable)

Article XI. Other

Rule 1103	Title.....	76
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**BLACKLINE REFLECTING
CHANGES TO PAGES
3, 4, 5, 59, 65, AND 66**

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3. Assuming Facts Not in Evidence: Attorneys may not ask a question that assumes unproved facts. However, an expert witness may be asked a question based upon stated assumptions, the truth of which is reasonably supported by evidence (sometimes called a "hypothetical question").

4. Questions Calling for Narrative or General Answer: Questions must be stated so as to call for a specific answer. (Example of improper question: "Tell us what you know about this case.")

5. Non-Responsive Answer: A witness' answer is objectionable if it fails to respond to the question asked.

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Rule 405	Methods of Proving Character ²	68
Rule 406	Habit; Routine Practice ²	68
Rule 407	Subsequent Remedial Measures ²	69
Rule 408	Compromise and Offers to Compromise ³	69
Rule 409	Payment of Medical or Similar Expenses ³	69
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Rule 609	Impeachment by Evidence of Conviction of Crime (this rule applies only to witnesses with prior convictions.) ⁴	71
Rule 610	Religious Beliefs or Opinions ⁵	71
Rule 611	Mode and Order of Interrogation and Presentation ⁵	71
Rule 612	Writing Used to Refresh Memory ⁶	72
Rule 613	Prior Statements of Witnesses ⁶	72

Article VII. Opinions and Expert Testimony

Rule 701	Opinion Testimony by Lay Witness ⁶	<u>72</u>
Rule 702	Testimony by Experts ⁶	<u>72</u>
Rule 703	Bases of Opinion Testimony by Experts ⁶	<u>73</u>
Rule 704	Opinion on Ultimate Issue ⁶	<u>73</u>
Rule 705	Disclosure of Facts or Data Underlying Expert Opinion ⁶	<u>73</u>

Article VIII. Hearsay

Rule 801	Definitions ⁷	<u>73</u>
Rule 802	Hearsay Rule ⁷	<u>74</u>
Rule 803	Hearsay Exceptions, Availability of Declarant Immaterial ⁷	<u>74</u>
Rule 804	Hearsay Exceptions, Declarant Unavailable ⁸	<u>75</u>
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