People v. Awbrey

Human Trafficking and False Imprisonment

Featuring a pretrial argument on
the Fourth and Fifth Amendments

OFFICIAL MATERIALS FOR
THE CALIFORNIA MOCK TRIAL COMPETITION
A Program of Constitutional Rights Foundation

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IN MEMORIAM

The 2016-2017 California Mock Trial case is dedicated to the memory of longtime Constitutional Rights Foundation supporter, Marvin Awbrey from Fresno County. We will always remember Marvin as an exceptional social studies educator and leader who was dedicated to teachers, students, and making learning meaningful and fun.
# TABLE OF CONTENTS

Program Objectives ................................................................. 4
Code of Ethics ................................................................. 4
Classroom Discussion Materials ........................................... 7
Introduction to California Mock Competition ..................... 11
Fact Situation ................................................................. 12
  Charges ........................................................................ 14
  Stipulations .................................................................. 14
Legal Authorities and Pretrial Motion ............................. 15
  Pretrial Arguments......................................................... 17
  Legal Authorities .......................................................... 18
Witness Statements ............................................................. 26
Exhibits ........................................................................ 47
The Form and Substance of a Trial .................................. 50
Team Role Descriptions ..................................................... 51
Procedures for Presenting a Mock Trial Case ............... 55
Diagram of a Typical Courtroom ....................................... 59
Mock Trial Simplified Rules of Evidence ....................... 60
  Allowable Evidentiary Objection ..................................... 61
  Summary of Allowable Objections ................................. 76

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PROGRAM OBJECTIVES

For the students, the Mock Trial program will:
1. Increase proficiency in basic skills (reading and speaking), critical-thinking skills (analyzing and reasoning), and interpersonal skills (listening and cooperating).
2. Develop an understanding of the link between our Constitution, our courts, and our legal system.
3. Provide the opportunity for interaction with positive adult role models in the legal community.

For the school, the program will:
1. Provide an opportunity for students to study key legal concepts and issues.
2. Promote cooperation and healthy academic competition among students of varying abilities and interests.
3. Demonstrate the achievements of young people to the community.
4. Provide a hands-on experience outside the classroom from which students can learn about law, society, and themselves.
5. Provide a challenging and rewarding experience for teachers.

CODE OF ETHICAL CONDUCT

All participants (including observers) are bound by all sections of this Code and agree to abide by the provisions.

1. All competitors, coaches and other participants, including observers will show courtesy and respect for all team members and participants, including their opponents and all courthouse staff, judges, attorney coaches, teacher coaches and mock trial staff and volunteer personnel.

2. All competitors, coaches and participants, including observers, will show dignity and restraint, irrespective of the outcome of any trial. Trials, contests and activities will be conducted honestly, fairly, and with civility.

3. Team members and all student participants will conform to the highest standards of deportment. Team members and participants not employ tactics they believe to be wrong or in violation of the Rules. Members and participants will not willfully violate the Rules of the competition in spirit or in practice. All teams and participants are responsible for insuring that all observers are aware of the Code.

4. Teacher Coaches agree to focus on the educational value of the Mock Trial Competition. They shall discourage willful violations of the Rules and/or this Code. Teachers will instruct students as to proper procedure and decorum and will assist their students in understanding and abiding by the letter and the spirit of the competition’s Rules and this Code of Ethical Conduct.

5. Attorney Coaches agree to uphold the highest standards of the legal profession and will zealously encourage fair play. Attorney Coaches are reminded that they must serve as positive role models for the students. They will promote conduct and decorum among
their team members and fellow coaches in accordance with the letter and the spirit of the competition’s Rules and this Code of Ethical Conduct and will demonstrate the same through their own behavior. They will emphasize the educational value of the experience by requiring that all courtroom presentations (e.g. pretrial, questions, objections, etc.) be substantially the work product of the student team members.

By participating in the program, students, teacher coaches and attorney coaches are presumed to have read and agreed to the provisions of the Code. Violations of this Code of Ethical Conduct may be grounds for reductions in scores, disqualification from a contest and/or suspension or expulsion from the program.
Each year, Constitutional Rights Foundation creates the Mock Trial for students across the state of California. The case provides students an opportunity to wrestle with large societal problems within a structured forum and strives to provide a powerful and timely educational experience. It is our goal that students will conduct a cooperative, vigorous, and comprehensive analysis of these materials with the careful guidance of teachers and coaches.

The lesson and resources included in this packet offer schools and teachers additional methods to expand and deepen the educational value of the Mock Trial experience. We encourage all participants to share these resources with their colleagues for implementation in the classroom. We hope that by participating in the lesson and the Mock Trial program, students will develop a greater capacity to deal with the many important issues identified in *People v. Awbrey.*

The following lesson concerns the debate around guest-worker programs. In the lesson, students examine past and present guest-worker programs and the reasons behind their creation. In the activity, students role play members of the President’s Guest Worker Advisory Council and analyze different guest-worker proposals. Then they select one plan to recommend the President introduce to Congress, using evidence to explain why they selected that particular plan. This lesson is for information purposes only and cannot be used in the competitions’ pretrial argument.
The Debates Around Guest-Worker Programs

Elected officials in the American government have recommended creating a guest-worker program or expanding our current H-2B visa program for guest-workers to address issues of illegal immigration. Should a guest-worker program be expanded? Should a guest-worker program include unauthorized immigrants already living in the United States?

Many people who work in the United States today come from foreign countries. To stay in the United States to work, a person needs a work visa. A work visa permits the cardholder to work for a limited period in a certain industry. For example, an H-2A visa is for seasonal or temporary agricultural work. An H-2B visa is for seasonal non-agricultural work, such as the tourism industry. Other visas are for workers from specific areas of the globe, such as an E3 visa for citizens of Australia.

Temporary or seasonal workers are often referred to as “guest workers,” or “temporary workers.” The federal government considers guest workers to be “non-immigrants” because it is assumed that they will return to their home countries. The federal Immigration and Nationality Act provides a minimum of 140,000 employment-based visas each year, both for immigrants and non-immigrants. Of these, the government has allotted 66,000 of them to the H-2B (seasonal) program.

In 2004, President George W. Bush officially proposed expanding the number of guest workers to include people already living in the United States without a visa. He suggested creating a guest-worker program that would “offer legal status, as temporary workers, to the millions of undocumented men and women now employed in the United States . . . .” Under his plan, employers would have to offer the job to American workers first.

A majority in Congress did not support Bush’s proposal, and neither did President Barack Obama. But Congress passed a bill that Obama signed in 2015 that included a way to work around the 66,000 annual cap on H-2B visas. The bill allowed foreign workers who re-apply for the visa within three years of first receiving the visa not to count toward the annual cap. This expanded the use of H-2B guest workers in the seafood industry, landscaping, housekeeping, and other fields of work.

The Pros and Cons

Critics of expanding guest-worker programs believe they simply do not work. They cite the Bracero program, a previous guest-worker program, as proof. When the United States entered World War II, there was a shortage of agricultural workers. Many had been sent overseas to fight in the military or worked in factories to make war materials, like ammunition, ships, and airplanes. On August 4, 1942, the United States and Mexico created the Bracero program to keep American agriculture productive.
The word “bracero” comes from the Spanish word brazo, meaning “arm,” because the guest farm workers would be performing physical labor. The program was specifically directed at rural workers from Mexico, many of them experienced farm workers. They would perform the necessary task of harvesting crops in the United States.

The program continued after the war and recruited many people from Mexico for over 20 years. In 1959, a record number of 430,000 braceros were employed within the United States. An estimated 80,000 braceros arrived in the United States each year through El Paso, Texas, alone. Across the border from El Paso, the Mexican city of Ciudad Juarez served as a major recruiting center for braceros. Before entering the United States, each worker reported to a recruiting center and signed a contract with a U.S. employer.

By 1964, however, there had been numerous reports that the braceros were underpaid, overworked, harassed, and housed in poor living conditions. The U.S. Department of Labor officer in charge of the program called it “legalized slavery.” Congress ended the program in 1964.

Despite the history of the Bracero program, proposals to create a new or expanded guest-worker program with better federal oversight have many supporters. They want to address the unauthorized immigration issue by bringing undocumented immigrants “out of the shadows.” President Bush’s proposal, for example, would have offered each guest worker temporary legal status for three years. This status could be renewed as long as the worker obeyed the program’s rules and the laws of the United States.

Supporters also claim that such an expanded program would benefit both guest workers and American workers. The U.S. Chamber of Commerce, a national organization of business owners, has cited a shortage of American workers in hospitals, restaurants, hotels, and construction. They also argue that guest-worker programs curb unauthorized immigration by giving would-be unauthorized immigrants a legal means of staying and working in the United States.

Senators Barbara Mikulski (D-MD) and Thom Tillis (R-NC) were instrumental in passing the law that worked around the 66,000 cap on H-2B visas in 2015. The industries in their respective states benefitted, but they also received national support from the H-2B Workforce Coalition, a consortium of over 1,000 business organizations. The coalition argues that employers in the U.S. use H-2B visas for skilled and nonprofessional workers to fill jobs they cannot find qualified U.S. workers for.

Some opponents argue that guest-worker programs only encourage illegal immigration. “In every instance,” says Mark Krikorian of the Center for Immigration Studies, “[guest-worker programs] lead to large-scale permanent settlement, they spur parallel flows of illegal immigration, and they distort the development of the industries in which the foreign workers are concentrated.”
Other opponents argue guest-worker programs, like the H-2B visa program, exploit workers—both Americans and the undocumented. Ross Eisenbrey of the Economic Policy Institute has stated, “There isn’t a shortage of workers willing to do these jobs. There’s a shortage of employers willing to pay a decent wage.” The AFL-CIO, the largest labor union organization in the United States, has alleged further that recruiters and employers typically “threaten, coerce, and defraud” workers, often altering contracts with workers that they force the workers to accept. The Southern Poverty Law Center argues that H-2B workers are even subject to human trafficking.

Both political parties are poised to debate an expansion of the H-2B visa program. That debate will occur somewhat between the two parties, but perhaps even more within the two parties. As immigration issues loom large in elections, the guest-worker issue will likely be subject to continued debate.

**Writing & Discussion**

1. What were the terms of George W. Bush’s proposal to create a guest-worker program?

2. How did the Bracero program work? Why was it ended?

3. Explain the main reasons for and against a guest-worker program. Which side do you support? Use evidence from the article in your answer.
ACTIVITY

The President’s Guest Worker Advisory Council

Imagine that the president is considering introducing one of the following bills to Congress in order to change the U.S. guest worker program:

A. The government increases the number of agricultural temporary worker visas by 50,000 per year. A guest worker could work in the U.S. for two years.

B. The government increases the number of guest worker visas for work in hotels, restaurants, and hospitals by 50,000 per year. A guest worker could work in the U.S. for three years.

C. The government increases the number of guest worker visas for all “seasonal” work by 100,000 per year, including agriculture and tourism. A guest worker could work in the U.S. for three years.

D. The government stops issuing all guest worker visas each year. Instead, the government increases the minimum wage and requires that employers offer jobs to U.S. citizens only.

In small groups, discuss each of the above proposals to the U.S. guest worker program. Each group should rank the proposals from 1 through 4, with “1” being the best proposal (your group would recommend this one to the president) and “4” being the worst.

Be prepared to have one person from your group report to the class the following:

1. Which of the proposals would your small group recommend that the president introduce in Congress? What made this proposal better than the others?

2. Which of the proposals did your group rank as the worst? Why?

3. Is there any proposal that could be changed to make your group recommend it to the president? What changes would your group suggest?
INTRODUCTION TO 2016–2017
MOCK TRIAL COMPETITION

This packet contains the official materials required by student teams to prepare for the 36th Annual California Mock Trial Competition. In preparation for their trials, participants will use information included in the People v. Awbrey case packet (except for the classroom discussion materials). The competition is sponsored and administered by Constitutional Rights Foundation. The program is co-sponsored by the Daily Journal Corporation and American Board of Trial Advocates.

Each participating county will sponsor a local competition and declare a winning team from the competing high schools. The winning team from each county will be invited to compete in the state finals in Riverside, March 24–26, 2017. In May, the winning team from the state competition will be eligible to represent California at the National High School Mock Trial Championship in Hartford, Connecticut, May 11–13, 2017.

The Mock Trial is designed to clarify the workings of our legal institutions for young people. As student teams study a hypothetical case, conduct legal research, and receive guidance from volunteer attorneys in courtroom procedure and trial preparation, they learn about our judicial system. During Mock Trials, students portray each of the principals in the cast of courtroom characters, including counsel, witnesses, court clerks, and bailiffs. Students also argue a pretrial motion. The motion has a direct bearing on the evidence that can be used at trial.

During all Mock Trials, students present their cases in courtrooms before actual judges and attorneys. As teams represent the prosecution and defense arguments over the course of the competition, the students must prepare a case for both sides, thereby gaining a comprehensive understanding of the pertinent legal and factual issues.

Because of the differences that exist in human perception, a subjective quality is present in the scoring of the Mock Trial, as with all legal proceedings. Even with rules and evaluation criteria for guidance, no judge or attorney scorer will evaluate the same performance in the same way. While we do everything possible to maintain consistency in scoring, every trial will be conducted differently, and we encourage all participants to be prepared to adjust their presentations accordingly. Remember that the judging and scoring results in each trial are final.

IMPORTANT
Visit our Facebook page (CRF California Mock Trial) and Twitter (@camocktrial) for all program and case updates
www.crf-usa.org

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In August 2015, former security guard Cameron Awbrey decided to open a restaurant in Cameron’s hometown of Santa Bella, California. Cameron planned on serving the cuisine of Tanterra, a developing country with a struggling economy. Tanterra’s schools teach English as a mandatory second language. Cameron was new to the food service industry and hired Julian Blake, a friend who had worked as a restaurant consultant, to assist with the process.

In early September, after researching many locations, Cameron and Julian settled on a two-story building located near downtown Santa Bella. The building had previously been a diner. The main dining area had seven tables and a counter that looked into the kitchen through an open service window. On the ground floor of the building there was an office, pantry, and freezer, as well as restrooms for customers and employees. A door led to a parking lot adjacent to the back of the building. Another door located in the area behind the kitchen led to a stairwell to the second floor. The door at the bottom of this stairwell contained a self-locking double-cylinder deadbolt that required a key on either side to open. The door at the top of the stairwell had no lock at all and led into a small studio apartment.

Julian worked on remodeling the building, and Cameron looked for someone to cook authentic Tanterran cuisine. Cameron’s cousin, Devin Tyler, suggested that Cameron place an advertisement in the newspapers that circulated in Little Tanterra, a small Tanterran community two hours’ drive from Santa Bella. In October, Devin helped Cameron place the advertisement, which read:

Restaurant owner seeking to hire cook for full-time position. Housing provided. Must cook Tanterran cuisine. Must speak English. Must be willing and able to work hard in a fast-paced environment.

Lin Stark saw the advertisement. Although Lin had no professional training as a cook, Lin was born and raised in Tanterra and had learned to cook Tanterran cuisine at home. Lin responded to the advertisement. Lin had been struggling to find work in Tanterra. Without a job, Lin was unable to support Lin’s family. In need of money, Lin came to the United States in June 2015 on a TBD-2 temporary work visa for non-agricultural workers, sponsored by a hotel chain for whom Lin worked in housekeeping.

After an interview and a cooking simulation, Cameron offered Lin the position. Cameron informed Lin that the restaurant would be open six days a week. Cameron told Lin that Cameron had furnished the studio apartment on the second floor where Lin would live. When Lin asked Cameron to discuss Lin’s pay, Cameron told Lin that Cameron was not yet sure what Cameron could afford to pay. Lin then accepted the position. On November 2, 2015, Lin moved into the apartment and started work at the restaurant in preparation for opening on December 1. Cameron gave Lin employment paperwork to complete. Cameron also asked Lin for Lin’s visa and passport, which Lin provided. Cameron told Lin it was necessary to complete
additional paperwork. At the end of November, Cameron paid Lin $500 in
cash for that first month’s work.

Taste of Tanterra opened on December 1, 2015. The restaurant was open
Monday through Saturday for lunch and dinner. Lin worked long hours
with no breaks, and on Lin’s day off, Lin would work additional hours. The
restaurant had several other employees, all part-time, working both in the
kitchen and dining area. At the end of December, Cameron paid Lin $400 in
cash for the second month’s work.

During Lin’s employment, Julian observed many interactions between
Cameron and Lin. Julian had a disagreement with Cameron in late-
December over how the restaurant was being managed. Julian resigned.

In early March 2016, Lin received news that Lin’s sister was gravely ill. On
March 9, 2016, after the restaurant closed for the night, Lin approached
Cameron about taking time off. Lin and Cameron argued about Lin’s
request. At the end of the argument, Lin walked through the stairwell door.
Cameron closed it behind Lin. Cameron left shortly after the argument
without unlocking the door. The next morning, Lin went downstairs and
attempted to open the door but found that it was locked. Lin intermittently
banged on the door until Cameron opened it.

Since the restaurant opened in December, a uniformed police officer named
Hayden West, would occasionally come in to eat lunch. On March 7, 2016,
Officer West was eating lunch at Taste of Tanterra when Officer West saw
Cameron yelling at Lin in the kitchen. [Outside the restaurant, Cameron
approached Officer West and they had a discussion. The discussion
escalated, and Officer West ran a warrants check, discovering an
outstanding bench warrant for petty theft for one “Cameron Awbrey.” West
arrested Cameron. While in West’s patrol car, West found out the bench
warrant was for a different Cameron Awbrey, one with a tattoo. West
turned the patrol car back toward the restaurant. West told Cameron it was
Cameron’s lucky day and that West thought Cameron was “abusive” to Lin.
Cameron responded by saying “I don’t know who you think you are, but you
need to understand something: Everything under that roof is mine.”]

On March 10, Officer West had lunch again at Taste of Tanterra. Officer
West sat at the counter, in Lin’s line of sight. Lin brought Officer West’s
food to the counter where Officer West was sitting. With the food Lin
delivered a note that read, “PLEASE HELP ME. I’M TREATED LIKE A
SLAVE.” Cameron came over to the counter and told Lin to go back to
work.

After this interaction, Officer West obtained a search warrant and conducted
a lawful search of the restaurant, Lin’s apartment, and Cameron’s residence.
After the investigation, Officer West arrested Cameron on a charge of
human trafficking and a charge of false imprisonment for the incident on
the evening of March 9 and the morning of March 10.
SOURCES FOR THE TRIAL
The sources for the mock trial are a “closed library,” which means that
Mock Trial participants may only use the materials provided in this case
packet. The materials for the trial itself include Statement of Charges,
Physical Evidence, Stipulations, excerpts from the California Penal Code,
CALCRIM Jury Instructions, Fact Situation, Witness Statements, and the
Mock Trial Simplified Rules of Evidence.

STATEMENT OF CHARGES

Count One
The defendant is charged with human trafficking, a felony, which is the
deprivation or violation of the personal liberty of another with the intent to
obtain forced labor or services.

Count Two
The defendant is charged with false imprisonment, a misdemeanor, which
is the unlawful violation of the personal liberty of another.

PHYSICAL EVIDENCE
Only the following physical evidence may be introduced at trial. The
prosecution is responsible for bringing:
1. Exhibit A, Diagram of the floor plan of Taste of Tanterra.
2. Exhibit B, The note given by Lin to Officer West.
*ALL reproductions can be as small as the original found in this document
but no larger than 22x28 inches.

STIPULATIONS
Stipulations shall be considered part of the record. Prosecution and defense
stipulate to the following:
1. Officer West search warrant was properly obtained.
2. On March 10, there was sufficient probable cause to arrest Cameron
   Awbrey.
3. All physical evidence and witnesses found in this case, but not made
   physically available for trial, are unavailable and their availability may
   not be questioned.
4. Exhibit A is a correct and accurate depiction of the floor plan of Taste of
   Tanterra that was created by the Santa Bella Police Department. Exhibit
   B is the note written by Lin Stark and given to Officer West on March
   10.
5. Beyond what’s stated in the fact situation and witness statements, no
   other evidence was found in this case.
6. All witness statements were taken in a timely manner.
7. Dana Greyjoy and Addison Frey are qualified expert witnesses and can
   testify to each other’s statements and relevant information they would
   have reasonable knowledge of from the fact situation, witness
   statements and stipulations.
8. TBD-2 is a valid visa and its validity may not be questioned.
9. Tanterra is a fictional country created for purposes of the Mock Trial
   with no specific geographical location. Any similarity to a real country is
   coincidental.
10. Lin was a salaried employee (not hourly), who received compensation between $800-$900 a month which includes room, board, utilities, and cash payment. Minimum wage during Lin’s employment was $9.00 hour.

11. All exterior doors in the restaurant can be locked and unlocked from inside the building without the need of a key. Lin did not have a key to the exterior doors of the restaurant.

PRETRIAL FACTS, LEGAL AUTHORITIES, AND ARGUMENTS
(Middle school students do not argue the pretrial motion and therefore the bracketed information in the fact situation and witness statements may be used at trial.)

This section of the mock trial contains materials and procedures for the preparation of a pretrial motion on an important legal issue. The judge’s ruling on the pretrial motion will have a direct bearing on the admissibility of certain pieces of evidence and the possible outcome of the trial. The pretrial motion is designed to help students learn about the legal process and legal reasoning. Students will learn how to draw analogies, distinguish a variety of factual situations, and analyze and debate constitutional issues. These materials can be used as a classroom activity or incorporated into a local mock trial competition. The pretrial motion is the only allowable motion for the purposes of this competition.

In the area of criminal due process, the Fourth Amendment protects individuals from federal government intrusions on their privacy by prohibiting unreasonable searches and seizures. These rights are extended to the states by the due process clause of the 14th Amendment. Law enforcement officers often must search or seize persons or their property when investigating crimes or apprehending suspects. The tension between personal freedom and governmental power has created numerous debates and court decisions over the years. The key issues for both the defense and prosecution are (1) whether there was a search or seizure; and (2) whether the particular search or seizure was lawful.

The Fifth Amendment provides that “no persons shall be compelled to be a witness against themselves.” In Miranda v. Arizona, the court held that before police may question people in custody, they must inform them of their rights. Suspects that are in custody must be put on notice about their rights against self-incrimination before they are interrogated.

The exclusionary rule is a special remedy created by the courts to compel police to respect the constitutional rights of suspects. Under this rule, illegally obtained evidence—whether papers, objects, or testimony—may not be presented in court to convict a defendant whose Fourth and/or Fifth Amendment rights have been violated. The exclusionary rule is based on two theories: the theory of judicial integrity and the theory of deterrence. Under the theory of judicial integrity, courts are supposed to uphold the law. If they allow illegally obtained evidence to be used at trial, they fail to uphold the law. They condone, even encourage, illegality. How can citizens
The pretrial motion challenges the admissibility of the statement Cameron Awbrey made:

“I don’t know who you think you are, but you need to understand something: Everything under that roof is mine.”

The outcome of the pretrial motion will have a direct bearing on the admissibility of Cameron’s statement. If the presider excludes the statement, then attorneys and witnesses may not refer to or discuss it during the subsequent trial.

The text affected by this motion can be found in the witness statements of Officer West and Cameron Awbrey, as well as in the Fact Situation, within brackets, e.g., [text].

IMPORTANT: The only facts from the Pretrial Facts section above that are potentially admissible at trial following the pretrial hearing are those within brackets. All other facts from the Pretrial Facts section are inadmissible at trial and are provided solely for use in the pretrial hearing.

PRETRIAL FACTS

On March 7, 2016, Officer West, in uniform, went to the Taste of Tanterra. While eating lunch, West observed Cameron Awbrey yelling at Lin Stark. West then received a phone call. West stepped outside to answer the call. As West was finishing up the phone call, Cameron exited the restaurant. Cameron approached West, and asked how the food was. West told Cameron, “I like the food, all right, but I hate how you treat your employees.” Taken aback, Cameron started yelling at West. West argued with Cameron, told Cameron to calm down, and even told Cameron to “shut up.” Cameron ignored West and kept yelling at West. West got very close to Cameron’s face and said “You won’t yell at me that way. Do you know who I am?” West demanded Cameron’s ID and told Cameron to “wait here.” West walked to West’s patrol car and made a radio
call to the clerk at the station to do a name check for Cameron Awbrey in
the police database. West discovered Cameron had an outstanding bench
warrant for petty theft, a misdemeanor. In addition to Cameron’s name,
dispatch provided the height and weight of the suspect. Cameron was the
approximate height as described in the warrant but appeared about 20
pounds less than the weight provided.

West arrested Cameron and put Cameron in West’s patrol car. There were
no door handles on the inside rear doors of the vehicle where Cameron sat.
Cameron could not physically leave the vehicle without the officer opening
the door. West began driving to the police station. While in the car,
Cameron insisted that there was no warrant for Cameron’s arrest.

On the way to the station, about 10 minutes after West’s demand for
Cameron’s ID, West received a call over the police radio. Dispatch provided
an additional detail about the suspect identified in the warrant. Dispatch
said, audibly for both West and Cameron to hear, “Warrant for someone
with American flag tattooed on left forearm. Does your suspect have
tattoo?” West responded, “Copy.” West pulled the car over and asked
Cameron to show Cameron’s left forearm. Cameron complied, and West
could see Cameron did not have any tattoos on Cameron’s arms.

West then made a U-turn to head back to the restaurant. [West said to
Cameron, “Your lucky day. But I still think you’re abusive to your cook.”
Cameron blurted out, “I don’t know who you think you are, but you need to
understand something: Everything under that roof is mine.”] When they
arrived at the restaurant, West then clearly stated, “Lucky you didn’t have
that tattoo” before opening the back door of the police car, letting Cameron
go.

PRETRIAL ARGUMENTS
Prosecution will argue that the statement made by Cameron Awbrey is
admissible primarily because the connection between the illegal investigatory
stop and Cameron’s statement was attenuated. A significant amount of time
passed between the stop and the statement. The outstanding warrant was an
intervening circumstance between the unlawful stop and the statement.
Although it was later discovered that the warrant was invalid, Officer West
was acting in good faith and not committing any misconduct so that excluding
the evidence doesn’t serve the deterrence purpose of the exclusionary rule.
Cameron’s statement was voluntary because Cameron was no longer under
arrest and not in custody when Cameron made the statement, and the officer
was not interrogating Cameron at the time. When the statement was made,
Cameron had heard the radio call and knew that Cameron was no longer in
custody. Furthermore, when the statement was made, Cameron knew Officer
West made a U-turn and headed back in the direction of the restaurant. This
means Cameron was free to leave at Cameron’s request and no longer under
arrest.

Defense will argue that the statement made by Cameron must be excluded
because it is the fruit of the poisonous tree. Officer West clearly unlawfully
detained Cameron, and Cameron’s statement was sufficiently linked to that
unlawful stop. The defense will argue that the erroneous warrant does not
attenuate the connection between the unlawful stop and Cameron’s
statement. The officer’s actions in detaining Cameron are the kind of conduct that the Fourth Amendment was designed to prevent (officers acting in bad faith). This is the reason why the exclusionary rule was developed (to deter officer misconduct and maintain judicial integrity). Officer West’s conduct was retaliatory for Cameron’s yelling. Cameron cooperated by waiting, but the officer was merely trying to punish Cameron for Cameron’s behavior without good cause. Furthermore, the description of the suspect did not completely match Cameron’s appearance, so the officer acted in bad faith when the officer arrested Cameron. Lastly, the defense will argue that after Officer West discovered the warrant was invalid, Officer West continued to hold Cameron in custody and interrogate Cameron, which led to Cameron’s statement. Cameron had no understanding that the warrant was erroneous until the two arrived back at the restaurant, so Cameron’s response to West’s continued questioning about treatment of Lin was involuntary.

SOURCES FOR PRETRIAL HEARING
The sources for the pretrial motion arguments are a “closed library,” which means that Mock Trial participants may only use the materials provided in this case packet. These materials include: excerpts from the U.S. Constitution, the California Constitution, the California Penal Code, edited court opinions, and Pretrial Facts. Witness statements found in Pretrial Facts are admissible in the pretrial hearing without corroborative testimony for the purposes of the pretrial motion only.

The U.S. Constitution, U.S. Supreme Court holdings, and California Supreme Court and California Appellate Court holdings are all binding and must be followed by California trial courts. All other cases are not binding but are persuasive authority. In developing arguments for this Mock Trial, both sides should compare or distinguish the facts in the cited cases from one another and from the facts in People v. Awbrey.

LEGAL AUTHORITIES

U.S. Constitution

Amendment IV
The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V
No person . . . shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law . . . .

Amendment XIV
Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the States wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor
shall any State deprive any person of life, liberty, or property, without due
process of law; nor deny to any person within its jurisdiction the equal
protection of the laws.

California Constitution
Article I, Section 13
The right of the people to be secure in their persons, houses, papers, and
effects against unreasonable seizures and searches may not be violated; and
a warrant may not issue except on probable cause, supported by oath or
affirmation, particularly describing the place to be searched and the persons
and things to be seized.

Statutory
Human Trafficking (Pen. Code, § 236.1(a))
Any person who deprives or violates the personal liberty of another with the
intent to obtain forced labor or services, is guilty of human trafficking . . . .

False Imprisonment (Pen. Code, §§ 236)
False imprisonment is the unlawful violation of the personal liberty of another.

JURY INSTRUCTIONS

CALCRIM 223 (Direct and Circumstantial Evidence)
Facts may be proved by direct or circumstantial evidence or by a
combination of both. Direct evidence can prove a fact by itself. For
example, if a witness testifies he saw it raining outside before he came into
the courthouse, that testimony is direct evidence that it was raining.
Circumstantial evidence also may be called indirect evidence.
Circumstantial evidence does not directly prove the fact to be decided, but
is evidence of another fact or group of facts from which you may logically
and reasonably conclude the truth of the fact in question. For example, if a
witness testifies that he saw someone come inside wearing a raincoat
covered with drops of water, that testimony is circumstantial evidence
because it may support a conclusion that it was raining outside.

Both direct and circumstantial evidence are acceptable types of evidence to
prove or disprove the elements of a charge, including intent and mental state
and acts necessary to a conviction, and neither is necessarily more reliable than
the other. Neither is entitled to any greater weight than the other. You must
decide whether a fact in issue has been proved based on all the evidence.

CALCRIM 224 (Circumstantial Evidence: Sufficiency of Evidence)
Before you may rely on circumstantial evidence to conclude that a fact
necessary to find the defendant guilty has been proved, you must be
convinced that the People have proved each fact essential to that conclusion
beyond a reasonable doubt.

Also, before you may rely on circumstantial evidence to find the defendant
guilty, you must be convinced that the only reasonable conclusion
supported by the circumstantial evidence is that the defendant is guilty. If
you can draw two or more reasonable conclusions from the circumstantial
evidence and one of those reasonable conclusions points to innocence and
another to guilt, you must accept the one that points to innocence.
However, when considering circumstantial evidence, you must accept only reasonable conclusions and reject any that are unreasonable.

**CALCRIM 1243 Human Trafficking**

The defendant is charged in Count One with human trafficking in violation of Penal Code section 236.1(a), a felony.

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant either deprived another person of personal liberty or violated that other person’s personal liberty;

AND

2. When the defendant acted, he or she intended to obtain forced labor or services.

Depriving or violating another person’s personal liberty, as used here, includes substantial and sustained restriction of another person’s liberty accomplished through fear, fraud, deceit, coercion, or duress to the victim or to another person under circumstances in which the person receiving or perceiving the threat reasonably believes that it is likely that the person making the threat would carry it out.

Forced labor or services, as used here, means labor or services that are performed or provided by a person and are obtained or maintained through force, fraud, duress, or coercion, or equivalent conduct that would reasonably overbear the will of the person.

Duress means a direct or implied threat of force, violence, danger, hardship, or retribution that is enough to cause a reasonable person to do something that he or she would not otherwise do.

Duress includes a direct or implied threat to destroy, conceal, remove, confiscate, or possess any actual or purported passport or immigration document of the other person or knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or immigration document of the other person.

Coercion includes any scheme, plan, or pattern intended to cause a person to believe that failing to perform an act would result in the abuse or threatened abuse of the legal process or debt bondage.

When you decide whether the defendant deprived another person of personal liberty or violated that other person’s personal liberty, consider all of the circumstances, including the age of the other person, his or her relationship to the defendant, and the other person’s handicap or disability, if any.
CALCRIM 1242 False Imprisonment

The defendant is charged in Count Two with false imprisonment in violation of Penal Code section 236, a misdemeanor.

To prove that the defendant is guilty of this crime, the People must prove that:

1. The defendant intentionally and unlawfully restrained, detained, or confined a person;
   
   AND
   
2. The defendant’s act made that person stay or go somewhere against that person’s will.

An act is done against a person’s will if that person does not consent to the act. In order to consent, a person must act freely and voluntarily and know the nature of the act.

False imprisonment does not require that the person restrained or detained be confined in jail or prison.

CASE LAW


Facts: A detective received an anonymous tip that drug sales were occurring in a particular house, so he surveilled the house over a short period of time and speculated that drug activity was taking place. The detective saw Defendant leaving this house. The detective stopped Defendant and questioned him, during which time the detective discovered an outstanding arrest warrant for Defendant for a traffic violation. The detective lawfully searched Defendant incident to the lawful arrest “only minutes after the illegal stop” and discovered illegal drugs and an illegal pipe.

Issue: Should evidence seized incident to a lawful arrest on an outstanding warrant be suppressed because the warrant was discovered during an unlawful detention?

Holding: No. The “fruit of the poisonous tree” rule applies where its deterrence benefits (deterring unlawful police behavior) outweigh the substantial social costs (guilty people going unpunished). Evidence from the search is admissible when the link between the unlawful stop and the lawful search or seizure is attenuated. To determine attenuation, the court must look at three factors. First, the court must look to the amount of time between the unlawful stop and the discovery of the evidence; the closer the events are together, the stronger the link between them. Second, the court must look to the presence of intervening circumstances between the unlawful stop and the lawful arrest. The valid warrant in this case, unconnected to the illegal stop, qualifies as an intervening circumstance. Third, the court must analyze the degree of police misconduct in the unlawful stop, analyzing the purpose and flagrancy of the misconduct. The misconduct must be more severe than mere absence of proper cause for the stop. In a dissent, Justice Sotomayor wrote that “unlawful ‘stops’ have
severe consequences” and allow police to “target pedestrians in an arbitrary manner.”


**Facts:** While investigating a murder, police broke into and searched Defendant’s apartment without a warrant, then arrested Defendant at gunpoint. Defendant was given a *Miranda* warning and taken to the police station. Defendant made incriminating statements during an interrogation. Defendant was then indicted for murder. Defendant moved to suppress the incriminating statement made during the investigation, claiming that his arrest was unlawful.

**Issue:** Are the Defendant’s incriminating statements made after an unlawful arrest admissible if the defendant has been given a *Miranda* warning?

**Holding:** No. *Miranda* warnings do not guarantee that the statements are admissible because they do not automatically protect a person’s Fourth and Fifth Amendment rights. Under the Fifth Amendment, the statements must be voluntary and not coerced. Under the Fourth Amendment, the statements must be a “sufficient act of free will to purge the primary taint” of the illegal arrest. Although the presence of *Miranda* warnings is an important factor to determining the admissibility of the statements, the court must determine whether the *Miranda* warnings attenuated the connection between the unlawful arrest and the Defendant’s statements. The court makes this determination on a case-by-case basis, looking to the facts of each case. Factors the court uses include, but are not limited to, (1) the time between the arrest and the statement, (2) the presence of intervening circumstances, and (3) the purpose and flagrancy of the police misconduct.


**Facts:** Police arrested a suspect for drug possession. The suspect set police on a trail to find the drug supplier. Police found Defendant A in his home and arrested him and others. The police did not have a warrant or probable cause for the arrests. The police conducted a search where they discovered evidence that led to Defendant A’s conviction on federal narcotics charges. Defendant A also made verbal statements that led to the arrest of Defendant B. The police prepared written statements for Defendants A and B to sign, but they refused. The trial court admitted evidence of Defendant A’s verbal statements at the time of arrest and the unsigned statements.

**Issue:** Are the statements gathered through police misconduct admissible at trial?

**Holding:** No, as to Defendant A. The verbal statements Defendant A made at the time of arrest were fruits of the poisonous tree and inadmissible, as was Defendant A’s unsigned statement, which lacked corroboration. Defendant B’s unsigned statement, however, was admissible because the court determined that the connection between Defendant B’s unlawful arrest and his unsigned statement was attenuated. Defendant B made the statement voluntarily, days after his arrest and release from jail on his own recognizance (release without bail), and Defendant B made no allegation of police misconduct in the interrogation leading to the drafting of the unsigned statement.
**Terry v. Ohio, 392 U.S. 1 (1968)**

**Facts:** A plain-clothes police officer observed Defendant and two others acting suspiciously in a manner that resembled “casing” a store (watching it in preparation to rob it). The officer stopped the three men and searched them (“stop and frisk”), finding weapons on two of them. Defendant was convicted of carrying a concealed weapon.

**Issue:** Was the police officer’s investigatory stop-and-frisk search of the three men a violation of their Fourth Amendment rights?

**Holding:** No. The officer did “seize” the persons of the Defendants and “searched” their outer clothing for weapons. The search and seizure did not violate Defendants’ Fourth Amendment rights because a reasonable officer in this case would have believed his safety or the safety of others was endangered, and that belief warrants a reasonable search for weapons. A reasonable officer must act on more than an inarticulate “hunch” and must be able to point to specific and articulable facts that warrant the brief intrusion on the Defendants’ constitutional rights.

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**Facts:** Police arrested Defendant for robbing a grocery store based on an uncorroborated tip. The police had no warrant or probable cause for the arrest. They did give the Defendant Miranda warnings. During Defendant’s interrogation, police told the Defendant that his fingerprints were found on grocery items handled by the robber. Six hours after the arrest, Defendant signed a written confession.

**Issue:** Is the Defendant’s confession obtained after an unlawful arrest admissible at trial?

**Holding:** No. Defendant’s confession must be excluded because it is the fruit of an unlawful arrest. A confession obtained after an unlawful arrest must be excluded unless intervening circumstances break the causal connection between the arrest and the confession so that the confession occurs apart from the unlawful arrest. In this case, there were no meaningful intervening circumstances between the initial arrest and the Defendant signing the confession.

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**Facts:** Police began surveilling Defendants after receiving information that they were probably trafficking cocaine from their apartment. After arresting one of the defendants in the lobby of the apartment building, police conducted a limited search of the apartment 19 hours before they secured the search warrant. While waiting for the warrant to issue, they saw various drugs in plain view. After the police secured a search warrant, they searched the entire apartment and found cocaine and records of narcotics transactions.

**Issue:** Was the evidence found in the second search the fruit of the poisonous tree?

**Holding:** No. Evidence will not be excluded as fruit of the poisonous tree unless the illegality is at least the “but for” cause of the discovery of the evidence (i.e., but for the initial illegal search, the discovery of evidence in the second search would not have occurred). Here, the threshold (initial) “but for” requirement was not even met. There was an independent source for the challenged evidence from the second search in the fact that it was...
discovered after the police secured a valid warrant. The connection, however, between the illegal search and the discovery of the evidence in the second search was attenuated so that the evidence from the second search is not fruit of the poisonous tree.


**Facts:** A police officer learned that Defendant had come to the police station to retrieve something from his impounded vehicle. The police officer asked the clerk to check if Defendant had any outstanding warrants. The clerk found one, and the police officer arrested Defendant. The officer conducted a search incident to arrest, where he found drugs and a gun. Since Defendant was an ex-felon, it was illegal for him to carry a gun. It was later discovered that there was no outstanding warrant for Defendant’s arrest.

**Issue:** Is evidence gathered due to an invalid arrest admissible at trial if the police officer is acting on the reasonable belief that an arrest warrant exists?

**Holding:** Yes. Evidence gathered due an unlawful arrest is admissible if the police officer is acting in good faith. The exclusionary rule was created to serve as a deterrent for police misconduct. In this case, the officer’s reliance on the erroneous warrant was isolated negligence and “not systemic error or reckless disregard of constitutional requirements.” The officer is acting in good faith and there is no police misconduct that needs to be deterred if the officer has “objectively reasonable reliance” on the erroneous warrant.


**Facts:** Defendant was convicted of murdering his former wife and sought to suppress a confession he made to officers when he voluntarily came into the police station after identifying the wife’s body. He was not read his Miranda rights.

**Issue:** Was the Defendant’s confession admissible?

**Holding:** It depends on whether Defendant was in custody and thus entitled to Miranda warnings. The Court remanded (sent back) the case to state court to determine whether Defendant was in custody. The court ruled that there are two essential inquiries needed to determine whether a person is in custody: “First, what were the circumstances surrounding the interrogation; and second, given those circumstances, would a reasonable person have felt he or she was not at liberty to terminate the interrogation and leave.”


**Facts:** Defendant was arrested for the robbery and murder of a taxi driver. The driver was killed by a shotgun, but the shotgun was not found by the time Defendant was arrested. Defendant was arrested with Miranda warnings and then put into the backseat of the police car. Defendant invoked his right to speak with a lawyer. The police discussed amongst themselves that the shotgun used to kill the taxi driver might be found by a child. Defendant was moved by the discussion enough to tell the officers the location of the shotgun.

**Issue:** Did the conversation between the police officers in front of Defendant constitute an interrogation under Miranda?

**Holding:** No. The conversation was not considered an interrogation and therefore did not violate Defendant’s Fifth Amendment rights. Interrogation, for Miranda purposes, refers to “any words or actions on the part of the
police, other than those normally attendant on arrest and custody, that the
police should know are reasonably likely to elicit an incriminating response
from the suspect.” The court stated that defendant was not subjected to
interrogation or its functional equivalent of questioning because “it could
not be said that the officers should have known that their brief conversation
[that consisted of a few off-handed remarks] in [Defendant’s] presence was
reasonably likely to elicit an incriminating response and there was nothing
in the record to suggest that the officers knew that [Defendant] would be
susceptible to an appeal to his conscience concerning the safety of children
and would respond by offering to show the officers where a shotgun was
buried.”
WITNESS STATEMENTS

Prosecution Witness: Lin Stark (Victim)

My name is Lin Stark. I am 25 years old. I am an immigrant from Tanterra. I had to drop out of college where I was studying accounting in order to support my aging mom, sick sister, and young niece. The economy is so bad in Tanterra, I knew there were no real job opportunities for me there, so in June 2015, I came to the United States. I worked on a TBD-2 temporary work visa as a housekeeper in a hotel near Little Tanterra. The visa came with several other documents, but I did not read them because I was just happy to have the visa. My goal was to make enough money to support my family and maybe one day bring them to the United States.

Sadly, the hotel became overstaffed, and in October I was laid off. Luckily, I saw an advertisement for a full-time position as a cook at a new Tanterran restaurant. I do not have professional training as a chef, but I learned to cook from my mother while growing up. So I decided to apply in order to stay in the United States because going back to Tanterra was not an option.

I received a call from the restaurant owner, Cameron Awbrey. We arranged an interview and a cooking simulation at the restaurant. During the interview, I answered many questions about my background and reasons for coming to the U.S. Cameron also asked me personal questions about my family and my finances. I told Cameron about my family’s poverty and my desperate financial situation caring for them. I said I would do almost anything to stay in the United States. Cameron also asked me, “Would anyone in Little Tanterra miss you if you were gone?” I responded, “Not really, I don’t have family or close friends here.”

Cameron offered me the job and told me that I had to live in an apartment on the property rent-free. I could make and eat all my meals at the restaurant for free. Cameron even told me that Cameron would help bring my family to the U.S. I immediately accepted.

On November 2, I started my new job. Cameron asked me to fill out paperwork and took my visa and passport. Cameron told me Cameron needed the documents to complete employment paperwork. I trusted Cameron with the documents. I never got them back.

That same day, I moved into the studio apartment above the restaurant. It had two windows with security bars on the outside. There was a fold-up single bed in the corner, a small table with a table lamp and chair, a tiny bathroom with a small shower, a dresser, and a closet. The bathroom door was missing. The apartment smelled slightly of mildew and the walls had peeling paint. The carpet was dirty. Cameron said it was my “new humble home.” Cameron also showed me a key attached to a red lanyard under the dresser to open the downstairs door. Cameron said something about an “automatic lock,” and the door had a sign on it to always stay open. After I put my things away, I took the key and closed the door at the bottom of the stairwell. I went to a nearby store to buy personal supplies with fifty dollars that Cameron gave me. I didn’t have much and I was grateful that Cameron
helped me out. When I returned, I used my key to unlock the stairwell door.
Cameron saw me and told me the door was to remain open always. After
that, I never closed the door and it was always open. I remember putting
the key back under the dresser, and I never used it again.

During November, Cameron put me to work getting the kitchen and menu
ready. Cameron had bought used kitchen equipment in decent shape.
Initially, my working conditions were bearable. I would come downstairs to
work around 8:00 a.m. and go back upstairs around 7:00 p.m. Cameron
would often work on the menu with me. As a boss, Cameron seemed kind. I
thought at first that Cameron liked working with me. Cameron even let me
use the phone on occasion in Cameron’s office to call my family back in
Tanterra.

On the day I started, I met Julian Blake and Devin Tyler. I learned that
Devin was Cameron’s cousin who managed a hotel, and Julian was helping
Cameron remodel the restaurant. During my time at the restaurant, I would
occasionally see Devin. Julian was there more often, usually 4–5 times a
week. I didn’t speak to either Julian or Devin very often because I knew
they were busy.

My work conditions worsened once the restaurant opened. Lunch started at
11 a.m., Monday through Saturday; I had to start working at around 7:30
a.m. doing all the food preparation for lunch and dinner myself. We closed
at 10:00 p.m. and I would do all of the clean-up by myself. I normally
finished around 11:30 p.m. or midnight. Sundays were also busy days.
Although I was supposed to be off, Cameron would make me do inventory
and other tasks.

Cameron’s attitude toward me also drastically changed. Cameron became
harsh and merciless, berating me for every mistake I made. Cameron would
often come into the kitchen during the lunch rush and yell at me to work
closer. If I took a break for even five minutes, Cameron would yell at me for
being lazy and threaten to fire me and then I would lose my visa. I am not
lazy. I am a hard worker. During my time at the restaurant, I rarely took
breaks. I was working roughly 90 hours per week from Monday to Saturday.
I had assumed that working “full time” meant 40 hours a week, but clearly I
had been misled.

I needed to get away, even if it was only for a short time. So one day in
mid-December, I walked to a nearby vegetable wholesale market to buy
fresh vegetables for some new recipes I wanted to test. I returned five
minutes later than expected, and Cameron had a tantrum. Cameron said
that other employees would go buy vegetables from then on. Up until that
point, at least I felt like I could take a walk from time to time. But after that,
Cameron would yell at me whenever I stepped into the parking lot behind
the restaurant to get some fresh air. Cameron would say the kitchen “never
closed during working hours.” I even had a fever once, but Cameron forced
me to work anyway, which I thought was unsanitary. Cameron
overwhelmed me with so much work that it became almost impossible for
me to leave. After hours, I had not much time to even get a good night’s
sleep, and there was nowhere for me to go in that isolated neighborhood, anyway. I was basically trapped there. I felt like a slave.

Luckily I became friends with employee Frankie Lyman, a community college student. I don’t think Cameron liked my friendship with Frankie. Often when I spoke to Frankie, Cameron would interrupt and tell us to get back to work. Cameron told me I was to keep my “head down” and “cook the food.” But I liked how Frankie cared about my family and asked how they were doing.

Frankie even helped me send money to my family. At the end of each month when I was paid, Frankie and I would walk to the store to wire $350 to my mother in Tanterra using Frankie’s ID. These were the few times after the vegetable incident that I left the restaurant.

My pay was another issue. At the end of November, I received my first payment of $500 in cash. I did not have a bank account so I was okay with being paid in cash. However, I don’t think $500 is a fair wage. I worked so many hours and I think I deserved more money. But Cameron said that was all Cameron could afford and promised to pay me more later. Overall, Cameron did pay me $400 for December and another $400 each for January and February. I thought that was still low. When I asked Cameron about it at the end of December, Cameron told me I had no choice in the matter. This was my pay “until further notice.” Cameron asked me if I preferred being back in Tanterra with no job. I became frightened, thinking Cameron might fire me, which would mean I would lose my visa and be deported. So I accepted my pay as it was.

My living conditions were terrible. My bathroom had a leaking faucet and the hot water was lukewarm at best. I told Cameron about the plumbing problems in December, but Cameron never fixed them. I also washed all my clothes in my bathroom sink. I offered to pay rent to solve this problem to which Cameron laughed and said, “With what money?”

In January, I began to suffer mentally and physically. I had endless back, neck, and foot pain from standing all day, which were magnified by my sleeping on a folding bed. I also began to suffer from anxiety and depression. I was afraid to ask for any time off. I knew I couldn’t continue to live like this.

In early March, I remember talking to Frankie about how upset I was, that I wasn’t sure when my visa might expire and I might be forced to leave the United States. I really needed Cameron to sponsor my visa so I could stay. Frankie reassured me, but I still felt like Cameron was going to jeopardize my visa. It was around this time that I also spoke with my mother on the phone, and she told me my sister was dying. I wanted to go home to see my sister, even if only for a couple of days.

On March 9, 2016, as we were closing up for the night, I told Cameron about my sister’s condition and asked to take a couple of days off to see her. I suggested Cameron might finally hire an assistant cook who could sub for me while I was gone. I also asked Cameron to give me my visa and...
passport so I could travel to Tanterra. Cameron became very angry and told me I was not allowed to leave under any circumstances. In the heat of the moment, I furiously walked away from Cameron to my apartment. After I walked through the stairwell door, Cameron slammed it behind me. I heard Cameron say through the door, “You better get comfortable here. It’s going to be a while before you go anywhere!”

The next morning, on March 10, I came downstairs at 6:30 a.m. and found the stairwell door was still closed and locked. When I realized there was no way out, I went to look for the key under the dresser, but it was gone. I was shocked because the key had been there yesterday morning. I saw it when I went to pick up a pen that had rolled off the dresser. Cameron had trapped me inside my apartment to punish me. Sobbing and desperate, I banged on the door and called for help. Finally, around 7:00 a.m., Cameron came to open the door. Cameron said, “Missing your key?” Then, Cameron laughed at me and walked away.

As the day went on, I felt emotionally overwhelmed. I could not believe Cameron had locked me in my apartment overnight. At one point, Frankie told me of seeing Cameron the previous day coming out of my apartment and that Cameron had mentioned my leaking faucet. I thought that was odd because my faucet was still leaky and I had told Cameron about the faucet way back in December. I think Cameron took the key from under the dresser.

Around 12:30 p.m., I saw through the window Officer West sitting at the counter in full uniform. Officer West would occasionally come to the restaurant during lunch and we’ve had a few polite conversations. I remember sharing a little bit about my family back home and how I was supporting them. I also told the officer that I lived on the second floor of the restaurant. I was afraid to go to the police before because I was desperate to keep my job, but I knew it was now or never. I couldn’t go on like this. As I was preparing Officer West’s order, I found a piece of paper and wrote a note that read, “PLEASE HELP ME. I’M TREATED LIKE A SLAVE.” I personally gave the note to Officer West with West’s lunch. Immediately, Cameron came over and told me, “Stop bothering this person and go back to the kitchen.”

Later in the day, Officer West returned to interview me and search both the restaurant and my apartment. That same day, Cameron was arrested, and I was finally free. I was taken to a shelter and the next day, March 11, a social worker by the name of Dana Greyjoy interviewed me. Dana asked me questions about my working conditions and my relationship with Cameron. A month later I also spoke with another social worker, Addison Frey.
Prosecution Witness: Julian Blake (Consultant)

My name is Julian Blake. I am 45 years old. I graduated from culinary school in Pasadena, California. I have owned or co-owned several diners and small restaurants in Arizona, Nevada, and California. I also work occasionally as a restaurant development consultant. I have been an acquaintance of Cameron Awbrey since we were in high school together.

In early August 2015, Cameron called me about an idea to open a Tanterran restaurant. Cameron had been working as a security guard but had inherited some money and wanted to open a restaurant. Cameron did not have a background in the restaurant business, so Cameron wanted to hire me as a consultant. I doubted Cameron’s inheritance would cover all the expenses of opening a restaurant, especially paying for the necessary staff. Cameron was confident that Cameron could find just the right type of hardworking employees. Cameron explained that in Cameron’s previous position as a guard at a garment factory, the boss there had a lot of foreign workers. Cameron said, “He got a lot out of them for very little cost.” I thought nothing of that comment at the time, but later I realized it meant something ominous. I agreed to help Cameron with the restaurant in exchange for reduced fees and a five percent share in the profits.

At first, things were going great. We began by scouting locations and, in September 2015, we found an excellent property located in a business park near Downtown Santa Bella.

I noticed the lock on the stairway door because double-cylinder deadbolts are known to be major fire hazards. Anyone on the second floor without a key to the deadbolt may become trapped behind this door. I told Cameron I thought we should remove the deadbolt, but Cameron told me having a double-cylinder deadbolt on this door could be very useful if Cameron ever wanted to “lock something away.” I thought this comment was strange. Nonetheless, Cameron posted a sign on the door that said, “FIRE HAZARD – KEEP DOOR OPEN AT ALL TIMES.”

We settled on a December grand opening. While I worked on remodeling the restaurant, Cameron looked for employees. I offered to help Cameron look for a chef, but Cameron refused. Cameron told me Cameron was looking for a very particular kind of person. On November 2, Cameron introduced me to Lin Stark. Cameron told me that Lin was from Tanterra and that Lin was an excellent chef. I asked Lin about Lin’s culinary background, and Lin told me that Lin had no restaurant experience. I was concerned that I had not been consulted about the chef, who is the single most important employee in a restaurant. I just hoped that Lin’s cooking was good.

Later that day, I brought one of Lin’s suitcases to the apartment. When I walked into the apartment, I noticed it needed a cleaning and was pretty bare. There was a fold-up cot and a small table with a chair in the corner and a small bathroom. I asked Cameron if Cameron was going to give Lin more furniture or help clean the apartment, but Cameron shrugged and said no. Cameron did not seem to care.
When Lin first started working, Lin and Cameron seemed to get along very well. Lin spent most of Lin’s time developing the menu and testing dishes. I tried Lin’s cooking and it was excellent. After the restaurant opened, I saw a drastic change in Cameron’s attitude and behavior. Cameron became extremely harsh toward Lin, often yelling, even threatening to get Lin deported if Lin did not work faster. I never saw Lin speak up. Lin seemed intimidated by Cameron.

Cameron expected Lin to work unreasonable hours without a proper kitchen staff. After the restaurant had been open for one week, I approached Cameron about hiring some additional staff to help Lin, but Cameron refused. Cameron told me the restaurant’s staff was Cameron’s “proprietary interest” and none of my concern. I was only at the restaurant at this point for a few hours a day, about three days a week. In those small windows of time, I saw Cameron speak harshly to Lin and ignore whatever Lin would say. I can only imagine what happened when I was not there.

In late December, I also overheard Lin and Cameron having a conversation about Lin’s wages. Lin asked why Cameron had only paid Lin $400 for an entire month’s work. Cameron angrily responded that was all Cameron had. Lin walked away silently, looking at the floor.

I was concerned about Cameron’s treatment of Lin, which I did not know resulted from either a lack of restaurant experience or from a desire to exploit Lin. After Cameron’s conversation with Lin, I told Cameron about the normal hours, salaries, and benefits of full-time chefs in small restaurants. I warned Cameron to be careful about burning out Lin or, even worse, violating labor laws. Cameron yelled at me for “overstepping my bounds as a consultant.” I resigned immediately. I did not want to associate myself with someone who treated employees like property.

On March 7, I stopped by the restaurant around lunch time to get the last of my files from Cameron’s office. As I was waiting to talk with Cameron, I saw Cameron get in Lin’s face and yell “What’s wrong with you? Work faster!” Lin looked at the floor and didn’t respond. Lin looked broken down. I left without getting my files. I felt like this was not a healthy place for Lin to be but I didn’t know what to do about it. On March 9, I decided to go to the police and tell them everything I knew about the working conditions at Taste of Tanterra. At the station I spoke to Officer Hayden West, whom I had seen at the restaurant in December. I described for West Cameron’s treatment of Lin and asked if that was potentially illegal. I also mentioned Cameron’s strange comment about the “boss” at the garment factory. Officer West thanked me for the information and told me to keep in touch.

When I heard Cameron was arrested for human trafficking, I was sad but not surprised. I only witnessed the first two months of Cameron’s relationship with Lin. I can imagine the other months were just as bad, if not worse.
Prosecution Witness: Officer Hayden West (Police)

My name is Hayden West. I am 28 years old and work as a police officer for the Santa Bella Police Department. I have been employed with the Santa Bella Police Department for seven years. On March 10, 2016, I arrested Cameron Awbrey for human trafficking and false imprisonment, after conducting an investigation which included a search of Awbrey’s restaurant and residence, as well as Lin Stark’s residence.

As a police officer, I have attended a daylong training course on human trafficking, which is a serious problem in California because of the state’s high immigrant population and its large port cities. In the course, I learned victims of human trafficking often exhibit evidence of poor care, including signs of trauma and fatigue. I also learned victims are often afraid to communicate with the outside world. They generally live and work in one place and do not have freedom of movement. Additionally, trafficking victims generally do not have control over their immigration documents or government-issued identification. These are some of the factors we were trained to identify as trafficking indicators.

I have been an occasional customer at Taste of Tanterra since it opened in December 2015. Over time, I became acquainted with Lin Stark. The restaurant has a big counter where customers can sit and see into the kitchen. I usually sat at the counter. Lin was the only cook I ever saw at the restaurant.

On a couple of occasions, Lin and I chatted while Lin cooked the food. Lin always seemed hesitant. Still, I learned that Lin was an immigrant from Tanterra and was supporting family members back home. I also learned that Lin lived on the second floor of the restaurant.

A few times, I did witness Cameron’s interactions with Lin. Cameron would often yell at Lin for the smallest things and would even threaten to dock Lin’s pay. Cameron would go into the kitchen to yell at Lin to work faster or harder, even though Lin appeared very busy. I wondered why Lin stayed working for Cameron. I don’t recall if Cameron yelled at other employees, but it wouldn’t surprise me if Cameron did.

On March 7, 2016, I went to Taste of Tanterra for lunch. At the end of my meal, I saw Cameron saying “What’s wrong with you? Work faster!” to Lin. Cameron was within inches of Lin’s face. Just then, I received a personal phone call on my cell. I stepped out into the parking lot to take the call. [While outside, Cameron approached me and we had a discussion. The discussion escalated, and I discovered Cameron had an outstanding bench warrant for petty theft. I arrested Cameron. While in my patrol car, I found out the bench warrant was for a different Cameron Awbrey, a Cameron Awbrey with a tattoo. I turned the patrol car back toward the restaurant, I told Cameron that it was Cameron’s lucky day but that I thought Cameron was abusive to Cameron’s cook. Cameron responded by saying “I don’t know who you think you are, but you need to understand something: Everything under that roof is mine.”]
On March 9, Julian Blake came to the police station and asked to speak with me. Julian told me that Julian worked as a consultant for the restaurant and had known the owner, Cameron Awbrey, for many years. Julian said that Julian had witnessed Cameron “mistreating Chef Lin Stark” (Julian’s words). Julian described Cameron constantly yelling at or criticizing Lin Stark. Julian worried the long hours demanded of Lin might be illegal. Julian said Cameron had made a comment about seeing firsthand how overworked garment workers were productive. I did not offer an opinion, but thanked Julian for the information and gave Julian my card. That was the only conversation I had with Julian.

Based on Julian Blake’s statements and my prior observations of Cameron Awbrey and Lin Stark, [as well as Cameron’s statement “I don’t know who you think you are, but you need to understand something: Everything under that roof is mine.”], I went to Taste of Tanterra on March 10, 2016, at 12:30 p.m. to speak to Lin Stark. As usual, I was in uniform. I waited in my car a short while until I saw Cameron Awbrey leave the restaurant and drive away. I then entered and sat at the counter. When I looked into the kitchen to get Lin’s attention, I noticed that Lin looked extremely haggard. A waiter took my order, and I waited for my food.

Lin brought me my food personally, which was unusual. Tucked under the plate was a note that read, “PLEASE HELP ME. I’M TREATED LIKE A SLAVE.” Immediately, it all began to make sense. Lin was an immigrant who lived on the property. Lin worked all the time. Lin had a terrifying boss [who referred to employees as things]. Lin looked extremely haggard and tired. Before I could say anything, Cameron reappeared and coldly told Lin, “Stop bothering this person and go back to the kitchen.”

I left the restaurant and obtained a warrant that same day to search Cameron’s restaurant and house, as well as Lin’s apartment. In the restaurant office, I found a file folder lying on top of Cameron’s desk. The folder only contained Lin’s TBD-2 visa and passport. Later, I asked Lin about the visa, and Lin said Cameron had held onto the visa since Lin started working at the restaurant.

At the restaurant, I examined the stairwell door leading to the stairs to Lin’s apartment. The door contained a double-cylinder deadbolt that needed a key on either side. I learned this door was the only entrance to Lin’s apartment. When I examined Lin’s apartment, it was clear this apartment was in very poor condition. It was dark and dingy with almost no furniture. The bathroom had plumbing problems. Lin told me Cameron had refused to fix any of the apartment’s issues.

Furthermore, Lin told me Cameron had locked Lin in the apartment the previous night. Lin told me that the day before, Lin had seen a key with a red lanyard under Lin’s dresser, but today the key was missing. Lin explained that this key could unlock the door at the bottom of the stairwell. I searched the entire premises but found no key with a red lanyard. I did find a key on Cameron’s key ring that fit the lock. I interviewed Frankie Lyman and Frankie told me that Frankie had seen Cameron coming out of Lin’s apartment the previous day, hours before Lin had been locked in.
Frankie did not see Cameron holding anything. I arrested Cameron Awbrey for human trafficking and false imprisonment.
Prosecution Witness: Dana Greyjoy (Human Trafficking Expert)

My name is Dana Greyjoy. I am 46 years old. I received a bachelor’s degree in sociology and a master’s degree in social work from Central Coast University. I have been working with victims of human trafficking for 20 years. I have served on the boards of national anti-trafficking non-profits. I have taught seminars on identifying and combatting instances of human trafficking for government agencies. I have testified as an expert witness in 27 human trafficking cases, 15 times for prosecution and 12 times for the defense. I interviewed Lin Stark on March 11, 2016, the day after Cameron Awbrey was arrested. I also inspected Lin’s apartment that day to help form my opinion.

A modern-day form of slavery, human trafficking is the use of various forms of force, duress, or deception to make victims do acts or work against their will. The two most common types of human trafficking are sex trafficking and labor trafficking. Labor trafficking can take place in many fields, including domestic service, agriculture, and food service. Anyone can be a human trafficker.

In choosing their victims, traffickers often look for vulnerable people who have emotional issues, financial issues, unstable living situations, or all of the above. Immigrants are often targets of human trafficking. Traffickers also often target people who have lower levels of education, who may not be able to understand an employment agreement. Conversely, some victims may be aware that they are being taken advantage of but accept their jobs anyway because of the promises made by the traffickers. Traffickers may promise their victims better lives, stability, education, a high-paying job, or a loving relationship. For example, a trafficker may target someone who needs money to get out of debt or support a family. While certain people are more vulnerable than others, anyone can potentially be a victim of human trafficking.

Victims of human trafficking are controlled by their traffickers, often through money, threats of violence, or physical force. Traffickers may also threaten victims with deportation, deny victims their wages, or take away their government identification documents.

There are many signs that point to instances of human trafficking. Victims often communicate in a manner that sounds rehearsed. They often live with their traffickers or on the site of their employment. They are psychologically manipulated or controlled by their traffickers. They have no access to their government documents. They have little communication with the outside world. They have poor living conditions. They work extremely long work hours with little to no pay.

In my professional opinion, Lin Stark exhibits many factors consistent with those of a human trafficking victim. Lin was vulnerable: Lin was young, unemployed, and desperate for money to support a family. Lin was promised a stable income, a place to live and an opportunity to bring family members to the United States. Although Lin was moderately educated, Lin was new to the culture and customs of the United States, not aware of its
laws, and in desperate need of full-time work, making Lin susceptible to exploitation. In my March 11 interview with Lin, Lin told me that Lin was afraid of being deported.

Lin told me Lin’s story about working at Taste of Tanterra. Cameron had withheld Lin’s immigration documents, making it virtually impossible for Lin to find other work. Cameron overwhelmed Lin with work and prohibited Lin from taking breaks, preventing Lin from being able to come and go as Lin pleased.

Cameron also paid Lin a total of $1,700 over a four-month period, which breaks down to approximately $425 per month. Even adding room and board, the total would be about $2.29 per hour for 90-hour work weeks, which Lin told me was normal for Lin. This number may be high compared to many other trafficking cases where victims may make less than $1.00 per hour if they are paid at all. But Lin’s wages are still extremely low compared to the minimum wage. And the hours Lin worked are grossly out of line with state labor and wage laws establishing 40-hour weeks, overtime, and a minimum wage.

The apartment that Cameron provided to Lin was somewhat unusual in that Lin had Lin’s own room. Traffickers often provide housing for their victims typically in a dormitory-like setting with limited access to adequate showers or toilets. Lin’s furnished apartment does not fall into this typical category. But Lin’s apartment was dark and isolated with only one means of entry and exit into the restaurant itself. The camp-style bed was inadequate for comfortable long-term living. Lin appeared to have tried to clean the place and to keep it livable. But because of Lin’s restricted access to the outside world, the room seemed not very different from a well-furnished prison cell.

The fact that Lin was a talented cook does not mean that Lin could not be a victim of human trafficking. Victims of human trafficking can be skilled or unskilled workers in any industry, and are commonly found in the food service industry, whether in large-scale or small-scale businesses. Lin’s case is consistent with several of the human trafficking cases I have seen over the years.
Defense Witness: Cameron Awbrey (Defendant)

My name is Cameron Awbrey. I am 43 years old. I recently left my job as a security guard in a garment factory in Southern California because I inherited a hundred thousand dollars from an aunt who passed away. I always wanted to open a restaurant back home in Santa Bella. I feel a deep connection to Tanterran culture since my cousin Devin Tyler and I spent several summers there doing humanitarian relief work as teenagers with the Santa Bella Community Church youth group. Tanterran food is also my favorite cuisine. There were no Tanterran restaurants in Santa Bella, so I knew I had a niche.

I had no idea how to start a restaurant. My cousin Devin has a background in hotel management, so I asked Devin for help. Devin told me Devin could provide me some tips with handling the employment paperwork and suggested I hire Julian Blake, an old friend with restaurant experience to be a consultant. Devin said Julian would help me get things running. Julian and I discussed plans. Julian was concerned about my ability to finance the business. I said money would be tight for a while, but I was confident I could make it work. I told Julian in my previous job, I saw people working hard with a lot of motivation to reach the American Dream.

Julian and I found a great property in an industrial area of Santa Bella that had already been a diner. The rent seemed high to me, but Julian assured me it was reasonable. I used my inheritance and also took out huge loans to remodel the restaurant and furnish the kitchen and cover the overhead costs for a whole year.

I also used the loans to pay for Julian’s services. If the restaurant made as much money as Julian thought it would, then it would take me about five years to make all my money back and pay off the loans. In the meantime, Julian estimated there would be a small margin of profit to live on. I would turn a larger profit later on. I needed to be very careful about my own expenses, including the mortgage on my house. It was a lot for me to juggle.

Julian oversaw the remodeling of the restaurant, and I worked on hiring a staff. At first, Julian insisted on helping me find people. Julian was quite pushy about being involved in every part of the development process. I wanted Julian to focus on remodeling so that we could meet our goal of opening on December 1. I strongly felt the key to the success of the restaurant was hiring a chef who knew Tanterran cuisine. Devin suggested I put an advertisement in all the local newspapers that circulated in Little Tanterra.

I received a few responses from the ad and interviewed all the candidates. Among them was Lin Stark, who came to the restaurant for an interview and cooking simulation.

During the interview, I learned that Lin had no professional cooking experience. However, Lin’s food was delicious and authentic and Lin spoke English well, so I offered Lin the job. I was up front with Lin about the fact that I did not yet know how much I could afford to pay Lin. It depended on
sales, I said. I also offered to do what I could to help bring Lin’s family to
the U.S. sometime in the future, but I didn’t make any promises.

Lin moved in on November 2, 2015. To make Lin feel welcome, I gave Lin
money to buy toiletries. I also showed Lin the apartment and told Lin to do
whatever Lin wanted to make it feel like home. I told Lin that Lin could use
my office phone to call Lin’s family every other week, as long as the calls
were not too long. Later that day I saw that Lin had closed the door to the
staircase. I reminded Lin about the key and told Lin that the door always
needed to remain open and Lin looked like Lin understood.

During our first month working together, everything was going smoothly.
Lin and I worked every day on the menu. I knew when we opened, we
would have very little time off. I warned Lin that the first few months
would be rough, but that I hoped to eventually hire an assistant cook to
make it easier.

Once the restaurant opened, Lin worked very slowly. I always had to go
into the kitchen to remind Lin to work quickly, especially during the lunch
rush. I could tell Lin was struggling to keep up. I was also stressed about
the restaurant’s part-time staff. I had hired several part-time workers,
mostly college students, to work in the dining area. Julian thought I needed
more employees, but I could not afford to hire more. The restaurant had so
many expenses already.

Either Frankie Lyman or I always went to buy wholesale supplies. Soon
after the restaurant opened, Lin insisted on going out to buy the vegetables
from the wholesaler. I had no objection to Lin doing that, but Lin stayed
away too long — taking more than the hour Lin had promised. I realized I
could not afford to have Lin take time doing errands. Lin and I had a brief
argument about it, and I told Lin how important it was for Lin to leave the
errands to Frankie and me. But I never forbade Lin from leaving the
premises for any reason.

Come to think of it, I thought it odd that Lin seemed to rarely take a break
or even step outside. I admit I was stressed out, heavily in debt to keep the
restaurant going, and snapped at Lin sometimes. I demanded a lot from Lin,
but I had warned Lin that the first few months would be rough. I was right.
I felt overwhelmed. Even so, I would often check on Lin in the kitchen to
see if Lin had enough supplies and was feeling all right.

Julian and I began to have problems. Julian had always been extremely
opinionated and always criticized my decisions. Julian told me I
“micromanaged” employees. Julian also said I worked Lin too hard and if I
wasn’t careful, everyone would quit. I was furious. At the end of December,
Julian confronted me about Lin’s pay. I made it clear that if Julian had a
problem with the way I ran my business, Julian was free to leave. I had no
desire to work with someone who criticized my every move. Julian
immediately resigned.

Lin often came to complain to me about different things, like pay and hours.
Other than a leaky faucet, I don’t recall Lin ever complaining to me about
the apartment. As for pay, I paid Lin $500 for Lin’s work in November and
$400 each month for work in December, January and February. I figured
this was a fair amount. If you took the value of room, board and utilities,
Lin was making between $800-900 a month. It was all I could afford. I
always paid Lin in cash so Lin would not have to pay high check-cashing
fees. I also set aside money to pay the appropriate tax withholdings and was
planning to forward them once I figured out the employment paperwork. I
wanted to do all I could to remove Lin’s financial burdens so Lin could send
money to Lin’s family.

When Lin complained to me about the number of hours Lin worked, I told
Lin that I worked even more hours than Lin did. I don’t know how many
hours Lin worked, but I know Lin was very busy when the restaurant was
open to customers. I worked about 15 hours a day. We didn’t keep time
sheets; Lin was a salaried employee. Working long hours is part of working
at a restaurant, especially in its first year of business. At the time, there was
nothing more I could do to help Lin. I was afraid Lin would quit. I never
threatened to have Lin deported.

As time went on, Lin continued to struggle in the kitchen. I had taken a risk
hiring a chef who had no professional cooking experience. The restaurant
was not doing as well as I hoped. I was barely making enough money to
cover my personal expenses. At this rate, it was going to take me many
years to make back my initial investments. I needed to cut costs as much as
possible.

On March 7, Lin was having an especially slow day in the kitchen. Many
time to give up. We were going to make it through the day and be
successful.

[That same day, I stopped Officer West outside the restaurant. We had a
discussion and the next thing I knew, I was arrested on a bench warrant
that I knew was a mistake. The officer started to drive me to the station and
then pulled over and asked to see my forearms. The officer was looking for
a tattoo. I don’t have any tattoos. As the officer turned the patrol car back
toward the restaurant, the officer said to me “Your lucky day. But I still
think you’re abusive to your cook.” I blurted out, “I don’t know who you
think you are, but you need to understand something: Everything under that
roof is mine.” I meant the restaurant is my business, not West’s. I was
offended that West would say such a thing and outraged West arrested me
for nothing.]

On March 9, I went to Lin’s apartment to check on the leaking faucet that
Lin had told me about back in December. I realized I ought to do something
to make Lin’s life a little better. I intended to fix the faucet myself either
that day or the next. Other than that day, I don’t recall ever going into Lin’s
apartment.
Later that night, Lin and I were closing up the restaurant when Lin approached me about taking a vacation. I was frustrated by the events of recent days and knew there was no way the restaurant could afford to go without its chef, even for a couple of days. When Lin suggested I hire a new assistant chef immediately, I feared that business would only get worse. Lin didn’t tell me any special reason for the vacation and did not ask for Lin’s visa or passport. I refused Lin’s request. After hearing this, Lin became extremely upset and started yelling at me. It was startling.

Lin then turned and went upstairs. I was so upset and exhausted that I angrily slammed the door behind Lin. I never thought that Lin was stuck behind the self-locking door because there was that key with a red lanyard under the dresser I had mentioned to Lin when Lin moved into the apartment. Just before I left, I yelled to Lin that we both needed to get comfortable here and neither of us could take a vacation.

The next day, I arrived at the restaurant at 6:45 a.m. I walked to the cash register to reconcile receipts from the previous day, and I did not see Lin. I didn’t even think to look at the stairwell door. About 7:00 a.m., I heard a banging coming from the rear of the restaurant. I went back and saw the stairwell door was closed. I opened it and found an angry Lin standing there. I asked Lin if Lin was missing Lin’s key. I couldn’t imagine why Lin wouldn’t use it. Lin did not answer me and walked away. Lin never told me the key was missing, and the last time I saw the key was when I showed it to Lin when Lin moved in. I had the only other key to that particular door, which I kept on my keychain.

In the early afternoon, I saw Lin talking to a customer while many people were waiting for their food. I rushed over to remind Lin about the customers who were waiting, and I told Lin to get back to the kitchen. I did not notice that the person Lin had been speaking to was Officer West. When Officer West came with a search warrant later in the afternoon, I was completely confused. I thought maybe one of my employees had done something wrong. When Officer West searched my office, Officer West asked me why I had Lin’s visa and passport. I told Officer West that I was holding onto the papers because I was in the process of finding out how to sponsor Lin for Lin’s visa, and to bring Lin’s family here. Of course, I would have given it back to Lin if Lin had asked for it, but Lin never did. Officer West then arrested me for human trafficking. I was shocked and felt betrayed by Lin who I treated like a member of my own family. Lin is not a victim of human trafficking.
Defense Witness: Devin Tyler (Defendant’s Cousin)

My name is Devin Tyler. I am 41 years old. I am Cameron Awbrey’s cousin. I graduated from Santa Bella College with a bachelor’s degree in hotel management, and I now manage a boutique hotel. I am also a volunteer youth counselor at Santa Bella Community Church.

When Cameron told me about Cameron’s inheritance and Cameron’s plan to move back home and open a Tanterran restaurant, I wanted to do all I could to help. I fondly remember our summer trips to Tanterra with the church youth group.

Because of some similarities between hotel management and restaurant management, I offered Cameron advice. I told Cameron that it is extremely difficult for someone with no experience to open a new restaurant. It is also extremely costly. I recommended that Cameron hire a consultant to teach Cameron the basics of restaurant management and help Cameron get the restaurant off the ground. I suggested that Cameron talk to our old friend, Julian Blake, who was a successful restaurant developer.

At first, Cameron and Julian seemed to work well together. Before the restaurant opened I would visit several times a week to see how Cameron was doing. I could see that Julian was doing a great job remodeling the property, while Cameron began searching for employees.

Cameron asked me about the best way to find a Tanterran cook. I suggested Cameron place an advertisement in the local newspapers that circulated in Little Tanterra. I hoped the advertisement would attract people who had experience with Tanterran cuisine. A few weeks after the advertisement was posted, Cameron told me about Lin Stark, the person Cameron had hired for the job. From what Cameron said, it seemed like Cameron and Lin really connected during Lin’s interview. Cameron told me that Cameron loved hearing about Lin’s life in Tanterra, and that Cameron desired to help Lin’s family. I was not surprised at all when Cameron told me how well they connected because I know how much Cameron has always loved Tanterra.

I was concerned after Cameron informed me that Lin had never worked in a restaurant before. I was worried Lin would not be able to keep up with the number of customers, especially during the lunch rush. I have seen many good cooks lose their jobs simply because they could not manage the pressure of working in a restaurant. Cameron told me that Cameron wanted to give Lin a chance despite Lin’s lack of experience because Cameron really wanted to help support Lin. Cameron planned to cover almost all of Lin’s expenses so Lin could send as much money as possible back to Lin’s family. Cameron wanted Lin to save enough money to eventually bring Lin’s family to the United States. Cameron truly cared about Lin not only because Lin was Cameron’s employee but also because Lin was a person in need.

In the month before the restaurant opened, I was impressed by how well Cameron and Lin worked together. I would watch them spend hours working on the menu, laughing and dreaming about the future success of the restaurant.
But once the restaurant was open, Cameron’s relationship with Lin became strained. I often dined at the restaurant and witnessed Lin working very slowly. I also saw Cameron’s interactions with Lin. Lin seemed to have a hard time accepting Cameron’s constructive feedback and argued with Cameron. I wondered if there was a cultural barrier between Lin and Cameron, where Lin could not understand what Cameron wanted.

Cameron often told me how frustrated Cameron was with Lin, especially because Cameron had given Lin so much. Cameron gave Lin a job that helped Lin stay in the United States, as well as free room and board. Lin was adding to Cameron’s stress when Cameron already had so much to worry about, especially considering Cameron had loans and invested Cameron’s life savings in the restaurant.

During December, Cameron also started having problems with Julian. One day, I was at the restaurant and I overheard Julian ranting to Cameron about all the things Cameron was doing wrong. I heard Julian tell Cameron that Julian’s way of doing things was the best way, and if Cameron wanted to succeed, Cameron needed to follow all of Julian’s directions. Julian also criticized how Cameron treated Lin. I have no idea what Julian meant by this.

I thought Julian was too aggressive and opinionated. It seemed like Julian was trying to bully Cameron into doing things that Cameron did not want to do. Maybe Julian was trying to earn more fees. When Julian resigned, I was relieved for Cameron. I also thought without Julian’s fees, some of Cameron’s financial pressure would be gone. Unfortunately that was not the case. About two months after the restaurant opened, Cameron confided in me that things were not good. Between the loans, payroll, and Cameron’s personal expenses, I’m not sure how much longer Cameron could keep the restaurant open. All the revenue Cameron made was barely enough to keep the restaurant going.

Although Cameron is inexperienced in the restaurant business, Cameron wants to be the best possible restaurant owner and will do whatever it takes to do so. Cameron asked me for advice on how to properly handle Lin’s work-visa a couple of times, as well as how to file taxes for all Cameron’s employees. Visas are very complicated and each visa has unique rules employers must follow. I told Cameron to contact an immigration attorney for more details, but I don’t think Cameron ever did.

For what it is worth, Cameron is the hardest working person I know. More importantly, Cameron has a good heart. Cameron would never intentionally hurt an employee, especially not one that comes from a country that Cameron so deeply loves.
Defense Witness: Frankie Lyman (Restaurant Employee)

My name is Frankie Lyman. I am 19 years old and currently attend Santa Bella Community College. In October 2015, I was hired by Cameron Awbrey to work at Taste of Tanterra. I saw a posting on campus that there were job openings at Taste of Tanterra. I started part-time work on November 2, 2015, the same day Lin began working there.

I did a little bit of everything at the restaurant. For example, I ran errands, like buying meat and vegetables, as well as restaurant supplies. That is much of what I did during November. After the restaurant opened, I washed dishes, waited tables, and sometimes did a little food prep, like chopping vegetables.

Shortly after the restaurant opened, Lin approached Cameron and insisted that Lin go buy the “right vegetables.” Cameron agreed. Lin walked to the wholesale market and when Lin didn’t come back for a while, Cameron appeared nervous. When Lin finally arrived, I could hear Cameron ask, “Where were you? We’re on a tight schedule! You know better than that.” I heard Lin reply, “None of your business.” After that, all I know is Lin didn’t go out on errands again.

I liked working at the restaurant when it opened. The customers were friendly and seemed to really enjoy the food. We had a lot of regular customers like Devin, Cameron’s cousin. Often I would see Devin, Julian and Cameron talking at the restaurant. I knew Julian was responsible for setting up and designing the restaurant’s interior. In late December, Cameron told the staff that Julian no longer worked at Taste of Tanterra.

As a boss, I would say that Cameron was strict but fair. If I did something slightly different from what Cameron wanted, Cameron would immediately give me constructive feedback. Cameron was always extremely direct when speaking to me. Cameron never sugar-coated anything.

I could tell that Cameron cared about all the employees. From when I was first hired, Cameron made an effort to get to know me. Cameron knew about my family, school, friends, and hobbies. I would say that Cameron made an effort to have a personal connection with every employee.

Cameron especially cared about Lin Stark. Everyone that worked at the restaurant knew that Cameron really wanted to help Lin. Cameron treated Lin more like a family member and less like an employee. For example, Cameron tried to cover many of Lin’s expenses by letting Lin live rent-free and eat as much food as Lin wanted. The rest of the employees were only allowed one meal per shift. Cameron also always seemed to pay close attention to Lin during the day to make sure Lin was okay and doing well. Lin was a hard worker. I would always see Lin there, whether I worked the morning or evening shift.

Lin and I got to know each other pretty well. When business was slow, Lin and I spent a lot of time talking about our lives. Lin told me about Lin’s family back in Tanterra and how Lin really wanted to bring them to the
United States. One day soon after we started working together in November, I went up to Lin’s apartment where Lin showed me pictures of Lin’s family. The apartment was not luxurious, but seemed comfortable. Lin often told me about Lin’s plans to one day become a U.S. citizen. Two or three times I helped Lin wire money to Lin’s mother in Tanterra. I think it was $300 or $350 each time. Lin explained that Cameron had Lin’s ID for employment purposes, which made sense to me.

When the restaurant became more popular, I saw that Lin was always swamped with orders and obviously had a hard time keeping up. Whenever the restaurant got really busy, Lin would become really flustered. Lin’s anxiety often prevented Lin from working quickly in high pressure situations. Whenever Cameron came into the kitchen to give Lin constructive feedback, Lin seemed to ignore Cameron. It was obvious that Lin was having a hard time adjusting to such a fast-paced work environment.

However, as the restaurant gained more customers, Cameron became more and more stressed. Cameron sometimes snapped at employees, yelled, or slammed doors. I have been yelled at by Cameron sometimes for improperly prepping food or not completing my responsibilities. Cameron was often in the kitchen making sure orders were timely. Cameron did not like to keep customers waiting. I have seen Cameron get frustrated with Lin and yell a few times when Lin couldn’t keep up with the orders. I never felt scared or offended by the yelling. I knew Cameron was just blowing off steam. Cameron had a lot to manage from the restaurant. All the employees needed to pull their weight.

One especially busy day in early March, Lin confided in me that Lin was afraid that Lin would lose Lin’s job and that Lin’s visa might be expiring. Tears were running down Lin’s face. I told Lin that Cameron would never fire Lin and that Lin was the best cook in Santa Bella. Lin then told me that Lin would do anything to stay longer in the United States. Lin seemed desperate.

On March 9, in the early evening while Lin was dumping trash out back, I noticed Cameron coming out of the stairwell to Lin’s apartment. Cameron told me Cameron was going to fix Lin’s leaking faucet. I did not see anything in Cameron’s hands. I made a mental note to tell Lin about this good deed.

The only time I ever witnessed something really unusual between Cameron and Lin was the next day, on March 10, 2016. I came in to the restaurant in the morning to prep for lunch. As I started my shift and walked toward the employee restroom, I saw Cameron open the stairwell door with a key. I knew that the stairwell door was never supposed to be closed, so I wondered what had happened. In fact I don’t recall ever seeing the door closed before. I know the door leads to Lin’s apartment. When Cameron opened the door, Lin came out. I heard Cameron tell Lin something about a key. Lin just stood there, looking angry. Cameron stepped away. That’s when I told Lin that Cameron had checked on the leaking faucet and would probably fix it soon. I left before the restaurant opened for the day.
Later I learned from other employees that Cameron was arrested, I was completely shocked. In all my time working at the restaurant, I never suspected that Cameron was treating Lin unfairly. Cameron was trying hard to encourage us to make the restaurant successful. I never imagined that Cameron could be accused of human trafficking. I always pictured a human trafficker as someone who forced people to do things while sitting back and doing nothing. That was not Cameron. Cameron worked harder than anyone at the restaurant. Cameron never took a break or a day off. Cameron was not always the best boss, but Cameron always gave 100 percent effort and expected everyone else to do the same. It’s too bad the restaurant’s now closed. I now work at the bookstore at my college.
Defense Witness: Addison Frey (Human Trafficking Expert)

My name is Addison Frey. I am 49 years old. I received a bachelor’s degree in Psychology from California University and a master’s in social work from Northern California University. I completed my residency hours at the California University Medical Center, where I often counseled victims of violent crime as well as trafficking victims. I then worked in private practice as a therapist and consultant, often being contracted by the Santa Bella Police Department for work in interviewing victims and witnesses of violent crime. During the last 15 years of practice, I have testified in about ten trials as an expert witness in human trafficking cases, six trials on behalf of the defense and four trials on behalf of the prosecution. I have also testified in many more sentencing and post-conviction hearings.

I was hired by the defense to reevaluate Dana Greyjoy’s findings from the case files. I interviewed Cameron Awbrey about two weeks after Cameron’s arrest. I was also given an opportunity to interview Lin Stark about a month after the arrest of Cameron Awbrey to determine whether Lin exhibited indicators of a victim of human trafficking. I agree with Greyjoy’s definition of human trafficking, however, not all trafficking situations are the same. Hence, my analysis of the case differs.

Typically, labor traffickers target unskilled workers to do menial jobs in industries like domestic service and food service. Traffickers often target multiple workers at one time. These victims are generally subjected to inhumane working and living conditions due to deception or threats of physical violence. Less frequently, traffickers will target a single worker, and when they do, it is almost always in domestic labor, or maid services. Labor trafficking victims are often paid pennies per hour. Some are not paid at all. It is also common for victims of labor trafficking to be financially indebted to their traffickers; traffickers will exploit their victims with the excuse that the victims need to “pay their debt.”

Cameron’s behavior and interactions with Lin do not reflect the actions and attitudes of a human trafficker. Cameron was looking for a skilled laborer to work in a business into which Cameron had invested significant amounts of money. Cameron did choose to hire an immigrant from Tanterra, but this immigrant had some education.

Additionally, Cameron and Lin had a legitimate employment relationship, where Cameron paid Lin every month. Cameron and Lin also worked together on a daily basis, sharing the same workload. Cameron never directly restricted Lin’s movements or coerced Lin to perform an action. Cameron also paid Lin significantly higher than the typical human trafficker, which is usually about $1.00 per hour or even less, as Dana Greyjoy also states.

Based on my interview with Lin, I do not think that Lin exhibits the signs of human trafficking victims that I have seen over the years. In our interview, Lin told me that Lin had experienced a number of negative symptoms that affected Lin’s physical and emotional health. It was clear to me that Lin suffered from anxiety and depression as well as chronic physical pain from
Lin's work at the restaurant. However, I believe that Lin's symptoms have more to do with the type of work and less to do with Lin's working conditions. As a young, inexperienced employee with no professional training in food service, Lin was bound to suffer from enormous amounts of stress brought on by the fast-paced nature of the restaurant. Lin's lack of experience as a professional cook would have clearly exacerbated Lin's stress and would have pushed Lin toward bouts of anxiety and depression.

Lin's lack of familiarity with American culture and the American workplace may also be contributing factors to Lin's struggle in the workplace. It is plausible that Lin merely misinterpreted Cameron's feedback as yelling and threats to Lin's job. Such a communication barrier may have been highly detrimental to Lin's and Cameron's working relationship, giving Lin the mistaken belief that Cameron was acting as a slave-driver rather than merely a demanding and perhaps unrealistic employer.

Lin had Lin's own apartment, which I was able to inspect. It was spartan but habitable. Lin told me Lin was not expressly forbidden from cleaning it or decorating it. I have never seen a human trafficking case in my experience in which a victim had such adequate living quarters with unrestricted access to the outside world.

Lin's inability to readily adjust to the pace and pressure of the U.S. food-service workplace led Lin to suffer many symptoms caused by stress. Lin's mental and physical ailments were magnified by the negative interactions that Lin had with Cameron, leading Lin to believe that Cameron was threatening Lin. Lin's ailments were consistent with overworked employees that I've seen in private practice, none of whom were victims of human trafficking.
EXHIBIT A
Taste of Tanterra Floor Plan

(Map is not to scale.)
EXHIBIT B

Note From Lin to Officer West

PLEASE HELP ME
I'M TREATED LIKE A SLAVE
THE FORM AND SUBSTANCE OF A TRIAL

The Elements of a Criminal Offense
The penal (or criminal) code generally defines two aspects of every crime: the physical aspect and the mental aspect. Most crimes specify some physical act, such as firing a gun in a crowded room, and a guilty, or culpable, mental state. The intent to commit a crime and a reckless disregard for the consequences of one’s actions are examples of a culpable mental state. Bad thoughts alone, though, are not enough. A crime requires the union of thought and action.

The mental state requirement prevents the conviction of an insane person. Such a person cannot form criminal intent and should receive psychological treatment rather than punishment. Also, a defendant may justify his or her actions by showing a lack of criminal intent. For instance, the crime of burglary has two elements: (1) entering a dwelling or structure (2) with the intent to steal or commit a felony. A person breaking into a burning house to rescue a baby has not committed a burglary.

The Presumption of Innocence
Our criminal justice system is based on the premise that allowing a guilty person to go free is better than putting an innocent person behind bars. For this reason, defendants are presumed innocent. This means that the prosecution bears a heavy burden of proof; the prosecution must convince the judge or jury of guilt beyond a reasonable doubt.

The Concept of Reasonable Doubt
Despite its use in every criminal trial, the term “reasonable doubt” is hard to define. The concept of reasonable doubt lies somewhere between probability of guilt and a lingering possible doubt of guilt. A defendant may be found guilty “beyond a reasonable doubt” even though a possible doubt remains in the mind of the judge or juror. Conversely, triers of fact might return a verdict of not guilty while still believing that the defendant probably committed the crime. Reasonable doubt exists unless the triers of fact can say that they have a firm conviction of the truth of the charge.

Jurors must often reach verdicts despite contradictory evidence. Two witnesses might give different accounts of the same event. Sometimes a single witness will give a different account of the same event at different times. Such inconsistencies often result from human fallibility rather than intentional lying. The trier of fact (in the Mock Trial competition, the judge) must apply his or her own best judgment when evaluating inconsistent testimony.

A guilty verdict may be based upon circumstantial (indirect) evidence. However, if there are two reasonable interpretations of a piece of circumstantial evidence, one pointing toward guilt of the defendant and another pointing toward innocence of the defendant, the trier of fact is required to accept the interpretation that points toward the defendant’s innocence. On the other hand, if a piece of circumstantial evidence is subject to two interpretations, one reasonable and one unreasonable, the
trier of fact must accept the reasonable interpretation even if it points toward the defendant’s guilt. It is up to the trier of fact to decide whether an interpretation is reasonable or unreasonable.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant’s guilt.

TEAM ROLE DESCRIPTIONS

ATTORNEYS
The pretrial-motion attorney presents the oral argument for (or against) the motion brought by the defense. You will present your position, answer questions by the judge, and try to refute the opposing attorney’s arguments in your rebuttal.

Trial attorneys control the presentation of evidence at trial and argue the merits of their side of the case. They do not themselves supply information about the alleged criminal activity. Instead, they introduce evidence and question witnesses to bring out the full story.

The prosecutor presents the case for the state against the defendant(s). By questioning witnesses, you will try to convince the judge or jury (juries are not used at state finals) that the defendant(s) is guilty beyond a reasonable doubt. You will want to suggest a motive for the crime and try to refute any defense alibis.

The defense attorney presents the case for the defendant(s). You will offer your own witnesses to present your client’s version of the facts. You may undermine the prosecution’s case by showing that the prosecution’s witnesses are not dependable or that their testimony makes no sense or is seriously inconsistent.

Trial attorneys will:
- Conduct direct examination.
- Conduct cross-examination.
- Conduct re-direct examination, if necessary.
- Make appropriate objections: Only the direct and cross-examination attorneys for a particular witness may make objections during that testimony.
- Conduct the necessary research and be prepared to act as a substitute for any other attorneys.
- Make opening statements and closing arguments.

Each student attorney should take an active role in some part of the trial.

WITNESSES
You will supply the facts in the case. As a witness, the official source of your testimony, or record, is composed of your witness statement, and any portion of the fact situation, stipulations and exhibits, of which you reasonably would have knowledge. The fact situation is a set of indisputable facts that witnesses and attorneys may refer to and draw reasonable
inferences from. The witness statements contained in the packet should be viewed as signed statements made to the police by the witnesses.

You may testify to facts stated in or reasonably inferred from your record. If an attorney asks you a question, and there is no answer to it in your official testimony, you can choose how to answer it. You can either reply, “I don’t know” or “I can’t remember,” or you can infer an answer from the facts you do officially know. Inferences are only allowed if they are reasonable. Your inference cannot contradict your official testimony, or else you can be impeached using the procedures outlined in this packet. Practicing your testimony with your attorney coach and your team will help you to fill in any gaps in the official materials. (See “Unfair Extrapolation” on p. 60.)

It is the responsibility of the attorneys to make the appropriate objections when witnesses are asked to testify about something that is not generally known or that cannot be reasonably inferred from the Fact Situation or a Witness Statement.

**COURT CLERK, COURT BAILIFF, UNOFFICIAL TIMER**

We recommend that you provide two separate people for the roles of clerk and bailiff, but if you assign only one, then that person must be prepared to perform as clerk or bailiff in any given trial.

The unofficial timer may be any member of the team presenting the defense. However, it is advised the unofficial timer not have a substantial role, if any during the trial so they may concentrate on timing. The ideal unofficial timer would be the defense team’s clerk.

The clerk and bailiff have individual scores to reflect their contributions to the trial proceedings. This does NOT mean that clerks and bailiffs should try to attract attention to themselves; rather, scoring will be based on how professionally and responsibly they perform their respective duties as officers of the court.

In a real trial, the court clerk and the bailiff aid the judge in conducting the trial. The court clerk calls the court to order and swears in the witnesses to tell the truth. The bailiff watches over the defendant to protect the security of the courtroom.

In the mock trial, the clerk and bailiff have different duties. For the purpose of the competition, the duties described below are assigned to the roles of clerk and bailiff. (Prosecution teams will be expected to provide the clerk for the trial; defense teams are to provide the bailiff.)

**Duties of the Court Clerk**

When the judge and scoring attorneys arrive in the courtroom, introduce yourself, explain that you will assist as the court clerk and distribute team roster forms to the opposing team, each scoring attorney and the judge.
In the Mock Trial competition, the court clerk’s major duty is to time the trial. You are responsible for bringing a stopwatch to the trial. Please be sure to practice with it and know how to use it when you come to the trials.

An experienced timer (clerk) is critical to the success of a trial.

Interruptions in the presentations do not count as time. For direct, cross, and re-direct examination, record only time spent by attorneys asking questions and witnesses answering them.

Do not include time when:
- witnesses are called to the stand.
- attorneys are making objections.
- judges are questioning attorneys or witnesses or offering their observations.

When a team has two minutes remaining in a category, Hold up the two-minute sign; when one minute remains, hold up the one minute sign; when 30 seconds remains, hold up the 30 second sign; and when time for a category has run out, hold up the stop sign and announce “Stop!” The only verbal warning during the trial should be “Stop!” Remember to speak loud enough for everyone to hear you.

Time Allocations: Two Minutes, One Minute, 30 Seconds, Stop

There is to be no allowance for overtime under any circumstance. This will be the procedure adhered to at the state finals. After each witness has completed his or her testimony, mark down the exact time on the time sheet. Do not round off the time.

Duties of the Bailiff

When the judge arrives in the courtroom, introduce yourself, explain that you will assist as the court bailiff and distribute team roster forms to the opposing team, each scoring attorney and the judge.

In the Mock Trial competition, the bailiff’s major duties are to call the court to order and to swear in witnesses. Please use the language below. When the judge has announced that the trial is beginning, say:

“All rise, Superior Court of the State of California, County of ___, Department ___, is now in session. Judge ___ presiding, please be seated and come to order.” Please turn off all cell phones and refrain from talking.

When a witness is called to testify, you must swear in the witness as follows:

“Do you solemnly affirm that the testimony you are about to give will faithfully and truthfully conform to the facts and rules of the Mock Trial competition?”

In addition, the bailiff is responsible for bringing to trial a copy of the “Rules of Competition.” In the event that a question arises and the judge needs further clarification, the bailiff is to provide this copy to the judge.
Duties of the Unofficial Timer

Any official member of the team presenting defense may serve as an unofficial timer. This unofficial timer must be identified before the trial begins and sit next to the official timer (clerk).

If timing variations occur 15 seconds or more at the completion of any task during the trial, the timers will notify the judge immediately that a time discrepancy has occurred. Any time discrepancies less than 15 seconds are not considered a violation. NO time discrepancies will be entertained after the trial concludes.

Any objections to the clerk’s official time must be made by this unofficial timer during the trial, before the verdict is rendered. The judge shall determine whether to accept the clerk’s time or make a time adjustment.

If the times differ significantly, notify the judge and ask for a ruling as to the time remaining. You may use the following sample questions and statements:

“Your honor, before bringing the next witness, may I bring to the courts attention there is a time discrepancy.

“Your honor, there is a discrepancy between my records and those of the official timekeeper.”

Be prepared to show your records and defend your requests.

TEAM MANAGER

Your team may also select a member to serve as team manager. Any team member, regardless of his or her official Mock Trial role, may serve as team manager. The manager is responsible for keeping a list of phone numbers of all team members and ensuring that everyone is informed of the schedule of meetings. In case of illness or absence, the manager should also keep a record of all witness testimony and a copy of all attorney notes so that another team member may fill in if necessary.
PROCEDURES FOR PRESENTING A MOCK TRIAL CASE

Introduction of Physical Evidence
Attorneys may introduce physical exhibits, if any are listed under the heading “Evidence,” provided that the objects correspond to the description given in the case materials. Below are the steps to follow when introducing physical evidence (maps, diagrams, etc.). All items are presented prior to trial.

1. Present the item to an attorney for the opposing team prior to trial. If that attorney objects to use of the item, the judge will rule whether the evidence is appropriate or not.

2. Before beginning the trial, mark all exhibits for identification. Address the judge as follows: “Your honor, I ask that this item be marked for identification as Exhibit #____.”

3. When a witness is on the stand testifying about the exhibit, show the item to the witness and ask the witness if he/she recognizes the item. If the witness does, ask him or her to explain it or answer questions about it. This shows how the exhibit is relevant to the trial.

Moving the Item Into Evidence
Exhibits must be introduced into evidence if attorneys wish the court to consider the items themselves as evidence, not just the testimony about the exhibits. Attorneys must ask to move the item into evidence at the end of the witness examination or before they finish presenting their case.

1. “Your honor, I ask that this item (describe) be moved into evidence as People’s (or Defendant’s) Exhibit #____ and request that the court so admit it.”

2. At this point, opposing counsel may make any proper objections.

3. The judge will then rule on whether the item may be admitted into evidence.

The Opening Statement
The opening statement outlines the case as you intend to present it. The prosecution delivers the first opening statement. A defense attorney may follow immediately or delay the opening statement until the prosecution has finished presenting its witnesses. A good opening statement should:

- Explain what you plan to prove and how you will prove it.
- Present the events of the case in an orderly sequence that is easy to understand.
- Suggest a motive or emphasize a lack of motive for the crime.

Begin your statement with a formal address to the judge:
“Your honor, my name is (full name), the prosecutor representing the people of the state of California in this action,” or

“Your honor, my name is (full name), counsel for ________, the defendant in this action.”

Proper phrasing includes:
- “The evidence will indicate that . . .”
- “The facts will show . . .”
- “Witness (full name) will be called to tell . . .”
- “The defendant will testify that . . .”

**Direct Examination**
Attorneys conduct direct examination of their own witnesses to bring out the facts of the case. Direct examination should:

- Call for answers based on information provided in the case materials.
- Reveal all of the facts favorable to your position.
- Ask the witness to tell the story rather than using leading questions, which call for “yes” or “no” answers. (An opposing attorney may object to the use of leading questions on direct examination)
- Make the witness seem believable.
- Keep the witness from rambling about unimportant matters.

Call for the witness with a formal request:

“Your honor, I would like to call (name of witness) to the stand.”

The witness will then be sworn in before testifying.

After the witness swears to tell the truth, you may wish to ask some introductory questions to make the witness feel comfortable. Appropriate inquiries include:

- The witness’s name.
- Length of residence or present employment, if this information helps to establish the witness’s credibility.
- Further questions about professional qualifications, if you wish to qualify the witness as an expert.

Examples of proper questions on direct examination:
- “Could you please tell the court what occurred on ___(date)?”
- “What happened after the defendant slapped you?”
- “How long did you see . . .?”
- “Did anyone do anything while you waited?”
- “How long did you remain in that spot?”

Conclude your direct examination with:

“Thank you, Mr./Ms. (name of witness). That will be all, your honor.”
(The witness remains on the stand for cross-examination.)
Cross-Examination
Cross-examination follows the opposing attorney’s direct examination of the witness. Attorneys conduct cross-examination to explore weaknesses in the opponent’s case, test the witness’s credibility, and establish some of the facts of the cross-examiner's case whenever possible. Cross-examination should:

- Call for answers based on information given in Witness Statements or the Fact Situation.
- Use leading questions, which are designed to get “yes” and “no” answers.
- Never give the witness a chance to unpleasantly surprise the attorney.

In an actual trial, cross-examination is restricted to the scope of issues raised on direct examination. Because Mock Trial attorneys are not permitted to call opposing witnesses as their own, the scope of cross-examination in a Mock Trial is not limited in this way.

Examples of proper questions on cross-examinations:

“Isn’t it a fact that . . .?”
“Wouldn’t you agree that . . .?”
“Don’t you think that . . .?”
“When you spoke with your neighbor on the night of the murder, weren’t you wearing a red shirt?”

Cross-examination should conclude with:

“Thank you, Mr./Ms. (name of witness). That will be all, your honor.”

Impeachment During Cross-Examination
During cross-examination, the attorney may want to show the court that the witness on the stand should not be believed. This is called impeaching the witness. It may be done by asking questions about prior conduct that makes the witness’s credibility (believability) doubtful. Other times, it may be done by asking about evidence of criminal convictions.

A witness also may be impeached by introducing the witness’s statement and asking the witness whether he or she has contradicted something in the statement (i.e., identifying the specific contradiction between the witness’s statement and oral testimony).

The attorney does not need to tell the court that he or she is impeaching the witness, unless in response to an objection from the opposing side. The attorney needs only to point out during closing argument that the witness was impeached, and therefore should not be believed.

Example: (Using signed witness statement to impeach)
In the witness statement, Mr. Jones stated the suspect was wearing a pink shirt. In answering a question on direct examination, however, Mr. Jones stated that the suspect wore a red shirt.

On cross-examination ask, “Mr. Jones, you testified that the suspect was wearing a red shirt, correct?”
Mr. Jones responds “Yes.”

Show Mr. Jones the case packet opened up to Mr. Jones’s statement. Ask Mr. Jones, “Is this your witness statement, Mr. Jones?” (Mr. Jones has no choice but to answer “Yes.”)

Then ask Mr. Jones, “Do you recognize the statement on page _____, line ____ of the case packet?”

Read the statement aloud to the court and ask the witness: “Does this not directly contradict what you said on direct examination?”

After you receive your answer (no matter what that answer is) move on with the remainder of your argument and remember to bring up the inconsistency in closing arguments.

**Re-Direct Examination**

Following cross-examination, the counsel who called the witness may conduct re-direct examination. Attorneys conduct re-direct examination to clarify new (unexpected) issues or facts brought out in the immediately preceding cross-examination **only**. They may not bring up any issue brought out during direct examination. Attorneys may or may not want to conduct re-direct examination. If an attorney asks questions beyond the issues raised on cross, they may be objected to as “outside the scope of cross-examination.” It is sometimes more beneficial not to conduct re-direct for a particular witness. To properly decide whether it is necessary to conduct re-direct examination, the attorneys must pay close attention to what is said during the cross-examination of their witnesses.

If the credibility or reputation for truthfulness of a witness has been attacked on cross-examination, the attorney whose witness has been damaged may wish to “save” the witness through re-direct. These questions should be limited to the damage the attorney thinks has been done and should enhance the witness’s truth-telling image in the eyes of the court.

Work closely with your attorney coach on re-direct strategies.

**Closing Arguments**

A good closing argument summarizes the case in the light most favorable to your position. The prosecution delivers the first closing argument. The closing argument of the defense attorney concludes the presentations. A good closing argument should:

- Be spontaneous, synthesizing what actually happened in court rather than being “pre-packaged.” **NOTE: Points will be deducted from the closing argument score if concluding remarks do not actually reflect statements and evidence presented during the trial.**
- Be emotionally charged and strongly appealing (unlike the calm opening statement).
- Emphasize the facts that support the claims of your side, but not raise any new facts.
- Summarize the favorable testimony.
- Attempt to reconcile inconsistencies that might hurt your side.
- Be well-organized. (Starting and ending with your strongest point helps to structure the presentation and gives you a good introduction and conclusion.)
- The prosecution should emphasize that the state has proven guilt beyond a reasonable doubt.
- The defense should raise questions that suggest the continued existence of a reasonable doubt.

Proper phrasing includes:

“The evidence has clearly shown that . . .”
“Based on this testimony, there can be no doubt that . . .”
“The prosecution has failed to prove that . . .”
“The defense would have you believe that . . .”

Conclude the closing argument with an appeal to convict or acquit the defendant.

An attorney has one minute for rebuttal. Only issues that were addressed in an opponent’s closing argument may be raised during rebuttal.

**DIAGRAM OF A TYPICAL COURTROOM**
MOCK TRIAL SIMPLIFIED RULES OF EVIDENCE

Criminal trials are conducted using strict rules of evidence to promote fairness. To participate in a Mock Trial, you need to know its rules of evidence. The California Mock Trial program bases its Mock Trial Simplified Rules of Evidence on the California Evidence Code. Studying the rules will prepare you to make timely objections, avoid pitfalls in your own presentations, and understand some of the difficulties that arise in actual court trials. The purpose of using rules of evidence in the competition is to structure the presentation of testimony to resemble a real trial.

Almost every fact stated in the materials will be admissible under the rules of evidence. All evidence will be admitted unless an attorney objects. To promote the educational objectives of this program, students are restricted to the use of a select number of evidentiary rules in conducting the trial.

Objections

It is the responsibility of the party opposing the evidence to prevent its admission by a timely and specific objection. Objections not raised in a timely manner are waived, or given up. An effective objection is designed to keep inadmissible testimony, or testimony harmful to your case, from being admitted. A single objection may be more effective than several objections. Attorneys can, and should, pay attention to objections that need to be made to questions and those that need to be made to answers. Remember, the quality of an attorney’s objections is always more important than the quantity of the objections.

For the purposes of this competition, teams will be permitted to use only certain types of objections. The allowable objections are found in this case packet. Other objections may not be raised at trial. As with all objections, the judge will decide whether to allow the testimony, strike it, or simply note the objection for later consideration. The rulings of the trial judge are final. You must continue the presentation even if you disagree. A proper objection includes the following elements. The attorney:

1. addresses the judge,
2. indicates that he or she is raising an objection,
3. specifies what he or she is objecting to, i.e., the particular word, phrase, or question, and
4. specifies the legal grounds for the objection.

Example: “(1) Your honor, (2) I object (3) to that question (4) because it is a compound question.”
Throughout this packet, you will find sections titled “Usage Comments.” These comments further explain the rule and often provide examples of how to use the rule at trial.

ALLOWABLE EVIDENTIARY OBJECTIONS

1. Unfair Extrapolation (UE)

This objection is specific to California Mock Trial and is not an ordinary rule of evidence.

Each witness is bound by the facts contained in his or her own official record, which, unless otherwise noted, includes his or her own witness statement, the Fact Situation (those facts of which the witness would reasonably have knowledge), and/or any exhibit relevant to his or her testimony. The *unfair extrapolation* (UE) objection applies if a witness creates a material fact not included in his or her official record. A *material fact* is one that would likely impact the outcome of the case.

Witnesses may, however, make *fair extrapolations* from the materials. A fair extrapolation is one in which a witness makes a reasonable inference based on his or her official record. A fair extrapolation does not alter the material facts of the case.

If a witness is asked information not contained in the witness’s statement, the answer must be consistent with the statement and may not materially affect the witness’s testimony or any substantive issue of the case.

Unfair extrapolations are best attacked through impeachment and closing argument. They should be dealt with by attorneys during the course of the trial. (See page 56 on how to impeach a witness)

When making a UE objection, students should be able to explain to the court what facts are being unfairly extrapolated and why the extrapolation is material to the case. Possible rulings by a presiding judge include:

a) No extrapolation has occurred;
   b) An unfair extrapolation has occurred;
   c) The extrapolation was fair.

The decision of the presiding judge regarding extrapolations or evidentiary matters is final.
Usage Comments

The most common example of an unfair extrapolation would be if an expert witness or police officer is questioned about research and procedures that require them to have specialized knowledge outside what is contained in their official records. This type of unfair extrapolation is illustrated in Example #1 below. Example #2 provides a set of facts and an example of fair and unfair extrapolation based on a same sample fact scenario.

Example #1:

A defense expert witness testifies about using fluorescent light when collecting fingerprints, which is described in her witness statement. On cross-examination, the prosecutor asks, “Did you use also use a superglue processing technique to collect fingerprints?” While a superglue processing technique is an actual way to collect fingerprints, the procedure was not mentioned anywhere in the case materials. The defense could object that the question calls for an unfair extrapolation.

Example #2:

Sample Fact Scenario

John Doe, who is being charged with buying stolen goods on a particular night, states the following in his witness statement: “On the night in question, I pulled into the parking lot of the Acme Grocery Store and parked my car. I walked into the store with the other customers, picked up some items, went to the checkout stand, and left the store with my shopping bag.”

Fair Extrapolation: At trial, John Doe testifies to the following: “On the night in question, around 9:00 p.m., I went to the Acme Grocery Store, parked my car, went into the store and purchased milk and a box of cereal.”

The fact that John Doe said he “purchased milk and a box of cereal” is a fair extrapolation. Even though there is no mention of what John purchased in his witness statement, it can be reasonably inferred from the context of his witness statement that he entered the store and purchased groceries. Furthermore, the items he purchased (milk and cereal) do not impact any substantive issue in the case.

Unfair Extrapolation: At trial, John Doe testifies to the following: “I pulled into the parking lot of the Acme Grocery Store and parked my car. I walked into the store, purchased some groceries, and withdrew $200 from the ATM.”
The fact that John Doe withdrew cash is an unfair extrapolation because the fact John withdrew $200 on the night of the crime is material to the charge of buying stolen goods since because it impacts the substantive issues of his motive and means to later buy stolen goods.

Form of Objection: “Objection, your honor. This is an unfair extrapolation,” or “That question calls for information beyond the scope of Mr. Doe’s witness statement.”

NOTE: The Unfair Extrapolation objection replaces the Creation of a Material Fact objection used in previous years in California Mock Trial.

2. Relevance
Unless prohibited by a pretrial motion ruling or by some other rule of evidence listed in these Simplified Rules of Evidence, all relevant evidence is admissible.

Evidence is relevant if it has any tendency to make a fact that is important to the case more or less probable than the fact would be without the evidence. Both direct and circumstantial evidence may be relevant and admissible in court.

Examples:

Eyewitness testimony that the defendant shot the victim is direct evidence of the defendant’s assault.

The testimony of a witness establishing that the witness saw the defendant leaving the victim’s apartment with a smoking gun, is circumstantial evidence of the defendant’s assault.

Usage Comments
When an opposing attorney objects on the ground of relevance, the judge may ask you to explain how the proposed evidence relates to the case. You can then make an “offer of proof” (explain what the witness will testify to and how it is relevant). The judge will then decide whether or not to let you question the witness on the subject.

Form of Objection: “Objection, your honor. This testimony is not relevant,” or “Objection, your honor. Counsel’s question calls for irrelevant testimony.”
3. More Prejudicial Than Probative
The court in its discretion may exclude relevant evidence if its probative value (its value as proof of some fact) is substantially outweighed by the probability that its admission creates substantial danger of undue prejudice, confuses the issues, wastes time, or misleads the trier of fact (judge).

Usage Comments
This objection should be used sparingly in trial. It applies only in rare instances. Undue prejudice does not mean “damaging.” Indeed, the best trial evidence is always to some degree damaging to the opposing side’s case. Undue prejudice instead is prejudice that would affect the impartiality of the judge, usually through provoking emotional reactions. To warrant exclusion on that ground, the weighing process requires a finding of clear lopsidedness such that relevance is minimal and prejudice to the opposing side is maximal.

Example:

A criminal defendant is charged with embezzling money from his employer. At trial, the prosecutor elicits testimony that, several years earlier, the defendant suffered an animal cruelty conviction for harming a family pet.

The prosecution could potentially argue that the animal cruelty conviction has some probative value as to defendant’s credibility as a witness. However, the defense would counter that the circumstances of the conviction have very little probative value. By contrast, this fact creates a significant danger of affecting the judge’s impartiality by provoking a strong emotional dislike for the defendant (undue prejudice).

Form of Objection: “Objection, your honor. The probative value of this evidence is substantially outweighed by the danger of undue prejudice (or confusing the issues, or misleading the trier of fact).”

4. Laying a Proper Foundation
To establish the relevance of direct or circumstantial evidence, you may need to lay a proper foundation. Laying a proper foundation means that before a witness can testify about his or her personal knowledge or opinion of certain facts, it must be shown that the witness was in a position to know those facts in order to have personal knowledge of those facts or to form an admissible opinion. (See “Opinion Testimony” below.)
Usage Comments

Example:

A prosecution attorney calls a witness to the stand and begins questioning with “Did you see the defendant leave the scene of the crime?” The defense attorney may object based upon a lack of foundation. If the judge sustains the objection, then the prosecution attorney should lay a foundation by first asking the witness if he was in the area at the approximate time the crime occurred. This lays the foundation that the witness was at the scene of the crime at the time that the defendant was allegedly there in order to answer the prosecution attorney’s question.

Form of Objection: “Objection, your honor. There is a lack of foundation.”

5. Personal Knowledge/Speculation

A witness may not testify about any matter of which the witness has no personal knowledge. Only if the witness has directly observed an event may the witness testify about it. Personal knowledge must be shown before a witness may testify concerning a matter.

Usage Comments

Witnesses will sometimes make inferences from what they actually did observe. An attorney may properly object to this type of testimony because the witness has no personal knowledge of the inferred fact.

Example:

From around a corner, the witness heard a commotion. The witness immediately walked towards the sound of the commotion, found the victim at the foot of the stairs, and saw the defendant on the landing, smirking. The witness then testifies that the defendant pushed the victim down the stairs. Even though this inference may seem obvious to the witness, the witness did not personally observe the defendant push the victim. So the defense attorney can object based upon the witness’s lack of personal knowledge that the defendant pushed the victim.

Form of Objection: “Objection, your honor. The witness has no personal knowledge to answer that question.” Or “Objection, your honor, speculation.”

6. Opinion Testimony (Testimony from Non-Experts)
Opinion testimony includes inferences and other subjective statements of a witness. In general, opinion testimony is inadmissible because the witness is not testifying to facts. Opinion testimony is admissible only when it is (a) rationally based upon the perception of the witness (five senses) and (b) helpful to a clear understanding of his or her testimony. Opinions based on a common experience are admissible. Some examples of admissible witness opinions are speed of a moving object, source of an odor, appearance of a person, state of emotion, or identity of a voice or handwriting.

Usage Comments

Example:

As long as there is personal knowledge and a proper foundation, a witness could testify, “I saw the defendant who was crying, looked tired, and smelled of alcohol.” All of this is proper lay witness (non-expert) opinion.

Form of Objection: “Objection, your honor. Improper lay witness opinion,” or “Objection, your honor. The question calls for speculation on the part of the witness.”

7. Expert Witness

A person may be qualified as an expert witness if he or she has special knowledge, skill, experience, training, or education in a subject sufficiently beyond common experience. An expert witness may give an opinion based on professional experience if the expert’s opinion would assist the trier of fact (judge) in resolving an issue relevant to the case. Experts must be qualified before testifying to a professional opinion. Qualified experts may give an opinion based upon their personal observations as well as facts made known to them at, or before, the trial. The facts need not be admissible evidence if they are the type reasonably relied upon by experts in the field. Experts may give opinions on ultimate issues in controversy at trial. In a criminal case, an expert may not state an opinion as to whether the defendant did or did not have the mental state in issue.

Usage Comments

Examples:

1. A handwriting comparison expert testifies that police investigators presented her with a sample of the defendant’s handwriting and a threatening letter prepared by an anonymous author. She personally conducted an examination of both documents. Based on her training, her professional experience, and her careful examination of the documents, she concluded that, in her opinion, the handwriting in the
anonymous letter matches the handwriting in the sample of the defendant’s handwriting. This would be an admissible expert opinion.

2. A doctor testifies that she based her opinion upon (1) an examination of the patient and (2) medically relevant statements of the patient’s relatives. Personal examination is admissible because it is relevant and based on personal knowledge. The statements of the relatives are inadmissible hearsay (hearsay is defined in section 9 below) but are proper basis for opinion testimony because they are reasonably relevant to a doctor’s diagnosis. A judge could, in her discretion, allow the expert to describe what the relatives told her and explain how that information supports her opinion. Although those statements would not be admissible to prove the statements are true, they can be used to explain how the statements support the doctor’s opinion.

Form of Objection: “Objection, your honor. There is a lack of foundation for this opinion testimony,” or “Objection, your honor. Improper opinion.”

8. Character Evidence
“Character evidence” is evidence of a person’s personal traits or personality tendencies (e.g., honest, violent, greedy, dependable, etc.). As a general rule, character evidence is inadmissible when offered to prove that a person acted in accordance with his or her character trait(s) on a specific occasion. The Simplified Rules of Evidence recognize three exceptions to this rule:

1. Defendant’s own character
The defense may offer evidence of the defendant’s own character (in the form of opinion or evidence of reputation) to prove that the defendant acted in accordance with his or her character on a specific occasion (where the defendant’s character is inconsistent with the acts of which he or she is accused). The prosecution can rebut the evidence. (See Usage Comments below.)

2. Victim’s character
The defense may offer evidence of the victim’s character (in the form of opinion, evidence of reputation, or specific instances of conduct) to prove the victim acted in accordance with his or her character on a specific occasion (where the victim’s character would tend to prove the innocence of the defendant). The prosecution can rebut the evidence. (See usage comments below.)
3. Witness’s character
Evidence of a witness’s character for dishonesty (in the form of opinion, evidence of reputation, or specific instances of conduct) is admissible to attack the witness’s credibility. If a witness’s character for honesty has been attacked by the admission of bad character evidence, then the opposing party may rebut by presenting good character evidence (in the form of opinion, evidence of reputation, or specific instances of conduct) of the witness’s truthfulness.

Admission of Prior Acts for Limited Non-Character Evidence Purposes

Habit or Custom to Prove Specific Behavior
Evidence of the habit or routine practice of a person or an organization is admissible to prove conduct on a specific occasion in conformity with the habit or routine practice. Habit or custom evidence is not character evidence.

Prior Act to Prove Motive, Intent, Knowledge, Identity, or Absence of Mistake
Nothing in this section prohibits the admission of evidence that the defendant committed a crime, civil wrong, or other act when relevant to prove some fact (such as motive, intent, knowledge, identity, or absence of mistake or accident) other than his or her disposition to commit such an act.

Usage Comments

If any prosecution witness testifies to the defendant’s or victim’s character, the defense may object. But the prosecution may then request to make an offer of proof, or an explanation to the judge, that the prosecution (a) anticipates the defense will introduce evidence of defendant’s or victim’s character, and (b) Mock Trial rules do not allow for rebuttal witnesses or recalling witnesses. If the judge allows, the prosecution may present evidence in the form of opinion, evidence of reputation, or specific instances of conduct to rebut the defense’s anticipated use of character evidence. If this evidence does not come in during the defense, the defense attorney can move to strike the previous character evidence.

Examples:

Admissible character evidence
1. The defendant is charged with embezzlement (a theft offense). The defendant’s pastor testifies that the defendant attends
church every week and has a reputation in the community as an honest and trustworthy person. This would be admissible character evidence.

**Inadmissible character evidence**

2. The defendant is charged with assault. The prosecutor calls the owner of the defendant’s apartment to testify in the prosecution’s case-in-chief. She testifies that the defendant often paid his rent late and was very unreliable. This would likely not be admissible character evidence for two reasons: (1) This character evidence violates the general rule that character evidence is inadmissible (and it does not qualify under one of the three recognized exceptions above), and (2) the character trait of “reliability” is not relevant to an assault charge (by contrast, propensity for violence or non-violence would be relevant character traits in an assault case).

Form of Objection: “**Objection, your honor. Inadmissible character evidence,**” or “**Objection, your honor. The question calls for inadmissible character evidence.**”

**9. Hearsay**

Hearsay evidence is evidence of a statement that was made other than by a witness while testifying at trial and that is offered to prove the truth of the matter stated. (This means the person who is testifying to another person’s statement is offering the statement to prove it is true.) Hearsay is considered untrustworthy because the declarant (aka speaker) of the out-of-court statement did not make the statement under oath and is not present in court to be cross-examined. Because these statements are unreliable, they ordinarily are not admissible.

**Usage Comments**

Testimony not offered to prove the truth of the matter stated is, by definition, *not* hearsay. For example, testimony to show that a statement was said and heard, or to show that a declarant could speak in a certain language, or to show the subsequent actions of a listener, is admissible.

Examples:

1. Joe is being tried for murdering Henry. The witness testifies, “Ellen told me that Joe killed Henry.” If offered to prove that Joe killed Henry, this statement is hearsay and would likely not be admitted over an objection.
2. A witness testifies, “I went looking for Eric because Sally told me that Eric did not come home last night.” Sally’s comment is an out-of-court statement. However, the statement could be admissible if it is not offered for the truth of its contents (that Eric did not come home) but instead is offered to show why the witness went looking for Eric.

Form of Objection: “Objection, your honor. Counsel’s question calls for hearsay.” Or “Objection, your honor. This testimony is hearsay. I move that it be stricken from the record.”

Hearsay Exceptions

Out of practical necessity, the law recognizes certain types of hearsay that may be admissible. Exceptions have been allowed for out-of-court statements made under circumstances that promote greater reliability, provided that a proper foundation has been laid for the statements. The Simplified Rules of Evidence recognize only the following exceptions to the hearsay rule:

a. **Declaration against interest** is a statement which, when made, was contrary to the declarant’s own economic interest, or subjected the declarant to the risk of civil or criminal liability, or created a risk of making the declarant an object of hatred, ridicule, or social disgrace in the community. A reasonable person in the declarant’s position would not have made the statement unless the person believed it to be true.

b. **Excited utterance** is a statement that describes or explains an event perceived by the declarant, made during or shortly after a startling event, while the declarant is still under the stress of excitement caused by the event.

c. **State of mind** refers to a statement that shows the declarant’s then-existing state of mind, emotion, or physical condition (including a statement of intent, plan, motive, mental state, pain, or bodily health).

d. **Records made in the regular course of business (including medical records)** are writings made as a record of an act or event by a business or governmental agency (Mock Trial does not require the custodian of the records to testify). To qualify as a business record, the following conditions must be established:
   (1) The writing was made in the regular course of a business;
   (2) The writing was made at or near the time of the act or event; and
   (3) The sources of information and method of preparation are trustworthy.

e. **Official records by public employees** are writing made by a public employee as a record of an act or event. The writing
must be made within the scope of duty of a public employee.

f. **Prior inconsistent statement** is a prior statement made by a witness that is inconsistent with the witness’s trial testimony.

g. **Prior consistent statement** is a prior statement made by a witness that is consistent with the witness’s trial testimony. Evidence of a prior consistent statement can only be offered after evidence of a prior inconsistent statement has been admitted for the purpose of attacking the witness’s credibility. To be admissible, the consistent statement must have been made before the alleged inconsistent statement.

h. **Statements for the purpose of medical diagnosis or treatment** are statements made for purposes of medical diagnosis or treatment and describing medical history, past or present symptoms, pain, or sensations.

i. **Reputation of a person’s character in the community** is evidence of a person’s general reputation with reference to his or her character or a trait of his or her character at a relevant time in the community in which the person then resided or in a group with which the person habitually associated.

j. **Dying declaration** is a statement made by a dying person about the cause and circumstances of his or her death, if the statement was made on that person’s personal knowledge and under a sense of immediately impending death.

k. **Co-conspirator’s statements** are statements made by the declarant while participating in a conspiracy to commit a crime or civil wrong. To be admissible the following must be established: (a) The statement was made in furtherance of the objective of that conspiracy; (b) the statement was made prior to or during the time that the declarant was participating in that conspiracy; and (c) the evidence is offered either after admission of evidence sufficient to sustain a finding of the facts specified in (a) and (b) or, in the court’s discretion as to the order of proof, subject to the admission of this evidence.

l. **Adoptive admission** is a statement offered against a party, that the party, with knowledge of the content of that statement, has by words or other conduct adopted as true.

m. **Admission by a party opponent** is any statement by a party in an action when it is offered against that party by an opposing party. The statement does not have to be against the declarant’s interest at the time the statement was made.

**Objections for inappropriately phrased questions:**

10. **Leading Questions**
Attorneys may not ask witnesses leading questions during direct examination or re-direct examination. A leading question is one that
suggests the answer desired. Leading questions are permitted on cross-examination.

**Usage Comments**

Example: During direct examination, the prosecutor asks the witness, “During the conversation on March 8, didn’t the defendant make a threatening gesture?” Counsel could rephrase the question, “What, if anything, did the defendant do during your conversation on March 8?”

Form of Objection: “**Objection, your honor. Counsel is leading the witness.**”

**11. Compound Question**

A compound question joins two alternatives with “and” or “or,” preventing the interrogation of a witness from being as rapid, distinct, or effective for finding the truth as is reasonably possible.

**Usage Comments**

Example:

“Did you determine the point of impact from conversations with witnesses and from physical marks, such as debris in the road?” If an objection to the compound question is sustained, the attorney may state “Your honor, I will rephrase the question,” and then break down the question into two separate questions:

Q1: “Did you determine the point of impact from conversations with witnesses?”
Q2: “Did you also determine the point of impact from physical marks in the road?”

Remember that there may be another way to make your point.

Form of Objection: “**Objection, your honor, on the ground that this is a compound question.**”

**12. Narrative**

A narrative question is too general and calls for the witness in essence to “tell a story” or give a broad and unspecific response. The objection is based on the belief that the question seriously inhibits the successful operation of a trial and the ultimate search for the truth.
Usage Comments

Example:

The attorney asks A, “Please describe all of the conversations you had with X before X started the job.” This question calls for the witness to give a long narrative answer. It is therefore, objectionable.

Form of Objection: “Objection, your honor. Counsel’s question calls for a narrative.” Or, “Objection, your honor. The witness is providing a narrative answer.”

13. Argumentative Question
An argumentative question challenges the witness about an inference from the facts in the case. The cross-examiner may not harass a witness, become accusatory toward a witness, unnecessarily interrupt the witness’s answer, or make unnecessary comments on the witness’s responses. These behaviors are also known as “badgering the witness.” (If a witness is non-responsive to a question, see the non-responsive objection (#16) below.)

Usage Comments

Example:

Questions such as “How can you expect the judge to believe that?” are argumentative and objectionable. The attorney may argue the inferences during summation or closing argument, but the attorney must ordinarily restrict his or her questions to those calculated to elicit relevant facts.

Form of Objection: “Objection, your honor. Counsel is being argumentative.” Or “Objection, your honor. Counsel is badgering the witness.”

14. Asked and Answered
Witnesses should not be asked a question that has previously been asked and answered. This can seriously inhibit the effectiveness of a trial.

Usage Comments

Examples:

On direct examination, the prosecution attorney asks, “Did the defendant stop at the stop sign?” Witness answers, “No, he did not.” Then, because it is a helpful fact, the direct examining
attorney asks again, "So the defendant didn’t stop at the stop sign?"
Defense counsel could object on asked-and-answered grounds.

On cross-examination, the defense attorney asks, “Didn’t you tell a police officer after the accident that you weren’t sure whether X failed to stop for the stop sign?” Witness answers, “I don’t remember.” Defense attorney then asks, “Do you deny telling the officer that?” If the prosecution attorney makes an asked-and-answered objection, it should be overruled. Why? In this example, defense counsel rephrased the question based upon the witness’s answer.

Form of Objection: “Objection, your honor. This question has been asked and answered.”

15. Vague and Ambiguous Questions
Questions should be clear, understandable, and as concise as possible. The objection is based on the notion that witnesses cannot answer questions properly if they do not understand the questions.

Usage Comments
Example:

“Does it all happen at once?”

Form of Objection: “Objection, your honor. This question is vague and ambiguous as to “what happened at once.”

16. Non-Responsive Witness
A witness has a responsibility to answer the attorney’s questions. Sometimes a witness’s reply is vague or the witness purposely does not answer the attorney’s question. Counsel may object to the witness’s non-responsive answer.

Usage Comments
Examples:

The attorney asks “Did you see the defendant’s car in the driveway last night? The witness answers, “Well when I got home from work I hurried inside to make dinner. Then I decided to watch TV and then I went to bed. This answer is non-responsive as the question is specifically asking if the witness saw the defendant’s car on the night in question.
Form of Objection: “Objection, your honor. The witness is being non-responsive.”

17. Outside the Scope of Cross-Examination
Re-direct examination is limited to issues raised by the opposing attorney on cross-examination. If an attorney asks questions beyond the issues raised on cross-examination, opposing counsel may object to them.

Form of objection: “Objection, your honor. Counsel is asking the witness about matters beyond the scope of cross-examination.”
Summary of Allowable Evidentiary Objections for the California Mock Trial

1. **Unfair Extrapolation:** “Objection your honor. This question is an “unfair extrapolation,” or “This information is beyond the scope of the statement of facts.”

2. **Relevance:** “Objection, your honor. This testimony is not relevant,” or “Objection, your honor. Counsel’s question calls for irrelevant testimony.”

3. **More Prejudicial Than Probative:** “Objection, your honor. The probative value of this evidence is substantially outweighed by the danger of undue prejudice (or confusing the issues, wasting time, or misleading the trier of fact).”

4. **Foundation:** Objection, your honor. There is a lack of foundation.”

5. **Personal Knowledge/Speculation:** “Objection, your honor. The witness has no personal knowledge to answer that question.” Or “Objection, your honor, speculation.”

6. **Opinion Testimony (Testimony from Non-Experts):** “Objection, your honor. Improper lay witness opinion,” or “Objection, your honor. The question calls for speculation on the part of the witness.”

7. **Expert Opinion:** “Objection, your honor. There is a lack of foundation for this opinion testimony,” or “Objection, your honor. Improper Opinion.”

8. **Character Evidence:** “Objection, your honor. Inadmissible character evidence,” or “Objection, your honor. The question calls for inadmissible character evidence.”

9. **Hearsay:** “Objection, your honor. Counsel’s question calls for hearsay,” or “Objection, your honor. This testimony is hearsay. I move that it be stricken from the record.”

10. **Leading Question:** “Objection, your honor. Counsel is leading the witness.”

11. **Compound Question:** “Objection, your honor. This is a compound question.”
12. **Narrative:** “Objection, your honor. Counsel’s question calls for a narrative.” Or, “Objection, your honor. The witness has lapsed into a narrative answer.”

13. **Argumentative Question:** “Objection, your honor. Counsel is being argumentative,” or “Objection, your honor. Counsel is badgering the witness.”

14. **Asked and Answered:** “Objection, your honor. This question has been asked and answered.”

15. **Vague and Ambiguous:** “Objection, your honor. This question is vague and ambiguous as to ________.”

16. **Non-Responsive:** “Objection, your honor. The witness is being non-responsive.”

17. **Outside Scope of Cross-examination:** “Objection, your honor. Counsel is asking the witness about matters beyond the scope of cross-examination.”
Participating California Counties for 2016–2017

<table>
<thead>
<tr>
<th>Alameda</th>
<th>Los Angeles</th>
<th>Nevada</th>
<th>San Joaquin</th>
<th>Stanislaus</th>
</tr>
</thead>
<tbody>
<tr>
<td>Butte</td>
<td>Madera</td>
<td>Orange</td>
<td>San Luis Obispo</td>
<td>Tulare</td>
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<td>Mendocino</td>
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<td>San Francisco</td>
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