



Syracuse University

College of Law

Syracuse National Trial Competition

UNITED STATES OF AMERICA

v.

JEFF JOSEPH

**COMPETITION
RULES**

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SYRACUSE NATIONAL TRIAL COMPETITION 2022

OFFICIAL RULES

1. **SYRACUSE NATIONAL TRIAL COMPETITION:** The Syracuse National Trial Competition is an invitation-only tournament. This year, twelve law schools from across the country were invited to the competition, based on their application, the school's performance in other national and invitational tournaments, and the school's commitment to training students in the art of trial practice.
2. **ADMINISTRATION OF THE OFFICIAL RULES:** Each law school, by agreeing to participate in the competition, consents to strictly following the Official Rules of the Syracuse National Trial Competition. For purposes of the Syracuse National Trial Competition, the Competition Director is the final decision maker on all questions regarding the interpretation of these rules, all matters of administration of the competition, any protests, and those decisions shall be final. The Competition Director, in her sole discretion, may create additional rules to address situations not presently covered by these competition rules, and those decisions shall be final.
3. **TEAM COMPOSITION:** Each participating law school shall field a team consisting of four students currently enrolled in the sponsoring law school's J.D. program.
4. **ADVOCATES AND WITNESSES:** For each round, two students will be advocates and two students will play their witnesses. Advocates and witnesses may change their roles from round to round, but not during a single trial. It is left to the discretion of the law school to determine if only two, three or all four advocates will have an arguing position at the competition.
5. **ATTORNEY ADVISOR AND COACHING:** Each participating law school shall have a non-student attorney advisor (one who is a licensed attorney) available from the coaches meeting until the conclusion of all trials. Should a team not comply with this requirement, the team will be permitted to compete, but will automatically forfeit all rounds, will not be permitted to advance beyond the preliminary rounds, and will not be permitted to protest or defend a protest. All communication with the Competition Director, before and during the tournament, must be from the attorney advisor, not the students.
6. **COACHING AND ASSISTANCE:** Coaching of a team, including conversations, notes, texting, emails or gesturing, is prohibited during a round including recesses and breaks. During the trials, all four team members may communicate with the other members of their team (whether they are advocates or witnesses). Neither the non-student attorney adviser, nor any other person that is not a member of a particular team, may communicate in any manner with the student members of that team during a round. This prohibition includes recesses and breaks and includes, but is not limited to, verbal conversations, text messaging, instant messaging, notes, and/or gesturing. Student team members MAY talk to other student team members on their own team during rounds. For purposes of this rule, the round starts as soon as the teams begin the meet and confer process and ends once the presiding judge concludes the round.
7. **SCOUTING:** Each team member, coach or other person associated with a team, agrees that they will not observe, attend, listen to, record, discuss or receive any information regarding the trial(s) of other teams. Except in the final rounds, no coach or other person

associated with a team may be present during or watch any part of a round in which that team is not competing. In the semi-final rounds, persons associated with eliminated teams may observe the trials, but may not thereafter describe their observations to the finalists.

8. **ANONYMITY:** Each team will be randomly assigned a letter prior to the competition, which the team shall use throughout the competition as their team designation. Teams shall be identified to the judge and evaluators only by the letter designation. No team member, coach, or person associated with a team shall directly or indirectly attempt to communicate to a judge or evaluator the identity of a particular school, state or region, or demonstrate any affiliation to an organization (whether or not associated with a school, state or region), or display any exhibit books, notepads, or any other paraphernalia identifying a particular school, state or region, or display trophies or any other indicia of competition success.
9. **FEDERAL RULES AND APPLICABLE LAW:** The Federal Rules of Evidence and the Federal Rules of Civil Procedure shall control. Only those rules, and the law provided in the fact pattern, shall be used in argument. Specifically, no statutory, regulatory, or case law shall be cited except for what is provided in the fact pattern. Students may argue the comments or advisory notes to the Federal Rules of Evidence, but may NOT cite the cases contained therein (such as Daubert). This rule does NOT preclude an advocate from arguing that a statement should not be admitted due to a sixth amendment issue (right to confront witnesses), but the advocate shall NOT cite Crawford v. Washington or any other case law.
10. **ETHICAL RULES AND PROFESSIONAL CONDUCT:** The conduct of all participants in the competition, including competitors, witnesses, and coaches, will be governed by the standards set out in the ABA-Model Code of Professional Responsibility and the ABA-Model Rules of Professional Conduct. All participants (including advocates, witnesses, coaches, and advisors) pledge to abide by the above referenced rules and the rules of this competition.
11. **NECESSARY INFERENCE RULE:** SNTC has adopted the Necessary Inference Rule. Teams must confine their presentations to the facts given in the fact pattern, any matters judicially noticeable under Federal Rule of Evidence 201, and those inferences that are absolutely necessary, inescapable and inevitable. For example, if a witness is a police officer, it is a necessary inference that s/he attended a police academy, however, the witness cannot state that they graduated at the top of their class at the academy (unless the witness states that in the fact pattern), as that may enhance the credibility of the witness and/or otherwise presents testimony not contained in the fact pattern. For example, an eye witness states, "I saw a 1965 Ford Mustang heading north on Summit Avenue, run the red light, and T-bone a 2018 Acura heading west through the intersection." Necessary inferences would include the witness having the knowledge and ability to identify the make and model of the cars, and testifying that the front of the Mustang hit the driver side of the Acura. On the other hand, while reasonable inferences, the witness could not testify that the Mustang did not brake or slow, that it was a bright, sunny day; or that the witness called 911. The Necessary Inference Rule will be strictly enforced. Violators run the risk of having points deducted, ballots lost or rounds forfeited. This method of enforcement has been used in the past and will be used in the future if appropriate. Often, questions arise as to whether a cross-examiner may question a witness about non-events that are based on the fact pattern materials. For example, if a witness is a police officer, who stated that s/he conducted an examination of a vehicle, and the record is completely silent on whether the officer found any blood or DNA, the cross-examiner is permitted to question the police

officer on his/her failure to observe/collect blood or DNA samples from the car. Under these circumstances, it would be proper to ask, "you never observed any blood" or "you never collected any DNA samples." In response to those questions, the witness is not permitted to invent facts by saying s/he did observe blood or s/he did collect DNA. Instead, the witness should respond by saying, "no I did not" or "I don't recall." Please note that this rule does not give license to a cross-examiner to question the witness about technical details or statistical analysis that is not contained in the fact pattern, such as the reliability of DNA, the scientific theory of DNA, etc. In this example, it is not permissible to ask the police officer, "you're aware that a margin of error for DNA tests can be as high as five percent." No objections shall be made that the opposing team is going "outside the record," except during closing arguments. Instead, any breach of the Necessary Inference Rule shall be addressed by means of Impeachment (see below). The presiding judge should NOT entertain the objection that the question calls for information "outside the record." An answer to a question is not objectionable on the ground that it is outside the scope of the record.

12. **IMPEACHMENT RULES:** Impeachment is permissible when a witness changes or alters any prior statement they made. The term "statement" includes depositions, grand jury testimony, affidavits, affirmations, statements, and/or reports the witness prepared. In addition, impeachment is permissible when a witness testifies to a fact outside of the record. This is known as impeachment by omission. Should a witness be impeached by omission, the witness MUST admit, if asked, that the facts they have testified to are not in their statement. It is impermissible for a witness to say that they were not asked about those facts in their statement. If asked, the witness should simply answer, "I did not say that in my deposition." If the witness fails to do so, it is a VIOLATION of the rules. The judges will be instructed concerning the significance of this form of impeachment in the mock trial context, and they are likely to account for unfair additions to the record in their scoring of that witness' team.
13. **CONDUCT OF TRIALS:** All trials are jury trials and shall be conducted as if a full jury panel is present. The presiding judge shall rule on all issues throughout the trial, but there will be no ruling by the presiding judge that precludes the trial from being presented to conclusion. The trial will consist of an opening statement, direct examination of two witnesses per side, the cross examination of two witnesses per side, and a closing argument. All trials shall be conducted in the following manner, and the presiding judge and evaluators will be instructed that they can deduct points from anyone that they deem to be violating these or any other rules.
14. **MEET AND CONFER SESSION:** Fifteen minutes before the trial is scheduled to commence, there shall be a meet and confer session. At the meet and confer session, counsel will discuss pretrial issues such as housekeeping matters (not already addressed below) and pre-trial motions. It is suggested that Counsel use their best efforts to agree to any additional housekeeping matters and pretrial motions.
15. **HOUSEKEEPING:** Either or both advocates may address housekeeping matters.
16. **MOTIONS:** All motions made must be argued orally. A motion to exclude all non-party witnesses from the courtroom may be made, and the presiding judge will rule on the motion, but in no event will any witness or other person be required to actually leave the courtroom. One or both advocates may make or respond to pretrial motions, or motions for judgment as a matter of law. However, if one advocate makes a motion, only that advocate

can argue in favor of that particular motion and only one advocate from the other side may respond to that particular motion. Making motions is NOT required, but may be used to evaluate the team's overall performance. In order to allow the case to continue, the presiding judge shall deny any motion for judgment as a matter of law.

17. **OPENINGS AND CLOSINGS:** One team member must make the opening argument, and the other team member must make the closing argument, including any rebuttal argument. During opening statement and closing argument, objections and arguments must be made and responded to only by the advocate assigned to make the corresponding opening statement or closing argument. Counsel for the Prosecution will give their closing argument first, and after Counsel for the Defense gives their closing argument, the Prosecution may give a rebuttal if time permits. Rebuttal is limited to the scope of the defense closing.
18. **DIRECT AND CROSS EXAMINATIONS:** Each team member must conduct one direct examination and one cross examination. A re-direct examination is optional. Re-cross examination is not permitted unless [A] it is being used solely to impeach a witness on a fact testified to for the first time on re-direct that is either directly impeachable or impeachable by omission, and [B] the advocate seeking to re-cross first obtains leave to do so from the presiding judge. When requesting a re-cross examination under this rule, refer to it as the "local impeachment rule." During the testimony of the witness, objections and arguments must be made and responded to only by the advocate assigned to examine or cross-examine the witness. In any event, even if a re-cross examination is allowed to take place, under no circumstances will another re-direct examination be allowed after the re-cross examination concludes.
19. **WITNESSES:** Witnesses may not take any papers or other aids with them on the witness stand. This does not preclude an advocate from refreshing the recollection of a witness or using exhibits, insofar as the same is consistent with the rules of evidence. On cross examination, witnesses must be responsive to the questions and respectful of their opponent's time limit. Where the truthful answer to a question is simply yes or no, that should be the answer. Excessively long answers constitutes bad faith behavior, and judges will be instructed to penalize teams under those circumstances. A witness shall not intentionally and unreasonably refuse to answer questions during cross examination and may not take any action designed to exhaust the time of the cross-examining advocate's team such as repeatedly asking to be refreshed or shown their deposition or statement. Any team that encourages a witness to violate this rule is subject to sanctions consistent with the rules herein. The judges will be instructed concerning the significance of this rule and will be instructed to account for any violations of this rule in their scoring. Other than what is supplied in the problem itself, there is nothing exceptional or unusual about the background information of any of the witnesses that would bolster or detract from their credibility. The witnesses may make necessary inferences based on information provided in the fact pattern, however no one may invent a material fact or individual not contained herein. Teams may not use the characteristics of the students portraying the witnesses to bolster their case, such as stating in closing argument, "you saw how petite the witness was, so you know she couldn't carry a 250-pound body."
20. **OBJECTIONS:** Objections and objection responses shall be brief, limited to the legal basis, and applied to the specific facts of the case. Advocates should not make frivolous objections or use excessive time to argue or respond to objections. While the time consumed by objections is not charged against either team, the presiding judge, in his/her sole discretion, may order time charged against any team that makes frivolous objections

or uses excessive time to respond to objections. The presiding judge and evaluators shall be instructed that they can deduct points from anyone that they deem to be making frivolous and/or excessive objections and/or motions. Beyond the record shall not be entertained as an objection.

21. **WRITTEN MATERIALS:** No written briefs, motions, trial notebooks, copies of the fact pattern, exhibit lists, or other written material shall be offered or provided to the presiding judge or evaluators. All case materials will be provided to presiding judges and witnesses.

EXHIBITS AND WHITEBOARDS: The fact pattern is a closed universe. No outside materials may be used. Competitors are only permitted to use the exhibits provided in the fact pattern. No team may alter, modify, change, or redact an exhibit in any way. This does not apply to redactions ordered during a round by the presiding judge. Copies of any exhibits, jury instructions, or other materials contained in the fact pattern may be enlarged for demonstrative purposes. If desired, exhibit stickers may be removed from enlargements. It will be in the sole discretion of the presiding judge as to whether an enlargement may be used and if any markings can be made on the enlargement. Writing on the enlargements is subject to any appropriate objections by Counsel. Competitors are permitted to use flip charts, white boards or chalk boards for the purpose of drawing demonstrative diagrams, time lines or aids, but these demonstratives must be made DURING the round (and the clock will not be stopped while these demonstratives are being made).

22. **USE OF TECHNOLOGY:** Competitors will NOT have access to and are not permitted to use technology, which includes, but is not limited to, a document camera, power-point and/or other audio-visual aids.

23. **TIME RESTRICTIONS:** Each team shall be allotted 70 minutes to completely try their side of the case, and may allocate their time in any way they wish, so long as their entire case is presented according to the rules of the competition. The bailiff will track time for both teams.

MEET AND CONFER SESSION: The time used for the meet and confer session will not be assessed against the 70 minute time restriction, however, no team shall spend more than 10 minutes at the session.

APPEARANCES AND HOUSEKEEPING: The time used for appearances will not be assessed against the 70 minute time restriction. The time used for housekeeping will not be assessed against the 70 minute time restriction, however, no team shall spend more than 2 minutes addressing housekeeping matters.

PRETRIAL MOTIONS: Teams may present pretrial motions orally prior to the opening statements. Pretrial motions will not count toward the 70 minute time restriction. The Prosecution shall have a total of 7 minutes to make pretrial motions and to respond to the Defense's pretrial motions. The Defense shall have a total of 7 minutes to make pretrial motions and to respond to the Prosecution's pretrial motions.

OTHER MOTIONS: Teams may make and respond to motions for judgment as a matter of law. These motions will not count toward the 70 minute time restriction. The Prosecution shall have a TOTAL of 3 minutes to make and respond to the

Defense's motions. The Defense shall have a total of 3 minutes to respond to make and respond to the Prosecution's motions.

OBJECTIONS: The time spent arguing and answering objections will not be assessed against the 70 minute time restriction. The clock shall be stopped for objections and responses to objections.

CLOSINGS AND REBUTTAL: The Prosecution need not ask to reserve rebuttal time, as they will have whatever time remains, up to 5 minutes.

TIME NOTIFICATIONS: Each team will be notified of their remaining time by the bailiff at mid-trial and before closing arguments only.

TIME EXTENSIONS: The presiding judge or Competition Director may extend any of these time restrictions ONLY where an opponent used excessive time in answering questions or making objections, to resolve time keeping mistakes, and/or to address an inequity.

24. **JUDGES AND EVALUATORS:** The presiding judge will be given the entire case file, however, the evaluators will only be given the case summary and the exhibits contained within the fact pattern. At the discretion of the Competition Director, evaluators will be provided with the entire case file, for example, if the evaluators request such. Before the start of each round the Competition Director shall instruct the judges and evaluators to ignore regional variations of courtroom practice, to evaluate the teams on the basis of performance and not the apparent merits of the case, and not to announce the result of the round to the students. The Competition Director may also give such other instructions as are appropriate.
25. **CONFLICTS AND DISCLOSURE:** If a judge or evaluator knows a team member, competitor, witness or other person associated with a team, the judge or evaluator must advise the bailiff and/or Competition Director of this prior to the round commencing so a substitution can be made. If a team member, competitor, witness, coach, advisor and/or other person associated with a team knows the judge and/or evaluator(s), they are required to inform the bailiff and/or Competition Director before the round so a substitution may be made. Failure to do so on the part of the team member, competitor, witness, coach, advisor and/ or other person associated with the team may result in disqualification of the team from the Competition.
26. **SCORING:** The Competition Director will make every reasonable effort to provide a panel of 3 or more evaluators for each round, and 1 of those evaluators will be designated as the presiding judge prior to the round. If a trial includes more than 3 evaluators, the Competition Director will decide before the trial, but will not announce to the competing teams, which 3 ballots will count toward the results (the presiding judge is eligible to have a ballot and will likely be a scoring judge). If a trial has only 2 evaluators, their scores will be averaged to create a third (or ghost) ballot. If their averages create a tie, the presiding judge's ballot will break the tie with an additional point. Each evaluator will evaluate each team's performance based upon a 100-point scale. No ties will be permitted on any individual ballot. Each evaluator will be allotted 1 vote, and the scoring rubric is as follows: up to 20 points for the opening statement, up to 15 points for each direct examination, up to 15 points for each cross-examination, and up to 20 points for closing argument. The winner of the round will be determined by the majority of win votes by the panel of evaluators. Scoring will be by

points. No ties will be permitted on any individual ballot. All rounds outside of preliminary rounds will be single elimination based on a winning vote.

27. **JUDGE AND EVALUATOR SCORES AND FEEDBACK:** At the end of each round, the bailiff will ask the competitors, coaches and other spectators to leave the room while the evaluators complete their score sheets. After the score sheets are transmitted to the Competition Director or designee, the evaluators will provide feedback to the competitors. We will ask the evaluators to confine their comments to one positive and one negative comment per advocate/witness. If the evaluation lasts more than 10 minutes, the bailiff will take steps to bring the feed-back session to a conclusion. The competitors are not permitted to ask the evaluators about the scores, win-loss record or similar information.
28. **SEEDING:** The following rules pertain to the seeding of teams during the preliminary rounds and the advanced rounds.

PRELIMINARY ROUNDS AND SEEDING: There will be 4 preliminary rounds. All teams will try the case twice on each side. Teams will not meet each other twice in the preliminary rounds. During the 4 preliminary rounds, each team will argue the Prosecution's case twice and the Defense's case twice. This year, there will be no power pairing of the fourth round. All 4 rounds will be randomly paired.

ADVANCED ROUNDS AND SEEDING: Following the preliminary rounds, teams will advance to the Semi-Finals and a Final Round. Advancing teams will be selected based on the following criteria used in the following order: [A] win/loss record, [B] total ballots, [C] point differential, and [D] coin toss. For example, a team with two wins and four judges will be seeded higher than a team with one win and four judges; a team with two wins, four judges and 210 points will be seeded higher than a team with two wins, four judges, and 200 points. The semi-finalists shall be seeded based on their performance in the preliminary rounds, and the draw for the semi-final round shall seed 1 v 4 and seed 2 v 3. If the teams faced each other in preliminary rounds, they will reverse sides. Otherwise, the higher seeded team shall choose sides. In the final round, if the teams have faced each other in the preliminary rounds, they will reverse sides. If the finalists had opposite sides in the semi-finals, they shall switch sides from the semi-finals. If the finalists had the same side in the semi-finals, the higher seeded team shall choose sides. All rounds outside of preliminary rounds will be single elimination based on a winning vote.

29. **QUESTIONS AND PROTESTS:** All participants are encouraged to act within the spirit and letter of the competition rules, however, if there is a violation of these rules, a competitor may lodge a protest. Protests under this procedure are not encouraged, and are not intended to be and should not become part of the competitive process. They are a last resort. Accordingly, any and all protests should be limited to violations of the competition rules and/or relevant unethical standards, that are well grounded in facts. All questions arising during the competition itself, including any protest about the conduct of a round, shall be addressed to the Competition Director as soon as possible after the matter arises and no later than 5 minutes after the conclusion of a round in question. The conclusion of the trial means the moment the judges from the round dismiss the competitors. The bailiff is responsible for keeping the 5 minute deadline. The protest must be lodged by calling the Competition Director (315-383-3344) and/or the Competition Coordinator (724-541-4367), and advising them of the nature of the protest. Immediately after contacting the Competition Director and/or Competition Coordinator, the protesting team must notify the accused

participant(s) of the specific allegations, after which time the accused participant(s) must call the Competition Director and/or Competition Coordinator and advise of their response. After receiving the response, the Competition Director will consider and decide the matter according to such procedures and standards as she may determine, including but not limited to holding a meeting and/or submitting the matter to a protest committee. The Competition Director may also decline to decide a protest if allowance of the protest would not affect the outcome, that is, the determination of the winners of the round. The Competition Director may, but is NOT required to, consult with the judges or evaluators, about the protested round when deciding the protest. The protest should be determined as soon as practicable. If the Competition Director determines that there was a violation of the rule(s) and/or unethical conduct, s/he will decide what, if any, sanctions should be imposed. Sanctions may include, but are not limited to, a warning, instruction to the judges, time deduction for culpable team or time addition for the aggrieved team, point deduction, ballot forfeiture, round forfeiture, removal from the competition, disqualification of the team that violated tournament rules. A disqualified team is not entitled to a refund of its registration fee. The severity of the sanction will depend on the nature of the offense. Competitors will be notified of the decision and any sanctions. The decision of the Competition Director shall be final.

30. **FACT PATTERN:** Contact with the Competition Director concerning this fact pattern must be pursuant to the rules of the competition. No one shall attempt to contact the drafter of the fact pattern before the conclusion of the 2022 Syracuse National Trial Competition Final Round. Prior to certain rounds, the SNTC may make changes to the fact pattern. Teams will be asked to incorporate the changes and judges will be instructed of the changes and told to consider the team's use of the new information in their scoring.