



VINCENT J. APRUZZESE

MOCK TRIAL COMPETITION

2015-2016 HIGH SCHOOL WORKBOOK



Sponsored by the New Jersey State Bar Foundation
in Cooperation with New Jersey's County Bar Associations
and the New Jersey State Bar Association

Celebrating 34 Years of Service to the Educational Community

ATTENTION TEACHER-COACHES

CASE CLARIFICATIONS

We do not send mock trial case clarifications or updates by mail. It will be your responsibility to check our website, www.njsbf.org, periodically for possible updates or corrections.

CODE OF CONDUCT

Teacher- and attorney-coaches, students, parents and observers are expected to abide by the provisions of the competition's Code of Conduct. See Part I of this workbook for details.

UPDATES

Some changes have been made to the Rules of Evidence in Part VI. Please review Rule 404 and Article VIII carefully.

The Explanation of Performance Ratings has been revised. See Part XI.

BEHAVIOR OF CONTESTANTS, JURORS AND OBSERVERS

Students and adults who participate in the New Jersey State Bar Foundation's High School Mock Trial Competition are expected to comport themselves properly in and out of the courtroom. Students and observers must respect their surroundings. Contestants and observers must (a) remove their litter from courtrooms and other areas and place trash in receptacles; (b) refrain from entering sections of the courthouses or other facilities where they are not authorized to be such as judges' chambers, conference rooms, offices, etc.; (c) refrain from using or removing property belonging to the courthouses or other facilities; (d) refrain from tampering with sound systems and (e) leave the courtrooms, jury rooms, restrooms, and common areas of the courthouses or other facilities in good order. Failure to do so may result in sanctions, including, but not limited to, the team's immediate disqualification from the competition.

Vincent J. Apruzzese
2015-2016 High School Mock Trial Competition
Sponsored by the New Jersey State Bar Foundation

OFFICIAL ENTRY FORM

In order to enter the competition, you must complete this Official Entry Form. All entries must be received no later than October 23, 2015. Please type or print clearly.

Name of School _____

School Address _____

_____ Zip _____

County in which School Is Located _____

Name of Teacher-Coach _____

Area Code, Telephone Number and Ext. (work) _____ (home) _____

School Fax Number _____ Date Submitted _____

E-mail Address _____

Please check the following where applicable:

- I need a lawyer-coach.
- I already have a lawyer-coach. His/her name is: _____
- This is my first year coaching mock trial.
- This is the school's first year of participation in mock trial.
- We are mock trial "veterans."
- Other (please explain): _____

Please return this completed entry form to: Sheila Boro, High School Mock Trial Competition, New Jersey State Bar Foundation, New Jersey Law Center, One Constitution Square, New Brunswick, NJ 08901-1520. Fax number: 732-828-0034.

Please Note: You must complete and return this form to the State Bar Foundation in order to enter the competition. Please keep a copy for your records.

Mock Trial Competition

Statement of Goals

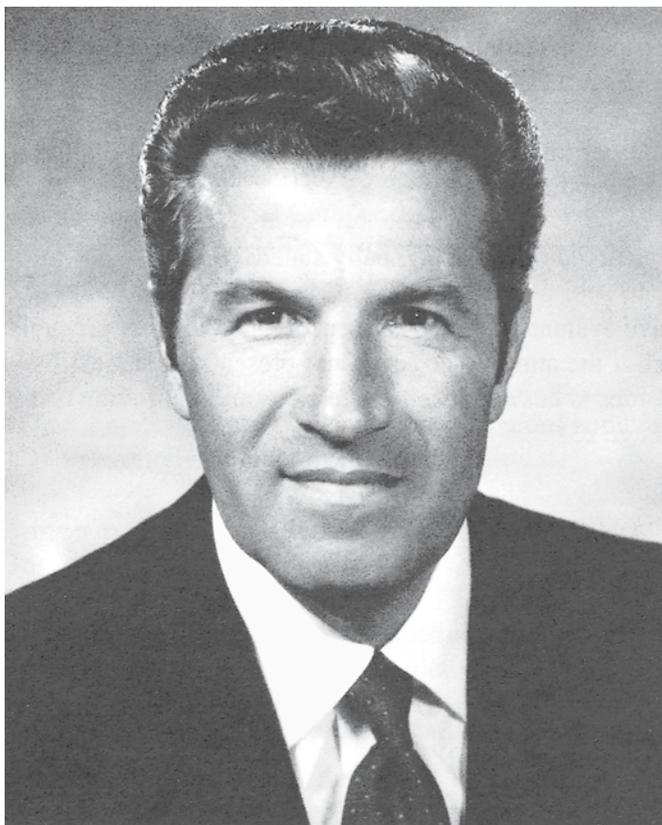
To increase comprehension of the historical, ethical and philosophical basis of the American system of justice.

To demystify the operation of the law, court procedures and the legal system.

To help students increase basic life and leadership skills such as listening, speaking, writing, reading and analyzing.

To heighten appreciation for academic studies and promote positive scholastic achievements.

To bring law to life for students through active preparation for and participation in the competitions. The goal is not to win for the sake of winning, but to learn and understand the meaning of good citizenship in a democracy vis-a-vis our system of law and justice. In this sense, all the students who participate will be winners.



Vincent J. Apruzzese, Esq.

In recognition of his many years of service, the New Jersey State Bar Foundation named its Mock Trial Competition in honor of Vincent J. Apruzzese, Esq. in 1991. Mr. Apruzzese is a past president of the New Jersey State Bar Association. He led the drive to build the New Jersey Law Center, served as the first chairman of the New Jersey State Bar Foundation, and was chair of the Foundation's Public Education Committee for several years. This competition is a fitting tribute to his leadership, indefatigable spirit and insight in implementing free law-related education programs for the public and particularly for young people.

VINCENT J. APRUZZESE

MOCK TRIAL

COMPETITION

Dear Educator:

The New Jersey State Bar Foundation's Mock Trial Competition, now in its 34th year, is one of the nation's foremost contests of its kind for high school students. Our Mock Trial Competition has won many national awards for excellence in educational programming.

We thank you, the educators, and your students for your strong support and interest in the Mock Trial Competition. Last year 230 teams registered statewide. We look forward to working with you again in the year ahead.

The New Jersey State Bar Foundation's Mock Trial Competition is made possible by a network of support and cooperation from New Jersey's 21 County Bar Associations. County bar volunteers coordinate trials at the local levels and devote countless hours each year to bring this exciting educational program to students throughout the state. Volunteer attorneys from the counties will assist you and your team in preparing for the competition. This program is made possible through funding from the IOLTA Fund of the Bar of New Jersey.

We hope you'll join us in this classic educational event.

Sincerely,



Ronald C. Appleby, Jr., Esq.
Chair, Mock Trial Committee

VINCENT J. APRUZZESE
**MOCK TRIAL
COMPETITION**

*Sponsored by the New Jersey State Bar
Foundation*

FREE Mock Trial Workshop for Teachers & Attorneys

Learn how to conduct a mock trial and prepare your team for the New Jersey State Bar Foundation's High School Mock Trial Competition on **Wednesday, October 21, 2015** at the New Jersey Law Center in New Brunswick from **9:00 a.m. to 1:15 p.m.**

The workshop is for teachers and attorneys (county coordinators and attorney-coaches) only. Due to space limitations, we regret that we cannot accommodate students.

Teachers attending the entire workshop will receive professional development hours.

An overview of the mock trial structure, from local contests through statewide finals, will be presented. Students will enact this year's case. A mock trial judge will explain how teams will be evaluated. The revised rules of evidence will be discussed.

The workshop is free but reservations are required. Please complete and return the form below.

Please keep a copy of this workshop form for your records. Directions follow:

From NJ Turnpike: Take Exit 9 to Route 18 North to Route 1 South. Take Route 1 South to Ryders Lane, New Brunswick (FIRST EXIT). The Law Center is the first right turn off of Ryders Lane.

From Trenton: Take Route 1 North to second Ryders Lane sign (RYDERS LANE-NEW BRUNSWICK). Ryders Lane passes over Route 1. The Law Center is the first right turn off of Ryders Lane.

For further information about directions, call 732-249-5000 or visit our website at www.njsbf.org.

Please Note: This is a registration form for the workshop only. It is **not** an entry form. You must complete an **Official Entry Form** in order to enter the competition.

HIGH SCHOOL MOCK TRIAL WORKSHOP

- Please register me/us for the free workshop on October 21, 2015. I understand that this workshop is for teachers and lawyers only, not students.

NAME(S) _____

SCHOOL OR LAW FIRM ADDRESS _____

WORK PHONE _____ HOME PHONE _____

I am a Teacher Attorney-Coach County Coordinator

Return to: Sheila Boro • New Jersey State Bar Foundation • One Constitution Square
New Brunswick, NJ 08901-1520 • Fax number: 732-828-0034

VINCENT J. APRUZZESE
HIGH SCHOOL MOCK TRIAL COMPETITION
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* The New Jersey State Bar Foundation gratefully acknowledges the assistance of the Mock Trial Committee and the following volunteers in preparing this year’s original case: The Hon. Marilyn C. Clark, Presiding Judge, Criminal Part, Superior Court, Passaic County; Mock Trial Committee Chair Ronald C. Appleby Jr., Esq.; and committee members Gwendolyn Y. Alexis, Esq., Gina L. Campanella, Esq., Kathleen M. Dotoli, Esq., Naju R. Lathia, Esq., and Ray Politowski, and to Nicholas Sewitch, instructor/adjunct professor in the Criminal Justice Department at Monmouth University, for consulting on aspects of homicide and crime scene investigation. Special thanks to Deborah Shore, Esq. for revising the Explanation of Performance Ratings and to Mary Beth Clark, Esq. for updating the Rules of Evidence.

The Vincent J. Apruzzese High School Mock Trial Competition is sponsored by the New Jersey State Bar Foundation in cooperation with the New Jersey State Bar Association and New Jersey’s County Bar Associations, and is funded by the IOLTA Fund of the Bar of New Jersey.

PART I
CODE OF CONDUCT
For Participants in the
Vincent J. Apruzzese High School Mock Trial Competition

Please review the following revised code carefully. It is the teacher-coach's responsibility to obtain all required signatures.

OVERALL PURPOSE AND SPIRIT OF THE COMPETITION

The Vincent J. Apruzzese High School Mock Trial Competition ("Mock Trial Competition") has been created for the purpose of stimulating and encouraging a deeper understanding and appreciation of the American legal system by high school students. Because of the competition's experiential educational format, learning derives from various sources and results from both articulated and unarticulated messages. The students learn proper comportment from each other, their teacher-coaches, their attorney-coaches, the volunteer mock trial judges and their parents and other guest-observers in the courtroom. Given the multifarious sources of student learning in the Mock Trial Competition, this Code of Conduct interprets "Participants" to include not only the students, but all of those who have the potential to influence student learning. In keeping with this interpretation, "Extensions" of this Code of Conduct must be executed by the team members, the teacher-coach and the attorney-coach. **In addition, each teacher-coach is required to provide parents and other guest-observers with copies of this Code of Conduct.**

SPECIFIC GOALS OF THE MOCK TRIAL COMPETITION

All Participants shall in manner and in deed do their parts in helping the Mock Trial Competition achieve the following specific goals:

- Promote cooperation, academic integrity, honesty and fair play among students.
- Promote good sportsmanship and respect for others in both victory and defeat. Participants must also demonstrate respect for County Mock Trial Coordinators, mock trial personnel, mock trial judges and other volunteers who make this competition possible.
- Promote good faith adherence to the Mock Trial Competition rules and procedures.
- Improve proficiency in speaking, listening, reading, reasoning and analytical skills.
- Promote respect for the judicial system and instill a notion of proper courtroom decorum. This includes respect for the courthouse and other venues where mock trials take place.
- Promote congeniality and open communication between the educational and legal communities.

SPECIFICALLY PROHIBITED NEGATIVE BEHAVIORS

Although not exhaustive, the following list contains behaviors that are directly opposed to the goals and objectives of the Mock Trial Competition and which, if engaged in, will constitute grounds for such disciplinary action as the County Coordinator at the local level (or Mock Trial Committee at state regional, semi-final and final levels) deems appropriate given the circumstances:

- Failure of the teacher-coach (a) to familiarize all parents and guest-observers with the contents of this Code of Conduct, or (b) to submit Extensions of this Code of Conduct executed by the team members, teacher-coach, and attorney-coach to the County Coordinator prior to the first round of competition.
- Use of communications technology (audio recording, visual recording, telephone, text-messaging by telephone, BlackBerry, laptop or other telecommunications device) by a team member (a) to communicate with any member of its team during an ongoing mock trial round, or (b) to record or in any way memorialize any portion of a round of the competition in which the team is not a participant. Students are not permitted to use iPads, laptops, cell phones or any electronic or telecommunication devices while competing.

- Acceptance of an audiotape, videotape, DVD recording, CD recording, or other transcription of the performance of another team in a round that the recipient did not participate in, even if the recipient has not viewed the material, listened to the recording or read the transcript.
- Plagiarism by any member of a team or any team's use of material plagiarized by its teacher-coach, its attorney-coach, or by the parents or guest-observers of team members.
- Direct verbal or written communication outside of the courtroom with a volunteer mock trial judge by any team, its teacher-coach, its attorney-coach or the parents or guest-observers of team members, except as permitted after the trial for the teacher- or lawyer-coach under R.5:3-6.

ACCOUNTABILITY FOR AND CONSEQUENCES OF ENGAGING IN PROHIBITED CONDUCT

All Participants, including parents and guest-observers, must adhere to the rules and procedures of the Mock Trial Competition and this Code of Conduct (which includes by this reference the Extensions signed by the student teams, teacher-coaches and attorney-coaches). Failure to abide by the Mock Trial Code of Conduct is sufficient grounds for disqualification and dismissal of the team with which the offender(s) is directly or indirectly connected at the sole discretion of the County Coordinator at the local level or the Mock Trial Committee at the state regional, semi-final and final levels.

EXTENSION OF CODE OF CONDUCT

To Be Signed by Teacher-Coach Participants in the Vincent J. Apruzzese High School Mock Trial Competition

I have read and fully commit myself to the overall purpose and spirit of the Mock Trial Competition. Moreover, I endorse the specific goals of the Mock Trial Competition as set forth in the Code of Conduct and agree not to engage in or condone any of the negative behaviors set forth therein. I execute this Extension of said Code of Conduct in my role as teacher-coach, hereby agreeing to focus attention on the educational value of the Mock Trial Competition.

I agree to act as an adult role model for my students and to discourage willful violations of the rules. I will instruct my students as to proper procedure and decorum and will assist them in understanding and abiding by the competition rules and procedures as well as adhering to the spirit of this Code of Conduct. By action and by deed, I will teach my students the importance of treating others with respect and courtesy. In my interaction with other teacher-coaches, attorney-coaches, mock trial judges, county mock trial coordinators, other volunteers and mock trial personnel, I will set an example that my students can follow.

I understand that I have the following responsibilities for which I, alone, am accountable:

- Training students to fulfill the role of jurors and bringing a sufficient number of student jurors to each round of competition.
- Circulating the Code of Conduct to all parents and guest-observers in advance of their attending any of the rounds of competition.

I agree that I will not disseminate any reproduction of any portion of this competition without the express written consent of each student and the parent/guardian of each, as well as the permission or consent of the student's own coach, whose images may be captured on film or other telecommunications technology. I will not post any images from this competition on Facebook, MySpace, Twitter or any other social networking site without the permission as set forth above. I will not encourage or permit anyone else to do so, and will report same if it happens. I further agree that any violation of this rule subjects me to removal from the competition and places my entire team in jeopardy of being severely penalized for my actions.

I agree to act as a role model by carrying out my responsibilities as a teacher, never forgetting that I am representing the educational system in addition to coaching high school students as their mock trial advisor. Thus, I will zealously encourage fair play and promote conduct and behavior that is in keeping both with proper courtroom decorum and the spirit of the Mock Trial Competition. I will discourage skirting the rules and engaging in obstructionist behavior that interferes with the orderly flow of courtroom procedures. I agree to inculcate the highest standards of the education profession by discouraging a culture of win-at-any-cost and by promoting a spirit of willing compliance with the rules of the competition and the ethical guidelines provided by this Code of Conduct.

Date: _____

Teacher-Coach

School

EXTENSION OF CODE OF CONDUCT

To Be Signed by Attorney-Coach Participants in the Vincent J. Apruzzese High School Mock Trial Competition

I have read and fully commit myself to the overall purpose and spirit of the Mock Trial Competition. Moreover, I endorse the specific goals of the Mock Trial Competition as set forth in the Code of Conduct and agree not to engage in or condone any of the negative behaviors set forth therein. I execute this Extension of said Code of Conduct in my role as attorney-coach, hereby agreeing to abide by the rules and procedures of the Mock Trial Competition and to uphold the highest standards of the legal profession.

I agree to act as a role model of our honorable profession by carrying out my responsibilities as an officer of the court, never forgetting that I am representing the judicial system in addition to coaching high school students as their mock trial advisor. Thus, I will zealously encourage fair play and promote conduct and behavior that is in keeping both with proper courtroom decorum and the spirit of the Mock Trial Competition. I will discourage skirting the rules and engaging in obstructionist behavior that interferes with the orderly flow of courtroom procedures. I agree to inculcate the highest standards of the legal profession by discouraging a culture of win-at-any-cost and by promoting a spirit of willing compliance with the rules of the competition and the ethical guidelines provided by this Code of Conduct.

I agree that I will not disseminate any reproduction of any portion of this competition without the express written consent of each student and the parent/guardian of each, as well as the permission or consent of the student's own coach, whose images may be captured on film or other telecommunications technology. I will not post any images from this competition on Facebook, MySpace, Twitter or any other social networking site without the permission as set forth above. I will not encourage or permit anyone else to do so, and will report same if it happens. I further agree that any violation of this rule subjects me to removal from the competition and places my entire team in jeopardy of being severely penalized for my actions.

Date: _____

Attorney at Law, State of New Jersey

School

EXTENSION OF CODE OF CONDUCT

To Be Signed by Student Team Member Participants in the Vincent J. Apruzzese High School Mock Trial Competition

As a Team Member/Juror of _____ High School, I state that I have read and fully commit myself to the overall purpose and spirit of the Mock Trial Competition. Moreover, I endorse the specific goals of the Mock Trial Competition as set forth in the Code of Conduct and agree not to engage in or condone any of the negative behaviors set forth therein. I execute this Extension of said Code of Conduct as a condition of participation in the Mock Trial Competition and hereby promise to compete with the highest standards of comportment, showing respect for my fellow students, opponents, judges, attorney-coaches, teacher-coaches, county mock trial coordinators and mock trial personnel.

I agree to accept both defeat and success with dignity and restraint. I promise to avoid all tactics that I know are wrong or in violation of the rules. I make a commitment to comply with the rules of the competition in spirit and in practice. I will not plagiarize or accept plagiarized material. I will not use telecommunications technology to circumvent the rules or to gain unfair advantage. I understand that use of telecommunications technology in the courtroom by any Participant (with the exception of permissible videotaping by participating teams per R.2:5-3) seeking to gain advantage for a team subjects that team to the risk of disciplinary action, which could result in an expulsion of the team from the competition or in the lesser penalty of a score reduction.

I agree that I will not disseminate any reproduction of any portion of this competition without the express written consent of each student and the parent/guardian of each, as well as the permission or consent of the student's own coach, whose images may be captured on film or other telecommunications technology. I will not post any images from this competition on Facebook, MySpace, Twitter or any other social networking site without the permission as set forth above. I will not encourage or permit anyone else to do so, and will report same if it happens. I further agree that any violation of this rule subjects me to removal from the competition and places my entire team in jeopardy of being severely penalized for my actions.

By signing below, I agree to vigorously uphold the Code of Conduct of the Mock Trial Competition:

Date: _____	_____

PART II

RULES OF GENERAL APPLICATION

RULE 2:1 APPLICABILITY, SCOPE, CONSTRUCTION AND CITATION OF RULES

2:1-1 APPLICABILITY; SCOPE

The Vincent J. Apruzzese Mock Trial Competition is governed by these Rules of Procedure and Evidence. Additional rules regarding the competition and its procedures are contained throughout this workbook. Please read the entire workbook carefully. **Other rules of procedure or evidence may not be raised.**

2:1-2 CONSTRUCTION

These rules shall be construed to secure a just determination, simplicity in procedure, and fairness in administration of the competition.

2:1-3 CITATION

Attorneys should be prepared to cite the specific rule number upon which an objection is based if requested to do so by judges.

RULE 2:2 GENERAL CONTEST FORMAT

2:2-1 LOCAL COMPETITIONS

Each team must compete in at least two trials, switching sides for the second trial. If there are an uneven number of teams in the initial two trials, the County Mock Trial Coordinator has the discretion to ask teams to volunteer to play both sides at the same time or to randomly assign team(s) to do so. Contestants must be prepared to field both sides simultaneously if necessary. If a team does not have enough members to play both sides at once, the teacher-coach must notify the County Mock Trial Coordinator in advance.

In the event of an emergency, last-minute cancellation by a team, or failure of a team to appear, which may create an uneven number of teams competing, the County Mock Trial Coordinator shall designate one team to field both sides.

After each team has had an opportunity to play both sides, the County Mock Trial Coordinator may elect to utilize a single-elimination or other format. The County Mock Trial Coordinator has the authority to configure local contest schedules. The County Mock Trial Coordinator will determine which teams advance based upon win/loss record and point scores. In a configuration where teams play only two rounds initially, a team with two losses should not advance and a team with two wins should advance. Where three rounds of competition are initially scheduled, a team with three losses should not advance and a team with three wins should advance.

If a team has questions about the local competition, the teacher-coach should contact the County Mock Trial Coordinator. Names and phone numbers of County Mock Trial Coordinators are posted on our website, www.njsbf.org.

2:2-2 DATES AND TIMES; FAILURE TO APPEAR

Local contest dates and times will be determined by county coordinators. **Failure to appear on the dates specified by the County Mock Trial Coordinator will result in forfeiture.** The county coordinator works very hard to arrange contest schedules, and teams should make every effort to participate in the local contest once they have entered. Last-minute cancellations create scheduling difficulties for everyone.

2:2-3 POSTPONEMENTS

Postponements may be made only by the county coordinator.

2:2-4 CHANGES TO RULES AND PROCEDURES

No rule or procedure may be changed after the 30th day preceding the first contest.

2:2-5 OFFICIAL REPRESENTATIVE OF EACH TEAM

The official representative of a mock trial team is the teacher-coach, not students, lawyer-coaches or others. All communications regarding a team must be made by and through the teacher-coach as official team representative.

Communications received from students will not be answered. See R.2:14-15. Teacher-coaches and attorney-coaches are prohibited from coaching more than one team in any given year.

2:2-6 WORKBOOKS

Workbooks may be photocopied as necessary, and permission to photocopy a workbook is hereby granted. Please download the workbook from the Foundation's website, www.njsbf.org.

RULE 2:3 TEAMS

2:3-1 TEAM MEMBERS

A competing team in any given round shall consist of no more than TEN (10) students—two (2) attorneys, three (3) witnesses and alternates—plus the teacher-coach. A school may enter ONE (1) team only. For any single trial, a team must consist of two (2) attorneys and three (3) witnesses. The competition is open to New Jersey high schools only. **For our policy regarding a combined team, please see the back of this workbook.**

2:3-2 IDENTIFICATION OF TEAMS

Teams will be identified by I.D. numbers, not high school names, and teams should not bring materials, such as notebooks, T-shirts, school newspapers, etc., that would identify their schools. Guests of each team should similarly be requested to refrain from wearing or bringing items to contests that would identify the schools with which they are affiliated. Contestants are not permitted to identify their school or the opposing team's school to the judges.

2:3-3 STUDENT JURIES

Each team should bring SIX (6) student jurors to each competition. Team members may serve as jurors in rounds in which their team is not playing, and jurors may serve as team members in rounds in which they are not serving as jurors. A student should not serve as a juror on a trial in which his or her school is participating unless there are extenuating circumstances. Rules pertaining to student jurors are set forth infra at R. 2:4.

RULE 2:4 STUDENT JURIES

2:4-1 PURPOSE OF STUDENT JURIES

The purpose is to provide students with a better understanding of the duties and responsibilities of jurors and to enable more students to participate in the competition.

2:4-2 JURY CHARGE

Because of time restraints, actual procedures for selection and “charge” of jurors will not be followed. Juries will render their decision based upon a simplified charge and upon the factual testimony they have heard during the course of the trial. (The charge to the jury is the final address by the judge to the jury before the verdict, in which the judge sums up the case and instructs the jury as to the rules of law which apply to its various issues and which they must observe.) The judge will not read the charge to the jury. Jurors are expected to be familiar with the contents of the jury charge.

2:4-3 JURY VERDICT

Student juries will be required to render a verdict based upon the merits of the case and applicable law. They will **not** at any time determine which team wins or advances to the next round. That decision will be made by the judges only. Jurors will neither score team performances nor will their verdicts or performances as jurors be scored.

2:4-4 PROHIBITIONS

Jurors are not allowed to take notes or use recording devices.

2:4-5 PROCEDURES

In all competitions, the jurors from losing teams will be released, except for the runners-up. In each phase, jurors from first runner-up teams will be eligible to act as jurors in the final competition on the local or regional level. The runners-up from the state semi-final competition will be eligible to serve as jurors in the final statewide championship round at the New Jersey Law Center.

In the statewide championship round, the jurors of winning teams will not participate, unless the runner-up team is not available. The runner-up team in the semi-finals will be requested to provide jurors for the championship round.

Jurors should proceed immediately to the courtroom in which the trial they are assigned to will be conducted and shall seat themselves in the jury box. Jurors will only be triers of the facts. Their decisions will not affect which team wins.

At the conclusion of the trial, jurors will be allotted 15 minutes maximum to deliberate the facts and render a decision concerning those facts. Student jurors shall be responsible for electing a spokesperson from among the jury to advise the judge of the jury's verdict when the trial reconvenes. The spokesperson must briefly summarize the reasons for their verdict. Generally, jurors are requested to arrive at an unanimous decision.

Jurors are requested to take into consideration only the facts that are presented to them without considering testimony which may have been presented in a previous trial in which they acted as jurors.

RULE 2:5 GENERAL PROCEDURE FOR TRIALS

2:5-1 DETERMINATION OF SIDES — STATE LEVEL

Determination of which team will be prosecution/plaintiff and which team will be defense at the state level, which includes regionals, regional finals and state semi-finals as well as the final round, will be made by drawing lots a few minutes before each trial begins. However, if the same two teams have previously met in the statewide semi-finals and have both qualified for the statewide finals, the teams must switch sides in the championship round. At the regionals, teams that are eligible to advance to the next round will switch sides if possible. Where it is impossible for both teams to switch sides, a drawing of lots must be used to determine assignments in the next round.

2:5-2 DETERMINATION OF SIDES — LOCAL/COUNTY LEVEL

At the local/county level, sides for the initial round of competition may be preassigned at the discretion of the County Mock Trial Coordinator. Contestants in any subsequent round of a competition should automatically switch sides in the case for the next round (provided that they are eligible to advance to the next round). Where it is impossible for both teams to switch sides, a drawing of lots must be used to determine assignments in the subsequent round.

2:5-3 OBSERVATION OF TRIALS BY NON-PARTICIPANTS

Teams are permitted to observe mock trial contests, even if they are not participating in those contests. Note-taking by observers by any means during competitions is **not** permitted except for teacher-coaches and attorney-coaches of teams participating in that round. Teams that are not participating in a round shall not audiotape or videotape or use any other technological means to obtain auditory or visual information. Only participating teams will be allowed to videotape or audiotape mock trial contests. Each school will be allowed to designate one official videotaper/audiotaper. Experience has demonstrated that careful preparation has more impact on the quality of presentation and the final result than last-minute changes based on the above.

Those who are designated as the official video/audio recorders are reminded of the last paragraphs of the Extensions to the Code of Conduct which prohibit the distribution/dissemination/reproduction in ANY FORM of any portion of the competition without the express written consent of each student and parent/guardian as well as the student's coach.

RULE 2:6 PREPARATION OF MOCK TRIAL CONTESTS

2:6-1 MEETINGS WITH ASSIGNED ATTORNEYS

All teams are to work with their assigned attorneys in preparing their cases. It is recommended that teams meet with their lawyer-advisers at least six times prior to the contest. See Part VII for suggestions regarding the attorney-adviser's role in helping a team prepare for the competition.

2:6-2 DRESS REHEARSALS

All teams are required to conduct one full trial enactment (dress rehearsal) with attorney-advisers in attendance based on the case prior to the first round of the competition. Additional sessions devoted to the attorneys' questioning of individual witnesses are also recommended.

RULE 2:7 DECISIONS

The judge(s) will render a decision based on the quality of the students' performance in the case and the best team presentation. The judges have been instructed to rate the performance of all witnesses and attorneys on the team. (See Performance Rating Sheet.)

Judges will provide qualitative evaluations only, based on the categories in the rating sheet. Numerical scores will **not** be released. The purpose of this procedure is to re-emphasize the educational goals of the competition. Judges will provide evaluations and announce the winning team before the jury delivers its verdict. The jury verdict is not significant in the judges' evaluation.

Contestants may, as always, discuss their trials with judges after each contest if time permits. However, contestants are prohibited from contacting competition judges directly to complain about competition results. See Rule 2:14 and Rule 2:15.

The student jury will decide on the merits of the legal case and the applicable law. This decision of guilt or innocence in a criminal case, or finding in favor of the plaintiff or defendant in a civil case, does **not** determine which team wins or advances to the next round.

The decisions of the judges are final.

RULE 2:8 SCORING PERFORMANCES

While all possible measures are taken to encourage consistency in scoring, not all mock trial judges evaluate the performance of students identically. Even with rules and evaluation criteria for guidance, the competition reflects the subjective quality present in all human activities.

Please review the score sheet at the back of this workbook very carefully.

RULE 2:9 TIME LIMITS

The following time limits will be in effect:

Opening Statements—4 minutes for each side

Direct Examination—6 minutes for each witness

Cross-Examination—7 minutes for each witness

Closing Statements—8 minutes for each side

Every effort shall be made to respect these time limits. County coordinators are encouraged to appoint bailiffs to keep time. Bailiffs will also be appointed at the regional, statewide semi-final and statewide final levels. Bailiffs will keep time, and their decisions regarding timekeeping are final. Challenges to timekeeping will not be considered. Timekeepers may issue one-minute warnings verbally or through the use of a card or hand signals. When time is up, judge(s) must halt the trial. Regarding objections, the clock will be stopped.

Re-direct and re-cross (optional, to be used at the discretion of the team)— After cross-examination, additional questions may be asked by the direct-examining attorney, but questions must be limited to matters raised by the attorney on cross-examination. Likewise, additional questions may be asked by the cross-examining attorney on re-cross, but such questions must be limited to matters raised on re-direct examination and should avoid repetition. **One minute will be allowed for re-direct and re-cross respectively. Judges should not deduct points if a team decides not to re-direct or re-cross. (See Part VIII.)**

RULE 2:10 REGIONAL COMPETITION

To reach the statewide finals, a team will have to compete in a two-part regional competition. Winning teams from each county qualify for the first stage of the regionals, consisting of two, single-elimination trials. Winners of the first stage will return for regional playoffs. Winners of the regional playoffs qualify for the statewide semi-finals. Winning semi-finalists will be eligible to compete in the statewide finals. If there is a tie score, the judge(s) will make the final determination based on overall team performance.

Please take note of all of the following contest dates before entering the competition in order to make sure your team can attend.

The New Jersey State Bar Foundation will be responsible for coordinating the regional competitions. **All regionals will be conducted at the New Jersey Law Center in New Brunswick as follows: Central - February 2, 2016; North - February 3, 2016; and South - February 4, 2016. Regional playoffs will be held on February 24, 2016.** Please reserve these dates. Inability to attend will result in forfeiture.

To find out which regional your county belongs in, please call 732-937-7519 or e-mail sboro@njsbf.org.

RULE 2:11 SEMI-FINALS

Regional finals winners are eligible to compete in the statewide semi-finals scheduled for **March 15, 2016** at the New Jersey Law Center in New Brunswick. Please reserve this date. Inability to attend will result in forfeiture.

RULE 2:12 STATEWIDE FINALS

The winners of the semi-finals are eligible to compete in the statewide championship round scheduled for **March 21, 2016** at the New Jersey Law Center in New Brunswick. This date is final; please arrange your schedule accordingly. Inability of finalist teams to attend will result in forfeiture. This will be a single-elimination round. The judges' decision will be final.

2:13 STUDENT ILLNESS POLICY

In the event that one or more members of a team cannot compete due to illness, another member or members of that team may substitute for them. The substitutes must be team members who are not already playing in that round. In addition, jurors may serve as substitutes unless they are already serving as jurors in a round. One attorney cannot play the roles of both attorneys in any given round. Likewise, one witness cannot play the roles of other witnesses in the same round. A student-lawyer cannot play the role of a witness in the same round nor can a witness play the role of a lawyer in the same round. If a contestant becomes ill while a trial is in progress, judge(s) may grant a 15-minute recess. During that time, the teacher-coach may arrange for another team member or juror to continue in place of the ill student. The team with the ill student and their teacher-coach and attorney-coach may communicate about the ill student and his or her replacement during the emergency recess. If the ill student cannot continue to compete, and a substitution cannot be made, the team must forfeit the round. It is recommended that teacher-coaches prepare “understudies” in case of illness.

2:14 COMPLAINT PROCEDURE

No one shall contact any competition judge to complain about competition results. **Only teacher- or attorney-coaches are authorized to communicate about questions, problems, comments or complaints about contests. Communications received from students will not be answered.** Students should discuss issues or concerns with their teacher-coaches. Complaints about county competitions must be submitted in writing, via e-mail to your County Mock Trial Coordinator. Names and addresses of the County Mock Trial Coordinators will be posted on the New Jersey State Bar Foundation’s website, www.njsbf.org. Please remember that, as stated in R. 2:7, the decisions of the judges are final. If a teacher-coach, as official team representative, wishes to file a grievance regarding another coach’s/team’s conduct or alleged rule violation, such complaint should be emailed promptly to the County Coordinator at the county level or to the Mock Trial Committee at the state regional, semi-final and final level. The County Coordinator or Mock Trial Committee shall forward the grievance to the teacher-coach of the team against which it is lodged and shall give that party a specific time period in which to respond. Final disposition of the grievance rests with the County Coordinator at the local level or the Mock Trial Committee at the state level.

2:15 QUESTIONS REGARDING CASE OR RULES

Contestants who have questions about the mock trial case and/or rules should submit them through their teacher- or attorney-coaches. Teacher- or attorney-coaches should e-mail or fax their questions to Sheila Boro, director of mock trial programs, at sboro@njsbf.org or fax to 732-828-0034. **Communications received from students will not be answered.** Please identify yourself, your school, whether you are the teacher-or attorney-coach, and provide a daytime phone number.

PART III

HINTS ON PREPARING FOR A MOCK TRIAL COMPETITION

The following tips have been developed from previous experiences in training a mock trial team.

All students should read the entire set of materials and discuss the information/procedures and rules used in the mock trial contest.

The facts of the case, witnesses' testimony, and the points for each side in the case then should be examined and discussed. Key information should be listed as discussion proceeds so that it can be referred to at some later time.

All team roles in the case should be assigned and practiced.

Credibility of witnesses is very important to a team's presentation of its case. As a result, students acting as witnesses need to really "get into" their roles and attempt to think like the persons they are playing. Students who are witnesses should read over their statements (affidavits) many times and have other members of the team or their class ask them questions about the facts until they know them cold.

Student team members have primary responsibility for deciding what possible questions should be asked of each witness on direct and cross-examination. Questions for each witness should be written down and/or recorded.

The best teams generally have students prepare their own questions, with the teacher-coach and attorney-adviser giving the team continual feedback and assistance on the assignment as it is completed. Based on the experience of these practice sessions, attorneys should revise their questions, and witnesses should restudy the parts of their witness statements where they are weak.

Opening and closing statements should also be written out by team members. Legal and/or non-legal language should be avoided where its meaning is not completely understood by attorneys and witnesses.

Closing statements should not be totally composed before trial, as they are supposed to highlight the important developments for the prosecution or plaintiff and the defense which have occurred during the trial. The more relaxed and informal such statements are, the more effective they are likely to be. Students should be prepared for interruptions by judges who like to question the attorneys, especially during closing argument.

As a team gets closer to the first round of the contest, the competition requires that it conduct at least one complete trial as a kind of "dress rehearsal." All formalities should be followed and notes taken by the teacher-coach and students concerning how the team's presentation might be improved. A team's attorney-adviser should be invited to attend this session and comment on the enactment.

The ability of a team to adapt to different situations is often a key part in a mock trial enactment since each judge—or lawyer acting as a judge—has his or her own way of doing things. Since the proceedings or conduct of the trial often depend in no small part on the judge who presides, student attorneys and other team members should be prepared to adapt to judicial rulings and requests, even if they appear contrary to outlined contest procedures and rules.

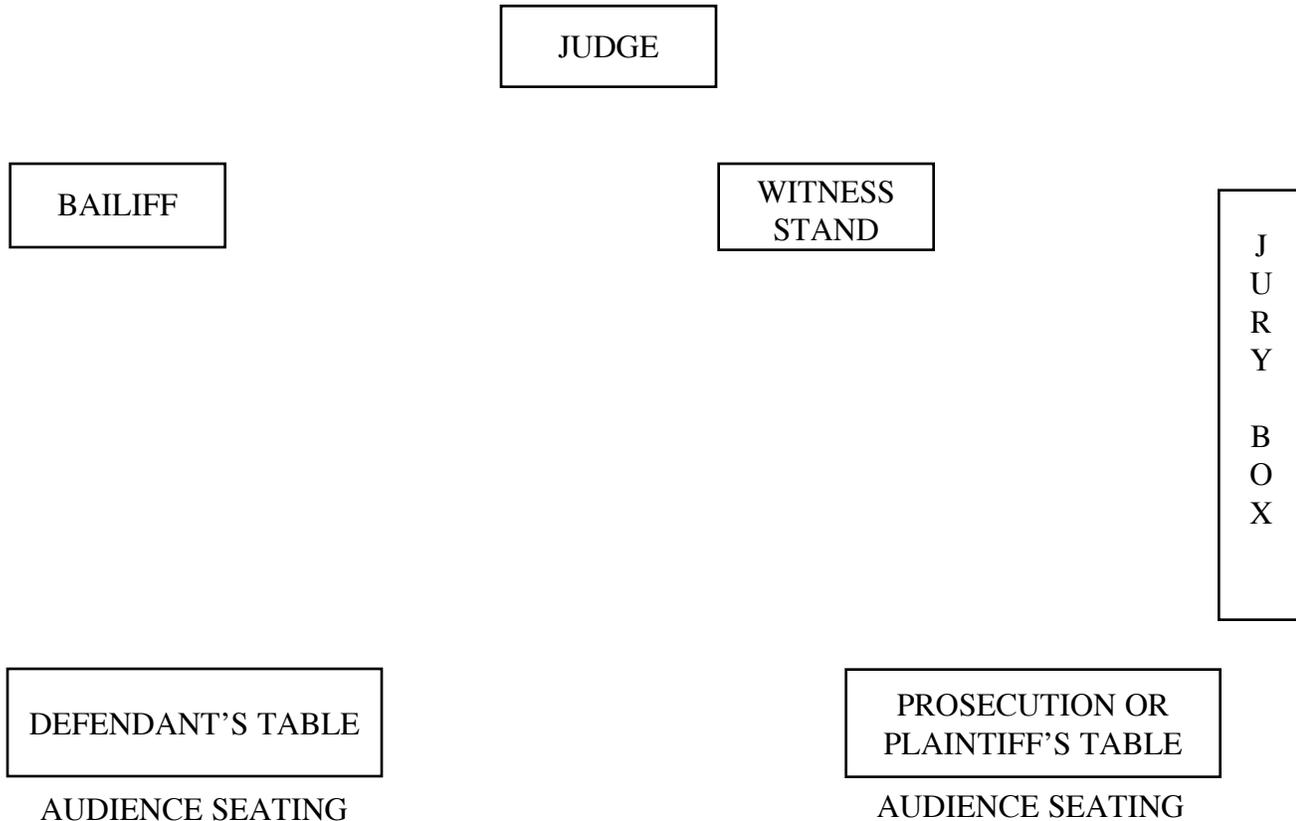
Some of the things most difficult for team members to learn to do are:

- (a) To decide which are the most important points to prove their side of the case and to make sure such proof takes place;
- (b) To tell clearly what they intend to prove in an opening statement and to argue effectively in their closing statement that the facts and evidence presented have proven their case;
- (c) To follow the formality of court, e.g., standing up when the judge enters; or when addressing the judge, to call the judge “your honor,” etc.;
- (d) To phrase questions on direct examination that are not leading (carefully review the rules and watch for this type of questioning in practice sessions);
- (e) Not to ask so many questions on cross-examinations that well-made points are lost. When a witness has been contradicted or otherwise discredited, student attorneys tend to ask additional questions which often lessen the impact of points previously made. (Stop — recognize what questions are likely to require answers that will make good points for your side. Rely on the use of these questions. Avoid pointless questions!)
- (f) To think quickly on their feet when a witness gives an unexpected answer, an attorney asks unexpected questions, or a judge throws questions at the attorney or witness. (Practice sessions will help prepare for this.)

PART IV TRIAL PROCEDURES

Before participating in a mock trial, it is important to be familiar with the physical setting of the courtroom as well as with the events that generally take place during the exercise and the order in which they occur.

COURTROOM LAYOUT



PARTICIPANTS

The Judge(s)

The Attorneys

Prosecutor–Defendant (Criminal Case)

Plaintiff–Defendant (Civil Case)

The Witnesses

Prosecutor–Defendant (Criminal Case)

Plaintiff–Defendant (Civil Case)

STEPS IN MOCK TRIALS

The Opening of the Court

Either the clerk of the Court or the judge will call the Court to order.

When the judge enters, all participants should remain standing until the judge is seated.

The case will be announced, i.e., “The Court will now hear the case of _____ v. _____ .”

The judge will then ask the attorneys for each side if they are ready.

Appearances

Opening Statements to the Jury

(1) Prosecution (in criminal case)/Plaintiff (in civil case)

The prosecutor in a criminal case (or plaintiff's attorney in a civil case) summarizes the evidence which will be presented to prove the case.

(2) Defendant (in criminal or civil case)

The defendant's attorney in a criminal or civil case summarizes the evidence which will be presented to rebut the case the prosecution or plaintiff's attorney has made.

Direct Examination by Prosecution or Plaintiff's Attorney

The prosecutor(s) or plaintiff's attorney(s) conduct direct examination (questioning) of each of their own witnesses. At this time, testimony and other evidence to prove the prosecution's or plaintiff's case will be presented. The purpose of direct examination is to allow the witness to narrate the facts in support of the case. Direct examination is limited by the scope of the affidavits and/or the exhibits contained in this workbook.

NOTE: The attorneys for both sides, on both direct and cross-examination, should remember that their **only function is to ask questions which elicit the most important facts of the case**; attorneys themselves may not testify or give evidence, and they must avoid phrasing questions in a way that might violate this rule.

Cross-Examination by Defendant's Attorney

After the attorney for the prosecution or plaintiff has completed questioning each witness, the judge then allows the other party (i.e., defense attorney) to cross-examine the witness. The cross-examiner seeks to clarify or cast doubt upon the testimony of opposing witnesses. Inconsistency in stories, bias, and other damaging facts may be pointed out through cross-examination.

Direct Examination by Defendant's Attorneys

Direct examination of each defense witness follows the same pattern as the preceding which describes the process for prosecution's/plaintiff's witnesses.

Cross-Examination by Prosecution or Plaintiff's Attorneys

Cross-examination of each defense witness follows the same pattern as the step above for cross-examination by the defense.

Closing Arguments to the Jury

(1) Defense

The closing statement for the defense is essentially the same as for the prosecution/plaintiff. Counsel for the defense reviews the evidence as presented, indicates how the evidence does not satisfy the elements of the charge or claim, stresses the facts favorable to the defense and asks for a finding (verdict) of not guilty (criminal case) or judgment for the defense (civil case). The defense will give its closing argument first, followed by the prosecution/plaintiff, as done in real trials.

(2) Prosecution or Plaintiff

A closing statement is a review of the evidence presented. It should indicate how the evidence has satisfied the elements of the case, and ask for a finding (verdict) of guilty (criminal case).

THE JUDGE'S ROLE

The judge is the person who presides over the trial to ensure that the parties' rights are protected, and that the attorneys follow the rules of evidence and trial procedure. In trials held without a jury, the judge also has the function of determining the facts of the case and rendering a judgment. (The student jurors will render a verdict, but will not determine which team wins. That will be decided by the judges.)

At all levels of the competition, a panel of two judges will judge the contests wherever possible. This may include two judges, sitting or retired, one judge and one lawyer, or two lawyers. If, for any reason, only one judge is available for any given contest, the contest shall proceed with one judge.

THE STAFF'S ROLE

Staff of the New Jersey State Bar Foundation attend the regional, semi-final and final contests in order to handle room and luncheon arrangements. **Please do not ask staffers to get involved in the competition proceedings. Student team members are responsible for pointing out infractions, if any, to judge(s). The judge(s) will then decide.** (See Parts V and VI for further details, particularly the section dealing with objections.)

PART V

RULES OF PROCEDURE

RULE 5:1 GENERAL PROCEDURE DURING TRIALS

5:1-1 USE OF EXHIBITS

The use of evidentiary or demonstrative exhibits not contained in this Mock Trial Workbook is not permitted. Use of props, visual and illustrative aids, other than what is specified in this workbook, is prohibited. Case materials cannot be enlarged unless specifically stated. It is assumed that once an exhibit has been put into evidence, it has been published to the jury. As such, copies of the exhibits shall not be distributed to the jury.

5:1-2 STATEMENT OF FACTS AND STIPULATIONS

The Statement of Facts, if provided, and any additional stipulations may not be disputed. The Statement of Facts is not admissible as an exhibit.

5:1-3 MOTIONS

No motions of any kind are allowed. For example, defense cannot make a motion to dismiss after the prosecution has rested its case. Motion for directed verdict is also prohibited.

5:1-4 VOIR DIRE

Voir dire, the preliminary examination of a witness or juror to determine his or her competency to give or hear evidence, is prohibited.

5:1-5 COURTROOM DECORUM

Usual rules of courtroom decorum apply to all participants. Appropriate, neat appearance is required.

RULE 5:2 OBJECTIONS

5:2-1 IN GENERAL

Procedural objections and objections to evidence are restricted to those in the Mock Trial Rules of Evidence. Other objections found in the New Jersey and Federal Rules of Evidence are not permitted. All objections, except those relating to openings or closings, shall be raised immediately by the appropriate attorney. When an objection is made, each side will usually have at least one fair opportunity to argue the objection before the presiding judge rules. Sidebars are not permitted. Competitors shall refrain from interrupting an adversary during opening statements or closing arguments. See Mock Trial Rule of Evidence 1201.

5:2-2 TIME FOR OBJECTIONS

A student attorney can object any time that the opposing team has violated the rules of evidence or has violated the rules or procedures of the Mock Trial Competition. **IMPORTANT:** Only student attorneys may object to any violations they believe have occurred, and they must object directly to the judge during the trial at the time of the violation, except with respect to opening statements and closing arguments. See Mock Trial Rule of Evidence 1201.

5:2-3 LIMITATION ON OBJECTIONS

Objections made after the trial has concluded cannot be addressed. NJSBF staff members cannot object on your behalf. Please do not ask staffers to intervene in the competition.

5:2-4 MANNER OF OBJECTIONS

The attorney wishing to object should stand up and do so at the time of the violation, except as set forth in Rule 1201. When an objection is made, the judge will ask the reason for it. Then the judge will turn to the attorney who asked the question, and that attorney usually will have a chance to explain why the objection should not be accepted (“sustained”) by the judge. The judge will then decide whether a question or answer must be disregarded because it has violated a rule of evidence or mock trial procedure (“objection sustained”) or whether to allow the question or answer to remain on the trial record (“objection overruled”). When objecting to a competition rule or procedural violation, student attorneys should be prepared to refer to the appropriate rule number in this workbook if requested to do so by judges. All objections should be made succinctly, with the reason for the objection publicly stated.

RULE 5:3 PROCEDURE REGARDING ATTORNEYS

5:3-1 MANDATORY ATTORNEY PARTICIPATION IN EXAMINATIONS

Each attorney shall conduct the examination of three witnesses (1 direct and 2 cross-examinations or 2 direct and 1 cross-examination).

5:3-2 ATTORNEY OPENINGS/CLOSINGS

Each team must present an opening statement and closing argument. An attorney for a team presenting the opening statement may not make the closing argument. An attorney is not permitted to advise the jury of facts in opening for which there is no good faith basis in the Mock Trial Workbook materials. In closing argument, an attorney is not permitted to comment on evidence that was not presented or evidence which was excluded by the presiding judge. In an opening or closing, an attorney is allowed to make arguments from a fair extrapolation of the facts in the Mock Trial Workbook. "Fair extrapolation" refers to an inference that can be reasonably made from the facts stated in the Mock Trial Workbook or from testimony adduced during the course of the trial. The defendant's attorney shall make the first closing statement, followed by the prosecuting/plaintiff attorney. No rebuttal statements are permitted.

5:3-3 DESIGNATION OF ATTORNEY PERMITTED TO OBJECT

Only one attorney may address any one witness. The attorney who will examine or cross-examine the witness is the only attorney who may make an objection. Likewise, only the attorney who will open may object to the opposition's opening statement and only the lawyer who will close may object to the opposition's closing.

5:3-4 USE OF NOTES BY ATTORNEYS

Attorneys are permitted to use notes in presenting their cases.

5:3-5 COMMUNICATION BETWEEN AND AMONG TEAM MEMBERS AND OTHERS

A. During a trial, law instructors, coaches, and all other observers may not talk to, signal or otherwise communicate, in any manner whatsoever, with or, in any way, coach or attempt to coach any members of the team.

B. No team member shall seek to communicate, verbally, non-verbally or in writing, with any witness who is in the act of testifying.

C. Only the two participating student-attorneys may communicate with each other during the five-minute pre-summation recess.

Failure to comply with the aforementioned shall be considered a violation of the mock trial rules. Should any team member participating in that round observe any conduct which is in violation of this rule, s/he shall immediately and unobtrusively bring the alleged violation to the attention of the appropriate student attorney. The student attorney, at his/her discretion, may then object to the presiding judges. Any such objection must be made at the time the violation is noted, and in the case of Section B above, prior to the witness leaving the witness stand.

The judge(s) shall immediately make an inquiry into the matter and may deduct one or more points at their discretion. The deduction may come from the score of the witness, the attorney(s), and/or the overall team score.

5:3-6 COMMUNICATION WITH JUDGES

No one affiliated with a competing team is permitted to have any contact with competition judges before or during the competition. Only student-attorneys and student-witnesses may communicate with the judges during a trial. After a trial has concluded, judges may meet privately with the attorney-coach, or teacher-coach if the attorney-coach is not present, for at least five minutes in order to answer specific questions and to provide additional evaluation of students' performances.

RULE 5:4 WITNESS TESTIMONY

5:4-1 FACTS RELIED UPON FOR TESTIMONY

Each witness is bound by the facts contained in his/her own witness statement, the facts contained in the Statement of Facts, if provided, and the necessary documentation provided in the competition workbook. A witness is not bound by facts contained in other witness statements.

5:4-2 WITNESS' PHYSICAL APPEARANCE

A witness' physical appearance in the case is as he or she appears in the trial enactment.

5:4-3 WITNESS' GENDER

Contestants cannot change the gender of witnesses as provided in the case unless it is indicated that a witness can be male or female. Male or female contestants, however, may play the roles of any witnesses.

5:4-4 REQUIRED EXAMINATION OF WITNESSES

Each team of attorneys must engage in either the direct examination or cross-examination of each witness. Direct examination is limited by the scope of the affidavits and/or the exhibits contained in the workbook.

5:4-5 FAIR EXTRAPOLATION

A witness who is testifying may use fair extrapolations from his or her own statement. "Fair extrapolation" refers to an inference that can be reasonably made from the facts stated in the witness statement of the testifying witness. A witness who is testifying on direct examination, in responding to questions of counsel, may utilize the reasonable and logical inferences from his or her own statement. Testimony which is unsupported by the facts in a witness' own statement and/or intended solely for the purpose of materially strengthening his or her team's position, is "unfair extrapolation" and is in violation of the rules and spirit of the competition. If a witness invents an answer which is favorable to his or her side, but not fair extrapolation, the opposition may object; the judge will decide whether to allow the testimony. An exception to this rule can occur when an attorney on cross-examination asks a question, the answer to which is not included in the witness statement. The witness is then free to "create" an answer.

5:4-6 IMPEACHMENT

On cross-examination, the attorney may want to show the court that the witness should not be believed. This is called impeaching the witness. A witness may be impeached by showing that he or she has given a prior statement that differs from his or her trial testimony, that he or she has some interest in the outcome of the case, that he or she has a bias for or against any other party or person, that he or she has some other motivation to either lie or be untruthful, or that he or she is simply mistaken as to what he or she has seen or heard.

5:4-7 USE OF NOTES BY WITNESSES

Witnesses are not permitted to use notes while testifying during the trial.

5:4-8 REQUIRED WITNESSES

All three witnesses for each side must testify. Teams may not call another team's witnesses.

5:4-9 SEQUESTERING WITNESSES

Sequestering witnesses is not permitted.

RULE 5:5 INTRODUCTION OF PHYSICAL EVIDENCE

5:5-1 PRE-TRIAL CONFERENCE

Physical evidence must be relevant to the case and the attorney must be prepared to define its use on that basis. In an actual trial an attorney introduces a physical object or document for identification and/or use as evidence during the trial. **For the purposes of this mock trial competition, there will be a pre-trial conference, lasting no more than five minutes, in which both prosecution's/plaintiff's and defendant's attorneys get together to present pre-marked exhibits for identification before trial. The issue of admissibility cannot be addressed at this stage.**

The purpose of the pre-trial procedure is to avoid eroding into each team's time limitations during the trial and to help students understand that attorneys, while they are adversaries, can also work cooperatively to benefit their clients. During this pre-trial, students should introduce themselves and the roles they will play. Remember to give the judges scoresheets with the names of the students at this time. See "Important Notice" preceding scoresheets for details.

PART VI

MOCK TRIAL RULES OF EVIDENCE

In American courts, complex rules are used to govern the admission of proof (both oral and physical evidence). These rules are to ensure all parties a fair hearing as well as to exclude evidence deemed irrelevant, incompetent, untrustworthy, unduly prejudicial, or otherwise improper. Attorneys must use the evidence rules, by making objections, to protect their client and fairly limit the actions of opposing counsel and their witnesses.

For purposes of mock trial competition, the Rules of Evidence have been modified and simplified. They are based on the Federal Rules of Evidence and the New Jersey Rules of Evidence and their parallel numbering system. **Where rule numbers or letters are skipped, those rules were not deemed applicable to mock trial procedure.** The High School Mock Trial Rules of Evidence are fully set forth below. DO NOT refer to any other outside materials or source other than these rules when making or responding to objections. Rules 1201 and 1202 have been added as no parallel rules exist in either the Federal or State Rules of Evidence.

Not all judges will interpret the Rules of Evidence (or procedure) in the same way, and mock trial attorneys should be prepared to point out specific rules for reference (quoting, if necessary) and to argue persuasively for the interpretation and application of the rule they think appropriate. Judges are asked to adjust scoring to reflect how well attorneys pose and respond to objections. Judges are encouraged to have attorneys explain their positions more than might be expected in a real courtroom, so you may demonstrate your knowledge of how the evidence rules apply in court.

While the evidence rules are numbered, attorneys are expected to refer to the rules by description but may also refer to them by number. Memorizing the evidence rule numbers is not necessary. However, if a Judge asks for a rule number, the mock trial attorney should be prepared to give the rule number referenced. Note that multiple evidence objections may be under a single rule number. Additionally, where a witness makes a statement which is objected to and the Judge sustains the objection, the mock trial attorney may also request: "I ask that the jury be directed to disregard the witness's last statement" or "I ask that the witness's last statement be stricken from the record."

ARTICLE IV. RELEVANCY AND ITS LIMITS

Rule 401. Test for Relevant Evidence

Evidence is relevant if:

- (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and
- (b) the fact is of consequence in determining the action.

Rule 402. General Admissibility of Relevant Evidence

Relevant evidence is admissible unless these rules provide otherwise. Irrelevant evidence is not admissible.

Example of objection to irrelevant evidence: "I object, your Honor. This testimony is not relevant to the facts of the case."

Rule 403. Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons

The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, needlessly presenting cumulative evidence, or unfair extrapolation.

The probative value of evidence is the tendency of the evidence to establish the proposition that it is offered to prove. In determining the probative value of evidence, the focus is upon the logical connection between the proffered evidence and the fact in issue.

Example of objection to compound question: "Objection. Counsel is asking the witness a compound question."

Example of objection to mischaracterization of testimony: “Objection. Counsel is mischaracterizing the witness’s testimony.”

Example of objection to assuming facts not in evidence: “Objection. Counsel’s question (or closing argument) assumes facts which are not in evidence.”

Example of objection to unfair extrapolation: “Objection, the witness’ unfair extrapolation is in violation of Rule 5:4-5 in that it goes beyond the witness’ statement/deposition/testimony or any reasonable inference to be drawn therefrom.”

NOTE: While “needless presentation of cumulative evidence” may support the objection that a question was already “asked and answered,” this objection is **not** allowed in Mock Trial Rules. The prescribed time limits already discourage repetitive questioning.

Rule 404. Character Evidence; Crimes or Other Acts

(a) Character Evidence.

(1) Prohibited Uses. Evidence of a person’s character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or character trait.

This rule does not apply to evidence admissible under Rule 406, however.

Example of objection to improper character testimony: “Objection. Counsel’s question is inadmissible, as it goes to the witness’s character.”

(b) Crimes, Wrongs or Other Acts

(1) Prohibited Uses. Evidence of a crime, wrong or other act is not admissible to prove a person’s character in order to show that on a particular occasion the person acted in accordance with the character.

(2) Permitted Uses. This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or lack of accident when such matters are relevant to a material issue in dispute.

NOTE: That is, you cannot show that someone acted a certain way just because they did a similar act in the past. BUT see habit evidence, Rule 406, below.

Rule 406. Habit, Routine Practice

Evidence of a person’s habit or an organization’s routine practice may be admitted to prove that on a particular occasion the person or organization acted in accordance with the habit or routine practice. The court may admit this evidence regardless of whether it is corroborated or whether there was an eyewitness.

The witness’ knowledge must be that the person or organization has engaged in the habit or routine practice on many occasions.

The habit or routine practice must be specific, or else it is inadmissible under Rule 404(a) as character evidence.

NOTE: For example, if a witness knows X *always* uses his/her seatbelt when getting into a car, as the witness has often seen him/her get into a car many times and buckle the seatbelt, the witness may be permitted to testify to this habit. The key to admissibility is that X engages in the conduct of wearing his/her seatbelt on a regular basis. The habit must be specific or routine must be specific in nature. The witness cannot make the broad statement, for example, that X is a careful driver.

ARTICLE VI. WITNESSES

Rule 601. Competency to be a Witness

Each mock trial witness is competent to be a witness and may testify in accordance with his/her witness statement, deposition, prior testimony, the facts contained in the Statement of Facts and the documents provided. A witness may testify as to any reasonable inference to be drawn from these facts.

Example of objection to unfair extrapolation: “Objection, the witness’ unfair extrapolation is in violation of Rule 5:4-5 in that it goes beyond the witness’ statement/deposition/testimony/Statement of Facts/documents or any reasonable inference to be drawn therefrom.”

Rule 602. Need for Personal Knowledge

A witness may testify to a matter only if evidence is introduced establishing that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness’s own testimony. This rule does not apply to a witness’s expert testimony, which is governed by Rule 703.

Example of objection to lack of personal knowledge: “Objection. The witness has no personal knowledge that would enable him/her to answer this question.”

Example of objection to speculation: “Objection. The question calls for speculation on the part of the witness.”

Rule 607. Who May Impeach a Witness

Any party, including the party that called the witness, may attack the witness’s credibility. Also see R.5:4-6.

NOTE: That is, an attorney may ask questions to show that the witness is lying or lied on a prior occasion.

Rule 611. Mode and Order of Interrogation and Presentation

(a) Control by the Court; Purposes.

The court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to

- (1) make those procedures effective for determining the truth and
- (2) protect witnesses from harassment or undue embarrassment.

Example of objection to argumentative question: “Objection. Counsel’s question is argumentative.”

(b) Leading and Narrative Questions.

Leading questions should not be used on direct examination or re-direct examination of one’s own witness. Ordinarily, the court should allow leading questions on cross-examination and re-cross-exam. Narrative questions (questions that call for a narrative answer) are generally not permitted on direct or re-direct exam or cross or re-cross exam.

NOTE: Direct examination may cover all facts relevant to the case of which the witness has firsthand knowledge. It is limited by the scope of the witness statements and/or the exhibits in this workbook and the Statement of Facts or stipulated facts if he/she has knowledge of them. Any factual areas examined on direct examination may be subject to cross-examination. On direct examination, a witness is not permitted to quote from the witness statement of another witness. Fair extrapolation, as defined in Rule 5:4-5, is permitted.

In direct examination, attorneys call and question witnesses. Witnesses may not be asked leading questions by the attorney who calls them. A leading question is one that suggests to the witness the answer desired by the examiner, and often suggests a “yes” or “no” answer. Direct questions generally are phrased to evoke a set of facts from the witness.

Example of direct question: “Mr. Hudson, when did you meet June Harris?”

Example of a leading question: “Mr. Hudson, isn’t it true that you first met June Harris on April 14, 1981?”

Example of objection to leading question: “Objection. Counsel is leading the witness.” (Remember, this is only objectionable when done on direct examination or re-direct examination of one’s own witness).

Example of objection to non-responsive answer: “Objection. The answer is not responsive.”

Example of objection to question calling for a narrative answer: “Objection. Counsel’s question calls for a narrative answer.”

Note: Narrative questions (questions that call for a narrative answer) and narrative answers are generally not permitted, especially in direct examination. While the purpose of direct examination is to get the witness to tell a story, the questions must ask for specific information. The questions should not be so broad that the witness is allowed to wander or narrate a whole story. The opposing team will likely want to object to a question on direct examination calling for a narrative response.

At times, a direct question may be appropriate, but the witness’ answer may go beyond the facts for which the question was asked. This may also happen when a leading question is asked on cross-examination and the answer given is in a narrative form.

(c) Cross-Examination.

The scope of cross-examination shall not be limited to the scope of the direct examination, but may inquire into any relevant facts or matters contained in the witness’ statement, including all reasonable inferences that can be drawn from those facts and matters. Opposing counsel may also inquire into any omissions from the witness’ statement that are otherwise material and admissible and/or into any issue potentially affecting the credibility of the witness.

NOTE: An attorney may ask leading questions when cross-examining the opponent’s witnesses, but asking that opposing witness a narrative question is generally not wise, since it gives the witness an opportunity to stress facts that favor his/her own side.

While the purpose of direct examination is to get the witness to tell a story, the questions in cross-examination and re-cross should ask for specific information. It is not in the cross-examining team’s interest to ask an opposing witness questions that are so broad that the witness is allowed to wander or narrate a whole story. Questions tending to evoke a narrative answer often begin with “how,” “why” or “explain.” An example of a narrative question is: “Mr. Hudson, what went wrong with your marriage?”

On cross-examination, a witness is permitted to invent an answer which is not included in his/her witness statement only as permitted by Rule 5:4-5. If that answer is inconsistent with any other evidence, including statements of that witness, the Statement of Facts, or any other stipulations, the cross-examining attorney may impeach or object as may be appropriate. For example, he/she may object to an answer as being non-responsive.

(d) Re-Direct and Re-Cross Examination.

After cross-examination, additional non-leading questions may be asked by the direct-examining attorney on re-direct examination, but questions must be limited to matters raised by the opposing attorney on cross-examination. Likewise, additional questions may be asked by the cross-examining attorney on re-cross, but such questions must be limited to matters raised on re-direct.

NOTE: Re-direct and re-cross are optional, to be used at the discretion of the team. One minute will be allowed for re-direct and re-cross respectively. Judges should not deduct points if a team decides not to re-direct or re-cross.

Example of objection to questions beyond the scope: On re-direct or re-cross, the opposing party may object as follows: “Objection. This question is beyond the scope of cross-examination (or re-direct).”

(e) Permitted Motions.

The judge is presumed to strike testimony elicited by a question following a successful objection to its admission.

NOTE: For the purpose of mock trial, it is assumed that when an objection is sustained, the response is stricken. If the witness has responded in a meaningful way, mock trial attorneys need not but may move to have the testimony stricken from the record. Counsel should **not** refer to stricken testimony in closing arguments.

Rule 612. Writing Used to Refresh a Witness's Memory

A written statement is used to refresh the memory of a witness, but while on direct examination, a witness cannot read from the witness' own statements to bolster testimony (that is, to show that the witness said something earlier). The adverse party may cross-examine the witness on the material and introduce into evidence those portions of the written statement that relate to the testimony of the witness.

Rule 613. Witness's Prior Statement

The statements of witnesses, whether in affidavit or deposition format, are not admissible into evidence, but may be used during cross-examination for impeachment purposes. When examining a witness about the witness' prior statement, a party need not show it or disclose its contents to the witness. But the party must, on request, indicate the relevant segment of the statement for opposing counsel. Counsel may show the document for impeachment, or on re-direct examination, may show the same document to rebut the impeachment.

NOTE: It is best to briefly show the exhibit you are going to show a witness to opposing counsel just as you are about to approach the witness with it. When asking the witness about the document, it is best to refer to the page and line number. For example:

"Ms. Jones, I am showing you what has been marked as S-1 for identification. Do you recognize S-1?" (The witness should say "yes" and identify the document. After the witness identifies S-1, ask, "I would like you to read line X of page Y. . . ." When referring to the witness' own statement, mock trial attorneys may ask the witness if the statement was given under oath, but are not required to do so and may refer to it in summation.

Otherwise, opposing counsel may ask the court: "Can I have the page and line number (counsel is referring to)?"

If your witness is impeached by his or her statement, but the words used were taken out of context, not fairly showing what the witness meant, on re-direct you may want to show the statement to your witness and "rehabilitate" him/her. For example, if cross-examination brings out that the witness said "I did not shoot the victim," in response to police asking if s/he did so, you may ask your witness to add what s/he said after that phrase:

"Witness, you were asked if you said to police, "I did not shoot the victim?" "Yes." "Do you remember your *complete* response to police?" "No." "I am showing you S-1 again, the same line opposing counsel showed you. Do you now remember your *complete* answer to that question?" "Yes." "What was that full response?" "I did not shoot the victim until he pointed a gun in my face."

After the exhibits have been agreed upon, the attorneys may ask witnesses about the documents.

For example, if an attorney decides to show a letter (already agreed upon as an exhibit by both sides) to a witness, an attorney may show the letter to him/her, asking: "Mr. Davis, do you recognize this document which is marked Plaintiff's P-1 for identification?" (The witness should say yes and identify the document.)

At this point the attorney may proceed to ask the witness questions about P-1.

If the attorney wishes to place the document into evidence, say, "Your Honor, I offer this letter for admission into evidence as Plaintiff's P-1 and ask the court to so admit it." Moving a document into evidence must occur either at the time the document is identified or at the end of the parties' case.

Get a ruling from the court on admissibility and hand the document to the judge.

Bringing physical evidence to the trial, e.g., a weapon in the case of a murder trial, is prohibited unless otherwise indicated. It is sufficient to rely upon the documents provided in this workbook for exhibits. Use of props, visual and illustrative aids, other than what is specified in the workbook, is prohibited, under Rule 5:1-1.

ARTICLE VII. OPINIONS AND EXPERT TESTIMONY

Rule 701. Opinion Testimony by Lay Witness

If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is:

- (a) rationally based on the witness's perception;
- (b) helpful to clearly understanding the witness's testimony or to determining a fact in issue; and
- (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.

NOTE: Lay witnesses are any witnesses not admitted as experts in the trial. A lay witness may offer testimony in the form of an opinion based on the common experience of laypersons in the community and of which the witness has firsthand knowledge. Examples include: what things look like; how someone is acting (e.g., drunk, tired, happy); speed, distance, sound, size, weight, degree of darkness, and general weather conditions.

A witness may not testify to any matter of which the witness has no personal knowledge (except for expert witnesses, in exceptions listed below).

For example: If Mrs. Davis was not present at the scene of an intersectional collision between a Ford Explorer and a bus, she could not say, "The bus went through the red light."

Example of objection to improper request for opinion: "Objection. The witness is not qualified as an expert on this topic and counsel is asking the witness to give an expert opinion."

Example for lay witnesses: "Objection. Counsel is asking the witness to give an opinion on a topic about which the witness has no personal knowledge."

Rule 702. Testimony by Experts

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

- (a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;
- (b) the testimony is based on sufficient facts or data;
- (c) the testimony is the product of reliable principles and methods; and
- (d) the expert has reliably applied the principles and methods to the facts of the case.

NOTE: Certain witnesses who have special knowledge or qualifications may be qualified as "experts." An expert must be qualified by the attorney for the party for which the expert is testifying; this means that before an expert can be asked an expert opinion, the questioning attorney must bring out the expert's qualifications and experience.

An expert witness may offer testimony in the form of an opinion only if the subject matter is within the expert's area of expertise.

Rule 703. Bases of Opinion Testimony by Experts

An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, this is sufficient grounds for the admissibility of the expert's opinion in the case at hand.

NOTE: An expert may testify to things that are otherwise not admissible under the rules of evidence, if the expert relied upon that information to come up with his or her opinion. For example, if an expert physician relied upon medical records of treatment, he or she can testify to them.

Rule 704. Opinion on Ultimate Issue

No witness may give an opinion about how the case should be decided. This is called the “ultimate issue” question. An expert witness must not state an opinion about whether the defendant did or did not have a mental state or condition that constitutes an element of the crime charged (i.e. purposeful, knowing or recklessness).

Rule 705. Disclosing the Facts or Data Underlying an Expert’s Opinion

Unless the court orders otherwise, an expert may state an opinion — and give the reasons for it — without first testifying to the underlying facts or data. But the expert may be required to disclose those facts or data on cross-examination.

NOTE: In mock trial, however, we have limited the presentation of an expert’s facts and data to streamline the case. Parties should not use invention on direct examination of their own expert witnesses to enhance their testimony.

ARTICLE VIII. HEARSAY

Rule 801. Definitions

The following definitions apply under this article:

- (a) “Statement” means a person’s oral assertion, written assertion, or nonverbal conduct if the person intended it as an assertion.
- (b) “Declarant” means the person who made the statement.
- (c) Hearsay is a statement attributed to a declarant *who is not a witness in the case* which is offered to prove the truth of the statement. A witness is not permitted on direct examination to quote from the witness statement of another witness.

Example: Mrs. Mills is testifying. Her witness statement contains the following statement: “Mr. Hudson told me he was at the scene of the crime.” This is inadmissible hearsay (if offered to prove that Mr. Hudson was at the scene of the crime) unless Mr. Hudson is also a witness in the case. If Mr. Hudson is a witness in the case, then the statement is not hearsay.

Example: Mrs. Mills is testifying. Mr. Hudson is a witness in the case. His witness statement contains the following statement: “I heard Mrs. Harris threaten my son.” Mrs. Mills may not testify that “Mr. Hudson said that Mrs. Harris threatened his son.” The statement is not contained in the witness statement of Mrs. Mills. Such testimony is inadmissible hearsay and also violates the mock trial rule that prohibits a witness on direct examination from quoting from the witness statement of another witness.

(d) Statements That Are Not Hearsay.

A statement that meets the following conditions is not hearsay:

(1) Party Declarant’s Admission against Interest

A statement may be admissible if it was said by a party in the case and contains evidence that goes against the party’s interest (e.g., in a murder case, the defendant told someone he committed the murder).

(2) Opposing Party’s Statement

A statement may be admissible if it is offered against an opposing party and was made by the party.

(3) Relied upon by Expert

A statement may be admissible if it was relied upon by an expert witness and forms the basis for the expert’s opinion. See Rule 703, above.

Rule 802. Hearsay Rule

Hearsay is not admissible except as provided by these Rules.

Example of objection to hearsay: “Objection. Counsel’s question/the witness’ answer is based on hearsay.” (If the witness makes a hearsay statement, the attorney should also say, “and I ask that the jury be directed to disregard the witness’ last statement” or “and I ask that the witness’ last statement be stricken from the record.”)

Rule 803. Exceptions to the Rule against Hearsay

The following exceptions to the hearsay rule are not dependent on whether the declarant is available as a witness or not:

- (1) **Present Sense Impression.** A statement describing or explaining an event or condition, made while or immediately after the declarant perceived it.
- (2) **Excited Utterance.** A statement relating to a startling event or condition, made while the declarant was under the stress of excitement that it caused.
- (3) **State of Mind.** A statement of the declarant's then-existing state of mind (such as motive, intent or plan).

NOTE: Understand that the statement may not be used to prove the truth of the matter asserted, however, if it comes in, it is only to establish the speaker's "state of mind."

- (8) **Public Records.** A record or statement of a public office or official within the scope of that office or official's duty.

NOTE: The hearsay statements contained in public records, such as police reports, are admissible, but the reports themselves are not admissible into evidence.

Rule 805. Hearsay within Hearsay

Hearsay included within hearsay is not excluded by the rule against hearsay if each part of the combined statements conforms with an exception to the rule.

ARTICLE XII. OTHER OBJECTIONS

Rule 1201. Objections to Openings and Closings

Attorneys may not interrupt or object during the opposition's opening or closing, but must raise any objections to openings or closings immediately after the opposing attorney concludes. The presiding judge will then rule on the objections and instruct the jury as may be necessary.

Rule 1202. Number of Objections

While there is no limit on the number of objections attorneys may raise, teams should be aware that judges may assess scoring penalties for objections which are frivolous.

Rule 1203. Other Standard Objections

Other standard forms of evidentiary objections allowed in the Mock Trial Competition are as follows. These "other objections" may be altered from year to year depending on the nature of the case.

Example of objection to lack of proper foundation: "Objection. Counsel has not laid a proper foundation for the question (or for admission of an exhibit)."

Example of objection to conclusion of law improperly called for by question: "Objection. Counsel is calling for the witness to make a conclusion of law."

PART VII

GUIDELINES FOR ATTORNEY TEAM ADVISERS

The rules of evidence governing trial practice have been modified and simplified for the purposes of this mock trial competition (see Part VI of this packet.) Other more complex rules are **not** to be raised during the trial enactment.

Team members cannot contradict the witness statement sheets for the case (see Part X of this packet) nor introduce any evidence that is not included in this packet of materials.

ALL WITNESSES MUST TAKE THE STAND.

The decision of the judge(s) in any mock trial enactment determines which team advances. This decision is to be based on the quality of the students' performance.

The preparation phase of the contest is intended to be a cooperative effort among students, teacher-coach and attorney-adviser. **Remember:** The official representative of a mock trial team is the teacher-coach, **not** students, lawyer-coaches or others. All communications regarding a mock trial team will be made by and through the teacher-coach as official team representative.

When assisting students, attorney-advisers should avoid use of highly complicated legal terminology unless such terminology is pertinent to the comprehension of the case.

Attorneys should not “script” or prepare the cases for the students. As part of the educational goals of the competition, students are expected to read, study and analyze the case. Attorney-coaches may then help students to refine their strategy.

The first session with a student team should be devoted to the following tasks:

- answering questions which students may have concerning general trial practices;
- explaining the reasons for the sequence of events/procedures in a trial;
- listening to the students' approach to the assigned case; and
- discussing general strategies as well as raising key questions regarding the enactment.

A second and subsequent session with students should center on the development of proper questioning techniques by the student attorneys and sound testimony by the witnesses. Here an attorney can **best** serve as constructive observer and critic-teacher, i.e., listening, suggesting, demonstrating to the team.

Courtroom Visit—In order to provide a “real life” look at a trial, attorney-coaches should consider arranging, through the local courthouse, a courtroom visit for their team(s).

PART VIII

GENERAL GUIDELINES TO PRESENTATIONS FOR JUDGES

Under contest rules, student-attorneys are allowed to use notes in presenting their cases; witnesses may **not** use notes in testifying.

Attorneys and witnesses may neither contradict the witness statement sheets for the case nor introduce any evidence that is not included in this packet of materials.

Only **one** opening and closing statement is allowed.

Except for opening the court, general procedural instructions, rulings on objections, etc., it is best to keep judicial involvement/participation to a minimum during the trial enactment.

Each attorney (two for each side) shall conduct the examination of three witnesses. See R.5:3-1.

The Mock Trial Rules of Evidence have been revised. (See Part VI of this workbook). They are to govern proceedings. Other more complex rules are **not** to be raised during the trial enactment.

Witness statements may be used by attorneys to “refresh” a witness’ memory and/or impeach the witness’ testimony in court.

Attorneys have been asked to keep their presentations within the following guidelines: Opening Statements—4 minutes; Closing Statements—8 minutes; Direct Examination—6 minutes/witness; and Cross-Examination—7 minutes/witness. Regarding objections, the clock will stop. One minute will be allowed for re-direct and re-cross respectively. See rule 2:9 on “Time Limits” for details. Judges should **not** deduct points if a team decides not to re-direct or re-cross.

The decision of the judge(s) determines which team advances and which team is eliminated.

In the event of a tie score, the judge(s) shall make a final determination based on overall team performance. Judges may award an additional point to the team with the better overall team performance in order to break a tie. See Part XI for details.

Judges may include in their rating of overall team performance an evaluation of civility and compliance with the Code of Conduct in this workbook as well as compliance with mock trial rules.

If a team fails to adhere to the established guidelines/rules set forth for the competition, a judge may (depending upon the circumstances of the violation) lessen his/her rating of that team.

The student jury will render the verdict. The judge will decide which team wins. The judge should explain that these two decisions are separate. Winning the verdict does not necessarily mean that the team has won the competition.

Better understanding is promoted among students and teachers if the judge(s) in a mock trial takes a few minutes following the enactment to explain his/her decision(s) regarding the teams’ presentation. Judges will provide a qualitative evaluation of each team’s performance. They will not release numerical scores. Judges may also offer their opinions regarding the legal merits of the case after the student jury has rendered a verdict. Judges are also encouraged to meet privately with the attorney-coach, or teacher-coach if the attorney-coach is not present, for at least five minutes after the contest has concluded in order to answer specific questions and to provide additional evaluation of students’ performances.

The judges’ decisions are final.

PART IX MOCK TRIAL VIDEOTAPE LOAN PROGRAM

In order to help as many teachers and students as possible participate in the Mock Trial Competition, the Foundation will lend a 65-minute videotape to contestants. The videotape, which is available in one-half inch VHS and DVD, was taped at the New Jersey Law Center in 1995. The Mock Trial Instructional Videotape or DVD may be borrowed for a period of two weeks, after which time it must be returned.

You may also purchase this videotape or DVD at cost plus postage and handling. If you would like to purchase a copy, send your request with a check or money order in the amount of \$10 payable to the New Jersey State Bar Foundation (address follows on the next page).

The following videotapes of the 1998 and 2001 National High School Mock Trial Championships and DVDs of the 2007–2009 American Mock Trial Invitational Finals are available for loan only: **“1998 National High School Mock Trial Championship Final Round”**—In this final round of the 1998 National High School Mock Trial Championship conducted in Albuquerque, New Mexico, on May 9, New Jersey’s 1997-98 statewide championship team, Cherry Hill High

School East of Camden County, defeated Guam for the national title. The Cherry Hill High School East team represented the defendant in this criminal trial dealing with homicide. Please note that the national rules differ from those of the Vincent J. Apruzzese High School Mock Trial Competition. (2 hours, available in videotape only)

“2001 National High School Mock Trial Championship Final Round”—On May 12, in the final round of the 2001 National High School Mock Trial Championship in Omaha, Nebraska, Iowa narrowly defeated New Jersey’s 2000–2001 statewide championship team, Montclair High School of Essex County. In the 2001 national case, high school senior Chris Hall is charged with possession of methamphetamine, a controlled substance. Hall maintains that rival Taylor Jennings, a student who is in competition with Hall for senior class valedictorian, planted the drugs in his/her backpack. Please note that the national rules differ from those of the Vincent J. Apruzzese High School Mock Trial Competition. (3 hours, 31 minutes, available in videotape only)

“2007 American Mock Trial Invitational (AMTI) Final Round”—On May 4, Family Christian Academy of Tennessee defeated University Preparatory Academy of Washington State at the New Jersey Law Center in New Brunswick. The case deals with aggravated manslaughter and death by vehicular homicide. Photo montage of our group trip to the Ellis Island Immigration Museum is also included. Please note that AMTI rules differ from those of the Vincent J. Apruzzese High School Mock Trial Competition. (2 hours, available in DVD only)

“2008 American Mock Trial Invitational (AMTI) Final Round”—On May 20, D.H. Hickman High School of Missouri defeated Gray Stone Day of North Carolina at the Mecklenburg County Courthouse in Charlotte, NC. In this case, Bailey Kissner, who was a young, up-and-coming amateur golfer, is suing Polk Hospital, a private psychiatric facility, for negligence in allowing Martin Dutcher to be released from 24-hour supervised care without ensuring he no longer posed a threat to himself or others. Dutcher assaulted Kissner in a road rage incident, then later Dutcher took his own life. Kissner seeks monetary damages for pain and suffering and pecuniary losses arising from the assault and battery. The trial will determine issues of liability and damages. Please note that the AMTI rules differ from those of the Vincent J. Apruzzese High School Mock Trial Competition. (1 hour, 49 minutes, available in DVD only).

“2009 American Mock Trial Invitational (AMTI) Final Round”—On May 19, Menlo School of California defeated Victory Christian Center School of North Carolina at the Middlesex County Courthouse in New Brunswick, NJ. In this case, a teenager severely burned in a fire in a barn illegally converted to a casino, sues the owner of the barn. The owner claims no knowledge of the use to which renters put the barn. AMTI rules differ from those of the Vincent J. Apruzzese High School Mock Trial Competition. (101 minutes, available in DVD only)

To borrow a mock trial videotape or DVD, send your request to:

**High School Mock Trial Video/DVD, New Jersey State Bar Foundation,
One Constitution Square, New Brunswick, NJ 08901-1520**

Please enclose a \$50 security deposit for each videotape or DVD you want to borrow. This will be returned to you when you return the videotape(s) or DVD(s). **Videotapes and DVDs must be returned via insured U.S. mail, certified mail or UPS so that shipments may be tracked.** Orders will be filled on a first-come, first-served basis. **We cannot fill orders over the phone. Specify which videotape(s) or DVD(s) you want.**

Please handle with care as we have only a limited number. **A fee will be assessed in the event borrowed tapes or DVDs are not returned or are damaged.** Thank you for your cooperation.

PART X

State v. Jordan Abrams

STATEMENT OF FACTS

Jordan Abrams is charged with the murder of Chris Pavano. On the night of August 30, 2013, Jordan Abrams and his/her family have come back to his/her residence at 1111 Ocean Drive in Cranberry Shores, in the County of Metropolitan. Hurricane Sandy of last autumn has left most homes in this shore area damaged and uninhabited. On that night, Chris Pavano, Loren Lucas and others come into the Abrams' residence. It is alleged that Jordan Abrams shoots Pavano once with a handgun, and that Pavano dies of his wounds.

Jordan admits to shooting Pavano, but asserts that s/he did so in the defense of his/her ailing mother, his/her two young children, who were present, and in self-defense.

Exhibits

1. S1 - Drawing of layout of home, first floor.
2. S2 - Drawing of layout of home, second floor.
3. S3 – Drawing of view from top of stairs looking below, towards the back of the residence.
4. S4 - Drawing of side view of home.
5. S5 – Drawing of view from bottom of stairs.
6. S6 - Inventory of items taken from home, describing where each item was found. Includes items in and on defendant's bedroom dresser, and the items found in the bug-out bag.
7. S7 – Portions of Autopsy Report, a sworn statement by Medical Examiner Cecil Quinn.
8. S8 – Transcript of Audio Dialogue from YouTube video of April 1, 2013.
9. J1 – Audio-recorded statement of Jordan Abrams, recorded for Remy Abrams' 8th grade project – “My Hero,” March 13, 2013. The questions are from Remy Abrams.

Stipulations

1. Det. Peeler, Jordan Abrams and Det. Singer use the 24 hour clock, otherwise known as military time, to denote time. To convert to the 12 hour clock, merely subtract 12 hours from any time later than 13:00, and add p.m. When they refer to times up to 12:00, they are referring to a.m.
2. The YouTube audio dialogue is accurately transcribed, and the video descriptions are also accurate, and not to be questioned. The date and location are also correct.
3. Jordan Abrams purchased the residence at 1111 Ocean Drive on May 11, 2010, and moved in on May 29, 2010.
4. Candace Abrams had another stroke after August 30, 2013, and is now unable to communicate at all, and is hence unavailable as a witness.
5. The redacted autopsy report is stipulated as being correct. All witnesses may refer to the first two sentences, but only Jerry/Gerrie Singer and Jesse Ryan may refer to the rest of the report.
6. Jerry/Gerrie Singer's laser distance measurer was accurate in the measurements of the scene.
7. On the night of August 30, 2013, the sign inscribed “Abrams' Sand Castle” was sprayed over with spray paint, and made to read “Surfers' Sand Castle,” and the sign inscribed “Beware of Dog” was partially sprayed over, and written over in spray paint, to read, “Beware of Major Pain.”

8. The beach behind the Abrams' residence is public beach, from the edge of the back deck eastward. The public access to that beach is not immediately adjacent to the home, but is further down Ocean Drive, to either side. In summer, during daylight hours, a beach badge issued by the Town of Cranberry Shores is required to be worn on that public beach.
9. The Taser manufacturer's instruction booklet reports that the "maximum range" for the Taser model recovered from the Abrams' residence is 35 feet.
10. All witness statements and transcripts of testimony are deemed to be sworn. If asked, a witness must acknowledge swearing an oath or certifying to the contents of the document on the date indicated therein, and also to signing any statement. Transcripts of testimony have been prepared by an official court reporter and are stipulated to be accurate.
11. The witnesses must acknowledge their signatures on the exhibits.
12. Depositions consist of questions posed by opposing counsel.
13. Costumes, make-up and "props" are prohibited.
14. The trial judge shall dispense with the reading of the jury charge, and it shall be stipulated that all jurors are familiar with its contents.
15. Det. Jerry/Gerrie Singer and Jesse Ryan are experts in crime scene investigation and firearms identification.
16. It is not contested that Jordan Abrams had applied for a permit allowing him/her to carry a handgun, concealed, in public. The Cranberry Shores Police Chief rejected the application, as was her right.
17. A Superior Court judge upheld the Chief's decision. The decision occurred prior to August 30, 2013. The State can only bring out the Court's decision if the defense is first in bringing up the application.
18. Det. Peeler's statements regarding the weather from weatherinfo.com and moon phase from the U.S. Naval Observatory are not in dispute.
19. The Glock 17 pistol handgun, recovered by police, and referenced in Exhibit S6, is a firearm, as defined in the jury charge.
20. Exhibits are stipulated to be accurate.
21. Witnesses may be male or female.

WITNESSES AT TRIAL

Prosecution's Witnesses

Det. Carey Peeler

Det. Jerry/Gerrie Singer

Loren Lucas

Defense Witnesses

Jordan Abrams

Remy Abrams

Jesse Ryan

All characters, institutions, events and other facts contained herein are fictitious and not intended to represent any individual, living or dead. The "facts" presented in this case were created for the purpose of teaching mock trial skills and not for any other purpose.

METROPOLITAN COUNTY PROSECUTOR
100 MAIN STREET
METROPOLITAN, NEW JERSEY 07000

SUPERIOR COURT OF NEW JERSEY
METROPOLITAN COUNTY – LAW DIVISION
(Criminal)
Indictment No. 14-01-011

THE STATE OF NEW JERSEY)	
)	
vs.)	MURDER (1 st Degree)
)	
)	AGGRAVATED MANSLAUGHTER
)	(1 st Degree)
)	
JORDAN ABRAMS,)	RECKLESS MANSLAUGHTER (2 nd Degree)
)	
)	POSSESSION OF A WEAPON FOR AN
)	UNLAWFUL PURPOSE (2 nd Degree)
Defendant)	
)	FAILING TO REPORT A DEATH (4 th Degree)

COUNT ONE

The Grand Jurors of the State of New Jersey, for the County of Metropolitan, upon their oaths, present, that Jordan Abrams, on or about the 30th day of August, 2013, in Town of Cranberry Shores, County of Metropolitan, did purposely or knowingly cause the death of Chris Pavano or did purposely or knowingly inflict serious bodily injury upon Chris Pavano resulting in his death, contrary to law, pursuant to M.S.A. (Metropolitan Statutes Annotated) 2C:11-3(a).

COUNT TWO

The Grand Jurors of the State of New Jersey, for the County of Metropolitan, upon their oaths, present, that Jordan Abrams, on or about the 30th day of August, 2013, in Town of Cranberry Shores, County of Metropolitan, did cause aggravated manslaughter, by recklessly causing the death of Chris Pavano under circumstances manifesting extreme indifference to human life, pursuant to M.S.A. 2C:11-4(a)(1).

COUNT THREE

The Grand Jurors of the State of New Jersey, for the County of Metropolitan, upon their oaths, present, that Jordan Abrams, on or about the 30th day of August, 2013, in Town of Cranberry Shores, County of Metropolitan, did commit manslaughter by recklessly causing the death of Chris Pavano, pursuant to M.S.A. 2C:11-4(b)(1).

COUNT FOUR

The Grand Jurors of the State of New Jersey, for the County of Metropolitan, upon their oaths, present, that Jordan Abrams, on or about the 30th day of August, 2013, in Town of Cranberry Shores, County of Metropolitan, did knowingly possess a firearm with a purpose to use it unlawfully against the person of another, Chris Pavano, pursuant to M.S.A. 2C:39-4(a).

COUNT FIVE

The Grand Jurors of the State of New Jersey, for the County of Metropolitan, upon their oaths, present, that Jordan Abrams, on or about the 30th day of August, 2013, in Town of Cranberry Shores, County of Metropolitan, did commit the crime of Failing to Report a Death, having become aware of the death of Chris Pavano by criminal violence, by accident, or in any suspicious or unusual manner, and having knowingly neglected or refused to report that death to the office of county medical examiner or to the police department of the municipality in which the person died, pursuant to M.S.A. 52:17B-89.

Henry Monarch
Henry Monarch
METROPOLITAN COUNTY PROSECUTOR

Endorsed: **A TRUE BILL**

Dan Carman
Dan Carman, Foreperson

Dated: April 4, 2014

CRIMINAL CHARGE TO THE JURY

State v. Jordan Abrams

Ind. No. 14-01-011

INSTRUCTIONS GIVEN AFTER JURY IS SWORN, BUT BEFORE OPENINGS: Ladies and gentlemen of the jury, you have been selected as the jury in this case. As you know, this is a criminal case, and to assist you in better understanding your functions and duties, I will tell you how the case will proceed. You are the sole judges of the facts. Your determination of the facts is to be based solely upon the evidence submitted during the course of the trial. When I use the term “evidence,” I mean the testimony of witnesses who will testify, and any exhibits which may be marked into evidence and which will be taken into the jury room for your review at the end of the case.

The first order of business will be the prosecutor’s opening statement. In the opening statement, the prosecutor will present the State’s contentions and will outline what he/she expects to prove. Following that, the defense counsel, if he/she chooses, will make an opening statement. What is said in an opening statement is not evidence. The evidence will come from the witnesses who will testify and from whatever documents or tangible items that are received in evidence. During the trial, the attorneys may make objections as evidence is offered or they may address motions to me. They have a right and, indeed, a duty to make objections and motions when it seems to them to be proper to do so. I have a duty to rule upon any objections and motions based upon the law. If you hear me say that an objection is overruled, that means I am ruling against the attorney making the objection. If I say the objection is sustained, I am ruling in favor of the attorney making the objection. Anything excluded by me is not evidence and must not be considered by you in your deliberations.

Sometimes these evidence questions or legal questions will be heard in your presence in open court, other times at a sidebar, or you may be excused and go into the jury room so that we can discuss the issue in open court. I realize that being confined in the jury room for any length of time is not very pleasant, but I ask your indulgence and patience. I am sure that you realize that these legal arguments must be heard outside of your presence. You should not conclude that because I rule one way or another that I have any feelings about the outcome of the case. I do not; but even if I did, you would have to disregard them since you will be the sole judges of the facts.

During the trial, from time to time, there shall be recesses. During any of those recesses I direct you not to discuss the case among yourselves, and when we recess overnight, you must not discuss the case or the testimony with any members of your family or any other persons or provide an account of your juror service to others, including through any electronic means, such as shared Internet websites. Thus, for example, do not talk face to face or use any electronic device, such as the telephone, cell or smart phone, Blackberry, iPhone, computer, the Internet, e-mail, any text or instant message service, any Internet chat room, blog or website such as Facebook, Myspace, YouTube, or Twitter, to communicate to anyone any information about this case.

The reason, of course, is that you should not begin any deliberations until the entire case has been concluded, i.e., until you have heard all of the witnesses, the final arguments of counsel, and my instructions as to the law. It would be improper for any outside influence to intrude upon your thinking. If anyone should attempt to discuss the case with you, you should report the fact to me or my staff immediately. If you have a cell phone, pager, or any device that is capable of providing Internet access and any device that may be used to record or transmit sound or images, whether video images or still images, you must turn that device off while in the courtroom. Similarly, you must turn off these communication devices and cannot use them for any purpose while in the jury deliberation room. You will be given a telephone number at which you can be contacted during the trial. Unless I otherwise instruct, you may only use these communication devices when you are outside the jury deliberation room during recesses. Please be mindful of these instructions at all times.

During jury selection, you were asked and responded to a series of questions from the court and counsel. If, during the course of trial, you realize that you may have made a misstatement or omission during your responses, or if circumstances arise that could change or alter the answers you gave, do not discuss the matter with your fellow jurors. Rather, you should tell the court officer, who will notify me at once.

During the trial, you are not to speak to or associate with any of the attorneys, the witnesses or the defendant, Jordan Abrams, nor are they permitted to speak or associate with you. This separation should not be regarded as rudeness but rather as a proper precaution to ensure fairness to both sides. If anyone connected with this case, or any other person

approaches you or attempts to influence you in any way, do not discuss it with the other jurors. Simply tell the sheriff's officer and I will be notified immediately. Your deliberations must be based solely on the testimony and exhibits admitted into evidence, without any outside influence or opinions of relatives or friends. Additionally, do not read any news stories or articles, in print, on the Internet, or in any blog about this case. I do not know if there will be any newspaper or other media coverage of this trial, but you are instructed to completely avoid reading, viewing or listening to any newspaper or media accounts or listening to anyone else discuss them.

Additionally, I must instruct you not to read any newspaper articles, or search for, or research information relating to the case, including any participants in the trial, such as the parties, the witnesses, the lawyers, the judge or court personnel through any means, including electronic means. This strict prohibition against outside research or communication applies not only to printed reference materials, such as dictionaries or encyclopedias, but also to the Internet and any other electronic medium. You are not to seek any additional information on the subject matter of this case, the laws in any way related to this case, or any other factual or legal matter that has any connection to this case. Do not visit or view any place discussed in this case and do not use Internet maps or Google Earth or any other program or device to search for or view any place discussed in the testimony. I am sure that you can understand why this instruction is so important. Information from other sources outside the courtroom is not evidence, is often based upon second- or thirdhand information, is purely hearsay, is not always accurate and is not subject to examination by the attorneys. A juror's improper use of outside technology threatens the very fairness of our system of justice and could result in the court having to start the trial all over, wasting the court's, the parties' and your valuable time and resources.

In the event that such outside information comes to your attention, it is important that you tell me or a member of my staff so I can determine what further action is necessary to insure the fairness of the trial. The court and the parties rely upon your good faith and the fact that you have been sworn to comply with the instructions of the court so that both sides may receive a fair trial. Because this instruction is so important, it is my duty to remind you of it at the end of each day's proceedings. Since you are the sole judges of the facts, you must pay close attention to the testimony. It is important that you carry with you to the jury room not only a clear recollection of what the testimony was, but also a recollection of the manner in which it was given. It will be your duty to pay careful attention to all the testimony.

If you are unable to hear any witness, I ask that you indicate this to me by raising your hand so that I may instruct the witness to speak louder and/or more clearly. As jurors you will be required to pass upon all the questions of fact including the credibility or believability of the witnesses. You are not permitted to visit the scene of the alleged incident, do your own research or otherwise conduct your own investigation. Your verdict must be based solely on the evidence introduced in this courtroom. Jurors are not permitted to take notes. Experience has shown that note taking is distracting. It is better to depend upon the combined recollections of all the jurors than upon notes taken by one or more of them.

At the conclusion of the testimony, the attorneys will speak to you once again in summation. At that time they will present to you their final arguments based upon their respective recollections of the evidence. Again, this is not evidence but their recollection as to the evidence. It is your recollection as to the evidence presented that is controlling.

Following summations you will receive your final instructions on the law from me, and you will then retire to consider your verdict. You are not to form or express an opinion on this case but are to keep an open mind until you have heard all the testimony, have heard summations, have had the benefit of my instructions as to the applicable law, and have been instructed to begin your deliberations. It is your duty to weigh the evidence calmly and without bias, passion, prejudice or sympathy, and to decide the issues upon the merits. You, as jurors, should find your facts from the evidence adduced during the trial.

Evidence may be either direct or circumstantial. Direct evidence means evidence that directly proves a fact, without an inference, and which in itself, if true, conclusively establishes that fact. On the other hand, circumstantial evidence means evidence that proves a fact from which an inference of the existence of another fact may be drawn. An inference is a deduction of fact that may logically and reasonably be drawn from another fact or group of facts established by the evidence. It is not necessary that facts be proved by direct evidence. They may be proved by direct evidence or circumstantial evidence or by a combination of direct and circumstantial evidence. Both direct and circumstantial evidence are acceptable as a means of proof. Indeed, in many cases, circumstantial evidence may be more certain, satisfying and persuasive than direct evidence. In any event, both circumstantial and direct evidence should be scrutinized and evaluated carefully. A conviction may be based on direct evidence alone, circumstantial evidence alone or a combination of direct evidence and circumstantial evidence, provided, of course, that it convinces you of a

defendant's guilt beyond a reasonable doubt. Conversely, if direct or circumstantial evidence gives rise to a reasonable doubt in your minds as to the defendant's guilt, then the defendant must be found not guilty. A simple illustration may be helpful. The following is one set of possible illustrations: The problem is proving that it snowed during the night:

(a) Direct Evidence: Testimony indicating that the witness observed snow falling during the night.

(b) Circumstantial Evidence: Testimony indicating that there was no snow on the ground before the witness went to sleep, and that when he or she arose in the morning, it was not snowing, but the ground was snow-covered.

The former directly goes to prove that fact that snow fell during the night; while the latter establishes facts from which the inference that it snowed during the night can be drawn. As the judges of the facts, you are to determine the credibility of the witnesses, and, in determining whether a witness is worthy of belief and therefore credible, you may take into consideration: the appearance and demeanor of the witness; the manner in which he or she may testify; the witness' interest in the outcome of the trial, if any; his or her means of obtaining knowledge of the facts; the witness' power of discernment, meaning his or her judgment, his or her understanding; his or her ability to reason, observe, recollect and relate; the possible bias (if any) in favor of the side for whom the witness testifies; the extent to which, if at all, each witness is either corroborated or contradicted, supported or discredited by other evidence; whether the witness testified with an intent to deceive you; the reasonableness or unreasonableness of the testimony the witness has given; whether the witness made any inconsistent or contradictory statements; and any and all other matters in the evidence which serve to support or discredit his or her testimony to you.

During your deliberations, you may ask: what is more reasonable; the more probable or the more logical version? Inconsistencies or discrepancies in the testimony of a witness, or between the testimony of different witnesses, may or may not cause you to discredit such testimony. Two or more persons witnessing an incident may see or hear it differently; an innocent misrecollection, like failure of recollection, is not an uncommon experience. In weighing the effect of a discrepancy, consider whether it pertains to a matter of importance or an unimportant detail, and, whether the discrepancy results from innocent error or willful falsehood.

A witness or witnesses may testify in this case with the assistance of a certified court interpreter. Even if you understand the language spoken by the witness, you must accept the interpretation of the testimony and you must not provide any translation of your own to the jurors. Every juror is bound by the translation provided by the interpreter, whether or not the juror agrees or disagrees with the interpretation, because every juror must consider the same evidence during deliberations.

Expert Testimony

As a general rule, witnesses can testify only as to facts known by them. This rule ordinarily does not permit the opinion of a witness to be received as evidence. However, an exception to this rule exists in the case of an expert witness who may give (his/her) opinion as to any matter in which (he/she) is versed which is material to the case. In legal terminology, an expert witness is a witness who has some special knowledge, skill, experience or training that is not possessed by the ordinary juror and who thus may be able to provide assistance to the jury in understanding the evidence presented and determine the facts in this case. In this case, the State called Jerry/Gerrie Singer and the defense called Jesse Ryan, who both testified as experts in crime scene reconstruction and firearms identification. You are not bound by such expert's opinion, but you should consider each opinion and give it the weight to which you deem it is entitled, whether that be great or slight, or you may reject it.

In examining each opinion, you may consider the reasons given for it, if any, and you may also consider the qualifications and credibility of the expert. It is always within the special function of the jury to determine whether the facts on which the answer or testimony of an expert is based actually exist. The value or weight of the opinion of the expert is dependent upon, and is no stronger than, the facts on which it is based. In other words, the probative value of the opinion will depend upon whether from all of the evidence in the case, you find that those facts are true. You may, in fact, determine from the evidence in the case that the facts that form the basis of the opinion are true, are not true, or are true in part only, and, in light of such findings, you should decide what effect such determination has upon the weight to be given to the opinion of the expert. Your acceptance or rejection of the expert opinion will depend, therefore, to some extent on your findings as to the truth of the facts relied upon. The ultimate determination of whether or not the State has proven defendant's guilt beyond a reasonable doubt is to be made only by the jury.

Jordan Abrams stands before you on an indictment found by the Grand Jury charging him/her with committing the crimes of Murder, Aggravated Manslaughter, Reckless Manslaughter, Possession of a Weapon for an Unlawful Purpose and Failure to Report the Death of a Person. The indictment is not evidence of the defendant's guilt on the charges. An indictment is a step in the procedure to bring the matter before the court and jury for the jury's ultimate determination as to whether the defendant is guilty or not guilty on the charges stated in it. The defendant has pleaded not guilty to the charges. The defendant on trial is presumed to be innocent and unless each and every essential element of the offenses charged are proved beyond a reasonable doubt, the defendant must be found not guilty of that charge. The burden of proving each element of the charges beyond a reasonable doubt rests upon the State and that burden never shifts to the defendant. It is not the obligation or the duty of the defendant in a criminal case to prove his/her innocence or offer any proof relating to his/her innocence.

The prosecution must prove its case by more than a mere preponderance of the evidence, yet not necessarily to an absolute certainty. The State has the burden of proving the defendant guilty beyond a reasonable doubt. Some of you may have served as jurors in civil cases, where you were told that it is necessary to prove only that a fact is more likely true than not true. In criminal cases, the State's proof must be more powerful than that. It must be beyond a reasonable doubt. A reasonable doubt is an honest and reasonable uncertainty in your minds about the guilt of the defendant after you have given full and impartial consideration to all of the evidence. A reasonable doubt may arise from the evidence itself or from a lack of evidence. It is a doubt that a reasonable person hearing the same evidence would have. Proof beyond a reasonable doubt is proof, for example, that leaves you firmly convinced of the defendant's guilt. In this world, we know very few things with absolute certainty. In criminal cases the law does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you must find him/her guilty. If, on the other hand, you are not firmly convinced of defendant's guilt, you must give defendant the benefit of the doubt and find him/her not guilty.

You will note that a jury of 14 has been drawn in this case. At the conclusion of all of the evidence and the charge of the court, there will be a random selection in which 2 jurors will be selected to act as alternates. The 12 remaining jurors will then deliberate and return a verdict. At this point we don't know who the alternates will be, and whether or not their services will be utilized. Thus, I direct that all jurors should pay equal attention to the evidence as it is presented, and to the court's rulings which are applicable to the case.

Final Charge – Read to Jury after Summations: General Information

Ladies and gentlemen of the Jury, the evidence in this case has been presented and the attorneys have completed their summations. We now arrive at that time when you, as jurors, are to perform your final function in this case. At the outset, let me express my thanks and appreciation to you for your attention to this case. I would like to commend counsel for the professional manner in which they have presented their respective cases and for their courtesy to the court and jury during the course of this trial. Before you retire to deliberate and reach your verdict, it is my obligation to instruct you as to the principles of law applicable to this case. You shall consider my instructions in their entirety and not pick out any particular instruction and overemphasize it. Generally speaking, these instructions consist of four parts. The first part deals with the general principles of law that apply to a criminal case. The second part describes the evidence that you may consider in your deliberations. The third part is about the portions of the Criminal Code that you must apply to the facts you find in this case to determine whether the State has proven beyond a reasonable doubt that the defendant violated a specific criminal statute. Finally, the fourth part of the instructions tells you how to go about conducting your deliberations. You must accept and apply this law for this case as I give it to you in this charge. Any ideas you have of what the law is or what the law should be or any statements by the attorneys as to what the law may be, must be disregarded by you, if they are in conflict with my charge.

Nature of Indictment

Now, beginning with the general principles of law that apply to a criminal case, the defendant stands before you on an indictment returned by the grand jury charging him/her with Murder, Aggravated Manslaughter, Reckless Manslaughter, Possession of a Weapon for an Unlawful Purpose and Failure to Report the Death of a Person. The indictment is not evidence of the defendant's guilt on the charges. An indictment is a step in the procedure to bring the matter before the court and jury for the jury's ultimate determination as to whether the defendant is guilty or not guilty on the charges stated in it. The defendant has pleaded not guilty to the charges.

Presumption of Innocence, Burden of Proof, Reasonable Doubt

The defendant on trial is presumed to be innocent and unless each and every essential element of an offense charged is proved beyond a reasonable doubt, the defendant must be found not guilty of that charge. The burden of proving each element of a charge beyond a reasonable doubt rests upon the State and that burden never shifts to the defendant. The defendant in a criminal case has no obligation or duty to prove his/her innocence or offer any proof relating to his/her innocence. The prosecution must prove its case by more than a mere preponderance of the evidence, yet not necessarily to an absolute certainty. The State has the burden of proving the defendant guilty beyond a reasonable doubt. Some of you may have served as jurors in civil cases, where you were told that it is necessary to prove only that a fact is more likely true than not true. In criminal cases, the State's proof must be more powerful than that. It must be beyond a reasonable doubt. A reasonable doubt is an honest and reasonable uncertainty in your minds about the guilt of the defendant after you have given full and impartial consideration to all of the evidence. A reasonable doubt may arise from the evidence itself or from a lack of evidence. It is a doubt that a reasonable person hearing the same evidence would have. Proof beyond a reasonable doubt is proof, for example, that leaves you firmly convinced of the defendant's guilt. In this world, we know very few things with absolute certainty. In criminal cases the law does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you must find him/her guilty. If, on the other hand, you are not firmly convinced of defendant's guilt, you must give defendant the benefit of the doubt and find him/her not guilty.

Function of the Court

The function of the judge is separate and distinct from the function of the jury. It is my responsibility to determine all questions of law arising during trial and to instruct the jury as to the law which applies in this case. You must accept the law as given to you by me and apply it to the facts as you find them to be. During the course of the trial, I was required to make certain rulings on the admissibility of the evidence either in or outside of your presence. These rulings involved questions of law. The comments of the attorneys on these matters were not evidence. In ruling, I have decided questions of law and, whatever the ruling may have been in any particular instance, you should understand that it was not an expression or opinion by me on the merits of the case. Neither should my other rulings on any other aspect of the trial be taken as favoring one side or the other. Each matter was decided on its own merits. I may have sustained objections to some questions asked by counsel which may have contained statements of certain facts. The mere fact that an attorney asks a question and inserts facts or comments or opinions in that question in no way proves the existence of those facts. You will only consider such facts which in your judgment have been proven by the testimony of witnesses or from exhibits admitted into evidence by the court.

Judge's Questioning

The fact that I may have asked questions of a witness in the case must not influence you in any way in your deliberations. The fact that I asked such questions does not indicate that I hold any opinion one way or the other as to the testimony given by the witness. Any remarks made by me to counsel or by counsel to me or between counsel, are not evidence and should not affect or play any part in your deliberations.

Function of the Jury

As I instructed you when we started the case, I explained to you that you are the judges of the facts and, as judges of the facts, you are to determine the credibility of the various witnesses as well as the weight to be attached to their testimony. You and you alone are the sole and exclusive judges of the evidence, of the credibility of the witnesses and the weight to be attached to the testimony of each witness. Regardless of what counsel said or I may have said recalling the evidence in this case, it is your recollection of the evidence that should guide you as judges of the facts. Arguments, statements, remarks, openings and summations of counsel are not evidence and must not be treated as evidence. Although the attorneys may point out what they think important in this case, you must rely solely upon your understanding and recollection of the evidence that was admitted during the trial. Whether or not the defendant has been proven guilty beyond a reasonable doubt is for you to determine based on all the evidence presented during the trial. Any comments by counsel are not controlling. It is your sworn duty to arrive at a just conclusion after considering all the evidence which was presented during the course of the trial.

Now I will move on to the second part of the instructions and discuss the evidence that you may consider in judging the facts of the case. When I use the term “evidence,” I mean the testimony you have heard and seen from this witness box, any stipulations and the exhibits that have been admitted into evidence. Any exhibit that has not been admitted into evidence cannot be given to you in the jury room even though it may have been marked for identification. Only those items admitted into evidence can be given to you. Any testimony that I may have had occasion to strike is not evidence and shall not enter in your final deliberations. It must be disregarded by you. This means that even though you may remember the testimony you are not to use it in your discussions or deliberations. Further, if I gave a limiting instruction as to how to use certain evidence, that evidence must be considered by you for that purpose only. You cannot use it for any other purpose. As jurors, it is your duty to weigh the evidence calmly and without passion, prejudice or sympathy. Any influence caused by these emotions has the potential to deprive both the State and the defendant(s) of what you promised them - a fair and impartial trial by fair and impartial jurors. Also, speculation, conjecture and other forms of guessing play no role in the performance of your duty.

Direct and Circumstantial Evidence

As I instructed you at the beginning of the case, evidence may be either direct or circumstantial. Direct evidence means evidence that directly proves a fact, without an inference, and which in itself, if true, conclusively establishes that fact. On the other hand, circumstantial evidence means evidence that proves a fact from which an inference of the existence of another fact may be drawn. An inference is a deduction of fact that may logically and reasonably be drawn from another fact or group of facts established by the evidence. Whether or not inferences should be drawn is for you to decide using your own common sense, knowledge and everyday experience. Ask yourselves is it probable, logical and reasonable. It is not necessary that all the facts be proven by direct evidence. They may be proven by direct evidence, circumstantial evidence or by a combination of direct and circumstantial evidence. All are acceptable as a means of proof. In many cases, circumstantial evidence may be more certain, satisfying and persuasive than direct evidence. However, direct and circumstantial evidence should be scrutinized and evaluated carefully. A verdict of guilty may be based on direct evidence alone, circumstantial evidence alone or a combination of direct evidence and circumstantial evidence provided, of course, that it convinces you of a defendant’s guilt beyond a reasonable doubt. The reverse is also true; a defendant may be found not guilty by reason of direct evidence, circumstantial evidence, a combination of the two or a lack of evidence if it raises in your mind a reasonable doubt as to the defendant’s guilt.

Credibility of Witnesses

As the judges of the facts, you are to determine the credibility of the witnesses and, in determining whether a witness is worthy of belief and therefore credible, you may take into consideration: the appearance and demeanor of the witness; the manner in which he or she may have testified; the witness’ interest in the outcome of the trial if any; his or her means of obtaining knowledge of the facts; the witness’ power of discernment meaning his or her judgment - understanding; his or her ability to reason, observe, recollect and relate; the possible bias, if any, in favor of the side for whom the witness testified; the extent to which, if at all, each witness is either corroborated or contradicted, supported or discredited by other evidence; whether the witness testified with an intent to deceive you; the reasonableness or unreasonableness of the testimony the witness has given; whether the witness made any inconsistent or contradictory statement; and any and all other matters in the evidence which serve to support or discredit his or her testimony. Through this analysis, as the judges of the facts, you weigh the testimony of each witness and then determine the weight to give to it. Through that process you may accept all of it, a portion of it or none of it.

Credibility of Witness - Prior Adjudication of Delinquency

Evidence has been introduced to show that Loren Lucas has been previously adjudicated a juvenile delinquent and is presently on a deferred disposition. Loren Lucas was originally facing time in the detention center, curfew and probationary supervision. I instruct you that when a juvenile appears before a judge in juvenile court and is given a “deferred disposition,” as Loren Lucas was, no further action will be taken against the juvenile unless that juvenile is again arrested or has another disposition within a one-year period. The disposition is deferred for that time, or until the juvenile is arrested again or has another disposition. In that case, the case comes back to life, and the juvenile faces the same consequences as before the deferred disposition. The evidence has been admitted so that, in addition to other criteria for assessing the credibility of witnesses, you may consider whether Loren Lucas’ testimony was influenced by possible bias, prejudice, interest or ulterior motive. More specifically, this evidence may be relevant to the question of whether Loren Lucas’ testimony was influenced by a hope or expectation of favorable treatment as

to the successful completion of his/her deferred disposition. Ultimately, the weight to be given to this witness, as all witnesses, is entirely up to you.

Statements of Defendant

There is for your consideration in this case an oral (that is, verbal) statement allegedly made by the defendant, which was not recorded. It is your function to determine whether or not the statement was actually made by the defendant, and, if made, whether the statement or any portion of it is credible. In considering whether or not an oral statement was actually made by the defendant, and, if made, whether it is credible, you should receive, weigh and consider this evidence with caution based on the generally recognized risk of misunderstanding by the hearer, or the ability of the hearer to recall accurately the words used by the defendant. The specific words used and the ability to remember them are important to the correct understanding of any oral communication because the presence, or absence, or change of a single word may substantially change the true meaning of even the shortest sentence. You should, therefore, receive, weigh and consider such evidence with caution. Specifically, the State alleges that Defendant said that s/he shot Pavano, and then said s/he "shot Pavano because he was attacking my mother." It is also alleged that Defendant showed police how s/he was standing when s/he fired two shots. These statements, said to have been made at the scene, were neither recorded nor transcribed. In considering whether or not the statement is credible, you should take into consideration the circumstances and facts as to how the statement was made, as well as all other evidence in this case relating to this issue. If, after consideration of all these factors, you determine that the statement was not actually made, or that the statement is not credible, then you must disregard the statement completely. If you find that the statement was made and that part or all of the statement is credible, you may give what weight you think appropriate to the portion of the statement you find to be truthful and credible.

The transcribed statements, on the other hand, are stipulated by the parties as being accurate, and you are to weigh those statements as a part of the totality of the circumstances.

Stipulations

1. The parties have agreed to certain facts. The jury should treat these facts as undisputed, i.e., the parties agree that these facts are true.
2. As with all evidence, undisputed facts can be accepted or rejected by the jury in reaching a verdict.

Ladies and gentlemen of the Jury, I instruct you that the fact that the State and the Defense have entered into these stipulations are not to be considered any admission of guilt by the Defendant to any or all of the crimes charged. There is simply an agreement that these facts are not in dispute.

Now, I will instruct you on the third part of the instructions on the portions of the Criminal Code that you must apply to the facts you find to determine whether the State has proven beyond a reasonable doubt that the defendant violated a specific criminal statute. The statute read together with the indictment identifies the elements which the State must prove beyond a reasonable doubt to establish the guilt of the defendant on each of the counts in the indictment.

In addition, you will have the opportunity to consider certain other offenses besides those charged specifically in the indictment. These are what we call lesser offenses, crimes or offenses of a lesser degree that are considered to be included within the charges brought in the indictment. I will give you instructions about how to consider these lesser offenses shortly.

Multiple Charges

There are five offenses charged in the indictment. They are separate offenses by separate counts in the indictment. In your determination of whether the State has proven the defendant guilty of the crimes charged in the indictment beyond a reasonable doubt, the defendant is entitled to have each count considered separately by the evidence which is relevant and material to that particular charge based on the law as I will give it to you.

Murder and Aggravated/Reckless Manslaughter [M.S.A. 2C:11-3a(1)(2); 2C:11-4a, b(1)]

The defendant is charged by indictment with the murder of Chris Pavano. Count One of the indictment reads as follows: The Grand Jurors of the State of New Jersey, for the County of Metropolitan, upon their oaths, present, that Jordan Abrams, on or about the 30th day of August, 2013, in Town of Cranberry Shores, County of Metropolitan, did purposely or knowingly cause the death of Chris Pavano or did purposely or knowingly inflict serious bodily injury upon Chris Pavano resulting in his death, contrary to law. A person is guilty of murder if he/she:

- (1) caused the victim's death or serious bodily injury that then resulted in death; and
- (2) the defendant did so purposely or knowingly.

In order for you to find the defendant guilty of murder, the State is required to prove each of the following elements beyond a reasonable doubt:

- (1) that the defendant caused Chris Pavano's death or serious bodily injury that then resulted in Chris Pavano's death, and
- (2) that the defendant did so purposely or knowingly.

One of the elements that the State must prove beyond a reasonable doubt is that the defendant acted purposely or knowingly. A person acts purposely when it is the person's conscious object to cause death or serious bodily injury resulting in death. A person acts knowingly when the person is aware that it is practically certain that his/her conduct will cause death or serious bodily injury resulting in death. The nature of the purpose or knowledge with which the defendant acted toward Chris Pavano is a question of fact for you the jury to decide. Purpose and knowledge are conditions of the mind which cannot be seen and can only be determined by inferences from conduct, words or acts. It is not necessary for the State to produce a witness or witnesses who could testify that the defendant stated, for example, that his/her purpose was to cause death or serious bodily injury resulting in death; or that he/she knew that his/her conduct would cause death or serious bodily injury resulting in death. It is within your power to find that proof of purpose or knowledge has been furnished beyond a reasonable doubt by inferences which may arise from the nature of the acts and the surrounding circumstances. Such things as the place where the acts occurred, the weapon used, the location, number and nature of wounds inflicted, and all that was done or said by the defendant preceding, connected with, and immediately succeeding the events leading to the death of Chris Pavano are among the circumstances to be considered.

Although the State must prove that the defendant acted either purposely or knowingly, the State is not required to prove a motive. If the State has proved the essential elements of the offense beyond a reasonable doubt, the defendant must be found guilty of that offense regardless of the defendant's motive or lack of a motive. If the State, however, has proved a motive, you may consider that insofar as it gives meaning to other circumstances. On the other hand, you may consider the absence of motive in weighing whether or not the defendant is guilty of the crime charged. A homicide or a killing with a deadly weapon, such as a Glock 17 handgun, in itself would permit you to draw an inference that the defendant's purpose was to take life or cause serious bodily injury resulting in death. A deadly weapon is any firearm or other weapon, device, instrument, material or substance, which in the manner it is used or is intended to be used, is known to be capable of producing death or serious bodily injury. In your deliberations you may consider the weapon used and the manner and circumstances of the killing, and if you are satisfied beyond a reasonable doubt that the defendant shot and killed Chris Pavano with a gun you may draw an inference from the weapon used, that is, the gun, and from the manner and circumstances of the killing, as to the defendant's purpose or knowledge.

The other element that the State must prove beyond a reasonable doubt is that the defendant caused Chris Pavano's death or serious bodily injury resulting in death. As I previously advised you, in order to convict the defendant of murder, the State must prove beyond a reasonable doubt that the defendant either purposely or knowingly caused the victim's death or serious bodily injury resulting in death. In that regard, "serious bodily injury" means bodily injury that creates a substantial risk of death. A substantial risk of death exists where it is highly probable that the injury will result in death. In order for you to find the defendant guilty of purposeful serious bodily injury murder, the State must prove beyond a reasonable doubt that it was the defendant's conscious object to cause serious bodily injury that then resulted in the victim's death; that the defendant knew that the injury created a substantial risk of death; and that it was highly probable that death would result. In order for you to find the defendant guilty of knowing serious bodily injury murder, the State must prove beyond a reasonable doubt that the defendant was aware that it was practically certain that his/her conduct

would cause serious bodily injury that then resulted in the victim's death; that the defendant knew that the injury created a substantial risk of death; and that it was highly probable that death would result.

Whether the killing is committed purposely or knowingly, causing death or serious bodily injury resulting in death must be within the design or contemplation of the defendant. All jurors do not have to agree unanimously concerning which form of murder is present so long as all believe that it was one form of murder or the other. However, for a defendant to be guilty of murder, all jurors must agree that the defendant either knowingly or purposely caused the death or serious bodily injury resulting in the death of Chris Pavano. If you determine that the State has proven beyond a reasonable doubt that the defendant purposely or knowingly caused death or serious bodily injury resulting in death, you must find the defendant guilty of murder. If, on the other hand, you determine that the State has not proven beyond a reasonable doubt that the defendant purposely or knowingly caused death or serious bodily injury resulting in death, then you must find him/her not guilty of murder and go on to consider whether the defendant should be convicted of the crime of aggravated manslaughter. If, however, you have found the defendant guilty of murder, then do not go on to aggravated or reckless manslaughter, and move on to possession of a firearm with a purpose to use it unlawfully.

A person is guilty of aggravated manslaughter if he/she recklessly causes the death of another person under circumstances manifesting extreme indifference to human life. In order for you to find the defendant guilty of aggravated manslaughter, the State is required to prove each of the following elements beyond a reasonable doubt:

- (1) that the defendant caused Chris Pavano's death, and
- (2) that the defendant did so recklessly, and
- (3) that the defendant did so under circumstances manifesting extreme indifference to human life.

One element that the State must prove beyond a reasonable doubt is that the defendant acted recklessly. A person who causes another's death does so recklessly when he/she is aware of and consciously disregards a substantial and unjustifiable risk that death will result from his/her conduct. The risk must be of such a nature and degree that, considering the nature and purpose of defendant's conduct and the circumstances known to defendant, his/her disregard of that risk is a gross deviation from the standard of conduct that a reasonable person would follow in the same situation. In other words, you must find that defendant was aware of and consciously disregarded the risk of causing death. If you find that defendant was aware of and disregarded the risk of causing death, you must determine whether the risk that he/she disregarded was substantial and unjustifiable. In doing so, you must consider the nature and purpose of defendant's conduct, and the circumstances known to defendant, and you must determine whether, in light of those factors, defendant's disregard of that risk was a gross deviation from the conduct a reasonable person would have observed in defendant's situation.

In this case, the State contends that defendant Jordan Abrams shot Chris Pavano intentionally, without reasonably believing that the use of deadly force was immediately necessary for the protection of either her/him or his/her family. The defense contends that Jordan did have that reasonable belief. Another element that the State must prove beyond a reasonable doubt is that the defendant acted under circumstances manifesting extreme indifference to human life. The phrase "under circumstances manifesting extreme indifference to human life" does not focus on defendant's state of mind, but rather on the circumstances under which you find he/she acted. If, in light of all the evidence, you find that defendant's conduct resulted in a probability as opposed to a mere possibility of death, then you may find that he/she acted under circumstances manifesting extreme indifference to human life. On the other hand, if you find that his/her conduct resulted in only a possibility of death, then you must acquit him/her of aggravated manslaughter and consider the offense of reckless manslaughter, which I will explain to you shortly.

The final element that the State must prove beyond a reasonable doubt is that the defendant caused Chris Pavano's death. You must find that Chris Pavano would not have died but for defendant's conduct. If after consideration of all the evidence, you are convinced beyond a reasonable doubt that the defendant recklessly caused Chris Pavano's death under circumstances manifesting extreme indifference to human life, then your verdict must be guilty of aggravated manslaughter. If, however, after consideration of all the evidence, you are not convinced beyond a reasonable doubt that the defendant recklessly caused Chris Pavano's death under circumstances manifesting extreme indifference to human life, you must find the defendant not guilty of aggravated manslaughter and go on to consider whether the defendant should be convicted of reckless manslaughter. If, however, you have found the defendant guilty of aggravated manslaughter, then do not consider whether the defendant should be convicted of reckless manslaughter, but move on to whether defendant possessed a firearm with a purpose to use it unlawfully.

A person is guilty of reckless manslaughter if he/she recklessly causes the death of another person. In order for you to find the defendant guilty of reckless manslaughter, the State is required to prove each of the following elements beyond a reasonable doubt:

(1) that the defendant caused Chris Pavano's death, and

(2) that the defendant did so recklessly. One element that the State must prove beyond a reasonable doubt is that the defendant acted recklessly.

A person who causes another's death does so recklessly when he/she is aware of and consciously disregards a substantial and unjustifiable risk that death will result from his/her conduct. The risk must be of such a nature and degree that, considering the nature and purpose of defendant's conduct and the circumstances known to defendant, his/her disregard of that risk is a gross deviation from the standard of conduct that a reasonable person would follow in the same situation. In other words, you must find that defendant was aware of and consciously disregarded the risk of causing death. If you find that defendant was aware of and disregarded the risk of causing death, you must determine whether that risk that he/she disregarded was substantial and unjustifiable. In doing so, you must consider the nature and purpose of defendant's conduct, and the circumstances known to defendant, and you must determine whether, in light of those factors, defendant's disregard of that risk was a gross deviation from the conduct a reasonable person would have observed in defendant's situation. The other element that the State must prove beyond a reasonable doubt is that the defendant caused Chris Pavano's death. You must find that Chris Pavano would not have died but for defendant's conduct. If after consideration of all the evidence you are convinced beyond a reasonable doubt that the defendant recklessly caused Chris Pavano's death, then your verdict must be guilty of reckless manslaughter. If, however, after consideration of all the evidence you are not convinced beyond a reasonable doubt that the defendant recklessly caused Chris Pavano's death, you must find the defendant not guilty of reckless manslaughter.

Possession of a Firearm with a Purpose to Use it Unlawfully Against the Person of Another (M.S.A. 2C:39-4a)

The 4th count of the indictment charges the defendant, with the crime of possession of a firearm with a purpose to use it unlawfully against the person of another, Chris Pavano. The statute on which this count of the indictment is based reads in pertinent part:

Any person who has in his possession any firearm with a purpose to use it unlawfully against the person of another is guilty of a crime.

In order for you to find the defendant guilty of this charge, the State has the burden of proving beyond a reasonable doubt each of the following four elements of this crime:

1. The Glock 17, which was recovered by police, is a firearm.
2. Defendant possessed the firearm.
3. Defendant possessed the firearm with the purpose to use it against the person of another, Chris Pavano.
4. Defendant's purpose was to use the firearm unlawfully.

The first element that the State must prove beyond a reasonable doubt is that the Glock 17, recovered by police, is a firearm.

A "firearm" means any handgun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectable ball, slug, pellet, missile or bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances. It shall also include, without limitation, any firearm which is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person.

The second element that the State must prove beyond a reasonable doubt is that defendant possessed the firearm. The third element that the State must prove beyond a reasonable doubt is that defendant's purpose in possessing the firearm was to use it against Chris Pavano. Purpose is a condition of the mind which cannot be seen and can only be determined by inferences from conduct, words or acts.

In determining the defendant's purpose in possessing the firearm, you may consider that a person acts purposely with respect to the nature of his/her conduct or a result of his/her conduct if it is the person's conscious object to engage in conduct of that nature or to cause such a result. That is, a person acts purposely if he/she means to act in a certain way or to cause a certain result. A person acts purposely with respect to attendant circumstances if the person is aware of the existence of such circumstances or believes or hopes that they exist.

The defendant's purpose or conscious objective to use the firearm against Chris Pavano may be found to exist at any time he/she is in possession of the object and need not have been the defendant's original intent in possessing the object.

The fourth element that the State must prove beyond a reasonable doubt is that the defendant had a purpose to use the firearm in a manner that was prohibited by law. I have already defined purpose for you. This element requires that you find that the State has proven beyond a reasonable doubt that the defendant possessed a firearm with the conscious objective, design or specific intent to use it against Chris Pavano in an unlawful manner as charged in the indictment, and not for some other purpose.

In this case, the State contends that the defendant's unlawful purpose in possessing the firearm was to shoot a person, having pointed and fired a firearm, the Glock 17, which was recovered by police, at Chris Pavano.

You must not rely upon your own notions of the unlawfulness of some other undescribed purpose of the defendant; rather, you must consider whether the State has proven the specific unlawful purpose charged. The unlawful purpose alleged by the State may be inferred from all that was said or done and from all of the surrounding circumstances of this case. However, the State need not prove that defendant accomplished his/her unlawful purpose of using the firearm.

If you are satisfied beyond a reasonable doubt that the State has proven each of the elements of this offense as I have defined them, then you must find defendant guilty. However, if you find that the State has failed to prove beyond a reasonable doubt any of the elements of this offense as I have defined them, then you must find defendant not guilty.

The defense on the other hand contends that defendant shot a person who s/he thought was an intruder, justifying the use of force, as I will define presently.

Justification Use of Force Upon an Intruder (M.S.A. 2C:3-4c)

The indictment charges that the defendant has committed, among other charges, the crimes of Murder, Aggravated Manslaughter and Reckless Manslaughter, and Possession of a Weapon for an Unlawful Purpose. The defendant contends that his/her use of deadly force upon Chris Pavano was justifiable under the circumstances for his/her self-protection and the protection of others. Under certain conditions, the law allows a person to use force upon another, and the use of such force does not constitute a criminal offense. The law exonerates a defendant who uses deadly force upon or toward an intruder who is unlawfully in a dwelling when the defendant reasonably believes that the deadly force is immediately necessary for the purpose of protecting himself/herself or other persons in the dwelling against the use of unlawful force by the intruder on the present occasion. Keep in mind that the State has the burden to prove to you, beyond a reasonable doubt, that the force used by the defendant against another person was not justified. If the State fails to sustain this burden, the defendant must be found not guilty of the crimes charged. Conversely, this defense should be rejected if the State disproves, beyond a reasonable doubt, any of the elements or conditions which constitute justification. For the force used by the defendant against another to be justified, the following two conditions must exist:

1. The other person, Chris Pavano, was an intruder who was unlawfully in a dwelling. An intruder is one who is unlawfully in the dwelling--that is, he/she was not licensed or privileged to be in the dwelling. The term "dwelling" means any building or structure, though movable or temporary, or a portion thereof, which is used as a person's home or place of lodging.
2. The defendant reasonably believed that deadly force was immediately necessary for the purpose of protecting himself/herself or other persons in the dwelling against the use of unlawful force by the intruder on the present occasion.

A reasonable belief exists when a defendant, to protect himself/herself or a third person, was in his/her own dwelling at the time of the offense or was privileged to be thereon, and the encounter between the defendant and intruder was sudden and unexpected, compelling the defendant to act instantly, and the defendant reasonably believed that the intruder would inflict personal injury upon the defendant or others in the dwelling, or the defendant demanded that the intruder disarm, surrender or withdraw, and the intruder refused to do so. I instruct you that a reasonable belief is different than an

honest belief. What is reasonable is not measured by what a defendant found reasonable but rather by what a jury finds reasonable. Thus, the reasonableness of defendant's belief is based on an objective standard--that is, by how an ordinary reasonable person with a detached viewpoint would view it. A subjective belief, based on the viewpoint of the defendant, is immaterial. If the defendant did employ protective force, he/she has the right to estimate the necessity of using force without retreating, surrendering position, withdrawing or doing any other act which he/she has no legal duty to do or abstaining from any lawful action. The State has a burden of proving, beyond a reasonable doubt, that the force used by the defendant against another person was not justified, that is, the State has the burden of proving, beyond a reasonable doubt, that any of the elements or conditions of justification do not exist.

If you find that the State has met its burden of proof beyond a reasonable doubt, there is no justification and you will consider whether the State has otherwise sustained its burden of proving, beyond a reasonable doubt, each and every element of the offense of Murder and/or Aggravated Manslaughter and/or Reckless Manslaughter and/or Possession of a Firearm with a Purpose to Use it Unlawfully Against the Person of Another. If the State has not met its burden in this regard on the issue of justification, the defendant must be found not guilty as to the charge of Murder, and/or Aggravated Manslaughter and/or Reckless Manslaughter and/or Purpose to Use it Unlawfully Against the Person of Another.

Failure to Report a Death of a Person (M.S.A. 52:17B-89)

Count 5 of the Indictment charges the defendant with the crime of failing to report a death, stating: "The Grand Jurors of the State of New Jersey, for the County of Metropolitan, upon their oaths, present, that Jordan Abrams, on or about the 30th day of August, 2013, in Town of Cranberry Shores, County of Metropolitan, did commit the crime of Failing to Report a Death, having become aware of the death of Chris Pavano by criminal violence, by accident, or in any suspicious or unusual manner, and having knowingly neglected or refused to report that death to the office of county medical examiner or to the police department of the municipality in which the person died." The statute on which this count of the indictment is based reads in pertinent part: Any person who may become aware of any death by criminal violence, by accident, or in any suspicious or unusual manner who knowingly neglects or refuses to report that death to the office of county medical examiner, the office of State Medical Examiner, or to the police department of the municipality in which the person died, is guilty of a crime. In order for you to find the defendant guilty of this offense, the State must prove beyond a reasonable doubt:

1. That the death of Chris Pavano was by criminal violence, by accident, or in any suspicious or unusual manner;
2. That the defendant became aware of the death of Chris Pavano. That the defendant knowingly neglected or refused to report that death to the office of county medical examiner, the office of State Medical Examiner, or to the police department of the municipality in which Chris Pavano died.

The first element that the State must prove beyond a reasonable doubt is that the defendant became aware of the death of Chris Pavano and that the death was by criminal violence, by accident, or in any suspicious or unusual manner. The second element the State must prove beyond a reasonable doubt is that the defendant knowingly neglected or refused to report that death to the office of county medical examiner, the office of State Medical Examiner, or to the police department of the municipality in which Chris Pavano died. A person acts knowingly with respect to the nature of his/her conduct or the attendant circumstances if he/she is aware that his/her conduct is of that nature, or that such circumstances exist, or he/she is aware of a high probability of their existence. A person acts knowingly with respect to a result of his/her conduct if he/she is aware that it is practically certain that his/her conduct will cause such a result.

Knowledge is a condition of the mind. It cannot be seen. It can only be determined by inferences from defendant's conduct, words or acts. A state of mind is rarely susceptible of direct proof but must ordinarily be inferred from the facts. Therefore, it is not necessary that the State produce witnesses to testify that an accused said that he/she had a certain state of mind when he/she engaged in a particular act. It is within your power to find that such proof has been furnished beyond a reasonable doubt by inference, which may arise from the nature of his/her acts and conduct, and from all he/she said and did at the particular time and place, and from all surrounding circumstances established by the evidence. If you find that the State has proved each element of the offense beyond a reasonable doubt, then you must find the defendant guilty. If you find that the State has failed to prove any element of the offense beyond a reasonable doubt, then you must find the defendant not guilty.

Deliberations

I will now give you some information on the final part of these instructions on conducting your deliberations. There is nothing different in the way a jury is to consider the proof in a criminal case from that in which all reasonable persons treat any questions depending upon evidence presented to them. You are expected to use your own good common sense; consider the evidence for only those purposes for which it has been admitted and give it a reasonable and fair construction in the light of your knowledge of how people behave. It is the quality of the evidence, not simply the number of witnesses that control.

As I said before, any exhibit that has not been marked into evidence cannot be given to you in the jury room even though it may have been marked for identification. Only those items marked in evidence can be given to you. Very shortly you will go into the jury room to start your deliberations. I remind you that, during deliberations, and, in fact, any time that you are in the jury deliberation room, you must keep any cell phone, pager or other communication device you may possess turned off.

You are to apply the law as I have instructed you to the facts as you find them to be, for the purpose of arriving at a fair and correct verdict. The verdict must represent the considered judgment of each juror and must be unanimous as to each charge. This means all of you must agree if the defendant is guilty or not guilty on each charge. It is your duty, as jurors, to consult with one another and to deliberate with a view to reaching an agreement, if you can do so without violence to individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with your fellow jurors. In the course of your deliberations, do not hesitate to re-examine your own views and change your opinion if convinced it is erroneous but do not surrender your honest conviction as to the weight or effect of evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict. You are not partisans. You are judges--judges of the facts.

Unanimous Verdict

You may return on each crime charged a verdict of either not guilty or guilty. Your verdict, whatever it may be as to each crime charged, must be unanimous. Each of the 12 members of the deliberating jury must agree as to the verdict.

Instructions as to Verdict Form

To assist you in reporting a verdict, I have prepared a verdict sheet. You will have this with you in the jury room. This verdict form is not evidence. This form is only to be used to report your verdict.

I have come to the end of my charge.

JURY VERDICT SHEET

Count 1: How do you find the defendant, Jordan Abrams, as to the charge of Murder?

Guilty ____

Not Guilty ____

If you find the defendant guilty of Count 1, do not consider counts two or three; move on to Count 4.

If you find the defendant not guilty of Count 1, consider Count 2.

Count 2: How do you find the defendant as to the charge of Aggravated Manslaughter?

Guilty ____

Not Guilty ____

If you find the defendant guilty of Count 2, do not consider Count 3; move on to Count 4.

If you find the defendant not guilty of Count 2, consider Count 3.

Count 3: How do you find the defendant as to the charge of Reckless Manslaughter?

Guilty ____

Not Guilty ____

Count 4: How do you find the defendant, Jordan Abrams, as to the charge of Possession of a Weapon for an Unlawful Purpose?

Guilty ____

Not Guilty ____

Count 5: How do you find the defendant, Jordan Abrams, as to the charge of Failing to Report a Death?

Guilty ____

Not Guilty ____

Foreperson's Signature:

Dated:

Detective Carey Peeler

Narrative Police Report

At 21:45 hours, on August 30, 2013, I received a call from dispatch to respond to 1111 Ocean Drive for a call from the Medic-Alert company. While I am a Detective with Cranberry Shores Municipal Police Department, in plain clothes, I was driving a marked patrol car, as the Department is small. While the Department has additional temporary Special Police I officers during the summer months, these officers usually drive bicycles or the three-wheeled carts you see on the boardwalks.

People wear devices around their necks, from the Medic-Alert company, and can summon help with the touch of a button. I understood from dispatch that Medic-Alert had called the subscriber's phone number, but there had been no response. As there was no indication of the nature of the emergency, I was the only officer dispatched. As many of these calls are for medical emergencies, however, Metropolitan Emergency Medical Services was also dispatched. I responded from police headquarters in my marked patrol car at emergency speed, with overhead lights activated. At 21:50, I exited the vehicle. There had been a rash of break-ins of nearby homes, which were almost all unoccupied, and almost all with still-unrepaired damage from Hurricane Sandy.

I approached the front door. There was a red sticker on the door, indicating that the Cranberry Shores Construction Department had reviewed repairs, but still deemed the home unfit for occupancy. A green sticker, a certificate of occupancy, is necessary to show that a home is fit for occupation. There were no lights visible from my perspective, and there were no vehicles parked in the driveway. I later discovered that Jordan Abrams' vehicle was parked in the garage. Everything seemed neat and in order, except for a rusty spray paint can a few feet away from the front door.

I was prepared to enter the residence without waiting for backup, as I expected to encounter a person in medical distress, and not a violent situation. Before I could even ring the bell, however, Jordan Abrams, who I knew from prior encounters, opened the door and was starting to step outside. S/he was seen to have a black backpack slung over one shoulder. Upon seeing me, however, s/he looked startled, and backed up, with the screen door closing as s/he retreated. Although I was dressed in plain clothes, I was wearing my badge around my neck, where it would be instantly recognizable.

I thereupon opened the screen door, and entered into the front hallway. Before me were standing two adolescent children, later identified as Remy and Jada Abrams, Jordan Abrams' children. Meanwhile, Jordan Abrams was walking away from me, still carrying the backpack. Remy excitedly informed me that "Pavano was shot!" I drew my service weapon, and I then radioed in for backup. I knew the Pavano family, who lived in town, a few blocks away from this location. I asked which Pavano, and Remy quickly responded, "Chris, the son." I asked "who shot him?" and, for the first time, Jordan Abrams spoke, saying "I shot him. I caught him and his gang breaking into my house!"

I aimed my service weapon at Jordan Abrams and ordered him/her to drop the bag and raise his/her hands in the air. For my safety, I performed a pat-down of Jordan Abrams, revealing a bulge in the front right pants pocket. From that pocket I recovered a cellular phone, and nothing else. I then noticed a pistol on the floor at Jordan Abrams' feet, a Glock 17, which s/he acknowledged was his/hers. I picked up the gun, then asked if anyone else was in the house, and a young man/woman, later determined to be Loren Lucas, announced, from the rear of the home, the living room: "I am here, and Chris is on the floor." I had Abrams and his/her two children move forward in front of me toward the living room.

Coming into the living room, I could see much better there, as the enormous chandelier's lights were lit, as were several high hat recessed (i.e., indoor flood) lights above the upper floor hallway. I told Jordan Abrams to get on his/her knees. S/he complied. I could see, to my left, a stairway from the open second floor hallway to the first floor. Several feet in front of the stairway lay the body of Chris Pavano, motionless. Hovering over him was Loren Lucas. I checked for a pulse from Pavano's right arm, but there was none. Several inches away from Chris Pavano's head was a black broom handle. It was then that I noticed that seated in the only piece of furniture in the room, a high-backed leather chair, was an elderly woman, later known to me as Candace Abrams, Jordan's mother. Candace Abrams said that she was scared, and that "they were coming to get us." I asked who was coming to get them, whereupon she repeated what she had just said.

54 Thereupon EMTs and Det. Singer of the Metropolitan County Prosecutor's Office and other Cranberry Shore officers
55 arrived. The EMTs began heroic life-saving measures, which were futile.

56

57 That freed me to investigate the shooting further, as I was the lead detective on the case. I started with a sweep (quick
58 search) of the upstairs rooms, to confirm that no one else was in the residence. I entered the front bedroom, which is
59 entered by going straight upon reaching the top of the stairs, as the door was open. This was later determined to be Jordan
60 Abrams' bedroom. Inside, right next to the door, I found a tall dresser with a Taser laying on top, as well as an open box of
61 9mm Parabellum bullets.

62

63 There were two other bedrooms, each to either side of the stairwell, connected by a hallway. The hallway was bordered
64 on one side by the walls adjoining the three bedrooms, and on the other by a wooden railing, with upright wooden spokes/
65 rungs, with large gaps in between each rung. Anyone standing in the hallway could look out upon the living room, with
66 its raised ceiling, and see clearly below, and be seen from below. Standing in the hallway, the lighting from the candelabra
67 illuminated the living room well, as well as the stairwell and the hallway itself.

68

69 Examining the stairwell again as I descended, I saw two expended shell casings, later determined by Det. Singer to have
70 been ejected from the Glock 17, on the stairwell's rug. The expended shell casings were found to the left front of where
71 Abrams later claimed s/he was positioned when s/he fired, and, most importantly, on the far left of the middle step, as
72 you look down, and not at the top of the stairway, in the second floor hallway. I asked Abrams in his/her interview where
73 casings ejected when shooting the gun, but Abrams claimed, however, that s/he had never fired this particular gun, the
74 Glock 17, prior to tonight, as it was newly purchased. At the scene, however, I recovered two boxes of 9mm ammunition,
75 labeled FMJ (short for full metal jacket), manufactured by Sellier & Bellot, which each hold 50 rounds. I inventoried
76 the boxes, however, and found one to be full, but the other to have only 20 bullets inside. As the recovered Glock 17 gun
77 was examined and found to be loaded with 15 bullets inside, there were two discharged at the scene, that left 13 bullets
78 unaccounted for.

79

80 At the scene, as I was examining the spent shell casing, Jordan Abrams excitedly told me that s/he "shot Pavano because
81 he was attacking my mother." Abrams quickly added that "instinct took over" then. Abrams also showed how s/he held
82 the gun, right hand outstretched, gun upright (neither angled to the left or right).

83

84 This was my investigation as the on-duty detective for the Cranberry Shores Police Department, and as the initial
85 responder. Det. Jerry/Gerrie Singer, a crime scene reconstructionist, responded to the scene, and s/he handled the crime
86 scene. Refer to Det. Singer's report for further details regarding what was found at the scene, and to Det. Singer's Property
87 Report as to what was recovered at the scene.

88

89 At the interview, I asked Abrams to physically replicate his/her movements and grip at the time of the shooting. S/he stood
90 bladed (that is, with his/her right side facing decedent, as opposed to facing decedent with his/her full body), with right
91 arm outstretched, fully extended. Abrams confirmed that s/he is right-handed, and shot right-handed.

92

93 Abrams shot Chris Pavano from a distance of 30 feet, according to where Abrams showed Det. Singer and me s/he had
94 been standing.

95

96 One of the five guns recovered from Jordan Abrams' bedroom was an official replica of General Patton's well-known
97 custom ivory-handled Smith and Wesson .357 magnum revolver. See Property Report for more details.

98

99 A review of weatherinfo.com's records shows that the temperatures in Cranberry Shores varied from a high of 80 degrees
100 to a low of 51 degrees on August 30, 2013. People don't always realize the big temperature swings we experience here at
101 the Jersey Shore. It was a chilly night, and I myself was dressed in layers that night.

102

103 The phase of the moon was a quarter crescent waning, as per the U.S. Naval Observatory website. That means that 25
104 percent of the moon was visible. At the crime scene, from the top of the steps, and from the middle step of the stairwell,
105 I could see the moonlight casting into the room via the upstairs windows, which covered nearly the whole of the upstairs
106 walls.

107 I asked Candace Abrams to give a statement but she refused to answer my questions. A doctor's notice was later sent to
108 and received by the Metropolitan Police Department, stating that "Candace Abrams is in a state of shock, and that it could
109 be harmful to her health to give a statement about the shooting." Accordingly, she was never interviewed.

110
111 Abrams stated that s/he had gotten the Glock 17 from the top of his/her bedroom dresser. While Abrams had a small
112 portable gun safe, s/he claimed that that particular gun was left outside of it, as s/he had just transported the gun with other
113 belongings from the car. When I asked if the gun had been broken down for transport (by which I meant, by removing
114 the firing pin, with the ammunition left out) in accordance with New Jersey law, s/he claimed that it had. Earlier in the
115 interview, however, s/he had told me that s/he had never taken the gun apart in any way, as it had been "new." The receipt
116 for the gun, recovered at the scene, will show, however, that it was purchased a year earlier.

117
118 On the top of the dresser was found a Taser. When I asked Abrams why s/he had not used the Taser, instead of the Glock
119 17 gun, Abrams replied that the Taser did not have sufficient range to counter any potential threat. Det. Singer measured
120 the distance from the second floor, where Abrams claimed to be standing, however, and the distance from that location to
121 where decedent's prone body lay, was just under 30 feet. The range for a standard issue Taser, such as the one recovered,
122 is 35 feet, as the two leads propelled from the device are 35 feet long.

123
124 I borrowed Candace Abrams' Medic-Alert device, which she still had around her neck, on a necklace. Upon pressing the
125 device, where it said "test," there was a loud beeping sound.

126
127 Loren Lucas was charged with criminal trespass, as a juvenile, for entrance into the Abrams' residence without permission
128 or invitation. Dorian Campbell and Grey Michaels, both 17 years old, were not charged. Michaels was not found on the
129 scene. I attempted to speak with Campbell and Michaels with their parents, but both juveniles requested counsel, and so
130 no statements were taken. A paint spray can was found at the scene, and graffiti, but the paint was dry on the graffiti when
131 I examined it the next day, so I was unable to determine whether it was done on the night in question. Accordingly, I did
132 not file criminal mischief charges against the juveniles.

133
134 *Detective Carey Peeler*
135 Detective Carey Peeler
136

137 Dated: September 1, 2013
138

139 **Portions of Jordan Abrams' statement, taken under oath, to Det. Carey Peeler, on August 31, 2013 at 01:30 hours:**
140

141 Q: We are here at police headquarters. You have the right to remain silent. Anything you say can and will be used against
142 you in a court of law. You have to answer verbally – this is all being recorded.

143
144 A: Oh, yes.

145
146 Q: You have the right to speak to an attorney and to have an attorney present during any questioning. Do you understand
147 that?

148
149 A: Yes, I do.

150
151 Q: If you cannot afford a lawyer, one will be provided for you at government expense. Do you understand?
152

153 A: Yes.

154
155 Q: If you do choose to answer questions, you may stop the questioning at any time.

156
157 A: Understood.

158
159 Q: You are Jordan Abrams?

160
161 A: Yes.

162 Q: You own the house where we just were, at 1111 Ocean Drive in Cranberry Shores.
163
164 A: Yeah. You know all that. That was you picketing outside of my house a few months ago, wasn't it?
165
166 Q: No. I was there, but I'm a police detective. I wanted to see that things didn't get out of hand. While I am a detective,
167 given that Cranberry Shores is a small department, we also have occasional patrol duties.
168
169 A: Were you on duty?
170
171 Q: No. But we police are always on duty, really. You are going to answer my questions, Mr./s. Abrams. That's the way this
172 works.
173
174 A: OK.
175
176 Q: At the home we found a lot of weapons. Who do these belong to?
177
178 A: Generally, me. I collect weapons.
179
180 Q: So the duffel bag with knives, found on your bedroom floor, that is yours?
181
182 A: Well, I inherited some of them. My dad was in the Army, and he brought home weapons from wartime. That was
183 allowed, then.
184
185 Q: The five guns. All yours?
186
187 A: Yes, except that the snub-nose revolver had belonged to my spouse, before s/he passed.
188
189 Q: I'm sorry for your loss. We recovered that revolver. All of these weapons registered to you?
190
191 A: Yes, all of them.
192
193 Q: Including the Glock 17 you used to shoot Chris Pavano?
194
195 A: I did not know it was Chris Pavano. I just knew that it was someone facing my elderly mother.
196
197 Q: You had known Chris Pavano for two years, right?
198
199 A: Yes, but I could not see his face from where I was standing.
200
201 Q: You had the Glock 17 on the top of your dresser, you told me at the scene?
202
203 A: That's right.
204
205 Q: When had you last fired the Glock?
206
207 A: I never had. I hadn't owned it for that long.
208
209 Q: When and where did you buy it?
210
211 A: At a gun show, a couple months ago, maybe.
212
213 Q: You also had a Taser?
214

215 A: Yes, I own a Taser. I didn't recall that I had brought that into the house yet, though.
216
217 Q: Had you spent time in your bedroom that night?
218
219 A: Yes, of course. I slept there.
220
221 Q: Did anyone else sleep there?
222
223 A: Not since my spouse died.
224
225 Q: Where did your children sleep?
226
227 A: Jada and Remy each have their own rooms. Jada's is to the left of mine, as you look up from downstairs. Remy's is on
228 the right.
229
230 Q: The TV was on in your room. So you weren't sleeping when you first heard a noise.
231
232 A: No, I was sleeping. I fell asleep watching TV.
233
234 Q: So you didn't merely sleep in your bedroom that night. You also stayed up watching TV?
235
236 A: Yes, after unpacking, I just changed and went right to bed.
237
238 Q: Do you usually sleep in sweatpants and a sweatshirt?
239
240 A: Tonight I did. I couldn't find my pajamas.
241
242 Q: Did you look in the dresser for your pajamas?
243
244 A: Yes. They weren't there.
245
246 Q: You had filled up the dresser that night?
247
248 A: Yes, I had.
249
250 Q: So you saw that you had left the Taser on the top of the dresser, naturally.
251
252 A: No, I don't recall that.
253
254 Q: You do recall that you own a Taser, though.
255
256 A: Yes, of course.
257
258 Q: Have you ever used a Taser?
259
260 A: Yes, I have.
261
262 Q: How far does it shoot?
263
264 A: I don't know exactly. Maybe 25 feet.
265
266 Q: So maybe the distance away where Pavano was standing.
267
268 A: I guess that's possible. I don't know.

269 Q: When you exited the bedroom, upon hearing a noise, you had to pass right by the dresser, didn't you?
270
271 A: I don't know. Maybe.
272
273 Q: When you heard a noise, and you came out of your bedroom, you saw Remy out of his/her room, as well?
274
275 A: I could see him/her out of the corner of my eye, to my left.
276
277 Q: Did you see Jada?
278
279 A: Not until after the second shot when I turned around.
280
281 Q: How did you happen to look down at Pavano when you came out of your room?
282
283 A: That was where my mother's voice was coming from.
284
285 Q: And where Pavano's voice was coming from?
286
287 A: Yeah.
288
289 Q: You saw Pavano with the object pointed at your mother, and "instinct took over," right? That's what you told me at the
290 scene?
291
292 A: I saw a man threatening my poor eighty-year-old mother, yes.
293
294 Q: Even with the lights on, you could not see that the man you shot was Chris Pavano?
295
296 A: The lights weren't on.
297
298 Q: There is a light switch for the candelabra lights in the living room on the wall, right outside of your master bedroom.
299
300 A: That's so.
301
302 Q: The candelabra has over a dozen lamps, right?
303
304 A: Sure, and when they are on, it lights up the house like a Christmas tree. But they weren't on at that time.
305
306 Q: The moon was out tonight.
307
308 A: I guess. But it was a cloudy night.
309
310 Q: You have windows along the back wall that extend from the top of the sliding glass doors all the way to the ceiling.
311
312 A: Yes, to have a direct view of the ocean.
313
314 Q: The moon was shining into the house through those windows tonight.
315
316 A: Yeah. Look, it was light enough for me to see four kids standing around my mother. It was light enough for me to see
317 that the big guy had a rifle-like weapon pointed right at her. That's how light out it was.
318
319 Q: Was your hearing less than normal, too?
320
321 A: I can hear just fine.

322 Q: And you heard Pavano threaten your mother?

323

324 A: I heard a threat, as I told you before. He said, "You'll have it."

325

326 Q: That is when you shot Pavano?

327

328 A: Yes. After the threat, that is when I shot the intruder.

329

330 Q: With your right hand, as you are right-handed?

331

332 A: Yes.

333

334 Q: You're trained to shoot to kill, aren't you?

335

336 A: That depends on the situation.

337

338 Q: What exactly was the situation, Mr./s. Abrams?

339

340 A: I did not have my scope to see whether Pavano was holding a stick or a gun, officer.

341

342 Q: You were aiming for Pavano's heart?

343

344 A: I aimed for the torso. It is the largest target, and has the most likelihood of taking down an enemy.

345

346 Q: You lined up your shot?

347

348 A: I didn't have time to line up my shot, but I aimed for the torso.

349

350 Q: Where were you standing when you shot Pavano?

351

352 A: I was right dead-center at the top of the stairs, I was just above the first step going down, in the middle.

353

354 Q: And that is where you fired the other shot from, as well?

355

356 A: No. For the next shot, I was dead-center of one of the middle stairs. I was an equal distance from the left and right
357 bannisters.

358

359 Q: The broom handle we found near Pavano's body, that was what you thought was a rifle. Had you ever seen that before?

360

361 A: I'm not sure. We have a broom handle. It was in the track of the sliding glass door. I don't know if it is still there now.
361 It looks similar.

363

364 Q: You knew Chris Pavano. You knew him well?

365

366 A: Yes. I knew him and his family. You know, his mother, the mayor, who's your boss.

367

368 Q: That's true, but not relevant here. I asked you about Chris Pavano. Chris had run-ins with you in the past, didn't he?

369

370 A: That was the way it was – Chris had run-ins with me. I never did anything to have run-ins with that young man.

371

372 Q: Chris had embarrassed you.

373

374 A: I don't get embarrassed easily. Not when I know I'm in the right. A few doodles don't affect me.

375

376 Q: So you thought that Chris Pavano had something to do with the graffiti we found on your house?
377
378 A: The graffiti I found at my house, and showed you. Which you did nothing about. You also did nothing about those
379 couple of prior break-ins around town.
380
380 Q: There were a couple of break-ins this summer of empty homes.
382
383 A: Did you ever find the kids that did them?
384
385 Q: Well, we have no idea whether it was kids or not. Usually, a door was forced or a window was broken, but whoever did
386 it covered their tracks pretty well. No other damage, no mess, nothing taken.
387
388 A: So the answer is no. I knew that the burglars hadn't done anything much, but that just means they weren't out to steal.
389 So they must have done it intending to send a message to the homeowners - that everything was "surfers' turf." If you had
390 caught those surf bums before, none of this would have ever happened.
391
392 Q: So you think Pavano came on your property and was the graffiti artist, and you were suspecting that Pavano would
393 come back to your home?
394
395 A: I had always been concerned, ever since that invasion of the sanctity of my home, yes. And those other break-in
396 reports.
397
398 Q: You were upset when Chris got in your face at the Town Hall about you not being the one who killed the "Ace of
399 Clubs."
400
401 A: I was annoyed. If I had been upset, everyone would have known it. He was just a jerk.
402
403 Q: Chris had sullied your reputation; shown that you weren't a hero.
404
405 A: I never said I was a hero. I never said who it was who'd killed that sniper. In fact, Vera and I both did it, working
406 together. Besides, the newspaper had already been set straight by a comrade of mine, who'd said, flat out, that I was the
407 spotter for that kill, and not the sniper.
408
409 Q: You shot off a warning shot?
410
411 A: Yes I did. You can never assume that you've encountered the only shooter, or that the encounter is over. I wanted to be
412 sure that those kids did what I said, for the safety of my family.
413
414 Q: You know Loren Lucas?
415
416 A: Yes, I know him/her. S/he and Pavano were often together. They were attached at the hip, it seemed to me. Always
417 surfing together behind my house, with Dorian Campbell and Grey Michaels.
418
419 Q: Did you recognize Lucas there that night?
420
421 A: Only after I shot Pavano.
422
423 Q: Are you saying you didn't see Lucas before you shot Pavano?
424
425 A: No. I saw Lucas, and three other people invading my home. I just didn't recognize anybody until I acted to protect my
426 family.
427
428 Q: You were in an awful hurry when you bumped into me at the front door.
429
430

431 A: I didn't bump into you. I had come to open the door for you.
432
433 Q: Why did you lift up your hands?
434
435 A: I didn't just lift my hands. I said to you, "Friendlies. Don't shoot."
436
437 Q: True, but what made you think I would shoot you?
438
439 A: Didn't you know about the home invasion?
440
441 Q: All I knew was that a Medic-Alert button had been pressed.
442
443 A: I thought 911 had been called. I had told Remy to call.
444
445 Q: You did not like Pavano.
446
447 A: Pavano did not like me. That might explain why he broke into my home tonight.
448
449 Q: What reason would Pavano have for not liking you?
450
451 A: Pavano was a surfer. So is Lucas. Before they invaded my house, they were always hanging out in back of my house.
452
453 Q: You mean, on the public beach?
454
455 A: OK, so it was the beach. They would always surf there. They said the waves were better right there in the back of my
456 house.
457
458 Q: Also, you know they can't surf on the parts of the beach that are controlled by lifeguards. Those areas are for swimmers
459 without boards. Behind your house, there are no lifeguards posted.
460
461 A: Yes, but the beach stretches on for miles. There were plenty of places for them to surf. But they claimed those other
462 areas didn't have the same waves. Also, I'm not just talking about summer, when the lifeguards are there. They'd be there
463 in the spring and fall, too, in their wetsuits.
464
465 Q: How often?
466
467 A: All the time it seemed like.
468
469 Q: So what was the problem?
470
471 A: Several things. First of all, I like to surf-fish with the kids. It was a family tradition – I did it with my spouse before s/
472 he passed, and I used to do it growing up, with my folks.
473
474 Q: What gear do you use to fish out there?
475
476 A: Usually a nine-foot spinning rod. We catch bait fish like croaker first in the sand bars. Then use it cut up as bait to catch
477 striped bass and bluefish, in the deep channel part between the sand bars, where those big stripers and blues are waiting
478 for smaller fish to come in and out.
479
480 Q: You seem to know your stuff. But how did the surfers interfere with your fishing?
481
482 A: You can't fish in the ocean if your line is going to catch on some surfer. The surfer "dudes"- they said they'd sue us if
483 we did "catch" them with our hooks. Plus, surfers scare away all the fish.
484

485 Q: Who told you that?
486
487 A: I don't remember. Also, they didn't just surf behind my place. They would party out there, making all kinds of noise,
488 blasting music. They would drink.
489
490 Q: Did you ever call police on them?
491
492 A: Yeah, but no real police officers would respond. Just those "Special I" police, those guys who aren't even issued guns,
493 with little training, and just work for your department during the summer. Pavano and the other surfers would just laugh at
494 those guys, calling them "rent-a-cops," or "Paul Blart," you know, the movie character who is a mall cop. When it wasn't
495 summer, even those cops were gone, and these kids were still surfing, while we were trying to fish. They'd be out there in
496 wet suits when it was cold.
497
498 Q: True, the Special I Police we have can't carry guns, but they didn't need guns to handle your arguments with some
499 young surfers. The bottom line is that Pavano would bother you, right?
500
501 A: Then there was the time that the twins were surfing, and they were wiping out, and they teased them, calling my kids
502 "groms."
503
504 Q: Beginners, in other words.
505
506 A: Yeah, I had to explain that word to the kids. Then they cursed Jada out because they decided to surf close to where s/he
507 was. One of them got whacked in the head by Jada's board. They cursed up a storm, acting like it was Jada's fault.
508
509 Q: What else did these "surfer dudes" do to you?
510
511 A: I had to get rid of my Staffordshire Terrier because of them. They are not allowed on the beach, and after Max got off
512 his leash one too many times, and I got one too many tickets for it, I had to give him away, to my sister.
513
514 Q: Staffordshire Terrier . . . isn't that another name for a pit bull?
515
516 A: Right.
517
518 Q: And didn't you get rid of that pit bull after it bit Dorian Campbell on the rear end?
519
520 A: That's true, but Dorian was taunting the poor thing. Pit bulls get a bad rap. That was a sweet dog. And, had I still had
521 Max, then I doubt whether Campbell and Pavano and the rest would have broken into my house.
522
523 I am also sure that those surfers were behind all the graffiti at my house. You were supposed to solve those crimes. I told
524 you it was them at the time.
525
526 Q: Can I look at your video surveillance recorder?
527
528 A: It is off. The generator is running things here, since, as you know, there's no power here yet.
529
530 Q: So what is running?
531
532 A: Just the lights, the air conditioner and the fridge.

1 **Narrative Report of Det. Carey Peeler, July 5, 2012:**

2

3 At 7:45 a.m., on July 5, 2012, I responded to 1111 Ocean Drive for a report of criminal mischief. Upon arrival, I was met
4 in the front yard by Jordan Abrams, the owner of the home. I exited, and Mr. /Mrs. Abrams showed me a large wooden
5 sign affixed to a pole, near his/her mailbox. The sign had originally read "Abrams' Sand Castle," but had been covered
6 over with spray paint, then written over in another color to read, "Save the Dunes." Another sign, affixed to the front of
7 the house, between the garage and front doors, which originally read, "Beware of Abrams' Dog," had the word "dog"
8 crossed out.

9

10 I asked Abrams if s/he knew who had done this, his/her response was, "any one of you people who hate my house, my
11 fighting the dunes or my temerity to try to fish in the ocean in my own backyard."

12

13 Abrams said that s/he and his/her children and mother had left the house at 10:00 p.m. the night before, and had returned
14 at 7:30 a.m. this morning. Last night, s/he had seen the signs, and they had not been altered in any way at that time.

15

16 Abrams then directed me to the front door. There was obvious damage to the main door and the adjoining frame. Near
17 where the door knob and lock are located, there was an apparent failed attempt to force the door open. The screen
18 door had been open last night, but the main door had been locked, Abrams explained. Abrams stated that there was an
19 alarm system, but it had not gone off. S/he said that s/he was going to get a camera surveillance system to catch any
20 "miscreants" in the future.

21

22 There was nothing else found of evidential value. This case remains open.

23

24

Detective Carey Peeler

25

Detective Carey Peeler

26

27

28 **Portion of Pretrial Motion Hearing, held on October 1, 2014 – with Det. Carey Peeler, under oath, answering**
29 **questions posed by defense counsel:**

30

31 Q: You knew Jordan Abrams personally before August 30, 2013.

32

33 A: Yes.

34

35 Q: For how long?

36

37 A: Since Abrams moved into 1111 Ocean Drive, the first time.

38

39 Q: How did you meet Abrams?

40

41 A: A couple years ago, I was on duty, on patrol, and saw a large moving van pass, so I followed it. At the home was
42 Abrams. I had known the prior owner, who passed away, Simon Sewell, a great man, and great benefactor to the town.
43 I stopped by. I got to discussing Ambassador Sewell with Jordan, how historic the Ambassador's house was. But Jordan
44 didn't seem interested in any of that.

45

46 Q: In fact, Jordan Abrams tried to change that historic home quite a bit, didn't s/he?

47

48 A: Well, that was a matter for the town government. The home should have been protected, registered as an historic
49 building, to forbid radical changes to it.

50

51 Q: You didn't approve of the radical changes that Abrams proposed to enlarge his/her home.

52

53 A: It just made no sense. Fixed up in the original style, the home would have been worth more and fit in with the
54 surrounding homes.

55
56 Q: But Abrams wanted his/her home to be larger?

57
58 A: Well, the courts sided with Abrams against the town, so it did not matter, in the end.

59
60 Q: People picketed the house over the issue?

61
62 A: Some people in town did.

63
64 Q: The mayor organized these protests in front of the home.

65
66 A: The mayor called for protests there, and many people voluntarily responded. So many, in fact, our police department
67 was always present in force, so that things didn't get out of hand.

68
69 Q: You were at the protest rallies.

70
71 A: I patrolled them, to see that they didn't get out of hand.

72
73 Q: Even off-duty.

74
75 A: I was there off-duty once. But a law enforcement officer is really never off-duty. I still have a weapon. I still have the
76 obligation to uphold the law.

77
78 Q: There were several reports of graffiti at the Abrams' residence before August 30, 2013?

79
80 A: My review of our report database only showed a single instance that merited a police report, but it may have been
81 reported to our police department on other occasions.

(The parties have stipulated as to the accuracy of the transcription.)

Detective Jerry/Gerrie Singer

Narrative Police Report

I worked my usual shift from 08:00 hours to 16:00 hours on August 30, 2013. I was sleeping when this call came in for the Pavano murder, but I dressed pretty quickly, and got there soon, as I live only a few blocks away. As the sole detective in the Metropolitan County Prosecutor's Office who is an expert in both firearms identification and in crime scene investigation, however, I am always on call. I am always on call because whenever there is a major case that involves detailed crime scene investigation or firearms, I am required to examine the scene, make determinations as to what happened, and write a report with my opinion. Because I'm the only person in the Prosecutor's Office who is qualified to do this, I have to be extremely careful and ensure that my findings are reliable to the utmost degree of scientific certainty. In fact, I attend annual trainings in Crime Scene Investigation and Firearms Specialization and am recertified. Because of my hard work, attention to detail, and pride in my work, I confidently can testify under oath about my opinion. In fact, my testimony in the *Shippo*s case regarding bullet trajectory and shooter reconstruction gained nationwide attention back in 2010, when I testified for the State about the innovative methods I had used in this case. While the State ultimately lost, I am convinced that it was because the jury believed the battered spouse defense and that it had nothing to do with my forensic reconstruction.

On August 30, 2013, at about 21:30 hours, I was called out to go to the crime scene, having been assigned to this case. I arrived 15 minutes later to find that the crime scene perimeter had been established. As I entered the front door, I could see a faint light emanating from the hallway, which leads to the large living room. EMS had immediately preceded me there, and started the process of verifying that Chris Pavano was dead, and of taking away the body of Chris Pavano to the hospital, where he would be declared dead.

I was able to view the crime scene clearly, as all of the indoor lights were all on, operated by generator, and as the moon was out, and was shining directly into the living room from the second story's huge windows. Det. Peeler briefly described to me what s/he already knew. I was able to see Pavano's body. His shirt had already been cut off of him by the EMTs. There was a recognizable entrance wound, located as later described by Medical Examiner Cecil Quinn.

First, however, I had to stake out the crime scene. I was alone in this task. There were other officers present, detectives and patrol officers alike, but they had other work to do. I assigned letters to relevant pieces of evidence. About a foot away from Chris Pavano's head was a broom handle. It did not appear to have been disturbed. I took it into evidence.

The front door opens to a foyer. To the left are the kitchen and dining room. To the right is the garage. Straight ahead, the foyer opens to a high-ceilinged living room, with wood flooring. The living room was remarkable in that it was bereft of furniture, with the exception of a single high-backed leather chair, with wings on either side (see diagram). The stairwell is carpeted, with a one-half-inch pile.

Upstairs, there is the same carpeting as the stairs, I examined the open balcony and three bedrooms. The flooring throughout the house was wood, with no carpeting. I marked where Det. Peeler indicated to me where s/he'd found the two shell casings on the middle step of the stairwell, far to the left. In the left and right bedrooms, I saw single unmade beds, but nothing of assistance to the investigation. A cell phone, later claimed by Remy, was found on the floor, in the hallway, just outside of Remy's bedroom.

In the master bedroom, determined to be Jordan Abrams' bedroom, I found and collected evidence. A gun safe was closed, but I found it to be unlocked. It was located in the area of the room farthest from the bedroom door. I collected four guns from inside, as well as a duffel bag, filled with knives. From the top of the bedroom dresser, next to the bedroom door, I collected a Taser and a box of bullets (see attached property report).

I used my laser distance measurer to determine measurements at the scene. My laser distance measurer is tested and calibrated on a regular basis to ensure its accuracy.

Firearms are involved in almost two-thirds of all homicides in the United States.

54 I have training and experience in firearms, tool marks and pattern evidence, including the mechanical operations of
55 semiautomatic pistols. I had memorialized the location of the shell casings at the crime scene. They were both on the
56 middle step of the stairwell (i.e., the ninth of 17 steps from the balcony to the first floor). They were situated to the far left
57 of the stair, as you go down. I test-fired the pistol, in a controlled situation, at the Metropolitan County Police Test Range,
58 to determine the ejection pattern of the particular weapon which Abrams had fired.

59

60 Looking for the bullet that had been shot directly up in the air, I discovered that there was a hole directly above the
61 middle step on the stairwell. I reached the area the next day, at 09:00 hours, by use of an extension ladder. I was able to
62 memorialize the hole in the sheetrock (i.e., drywall) ceiling by photos and measurements. I also was able to recover the
63 bullet itself, as the sheetrock at that location was up against a wood two-by-four support beam. I determined that the bullet
64 was consistent with the caliber and type of ammunition fired from the Glock 17 recovered from the scene. The bullet was
65 embedded two centimeters into the beam, at a 90 degree angle (i.e., exactly perpendicular to the beam). I dropped a plumb
66 line from the hole, and the lead-weighted line dropped to the center of the ninth step, the middle step, of the stairway. This
67 led me to conclude that the bullet had been fired from directly below, from that very step.

68

69 The height from where Abrams claims to have been standing, for the first shot, the deadly shot, according to the stance s/
70 he showed me and Det. Peeler, was 15 feet above the ground at the first floor level, just above the stairwell in the upstairs
71 hallway. The distance from the spot on the first floor directly under Abrams to where Pavano was standing at the time he
72 would have been shot was 25 feet. It so happens that a triangle formed by these three locations forms a right triangle, and
73 it makes sense that the sides of this triangle are in ratios of three, four and five (i.e., 15, 20 and 25) to each other. This also
74 means that Abrams would have fired downward 30 degrees.

75

76 According to the statement of Loren Lucas, Jordan Abrams had fired both shots from the center of the stairway, which
77 would be situated on or near the ninth step. The height from where Abrams would have been standing, from the ninth
78 step, was nine feet above the ground at the first floor level. The distance from Abrams at this location to where Pavano
79 was standing at the time he would have been shot was 15 feet. It so happens that a triangle formed by these three locations
80 forms a right triangle, and it makes sense that the sides of this triangle are in ratios of three, four and five (i.e., 9, 12 and
81 15) to each other. This means that Abrams would have fired downward 30 degrees, just as in the scenario where Abrams
82 would have been firing from the top of the steps. Therefore, the angle of the fatal shot would have been the same, whether
83 Jordan Abrams fired from the top step, as s/he claimed, or from the middle step, as Lucas claims and as the evidence
84 shows.

85

86 Laypeople generally believe that science can reveal the distance from which a shot was fired. In contact and medium
87 range gunshot wounds, that is often true. Medium range gunshot wounds are up to 24 or, at most, 36 inches from the end
88 of the gun barrel to the target. In contact and some close gunshot wounds to human flesh, there is evidence of stippling,
89 which are reddish markings around the entrance hole of the bullet. The markings are due to unburned powder grains
90 exiting from the gun causing pinpoint abrasions on the skin; these are not burns.

91

92 Gunshot residue (hereinafter GSR), is non-burned gunpowder (nitrates), partially burned gunpowder, and smoke from
93 fully burned gunpowder escaping from the end of the barrel of a firearm. When a shooting occurs at close range (up to as
94 far as 36 inches), gunshot residues may be deposited on the surface of the victim's skin. GSR also is usually deposited on
95 the shooter's skin, as some powder blows backwards during the shot.

96

97 As the medical examiner found no evidence of stippling to Chris Pavano, and as I found no evidence of GSR on victim
98 Pavano, I can clearly state, within a reasonable degree of scientific certainty, that the bullet that shot Pavano was fired
99 from a long-range distance, i.e. from over three feet away. At distances over three feet away, it is generally not possible to
100 determine the distance from the firearm to the target. This is not television. I didn't finish my report in 45 minutes, as my
101 CSI counterparts do in police shows.

102

103 I was able to determine that Abrams fired both shots from the middle of the stairway, however, by analyzing the placement
104 of the two firearm cartridge cases (FCCs) I found and recovered at the scene. As noted in S1 diagram of the residence,
105 which I prepared, both casings were found on the far left of the ninth step, touching one another.

106 I was informed by Det. Peeler of the way in which Jordan Abrams said s/he had held the gun while firing the shot at the
107 victim. I conducted an ejection pattern test on the submitted Glock 17 firearm. The simulation was accurate, even down
108 to using the same type of carpet where the bullets were found. While firearms cartridge cases remain inside of revolvers
109 after being fired, pistols are designed to eject the FCC after the firing of the bullet, immediately, just before the next bullet
110 springs up the magazine to be in place for the next shot. The Glock 17 ejects casings to the left of the gun. All of the
111 casings ejected from the test firings ended up in a small cluster several feet directly to the left of where I shot, consistent
112 with where I had recovered the two casings in the Abrams' house.

113
114 The bullet recovered from the decedent's body, provided to me by Medical Examiner Cecil Quinn, was consistent with a
115 9mm bullet. It was further found, upon examination, to be consistent with bullets test-fired from the Glock 17 obtained at
116 the scene.

117
118 I performed calculations regarding the trajectory of the bullet. Factors such as gravity and wind resistance are generally
119 not very significant over short distances. I concluded that the bullet would likely have traveled on a straight path, with
120 negligible arc. I calculated the approximate angle from which Chris Pavano would have had to have been shot as being
121 30 degrees downward. From his/her position on the stairwell, Abrams would have aimed about 30 degrees downward to
122 shoot Pavano. Likewise, however, had Abrams fired from the middle of the steps, it would have been at a downward angle
123 of 30 degrees. Therefore, it is impossible to tell whether Pavano was shot from the top of the steps, or from a lower step,
124 as s/he claims, from examination of the angle of the entrance wound into Chris Pavano's back.

125
126 Gunshot residue (GSR) also usually is deposited on the hands of the shooter, and, often, the arms as well. The amount and
127 area of the shooter's body covered with GSR depends upon the type of firearm. GSR is left on flesh until it is wiped off.
128 It may be left on clothing as well. The kit includes an adhesive disc for each hand. The adhesive disc is pressed against
129 suspected shooter's hands to collect GSR. The adhesive discs were marked and placed in the evidence vault. In this
130 case, I administered the test to Abrams' hands at the scene, before we took Abrams back to the Cranberry Shores Police
131 Headquarters for questioning.

132
133 A week later, I examined the discs for evidence of GSR, under the 25-power microscope, which is sufficient for viewing
134 GSR, but found none. I understand that Jordan Abrams admitted to washing his/her hands after the shooting. This action
135 would be sufficient to take off any and all GSR on the hands. What was in those hands, by the time Det. Peeler arrived,
136 was a large duffel bag. Remy Abrams referred to this in his/her interview as dad's/mom's "bug-out bag."

137
138 I was also able to analyze the sweatshirt I obtained from the downstairs bathroom floor. It was in a pool of fresh water.
139 Jordan Abrams had identified this shirt as the one s/he had taken off after the shooting, leaving on the tank top underneath,
140 which I saw him/her wearing when I arrived. The sweatshirt had GSR on the cuff of the right arm. I note that Jordan
141 Abrams is right-handed, and admitted shooting the Glock 17 with his/her right hand.

142
143 In evidence was the Taser recovered by Det. Peeler from the top of the dresser in the master bedroom. I test-fired the Taser
144 at recruits at the Metropolitan Police Academy on April 10, 2014. The Taser operated correctly on all five occasions, with
145 all five recruits. On all five occasions, both wire leads ejected simultaneously, and hit each recruit (with both leads) at a
146 distance of 30 feet, as the crow flies, from a height of 15 feet. On each occasion, the recruit was shocked and temporarily
147 incapacitated. The Taser has a range of 35 feet, according to the manufacturer. As we had a class of 8 recruits, that left 3
148 more "untased" recruits, so I fired upon them from a distance of 35 feet from the height of 15 feet. In all 3 cases, these
149 police-officers-to-be were successfully tased. All full police recruits and Special Police Officer II recruits become certified
150 in Taser use, so we have them experience a Taser shock, so that they know first-hand the effects of being tased. They also
151 have to be pepper-sprayed in the face. They also have to experience marijuana. That is, to be clear, they have to smell it,
152 both raw and burnt.

153
154 The bullet recovered from Pavano's body was provided to me, and, although deformed from contact with a rib, was
155 consistent with a 9mm bullet.

156
157 Obviously, we are not allowed to shoot them with live ammunition. I test-fired the gun in question at paper targets.

158
159 At the range, I duplicated the position that Abrams had demonstrated and, using the same type 9mm ammunition, fired 50
160 rounds. In 40 of the shots fired - 80% - the ejected casings fell to the right side, neither forward nor backward. In the other

161 ten shots, the casings fell either directly under the gun or to the right side (but not forward). No casings fell to the left
162 front, or to the left at all.

163

164 The placement pattern clearly contradicts where Abrams claimed to have been standing, at the time of the first shot.

165

166 At the rear of the home, I observed that the sliding glass door to the back deck was broken. Specifically, the glass had been
167 broken, with a round two-inch hole near the latch. As the home was not fit for habitation, it is unclear whether the damage
168 was caused on the night of August 30, 2013 or thereafter.

169

170 On the grounds of the home, after the shooting, I found alcohol, as listed in the property report. I also saw that the sign
171 inscribed "Abrams' Sand Castle" was sprayed over with spray paint, and made to read "Surfers' Sand Castle," and the sign
172 inscribed "Beware of Dog" was partially sprayed over, and written over in spray paint, to read, "Beware of Major Pain."

173

174 I have prepared S1 through S5, using my observations and measurements from my laser measurer, made at the crime
175 scene. I prepared S6, as I was in charge of evidence at the scene, documenting the items taken from the scene, and kept
176 safely in the custody and control of Metropolitan Police Department Evidence Room.

177

178

Detective Jerry/Gerrie Singer

179

Detective Jerry/Gerrie Singer

180 Dated: April 17, 2014

181

182

183

184 **Testimony at pretrial hearing of Jerry/Gerrie Singer, of June 2, 2014, as questioned by defense counsel:**

185

186 Q: Did you ever have dealings with Jordan Abrams?

187

188 A: Only in a professional capacity. The Cranberry Shores Police Department responded to his/her home a few times.

189

190 Q: How many resulted in reports being written?

191

192 A: Only the most serious one. Two times earlier, it was for a bit of graffiti on a mailbox or a sign.

193

194 Q: The most serious incident involved an attempted break-in?

195

196 A: Yes. I assumed that it was attempted, since there was a small bit of wood broken off next to the lock on the front door.

197

198 Q: The first time, with graffiti, what was written where?

199

200 A: The first time was, on the mailbox, "Bennies go home."

201

202 Q: What's a Bennie?

203

204 A: A Bennie, like a Shoobie, is someone who goes to the Jersey Shore in the summer, but doesn't live there, and then acts
205 like they own the place.

206

207 Q: What was written the second time?

208

209 A: By that time, Abrams had put up this large sign that said, "Abrams' Sand Castle." Abrams wanted an even larger size
210 sign, but it violated the sign ordinance.

211

212 Q: What had been done to the sign?

213

214 A: It said "Save the Dunes." Also, on a sign "Beware of Abrams' Dog," the word "dog" was covered by spray paint. It was

215 after the Dunes proposal.

216

217 Q: You were in favor of the Dunes proposal yourself?

218

219 A: I never made a secret of that. The beach is the lifeblood of this town. With no beach, there's no way to enjoy the beach,
220 no one shopping, no beach badge fees collected, no

221

222 Q: No Bennies?

223

224 A: (laughing) Right, that too.

225

226 Q: You spoke out against Abrams at public meetings?

227

228 A: At town meetings, I spoke in favor of the plan, and I reminded people there that Abrams was against it.

229

230 Q: You said that anyone against the plan was an "ignoramus," and should leave Cranberry Shores?

231

232 A: No, I never used the word ignoramus, but I said that those against the plan might as well go back to where they came
233 from.

234

235 Q: Did you gather the evidence with gloves?

236

237 A: Everything of evidentiary value, yes.

238

239 Q: How about the spraypaint can?

240

A: I don't recall. I suppose I didn't. The spraypaint can was not relevant to whether Abrams is a murderer, however.

Jerry/Gerrie Singer

Experience

Cranberry Shores Police Department Police Officer since 1995

Assigned to the Detective Bureau on January 1, 2005

Hired by Metropolitan County Prosecutor's Office on August 1, 2013, as a detective

As a detective at the Metropolitan County Prosecutor's Office, duties include supervising investigations, particularly to those relating to Crime Scene Investigations and Reconstructions. Teach courses in Crime Scene Preservation and Investigation at the Metropolitan Police Academy. Sole expert in the entire department on Firearms Projections, Blood Spatter Analysis, and Crime Scene Reconstruction.

Education

University of Pennsylvania, Philadelphia, PA
Bachelor of Arts, Criminal Justice – Graduated June 1995

Expert Certification and Trainings

Firearms Specialist

Certified as a Firearms and Tool Mark Examiner in the State of New Jersey, which requires fifteen (15) hours of training each year and an annual recertification exam.

Required to identify, examine, and interpret the physical evidence; demonstrate proficiency in laboratory instruments and analysis, conduct experimental recreations and provide opinions; and be up to date on knowledge about different types of weapons, trajectories, patterns, and shooting position recreation.

Blood Spatter Expert

Certified as a Blood Spatter Expert in the State of New Jersey, which requires eight (8) hours of continuing education training each year.

Engage in a deep understanding of human arterial flow and blood properties. Engage in various experiments and testing with variables to gain a scientifically accurate and factual recreation opinion.

Crime Scene Recreation Expert

Trained with Association for Crime Scene Reconstruction in innovative ways to recreate crimes, including training in 3D computer crime scene recreation.

Training includes using various methods in analyzing the absence and presence of physical clues, witness statements, lighting, weather, and other data to reconstruct the events of a crime in a scientific manner.

Expert in analyzing pattern and impression evidence, such as handwriting, fingerprints, track marks, tool marks, etc.

Awards and Recognition

Attorney General's Award for Excellence in Investigation – Shipps Case, New Jersey Attorney General's Office, 2010

While reasonable doubt helped an eventual jury acquittal on severe charges, received this honor for innovative crime scene reconstruction of bullet trajectory and shooter placement.

Expert in Crime Scene Reconstruction, New Jersey Courts – 2006-2009; 2011-2014

Loren Lucas

1
2
3 Mr./s. Abrams shot Chris Pavano first and asked questions later.
4

5 My name is Loren Lucas, age 16, almost 17. I am a sophomore at Cranberry Shores High School. I've been asked to give
6 a statement on behalf of the prosecution in the case against Jordan Abrams.
7

8 On the night of Friday, August 30, 2013, a few of my friends and I were hanging out on the beach wondering what to do
9 with ourselves. Everybody's parents were home that night and since we had no money, we didn't want to hang out at the
10 boardwalk.
11

12 Over the course of that summer, a lot of local kids started hanging out in homes that were wrecked by Super Storm Sandy.
13 We called it "skirting" because the houses we picked had to be on the edge or the outskirts of our town so no one would
14 see us. There were many homes to choose from because of all the destruction. That summer alone, I think my friends and
15 I partied in a dozen houses without any problems. We didn't really make a mess so as not to alert the homeowners that we
16 had been there. If we weren't careful, we knew we'd never be able to go back to that house, and that other homeowners
17 and maybe even the police would be on the alert for break-ins. We never took anything either. I want to be clear about
18 that. I've seen videos on YouTube of kids breaking into homes and vandalizing them. Speaking for my group of friends,
19 we didn't do that either. I know that I told the police that this was my first time skirting, but I was scared, and Chris had
20 just been blown away, so you can understand. I told police the truth about everything else.
21

22 A few people have accused us of spray painting "Surfer's Turf" on their houses, but I'm telling you it wasn't us. That one
23 time that Det. Peeler caught us trespassing on someone's land, when we were skirting last year, was after school, and the
24 only reason I had spray paint in my backpack that day was because I needed it for a school project. Yes, I like to surf and
25 I'm very good at it. I'm annoyed at these shore home families like Mr. /Ms. Abrams who think they own the entire beach
26 and try to drive us away. But the ocean is for everyone and I can do whatever I want, including surfing where I want. And
27 Abrams' idea that we surfers were scaring away fish is just wrong. I tried to tell him/her that you find just as many fish
28 near surfers as anywhere else.
29

30 That's why the events of August 30 don't make any sense to me.
31

32 After a night of hanging out on the beach with my friends Chris Pavano, Grey Michaels and Dorian Campbell, it was
33 starting to get a little chilly out. It was too early to go home but we didn't want to stay outdoors anymore, so we decided
34 to go to one of the most impressive houses in Cranberry Shores.
35

36 It was about 10:00 at night and Abrams' Sand Castle had been vacant pretty much all summer with the exception of some
37 workers during the day. The house was pretty secluded, and it wasn't too dark, because of the huge windows facing the
38 beach, and running water so we could use the bathrooms. Access was easy through the back door because the door lock
39 was broken – at least that's what Dorian told us. Dorian earned the nickname "Scout." She was the one who would scout
40 out locations, and come up with a "hit list" of houses to "partify." She had recruited others to party with her. I was on
41 board first. Chris had only just started, really, and this was like, Chris' third time going in a house. Dorian had heard from
42 someone that the Abrams were not going to be using the house until the electric box was fixed. I honestly don't remember
43 who brought the brews and the liquor. Dorian usually did that, too. Dorian's aunt owns a liquor store. She wouldn't even
44 miss it.
45

46 It took us about 15 minutes to get to the house from where we were on the beach. Gray didn't have a sweatshirt on and
47 was cold. Dorian needed to use the bathroom. The house was dark as usual and we didn't notice any people or activity
48 in the house. We knocked on the door like we do whenever we go skirting just in case someone is home. This was no
49 exception. If somebody came to the door, our plan was to run or come up with some bogus story if there wasn't enough
50 time to get away without a conversation. My favorite getaway line was to pretend my Chihuahua was missing and ask the
51 homeowner if he had seen him. Worked like a charm the few times I had to resort to that.
52

53 Anyway, after tapping on the back door and waiting for about 10 seconds, Grey became impatient because of the cold
54 and grabbed for the door handle. We were surprised it didn't open right away as it had in the past. We assumed it was

55 stuck because we knew from past visits the lock was broken. Moments later Dorian began complaining that she really,
56 really wanted to get inside to use the bathroom. Chris then grabbed a broom that one of the workers had left outside and
57 pushed on the door. The brush part of the broom fell off, and so Chris then just had the handle in his hands. I think it was
58 unintentional when Chris broke the glass in the door. When that happened, we just looked at each other, kind of in shock.
59 I remember wondering if we should just run, but we were already there and the damage was done. Dorian and Grey
60 thought it was a little funny and didn't seem too concerned. I remember them laughing a little, especially Dorian. Chris
61 said, "Will somebody please shut her up?"

62
63 It was at that time that we heard a female voice ask, "Who's there?" The voice was coming from the family room.
64 Believe it or not I actually thought it was another group of skitters since the lights were off. Before anyone from my
65 group answered, the voice said, "Don't flirt with me!" That struck me as strange, especially as she sounded scared. Chris
66 said, "I think some lady's in trouble in there. I'm gonna check it out."

67
68 I said, "Go right ahead," and Dorian put her hand through the hole and opened the latch to the door and shoved it open.
69 Chris still had the broom in his hand when he edged towards the family room. He was holding it like a cane, or a walking
70 stick. That's when I saw a woman sitting alone in an easy chair. The woman said, "Please, please..." Chris said "Oh,
71 I'm sorry! We were just.... I'm sorry. We're going now." She had a book light on, glowing in the dark room, and was
72 dressed in a white nightgown. Grey reached for the light switch. A split second later, we heard another voice from the
73 upstairs ledge scream, "Green light!" Looking back, I know that must have been that crazy Jordan Abrams who'd said
74 that. The woman looked up to the figure on the second floor and yelled, "No! No!" Then POW! A gunshot!

75
76 We were completely freaked out! Never had we walked into a house where someone was actually living. Now Chris was
77 on the ground motionless and the rest of us were screaming our heads off. I heard the shooter, Jordan Abrams, calling for
78 the woman we had startled who was then sitting on the chair shaking and crying. S/he was already about halfway down
79 the steps when I saw him/her. I recognized him/her as Jordan Abrams right away. I used to see him/her casually, when I'd
80 be out with Chris.

81
82 S/he then shot a gun into the air. It reverberated in the house. It could have waked the dead. We all froze. Then Jordan
83 pointed the gun right us. I was already petrified, like a deer in the headlights, so it wasn't like I needed that shot in the air.

84
85 Dorian was lucky. She had made a beeline for the bathroom, and didn't even see Chris get killed. She came out, screamed
86 when she saw Chris lying there bleeding, and must have run out the front door. It's kind of ironic, how the one person who
87 came up with the skirting idea got away, when the last one on board got killed for it.

88
89 Holding the gun, Jordan demanded that we kneel on the floor with our hands in the air while the police were notified. One
90 of Jordan's kids must have turned the lights on then. We were warned we would be shot if we attempted to leave or hurt
91 Jordan's family in any way. I begged to look at Chris thinking maybe he needed CPR or something, but Jordan would not
92 permit it. Jordan's family was fine and safe while Chris lay dying on the floor in front of us. There was nothing we could
93 do for him. The crazy thing was that no one called 911! I had a cell phone. I didn't dare reach for it, though.

94
95 The same kids who I had seen upstairs when I looked up to see who'd shot Chris followed Jordan down the stairs, all
96 stealthy-like, scanning to see how many of us there were. I saw Jordan get angry with his/her son/daughter, Jada, for some
97 reason, as they got to the living room. Jordan yelled something to Jada that I couldn't hear, probably to see that we kept
98 still. Just after, Jordan ran into the bathroom. Then, a few moments later, Jordan got behind both kids and began ordering
99 them towards the front door. Jordan had that handgun in his/her hand still, the death weapon, the gun s/he'd been pointing
100 at us. In his/her other hand was a backpack. That gave Grey a chance to get out of there. She hightailed it out the back door
101 then. Grey, our best sprinter at school, is still running. She got a track scholarship to a college in Hawaii and has never come
102 back, not even to visit her folks. I didn't get the chance to bail, though. Not with Sergeant Slaughter right there.

103
104 Chris died before the ambulance even got to the house. People might think that Chris was a bad guy, I mean the way he
105 died, breaking into somebody's house. But Chris was a good person. He would help me with my homework. And he had
106 gotten an award, a key to the city of Cranberry Shores, for that time when he saved a kid from drowning, when he was a
107 lifeguard, a few years ago. Even when this happened, Chris only went in there because he was concerned about the crazy
108 old lady.

109 Looking back, though, I'm not surprised that Jordan Abrams pulled that trigger. Chris had embarrassed Mr./Ms. Abrams.
110 After Abrams had been harassing us surfers, and after opposing the Sand Dunes thing, Chris retaliated. Chris exposed the
111 big "war hero" for what s/he was – a liar. The press had always made Abrams out to be the sniper who killed the enemy's
112 best sniper. On YouTube, Chris repeated what he'd read in an online newspaper letter to the editor, from a fellow soldier
113 who said that Abrams had not been the one who shot that famous Afghani sniper, nicknamed the "Ace of Clubs." On that
114 video, Abrams practically admitted as much. Abrams was a phony, and Chris had rubbed his/her nose in it.
115

116 Det. Peeler was true to his/her word. While I got the criminal trespass charge, my old-man public defender confirms that I
117 will get a deferred disposition, so, if I stay out of trouble, I really won't have any consequences, just having gone to court
118 a couple times and meeting with him. So, not even an apology letter or a book report.
119

120 I feel real bad for Chris, and I didn't help matters by making Chris out to be the ringleader of the whole thing. I just knew
121 that that was what Peeler wanted to hear, and, again, I was scared.
122

123 *Loren Lucas*
124 Loren Lucas

125 Dated: October 3, 2013
126

127 **Interview of Loren Lucas by Det. Carey Peeler, on August 31, 2013 at 01:55 a.m., accompanied by his/her mother:**
128

129 [Peeler reads Lucas his/her Miranda rights, and Lucas acknowledges understanding them]
130

131 Q: This is the first time we've spoken tonight, correct.
132

133 A: Yeah. Look, I'm tired. I've been waiting a long time here.
134

135 Q: We had to wait for your mother, since you are a juvenile. The sooner you answer my questions, the sooner you'll be out
136 of here.
137

138 Lucas' mother: What's going to happen to my child? Why have you read out his/her Miranda rights?
139

140 Q: I understand your concern, ma'am. Look, your child committed a criminal trespass. It is a crime, a felony, for adults.
141 You're lucky you're a minor, young man/lady.
142

143 A: So, if I talk to you, what's going to happen to me?
144

145 Q: I can't order the prosecutor's office what to do, but I will tell them that they should only give you a deferred disposition
146 in juvie court or even send this to the JCC, the Juvenile Conference Committee, which is less than going to a real court.
147

148 A: What are those things?
149

150 Q: A deferred disposition is basically stay out of trouble for twelve months and the charges go away. With the JCC, they
151 can't do much, maybe have you write an apology letter or a book report.
152

153 Lucas' mother: Loren, answer the officer's questions.
154

155 A: What do you want to know?
156

157 Q: Did you ever have any run-ins with the Abrams before?
158

159 A: Only all the time. Jordan Abrams was real strict, except when it came to his/her own kids!
160

161 Q: What do you mean?

162 A: A good example was when Remy and Jada got boards. They would paddle out into the middle of the break where
163 we were taking off, and they would just paddle around. One time last summer, before those two groms gave up surfing
164 completely, Jada really did it.

165
166 Q: What do you mean?

167
168 A: When you have to dive under a wave to get out, you should hold onto your board. Jada didn't, and Jada didn't even
169 have the leash strapped to his/her ankle. So when s/he abandoned the surfboard to dive under the wave, the board smacked
170 Dorian Campbell in the head, who was paddling out behind Jada. And Major Pain, Jordan Abrams, is just watching all
171 this.

172
173 Q: Why did you guys keep surfing near where the Abrams were, then?

174
175 A: While we don't come from money, and don't live on the beach, our parents' homes are a few blocks due west of
176 Abrams' Sand Castle. Plus, we often get good breaks out there. Everybody on Cranberry Shores knows that it is the place
177 to surf! When Simon Sewell had the property Abrams commands now, he used to even sponsor a surf contest for us. We
178 all followed Tommy Seed, this local surf legend, who shaped his own boards. My board is a Seed original. Then Seed
179 went off, following the eternal wave, traveling from Hawaii to Bali to Lima, Peru. Then Sewell died, and Abrams came,
180 and the whole scene changed.

181
182 Q: You said that Abrams was so strict. What do you mean?

183
184 A: Whenever we were on the beach or in the water, Abrams would start yelling at us. S/he'd get real aggro.

185
186 Q: Real what?

187
188 A: Real aggro, you know, aggressive. Like, one time, he was yelling at us, saying "Charlie don't surf," and "What do you
189 know about surfing? – you're from New Jersey."

190
191 Q: So that happened this summer?

192
193 A: No, it was all this last year.

194
195 Q: You surf all year long?

196
197 A: Except for when it's coldest. Sure, I'd love to go off somewhere warm, like the Banzai Pipeline in Hawaii, where
198 people are in board shorts, but the waves here are actually better when it's not summer. We can be standing barrels all day
199 long, sometimes, especially near where Abrams' house is. Even if we have to put on our 5-4-3s.

200
201 Q: What are 5-4-3s?

202
203 A: Extra thick wetsuits – top to bottom – nothing exposed to the cold, you know?

204
205 Q: So what happened tonight?

206
207 A: Well, it was all Chris' idea. Not to speak bad of the dead, but Chris had a wild streak, you know?

208
209 Q: What was Chris' idea?

210
211 A: To break into abandoned houses again.

212
213 Q: So you had done this with Chris before?

214
215 A: Oh, no, but I'd heard about it. He'd go in with friends, party, leave a few souvenirs and go.

216 Q: What kind of souvenirs?

217

218 A: A few beer bottles. A thank you note, all sarcastic, like, “Thanks for letting us use your palace.”

219

220 Q: So tonight was your first time?

221

222 A: Yeah.

223

224 Q: How did you pick the Abrams’ residence?

225

226 A: How could we not pick it? That house is beautiful, right on the best stretch of beach in Cranberry Shores, and it’s the
227 most secluded beach house around. I had been pretty stoked by the idea.

228

229 Q: Did you know that you had no permission to be at the house?

230

231 A: Well, I didn’t get a written invitation.

232

233 Lucas’ mother: Don’t be smart. Just answer the questions.

234

235 A: No. I didn’t, and I knew that. And Pavano knew it. It was his idea, after all.

236

237 Q: Did Dorian and Grey know?

238

239 A: I don’t know what they knew or thought. We were all just following Chris. Chris was this born leader, very confident.
240 People would follow him anywhere.

241

242 Q: How’d you guys get in?

243

244 A: The rear sliding glass door was already kind of broken. There must have been other skitters there before us.

245

246 Q: So you know what skitters are?

247

248 A: I hear things, so yeah. And Chris told us about it. It sounded cool. Well, Chris just hit it with the broom handle, and the
249 glass broke the rest of the way.

Jordan Abrams

1
2
3 My name is Jordan Abrams. I am 45 years old. I own and operate Cranberry Marine Construction, specializing in dock
4 and bulkhead construction. Since Super Storm Sandy, business couldn't be better. I like to think the name Cranberry
5 Marine has become synonymous with high quality work. In this business, your reputation is your biggest asset.

6
7 I don't hide the fact that I was, and am, U.S. Air Force to my very core. The bumper stickers on all my cars and the pin I
8 wear on business suits proudly proclaim this. My Air Force medals, however, are locked away for safe-keeping. I also got
9 some press about my accomplishments in the military, although I never encouraged it. I was just doing a job, and doing
10 it the best I could. So most people around here know I was a grunt who survived a couple of tours in Operation Enduring
11 Freedom in Afghanistan.

12
13 Every day during my 26 weeks at Basics School I had to look at a plaque in the barracks that read, "Kill one man
14 ... terrorize a thousand." I learned this was the gold standard of being a sniper. Part of our war indoctrination was
15 understanding there was no margin for error. Your first mistake can literally be your last. When I left that training unit, I
16 understood the importance of good decision making in carrying out a mission.

17
18 After acing the Advanced Designated Marksman course, I graduated at the top of my class in the Close Precision
19 Engagement Course (CPEC) at Fort Bliss, outside of hot-as-heck El Paso, Texas. To date, only 500 students have ever
20 finished; about 20 percent wash out from every class. At the time I was there, it happened to be the only sniper course that
21 was open to females. Training with me was my future partner, Vera Kozar.

22
23 There we received training in advanced marksmanship skills, firing at moving targets and precision firing. We were also
24 trained in intelligence gathering techniques, field craft techniques to include stalking, target detection, range estimation
25 and land navigation.

26
27 I was then assigned to a Security Forces Counter Snipers Team in a hard-to-pronounce place in Afghanistan. We were just
28 inside the perimeter ("inside the wire") of the Air Force base there. Like all counter snipers, I was trained in, and used, the
29 M-24 weapons system.

30
31 I was in a Close Precision Engagement Team. In a team, a sniper is partnered with a spotter. The spotter identifies targets,
32 gathers range and windage adjustments and relays this information to the sniper. The sniper makes the adjustments on the
33 M-24 and fires on the target. After each shot, the spotter, using a scope, follows a vapor trail from that shot, to help figure
34 out how to adjust for the next shot. My partner, Vera Kozar, and I took turns as sniper and spotter.

35
36 Vera and I were close. She would tell me stories about her grandmother, a Russian who had fought against the Nazis in
37 WWII as a sniper. She had had twenty-two confirmed kills. She'd probably killed a bunch more in the confusion that was
38 the Eastern Front, that weren't confirmed. Things get confused in battle.

39
40 With Vera and me, there was no arguing over what we'd accomplished together. We were a dream team. We had seven
41 confirmed kills – from inside the wire! Not in hiding somewhere. Not quite Vera's grandma's level, I know, but we were
42 proud of it.

43
44 One of those kills was of a famed Afghani sniper, known as the "Ace of Clubs." I don't know what the moniker came
45 from. I know that the Ace had a bunch of false names, so "Ace of Clubs" is as good a thing as any to call him. There was a
46 bit of confusion back home, however, as to who had been the spotter, and who had been the sniper, for that particular kill.
47 Not that it matters much. Snipers' success depends upon spotters, and vice-versa. Anyway, I had been the spotter, and Vera
48 pulled the trigger on Ace. My hometown newspaper got that wrong. No sweat for Vera. I mean, Vera hails from North
49 Dakota. Her local-yokel paper got it right, and her loved ones back home knew she'd made that shot. Other papers had it
50 reversed, but, as I never was one to spout off about my wartime experiences, I did not open my mouth to set it straight.

51
52 I guess you might say we became very good at our jobs. Sometimes we would wait hours and hours for a target. We'd be
53 still as statues. We'd never take down a target unless it was a "green light" all the way.

54 All counter snipers use the M-24 weapons system. It is composed of M-24 rifle with an M-3A telescopic sight. It fires the
55 standard 173 grain NATO 7.62 round with a five round magazine and one in the chamber and is bolt operated. Of course,
56 we're also trained with a standard issue rifle, as well as with small arms. I had tried to get a license to carry, but Chief
57 Peeler, Carey Peeler's mom, rejected the application. I went to court to appeal, but the judge sided with her, of course. She
58 said I had no need for carrying a gun. Imagine the irony of that! Well, thank goodness, I was able to have guns in my own
59 home, as well as practice at gun ranges, and for going hunting.

60
61 I practice gun safety. When I drove those guns to the house, including the Glock 17, from the little rental home in
62 Metropolitan, I made them safe for transport, by taking the cartridges out, and making sure there was no round in any
63 gun's chamber.

64
65 Four years ago, I lost my soul mate, my spouse, to cancer. I felt it was my fault, that I should have been able to do
66 something. In the military, I always felt as if I was in control of things and now I wasn't. I went into a deep depression,
67 and if it weren't for some close friends who got me the help I needed, I don't think I would have made it.

68
69 It was my first marriage, but my spouse's second. I got two kids in the bargain, who my spouse had adopted years earlier.
70 The twins, Jada and Remy, are now 13. My family also includes my mother, Candace, who lives with us full time. She
71 always was nice enough to let me think I was in charge at home. Mom was always strong, at least until she suffered a
72 stroke in March. I'm no doctor, but I think the strain from the hurricane and the zoning issue had something to do with it.

73
74 Our house is located on a secluded piece of oceanfront property at Cranberry Shores. I built the majority of the house
75 myself; it took me nearly three years. I needed something to help me regain my focus and think about my kids. The
76 Ambassador's home had a quaint look, kind of historic, but I knew how to improve it, to make it more open, so that you
77 could clearly see the sand and ocean out the back. It took work, and virtually living with workers in the house, and rolling
78 up our own sleeves, but when it was done, it was truly ours. We have a sign attached to the house that reads, "The Abrams'
79 Sand Castle." After Sandy rolled through, it really lived up to its billing. I was shoveling sand out of the house for weeks.

80
81 Sandy really screwed things up for us, we even had some local surfers vandalize a few of our homes back when we had
82 to move out. I know it was the surfer kids because, one time, they wrote something like "Surf Turf" or "Surfer's Turf" on
83 our home and the other beachfront homes. Thankfully it was on the siding that had decayed from the floodwater, so it was
84 going to be removed anyways. What a nuisance though, as if their trespassing to go surfing isn't enough.

85
86 Needless to say, like most homes at the shore, it took a pretty good hit. It was always a given that I would do the repairs
87 myself. To me, it's more than a home, it's a reminder of a partner who loved the beach. I thought it would take about a few
88 months to get it livable, but between the kids and my business, it stretched to one year. Sure, I know that some people are
89 still recovering and rebuilding, and will be for years, but the Sand Castle was our dream, and once I put my mind to doing
90 something, I do it. Even if the house wasn't the way I wanted it, I intended to keep a promise to be in by Labor Day. Even
91 if we needed generators. Even if we didn't have the A-Okay, a Certificate of Occupancy from our lovely town.

92
93 On Friday, August 30, 2013, we were all living in very cramped quarters in a rented house in Metropolitan. This was our
94 third place since Sandy, including the hotel we went to the day before the storm hit. I remember calling home from work
95 that morning and asking my mother to pack a few things because I wanted to spend the weekend with the family at the
96 house down the shore. She asked me, "Do you think it's a good idea, since everything isn't finished at the house?" I told
97 her, "It's only for the weekend and the kids will be fine." Around that time, I remember she was a bundle of nerves and it
98 was rubbing off on everyone. I asked her not to say anything to Jada and Remy because I wanted to surprise them.

99
100 It was already starting to get dark when we finally got to the exit for Cranberry Shores. When I pulled the SUV into the
101 garage, I knew that mom would be worried that the house wasn't done, so I didn't tell her. The lights worked fine, after all.
102 If I ever told her that the salt water had played havoc with the alarm system after the storm and I hadn't fixed it yet, I'm
103 sure she would have insisted that the kids be driven back to Metropolitan – with or without me.

104
105 Sure, I had seen the damage before. But I thought that the repairs would be further along. That first time after returning after
106 Sandy . . . that had been the big shock. Once in the house, I had looked out of the kitchen window and noticed our ocean
107 views were literally non-existent. There were huge dunes where part of the beach use to be. It really gave new meaning to

108 the word “isolated.” That is why I had initially resisted the plan to put even more dunes between the Castle and the ocean.
109 This time, that fateful night, as I looked around, I was actually happy to be surrounded by sand, like a cocoon. I had most of
110 the lights kept off, to conserve our limited supply of gasoline for the generator. We went up to the boardwalk and grabbed a
111 couple pizzas and were back by 7 p.m. It was around 8 p.m. when I suggested we all hit the sack because it had been a long
112 day. We usually like to sleep early and get up at dawn, you know, enjoy the daylight hours. Within a half hour, the kids were
113 showered and in their rooms. I told my mother I was going to check on the kids in a few minutes and go to bed myself. My
114 mother said she was wide awake and was staying downstairs to have a cup of chamomile and read for a while. I knew there
115 was a good chance she would fall asleep on the easy chair. I said, “I’ll leave a light on” and she was content with her reading
116 light. Before we said good night, I said, “Don’t stay up late and stop worrying.”

117
118 I wasn’t asleep an hour or so, when I heard glass breaking. Normally, if I were by myself, I would have written it off to
119 Friday night at the shore, probably somebody throwing a beer bottle out a car window. I got up and checked on the kids.
120 They were both sound asleep. I walked down the hallway and looked over the railing into the family room. My mother
121 was snoring away on the sofa. The only light in the room was provided by the moon, through floor-to-ceiling windows. I
122 spent a second or two just staring at her, thinking how lucky we were to have her in our lives.

123
124 By this time, I was starting to feel a little amped, but I knew I needed a few hours’ sleep. Before jumping into bed, I
125 decided to put my wedding ring in the wall safe. Only a couple of months ago I misplaced it in the house and it took me
126 a week to find it. As I opened the safe door, I stared at my Glock 17. It was similar to the regulation sidearm I used on
127 two tours. I had the opportunity to purchase it last year, and although I’m not big on having guns around the house, this
128 was different. I had it licensed with the intention of taking it to the range sometime. As I picked it up and held the ring, I
129 thought how much it meant to me and what it represented.

130
131 Instead of putting the ring and gun back in the safe, I left them on the top of the dresser. I don’t know why. I guess I was
132 tired. I went to bed to sleep.

133
134 That house was secure when I went to bed. Sure, the home alarm wasn’t working, due to the lack of power, but the doors
135 were just fine, including the sliding glass back door. The damage I saw later was caused by those hooligans, probably
136 Pavano himself.

137
138 Later, maybe a few minutes later, I heard my mother scream, “Who’s there?” I initially thought she was having a bad
139 dream. In a few more seconds, I heard her cry out, “Please don’t hurt me.” I will say at this point that I’ve been hardwired
140 to respond fast and efficiently. I snapped the magazine into the Glock 17 and secured the weapon under my waistband at
141 the small of my back, while checking on Jada and Remy. They were both fast asleep.

142
143 I looked over the hall railing, and although the room was dimly lit, I observed four skulking individuals. At this point, I
144 was wrapping my head around the idea of having four intruders in my home. The one closest to my mother appeared to be
145 holding a weapon, possibly a rifle. The other three were standing off to the side, near the sliding glass door. Then I heard
146 someone say, “Will somebody please shut her up” and then they all started laughing.

147
148 The individual with the weapon had taken several steps in my mother’s direction. He had shouldered what appeared to be
149 a rifle and pointed it at my mother. My mother had thrown her hands into the air and began sobbing, “Please, please.” At
150 that very moment, I saw my mother begging for her life. I was at a distance of approximately 25 feet from my mother, at
151 the top of the stairs. I couldn’t put my mother at risk by trying to disarm the individual. At that moment, the apparently
152 armed intruder was several feet to the right of my seated mother, but edging closer to her. Had I given the intruder time to
153 get between me and my mother, then a shot might have overpenetrated, going through the intruder and then penetrating
154 my mother as well as the bad guy. Accordingly, right where I stood, just above the stairs, I engaged the individual with a
155 single round from the Glock. He was hit in the side of his chest and immediately fell to the ground.

156
157 I approached the other three individuals with my weapon in hand. I told them to get down as I started descending the
158 stairs, but they wouldn’t move, except for one kid, who was inching to the open back sliding door, and was at the
159 threshold. So I shot off a round into the ceiling, to show them that I meant business. That individual then fled out the back
160 door and I placed the other two on the floor and checked for weapons. One individual started yelling, “Why did you have
161 to shoot him, he was just playing around?” My kids followed me down the stairs. After I got to the living room and saw no
162 weapons, I instructed them to remain silent. I did a cursory check for any other individuals and none were found.

163 I checked for vital signs on the individual who had taken the round and there were none. I could see it was Chris Pavano,
164 from the hair. Pavano was still gripping in his hands the object which I thought had been a rifle. It was a thick black stick.
165

166 Once it was clear that nothing could be done for Pavano, I ducked into the downstairs bathroom, to splash my face with
167 water. It splashed my sweatshirt, so I took it off, and tossed it on the floor. With all the adrenalin, I felt hot anyway. I told
168 the police that I had washed my hands and taken off the sweatshirt, but they swabbed me for gunshot residue anyway.
169

170 I gave a statement that same night. I told the police exactly what had happened, “When my mother was approached by the
171 individual and he shouldered what I thought was a rifle, I believed she was in serious danger. I feared for her life and taking
172 the shot was my only option.” The police never accepted anything I said. I was constantly told by them, as they took me into
173 the station, “Just admit you overreacted and the judge will go easy on you. “ No one wanted to hear that I was staring at a
174 shooter and three more possible assailants. They said, “We heard a whole different story and it’s not pretty.”
175

176 My mother was never able to give coherent statement to the police. My mother experienced a traumatic event and was
177 psychologically traumatized, resulting in what was obviously a complete loss of memory regarding the events of that
178 evening. Remy apparently saw much of what happened and was able to give an eyewitness account. None of my military
179 deployments can remotely compare to what went down in my home that evening. I tried on several occasions to contact
180 the families of the teenagers, but without success. Words cannot express the grief I feel for the teenager who lost his life,
181 but I also realize I have a responsibility to protect my family. I feel the trial, in some ways, is going to provide the closure
182 everyone desperately needs.
183

184 While I am here to clear my name, I would hope some less-biased officer is going to review the evidence that Detective
185 Singer collected at my home. S/he’s been called to my house on several occasions through the years because of my
186 reports of vandalism. Kids would leave messages on my home’s exterior, usually after I admonished one of them for
187 cutting through my property with their surfboards. Words like “Surf’s Up” and “Open Access Now!” were actually spray
188 painted on the front and side of my home. When Detective Singer arrived on those occasions, s/he seemed not only
189 disinterested that my home had been vandalized, but seemed to side with the kids, telling me more than once that maybe I
190 could just look the other way when they trespassed.
191

192 My dealings with Detective Singer deteriorated after Sandy, I would like to add. I’ve been accused by locals of being one
193 of the last residents to sign off on a beach replenishment program that proponents say would lessen the risk of devastation
194 should another storm hit. The Army Corps of Engineers has a plan to widen the beach and create dunes. At community
195 meetings and through an op-ed piece in the local paper, I opposed the plan for now because my neighbors and I will not be
196 able to see the ocean if the plan were implemented. The only thing we would see is a giant wall of sand and grass. This is
197 not why I bought oceanfront property! Detective Singer has mentioned to me through public meetings that s/he is in favor of
198 the plan. Without listening to my reasons, s/he stated that anyone opposed to the plan is an ignoramus and putting the town at
199 risk. S/he went on to say that if we don’t support the plan and respect the wishes of the town, maybe we should just move.
200

201 What Detective Singer does not realize is that I do plan to support the plan, just as soon as I receive RREM funding to
202 raise my storm damaged house and find a contractor to do the work. My home must be detached from its concrete slab,
203 allowed to sit on wooden cribbings 30 feet in the air with no floor system, while 40 large pilings are placed in the sand.
204 The house will come down, rest on the pilings and the floor will be rebuilt. I will be displaced for at least five months
205 while this happens, but when it’s done, I will have a clear ocean view and will be more than happy to back the beach
206 replenishment plan. Based on our history, I hope the powers that be understand my concerns about Detective Singer.
207

208 When I came home after the ordeal of the shooting, I had painful reminders of what had happened. My “Abrams’ Sand
209 Castle” sign had been spray painted over to read “Surfers’ Sand Castle,” and my “Beware of Dog” sign was made to
210 say “Beware of Major Pain.” These were the same two signs that had been painted over before. I am sure that, had the
211 Cranberry Shores Police Department cracked the graffiti cases, then the break-in and what followed would never have
212 happened. But the police are never to blame, are they?
213

214 *Jordan Abrams*
215 Jordan Abrams
216

217 Dated: October 1, 2013

Remy Abrams

1
2
3 Hey, I'm Remy Abrams – one-half of a matching set; but my own person. From the get-go, I want it known that I am
4 an individual with my own likes and dislikes. In other words, being a twin does not make me less of a discrete person.
5 Yeah, I like that word “discrete” – learned it from the psychologist I have been talking to since my mom/dad died. Dr.
6 Krantz knows my issues and has been a big help in getting me to assert my identity, something that I have been even more
7 concerned with in the last three years. I'm 13 now--no longer a prepubescent adolescent, ha, ha!
8
9 To start with I absolutely hate the beach and so did my mom/dad, Casey; although s/he never told dad, s/he confided in me
10 and Jada that s/he loathed the beach – all that sand, the smelly fishy aroma and those annoying loud seagulls everywhere.
11 If mom/dad had lived, s/he never would have let mom/dad waste his/her family's money fixing up this stupid beach house;
12 suffering one week at the shore each summer was all s/he could tolerate and that day was spent on the boardwalk away
13 from the sand. S/he called the house thing “Jordan's dream.” We don't have a single friend in Cranberry Shores; and now
14 that mom/dad has killed one of the locals, we will be hated even more than we were in the past. The graffiti they wrote on
15 our property said it all – we were Bennies, outsiders. The worst was when this July a biplane - the type that flies banners
16 with messages behind them – saying “Forget Castles - Save Our Dunes,” flew down our beach. That was a swipe at us – at
17 our Abrams' Sand Castle!
18
19 If mom/dad were more sensitive, s/he would notice that Jada and I spend all the time we are stuck in this crappy sand dune
20 playing video games indoors. Instead, mom/dad spends most of the time working at the stupid marina. We tried to pick up
21 surfing. It had looked so easy, but we were only good at wiping out. The fishing out back wasn't so bad, but mom/dad said
22 we could only do it with his/her supervision. And when there were no obnoxious surfers around to yell at us. We were so
23 relieved and happy when Hurricane Sandy came through and leveled this place to end our misery; but no such luck. Our
24 father/mother welcomed getting into a battle with the local hicks over rebuilding “the Castle.” Mom/dad has never seen a
25 battle that s/he didn't like – that's what mom/dad always used to say. Of course, Dr. Krantz says I should try and forget all
26 of the “petty little spats” between mom and dad because at 8 years old, I probably misinterpreted them.
27
28 Mom/dad has spent time with us learning how to shoot, since about six months before the break-in. Since January of 2013
29 maybe? Jada and I never got to touch that TASER, though. It sure looked cool, though. Mom/dad said it looked cool to see
30 it in action, too, but Jada and I never saw him/her shoot it off. It would have been fun, so of course we “kids” never got to
31 do it. We'll never get to shoot the Glock 17, either, since it is still in police custody.
32
33 Nana (my grandmother Candace) would stand up for us kids against mom/dad, saying “Jordan, you're too hard on those
34 kids!” or, at least she used to. Poor Nana just has been really sick and just can't do it anymore. I think mom's/dad's death
35 is the reason that Nana had that stroke. She has never been the same after that. Mom/dad says that she has Alzheimer
36 disease, too, but I think s/he's just saying that to upset me and Jada. Back when the shooting happened, she at least would
37 have conversations, although it was hard to understand her, because the stroke made it hard for her to talk. But now she
38 hardly says anything. And when she does, it is usually about the past; stuff that happened before I was even born.
39
40 Anyway, mom/dad knows how hard I try to please him/her even though I'm a pacifist and a vegan. I think his/her love of
41 guns and rare steak is gross, to say the least. But pleasing mom/dad is not easy. For instance, when I was using the broom
42 handle to practice my fencing moves the day before the “death in the dunes,” mom/dad (for the 100th time) asked me why
43 I would want to take up such an “archaic sport.” Nana tried to come to my defense and said fencing was a nice sport. But
44 I just threw the broom handle down and went to play video games on my computer. I was still peeved over what mom/
45 dad had said, though, so before going upstairs, I snuck into the kitchen and took a swig of the brandy that Nana keeps in
46 the fridge door and takes every evening to help her relax at night. She always has just a small glass, so I am careful not to
47 take more than a little at a time so that no one figures out that there are two people having nightcaps in the house.
48
49 It's weird, though, the brandy doesn't make me sleepy like it does Nana; it makes me happy. I lie in bed wide awake
50 dreaming about my biological mom/dad; I am sure s/he was just the opposite of my adopted mom/dad – refined, a poet
51 or writer of some kind; maybe even an English teacher. I am sure my real mother didn't tell my real father about the
52 pregnancy and just put us up for adoption so it wouldn't bring shame on her rich, high society family. Dr. Krantz says I
53 do this kind of daydreaming as a way of striking out against my mom/dad. Who knows? It could be that our real parents
54 were drug addicts or alcoholics – that would explain my love for brandy, a genetic disposition to become an alcoholic,

55 ha-ha. Mom/Dad told me that this old general, George Patton, believed in reincarnation, and that he remembered past lives
56 as other generals, like Hannibal, who stampeded the Romans with a bunch of elephants. I could just picture mom/dad, as
57 some Hannibal, and I'm in Rome, trying to write the poetry that Romans liked, and I get attacked by him/her riding some
58 elephant. When I talk about this kind of stuff, Dr. Krantz says he's glad he gets paid by the hour.

59
60 In fact, on the night of the shooting, mom/dad was watching *Patton*, the movie, for like the umpteenth time. S/he claimed
61 it was an anti-war movie. I said that I remembered that some French director had said that you can't make an anti-war
62 movie – when you show war, it is just naturally noble. Then mom/dad told me it was past my bedtime. I looked at my cell
63 phone – it was 10 p.m.

64
65 Well, I was lying there with my eyes closed, having my favorite daydream, when mom/dad looked in to check on me for
66 the second time that night. It is just so annoying that s/he always does that just like we are still eight years old and Jada is
67 still afraid of the dark and sneaking into my room so as not to have to fall asleep alone. I mean, hello - I'm thirteen- that
68 makes me a TEENager, right? Well, I kept my eyes closed and s/he left right away – perhaps in a hurry to join Nana in
69 the kitchen for a nightcap since I had heard her yelling something to him/her just before s/he intruded on my privacy. It
70 wasn't long after that when I heard a beeping noise, then the gunshots. Jada must have heard it, too, because we both ran
71 out of our rooms and to the railing at the same time. Twins are like that; we mysteriously do many things simultaneously.
72 The only difference is that Jada remembered mom's/dad's training about making yourself less of a target. As the railing on
73 the balcony has thin rails, you are exposed to below, so Jada hurried back to his/her room, while I just stood there, at the
74 railing, just outside of my room. From there I saw the shot that killed Pavano. Then came the shot in the ceiling. Followed
75 by orders to drop any weapons and get DOWN! Mom/dad always has to make sure everyone knows who the boss is!
76 Especially in his/her own house. Jada returned to the hallway after the first shot.

77
78 Anyway, it was like a scene from *Blue Bloods Law* (which I am not allowed to watch). Mom/dad had had us rehearse
79 “scenarios” like this before. S/he would always come up with possible emergencies, like what to do if there is a flood, a
80 fire, an earthquake – yes, an earthquake, in New Jersey! We twins would be told the scenario, and then we would act it
81 out, under mom's/dad's orders. The fire one for this house was easy – we have like ten fire extinguishers. For the burglary
82 scenario, we were to react as a team. While Jada and I now know how to shoot, mom/dad says we're still too young to
83 even think about using one on another person. We're too immature, supposedly.

84
85 So we are to watch mom/dad and follow his/her signals. We are to seek cover, if we can. If there is no cover, then we're to
86 seek concealment. We were told again and again that the back door was a “soft entry,” so we should not expose ourselves
87 to some intruder coming from that direction. Mom/dad must have told us that ten times, but we found that, when the
88 “scenario” actually happened, everything mom/dad told us was forgotten.

89
90 We're both very curious, so we just had to come out of our rooms. Then I just stood there, in the hall, nothing but the
91 railing between me and any “enemies.” So did Jada. But I did remember to look at mom/dad for a signal, or maybe I
92 looked because mom/dad had fired that first shot. As one of the strangers yelled, “Why did you have to shoot him,” I just
93 looked where the “bang” sound came from. Mom/dad, standing next to us, at the top of the steps, gave the signal, angry-
94 like, with a hand motion, swiping down. We knew what that meant. We got to the ground, but we faced the back of the
95 house, where the action was, and where Nana was. I was really worried for Nana. I looked down and saw Nana, and, close
96 by, a body on the ground, with a long object in his hands. So we could see, but we weren't giving the enemy much of a
97 target.

98
99 Anyway, after the “get down” signal, mom/dad went down some steps and used that gun again. When s/he shot upwards,
100 I was afraid it would shoot the big chandelier, and it would fall to the ground, like it always happens in the movies. But s/
101 he just put a hole in the ceiling. After the “drop-your-weapons-and-get-down” line that I was used to from those scenarios,
102 mom/dad walked down the steps towards Nana, and Jada and I just came down the steps, too.

103
104 I recognized Chris, even though he was face down. Chris has this bushy, crazy hairdo that is hard to mistake. Chris was
105 still holding onto that object, some kind of long stick. Nana was shaking something awful and one of the strangers who
106 had what looked like a beer can or a paint spray can made a run for it. Mom/dad made the remaining two strangers lie on
107 the floor; they were so frightened and shaking almost as much as Nana.

108 Suddenly, mom/dad looked up and saw us and asked if we were OK. How could we be OK when we just saw a person
109 who looked to be dead lying on the floor in our house?

110

111 Mom/dad told us to come downstairs. Mom/dad might have also told me to call 911. People asked me why no one called
112 911. Then I struggled to remember whether s/he told me to or not. It was all such a blur! Of course, during those drill
113 scenario things, the ones dealing with break-ins, s/he had told us to call 911 if at all possible. I do remember mom/dad
114 having his/her cell phone out, but putting it back in a pocket when we heard the doorbell, at the same time we heard a yell
115 of “police!”

116

117 Dr. Krantz has said that I should attempt to write a book about what happened.

118

119

Remy Abrams

120

Remy Abrams

121

122 Dated: October 1, 2013

123

124

125 **Voluntary Statement of Remy Abrams to Det. Peeler, at 02:35 hours on August 31, 2013 at police headquarters:**

126

127 Q: Do you want another hamburger, or soda?

128

129 A: No, I’m good. Anyway, mom/dad says those things are bad for you – you can’t tell what’s in hamburger, only in a steak
130 do you know what you are getting. Thanks anyway. When do I get to see mom/dad?

131

132 Q: Real soon. I just have a few questions.

133

134 Q: The lights were on when the shooting happened?

135

136 A: No. None of them. Except in mom/dad’s bedroom, I think. I turned the living room lights on myself, after mom/dad
137 had fired both shots.

138

139 Q: Did your mom/dad wash his/her hands after shooting Chris?

140

141 A: When isn’t mom/dad washing? S/he’s a clean freak!

142

143 Q: So yes?

144

145 A: Yeah, I think so. I mean, I always see it, so to remember a time

146

147 Q: And mom/dad cleaned the gun.

148

149 A: No. S/he did not clean the gun.

150

151 Q: What if I told you that I checked it myself, and I can say it is scientifically certain that s/he did?

152

153 A: I’d say you were pretty smart.

154

155 Q: So your mom/dad did not wipe off that Glock 17 after shooting Chris?

156

157 A: Wiped it? Of course, s/he wiped it. S/he just didn’t take it apart and clean it. Usually, mom/dad would make me or Jada
158 clean it anyway.

159

160 Q: You would clean his/her gun?

161 A: Guns. Plural. Yeah, since our birthday, Jada and I have taken over the job of cleaning and lubricating the guns after we
162 use them.
163
164 Q: You and your twin use guns?
165
166 A: Only at the range. If we don't clean a gun right, mom/dad makes us start all over again. Like I said, what a neat freak!
167
168 Q: Does your mom/dad wipe off the gun after shooting off a round?
169
170 A: Well no, but after being done with the gun, for that time. You are looking at me all surprised, but, I mean, did you see
171 that house? Do you know how much time mom/dad, Jada and I had spent cleaning that huge house? All the sand, the
172 stinky seaweed, all that?
173
174 Q: So the house was clean before the intruders came in?
175
176 A: Clean enough to eat off the floor. Nothing out of place.
177
178 Q: Has your mom/dad always been strict about cleanliness?
179
180 A: Yeah. I wasn't the neatnick Jada was, at first. A few whacks on the behind, early on, from mom/dad, cured me of that!
181
182 Q: How much time passed between the first and second shot?
183
184 A: A few seconds, I think.
185
186 Q: Did you ever see your mother/father act aggressively against Pavano or Lucas any of the other surfers?
187
188 A: Never.
189
190 Q: Did you ever hear your mom/dad say, let me look at my notes, "Charlie don't surf," or "What do you know about
191 surfing? You're from New Jersey."
192
193 A: Yeah. I also heard those lines the dozen or so times mom/dad and I watched *Apocalypse Now*, the movie.
194
195 Q: So those are lines in a movie?
196
197 A: Yes. Mom/dad is always quoting from war movies and westerns. When s/he's not quoting his/her old drill sergeant.
198 That's one thing mom/dad and I have in common. A love of good movies. When I'm a famous scriptwriter-slash-director,
199 people are going to be quoting from my movies.

Jesse Ryan

1
2
3 My name is Jesse Ryan and I perform forensic crime scene reconstructions. In its simplest terms, crime scene
4 reconstruction involves “evaluating the context of a scene and the physical evidence found there in an effort to identify
5 what occurred and in what order it occurred.” The gold standard for crime scene reconstruction has always been *Crime*
6 *Reconstruction* by Chisum and Turvey. I have always aspired to their philosophy that “ all the elements of evidence that
7 come to light in a given case are treated as independent; the significance of each piece, each action, and each event falls
8 and rises on the backs of others.”
9

10 I have over 15 years of experience in forensic crime scene reconstruction. I am currently a member of the Association
11 for Crime Scene Reconstruction, which conducts peer reviews and provides information on the latest techniques and
12 technologies. I am also certified by the International Association for Identification, which maintains a roster of certified
13 crime scene reconstructionists on the organization’s website. I have also authored numerous articles in trade publications
14 on crime scene reconstruction. I continue to be recognized by the New Jersey Courts as an expert in crime scene
15 reconstruction. Many of my recent cases have all been self-defense cases, where I have given expert testimony for the
16 defense. My most recent case was the *Shipp*s case, which had garnered national attention for self-defense and spousal
17 abuse.
18

19 Thinking back to the *Shipp*s case, it’s ironic that I will be again giving contradictory testimony against this Det. Singer.
20 The *Shipp*s case was a huge case that ended up garnering nationwide talk show and news attention because it dealt with a
21 young attractive couple, both doctors, where the husband planned and ended his wife’s life, and his defense was battered
22 spouse. Yeah, I know Singer, s/he’s a hot-shot UPenn ivy league “techie” who spends so much time bragging about how
23 s/he keeps up with advances in technology and changing his/her technique given new scientific research.
24

25 Anyway, back to *Shipp*s, the defense ended up winning, so much for Det. Singer’s “innovative work.” I remember at that
26 trial, our testimony conflicted a lot before and during the trial; a lot of that comes with the profession, but I remember
27 hearing that it may have negatively affected a sergeant promotion for Officer Singer. S/he got an Attorney General’s
28 Award for it, so losing couldn’t have been too bad for him/her in the long run.
29

30 I completed 20 years with the Metropolitan Police Department; my first 10 years were spent as a police officer and the
31 next 10 years as a homicide detective. I attended Monmouth University and earned a B.A. degree in Criminal Justice. I
32 also attended John Jay College of Criminal Justice and earned a M.A. degree in Forensic Science. In 2000, I founded Ryan
33 Forensic Consulting, which operates in the tristate area.
34

35 I have been retained by the counsel for the defense to render expert testimony in the matter of the *State of New Jersey v.*
36 *Jordan Abrams*. I began my investigation with a specific incident reconstruction, where I was able to construct a rough
37 hypothesis of what happened, why it happened, and how it happened.
38

39 The reconstruction began with a simple walkthrough of 1111 Ocean Ave., Cranberry Shores, where the incident occurred.
40 I conducted my walkthrough on September 30th. Using the police reports, I did the best I could to reconstruct events.
41 I always like to get a general feel for the crime scene. At this time, I took some notes and photographs to document the
42 scene. All the rooms in the house were unremarkable except for the family room.
43

44 A panel of glass on the sliding door to the living room was shattered. There were also shards of glass on the floor of the
45 living room. Minute fragments of the same glass were also found in the end portion of 20.40 inch broom handle found on
46 the scene. It seemed that the broom handle appeared to have broken from the broom some time prior to August 30, 2013.
47 The broom handle also contained left finger and palm prints at 8.60 inches from the front of the broom handle and right
48 finger and palm prints at 10.30 inches from the back of the broom handle.
49

50 I determined at the time of the shot that Jordan Abrams was 30 feet from the decedent. I met with Jordan Abrams at the
51 scene to confirm this. I asked him/her about having a weapon at that precise moment in time, and s/he said, “Things just
52 happen, some good and some bad. This time I know it was good.”
53

54 My overall impression of Remy Abrams’ interview with the police was the heightened level of fear s/he had for his/her

55 grandmother's life. S/he was standing with his/her brother/sister at an upstairs railing about 30 feet from the chair. I would
56 describe both the interview and the witness statement of Remy as being in total alignment with my reconstruction of the
57 incident. Only after many requests to meet with the investigating detective was I afforded the opportunity to conduct a
58 brief interview. I would describe this interview as "less than collegial," given our mutual backgrounds.

59

60 Finally, it goes without saying that an important part of the specific incident reconstruction process was the identification
61 and collection of associated evidence. Every piece of evidence was evaluated and where appropriate, was sent to the
62 laboratory for analysis. I also carried out some of my own experiments to test my hypothesis. Most of these experiments
63 were on two pieces of evidence, a Glock 17 and a broom handle, both found at the scene. I was provided these items by
64 Cranberry Shores Police Department Evidence Unit. At a gun range, I tested the Glock 17 "double hit" capability on an
65 8-inch block of 10-percent ordinance gelatin. I found bullets exited with a retained velocity of 350-450 FPS. I concluded
66 they maintained enough velocity to make a second hit, which coincided with Jordan Abrams' fear of a bullet over-
67 penetrating, and shooting his/her mother, had intruder Pavano gotten any closer to Candace Abrams.

68

69 Jordan Abrams stated that the house was dark on the night in question. Det. Peeler asserts that the light in the home was
70 sufficient for someone upstairs, as Jordan Abrams was, to see the area downstairs near decedent well, as moonlight was
71 glowing in from the large bay windows. While I concede that the moon was positioned in such a way that it would have
72 reflected into the home that night, the phase of the moon must be examined. A review of the U.S. Navy's historical moon
73 phase data reveals that there was a "waning crescent with 29% of the moon's visible disk illuminated." Accordingly, the
74 moon was not barely more than the first quarter, when 25% of it would be illuminated. Under the circumstances, the moon
75 did not play as big a role in lighting the home as Det. Peeler claims. Also, it was partly cloudy on that day, so the moon's
76 rays could have been blocked by cloud cover.

77

78 Det. Jerry/Gerrie Singer writes in his/her report that gunshot residue would have been found on Jordan Abrams, but for
79 Abrams allegedly washing his/her hands. This is not necessarily true. While all firearms have GSR that projects behind
80 the barrel, as well as in front of the barrel, most of the residue blows forward, i.e., in front of the gun barrel. Revolvers
81 are known to leave more GSR on shooters than pistols, as the revolving cartridges are open, while the pistol is more
82 enclosed. The Glock 17, of course, is a pistol, having a closed spring-loaded cartridge, as opposed to the round rotating
83 ("revolving") cylinder of a revolver, like the guns used in the Wild West. Most importantly, GSR is dry, and not sticky. It
84 tends to fall off the skin of individuals in particular.

85

86 Det. Jerry/Gerrie Singer admits in his/her report that it is not possible to determine whether Jordan Abrams shot the
87 intruder, Pavano, from the top of the steps, or from the middle step. Accordingly, the State's expert concedes that the
88 evidence from the recovered bullets is consistent with Jordan Abrams' voluntary statement to police, as to where s/he was
89 standing at the time s/he fired that single shot.

90

91 I also agree with Det. Singer's findings regarding the shot into the ceiling. I also examined the bullet recovered from the
92 ceiling. Unfortunately, Det. Singer never kept the wood it was embedded in, or the ceiling's sheetrock it made a hole
93 in. Singer didn't even take any photos of it. The bullet itself matches the recovered Glock 17. But, without anything
94 memorializing where the bullet came from, we have to rely on the word of Det. Singer as to where the bullet was shot
95 from (i.e., the trajectory of the bullet). I personally would not rely on Singer for anything, however.

96

97 In fact, both Remy and Jordan Abrams freely stated to police that Jordan had shot the gun a second time, into the ceiling,
98 as a warning shot for the three remaining intruders.

99

100 Where I disagree with Det. Singer is as to his/her findings regarding the firearms cartridge cases (FCCs). Firstly, we have
101 to take Det. Peeler's word for it as to how Jordan Abrams was holding the gun when s/he shot it at Pavano. Interestingly,
102 the police use what the defendant supposedly told Det. Peeler at the scene, as to the grip on the gun and how it was held,
103 yet they claim that Jordan Abrams is lying as to where s/he was standing when s/he shot Pavano!

104

105 Assuming that Jordan Abrams had the shooting posture Det. Peeler describes, then I cannot dispute the findings of Det.
106 Singer, as I was not present when s/he shot off the test rounds at the county police grounds, at a simulated house, under the
107 same conditions as the Abrams' house, which is used for practicing police and firefighting situations. I did not do my own
108 reconstruction. What I do dispute is the assumption that the FCC from that shot would not have been kicked or otherwise

109 displaced by someone before Det. Singer discovered that cartridge case. FCCs are light and cylindrical. We must recall
110 that Jordan Abrams would have walked down the steps after taking the shot at the intruder. It is certain that both Remy
111 Abrams and Jada Abrams also descended the stairs, as Det. Peeler encountered them downstairs, and all accounts have
112 them upstairs at the time of the shooting. Finally, as Det. Singer and Det. Peeler had ascended the stairs, and had been
113 concentrated on finding weapons, and had not seen the FCC, it is possible that either Det. Singer or Det. Peeler him/
114 herself may have kicked or otherwise displaced that FCC.

115
116 While I rarely agree with Det. Singer's conclusions, I do agree that the examination of the entrance wound and trajectory
117 of the bullet cannot tell us whether Jordan Abrams was standing at the top of the stairs or on a lower step on the stairwell,
118 for the reasons stated by Det. Singer in his/her report.

119
120 Det. Singer, however, did make a mistake as to the bullet Abrams shot into Chris Pavano's body. The bullet is so deformed
121 from striking Pavano's rib that you cannot tell whether it is consistent with a 9mm bullet.

122
123 Likewise, Det. Singer never fingerprinted the spray can, and when I fingerprinted it, it came up with Det. Singer's
124 fingerprint, and a few partial prints, which were unsuitable for comparison.

125
126 Regarding the black broomstick, I have examined it, and it is round, and hence it can roll on the floor. It apparently did, as
127 both Jordan and Remy Abrams clearly saw the long black object in Pavano's hands after the shooting. It could easily have
128 rolled away thereafter.

129
130 Perhaps the most egregious error made by Det. Peeler concerns the sliding door to the rear. While Det. Peeler would like
131 to say that we do not know when the hole in the glass got there, I can say, with a reasonable degree of scientific certainty,
132 as with all of my conclusions here, that Pavano broke the glass door.

133
134 I had the opportunity to view the glass door before it was repaired. I could not use the pattern of the broken glass on the
135 ground to aid me, as it had been stepped on, then swept up. I could, however, examine the shattered glass around the two-
136 inch round hole. An examination of the broom handle also revealed, embedded inside the wood, small shards of glass.
137 Upon microscopic examination, I found that the glass in the rounded end of the broomstick matched that of the glass
138 recovered from the hole. As Pavano had possession of the stick, I can conclude that Pavano broke the glass.

139
140 The hole allows room for someone to stick their hand in and open the latch to the door. The latch had been found open,
141 of course, as it is undisputed that that was the means of entry of the intruders, including head intruder Pavano. While I
142 dusted the outside of the glass of the rear door for fingerprints, I found none. There is no doubt that Pavano broke into and
143 intruded into the Abrams' residence.

144
145 FINAL RECONSTRUCTION

146
147 On Friday, August 30, 2013, at approximately 11:10 p.m.

148
149 A home invasion occurred at a dwelling at 1111 Ocean Ave., Cranberry Shores, NJ.

150
151 Entry was made by four intruders, with leader Pavano breaking a pane of glass on an exterior rear door using a broom
152 handle. Upon gaining entrance to a living room, Pavano was still wielding the broom handle in his hands and his partners
153 in crime came in behind him carrying two unopened six-packs of beer and an unopened bottle of Concord Grape Vodka.
154 Believing the home was unoccupied, they inadvertently startled and awakened Jordan Abrams' mother, who was sleeping
155 on a chair. The decedent approached the easy chair and intensified the fear and panic in Jordan Abrams' mother.

156
157 At this point in time, events begin escalating. Jordan Abrams heard his/her mother screaming, and heard the perceived
158 attacker answer. Jordan Abrams quickly responded by reaching for his/her handgun and magazine. Continuing along
159 the hallway, s/he could see four suspicious intruders in the family room. In the hands of the man later identified as Chris
160 Pavano was a long, black object, later identified as a broom handle.

161
162 Jordan Abrams heard the threats of another intruder.

163 An intruder shouted, "Will you please shut her up?" A second intruder responded by walking towards the sofa and pointed
164 what appeared to be a weapon. The entire time, Jordan Abrams' mother was crying hysterically and begging the intruder
165 not to hurt her.

166
167 Jordan Abrams was conflicted regarding a course of action, as his/her mother and other, possibly unarmed, intruders were
168 nearby.

169
170 Given the overwhelming fear for her life, Jordan Abrams took a difficult shot.

171
172 Under the most exigent circumstances, Jordan Abrams fired the fatal shot. The bullet struck the side chest area causing
173 massive hemorrhaging and death. The bullet was ultimately recovered from the intruder's body.

174
175 It is my expert opinion, within a reasonable degree of scientific certainty, as a forensic crime scene reconstructionist,
176 Jordan Abrams shot an apparently armed intruder once from the top step of the stairwell, on August 30, 2013.

177
178 *Jesse Ryan*
179 Jesse Ryan

180 Dated: May 22, 2014

Jesse Ryan, M.A.

Education

Monmouth University, West Long Branch, NJ

Bachelor of Arts, Criminal Justice – Graduated June, 1978

John Jay College of Criminal Justice, New York, NY

Master of Arts, Forensic Science – Graduated June, 1996

Thesis: Recovering DNA Evidence Months after a Sexual Assault

Experience

Ryan Forensic Consulting, Owner and Founder

2000 - Present

Investigate all relevant evidence and reports in criminal cases with the purpose to provide expert testimony to aid in the defense in criminal trials.

Specialize in expert testimony for all cases, with an emphasis on self-defense criminal cases.

Metropolitan Police Department

Homicide Detective

1988 – 1998

Investigate murder cases in the entire Metropolitan area, ranging from vehicular manslaughter deaths, gunshot victims, stabbings, poisonings, and death by beating. Testify at trial and hearings as required for related cases. Attend trainings regarding forensic reconstruction and crime scene preservation and analysis.

Police Officer

1978 – 1988

Conduct various police functions, including patrolling, traffic management, assisting in various criminal investigations ranging from traffic violations to burglaries and assaults.

Publications

“Issues in Crime-Scene Reconstruction in a Self-Defense Case,” *Criminal Defense Digest*, 2002

“Victory in *Shipp*s: How Defense Expert Testimony Regarding Crime Scene Reconstruction Can Paint a Vivid Picture to Juries,” *American Forensic Journal*, 2011

Professional Affiliations

Association for Crime Scene Reconstruction

Conduct peer reviews on latest techniques and technologies in Crime Scene Reconstruction.

Certified by the International Association for Identification

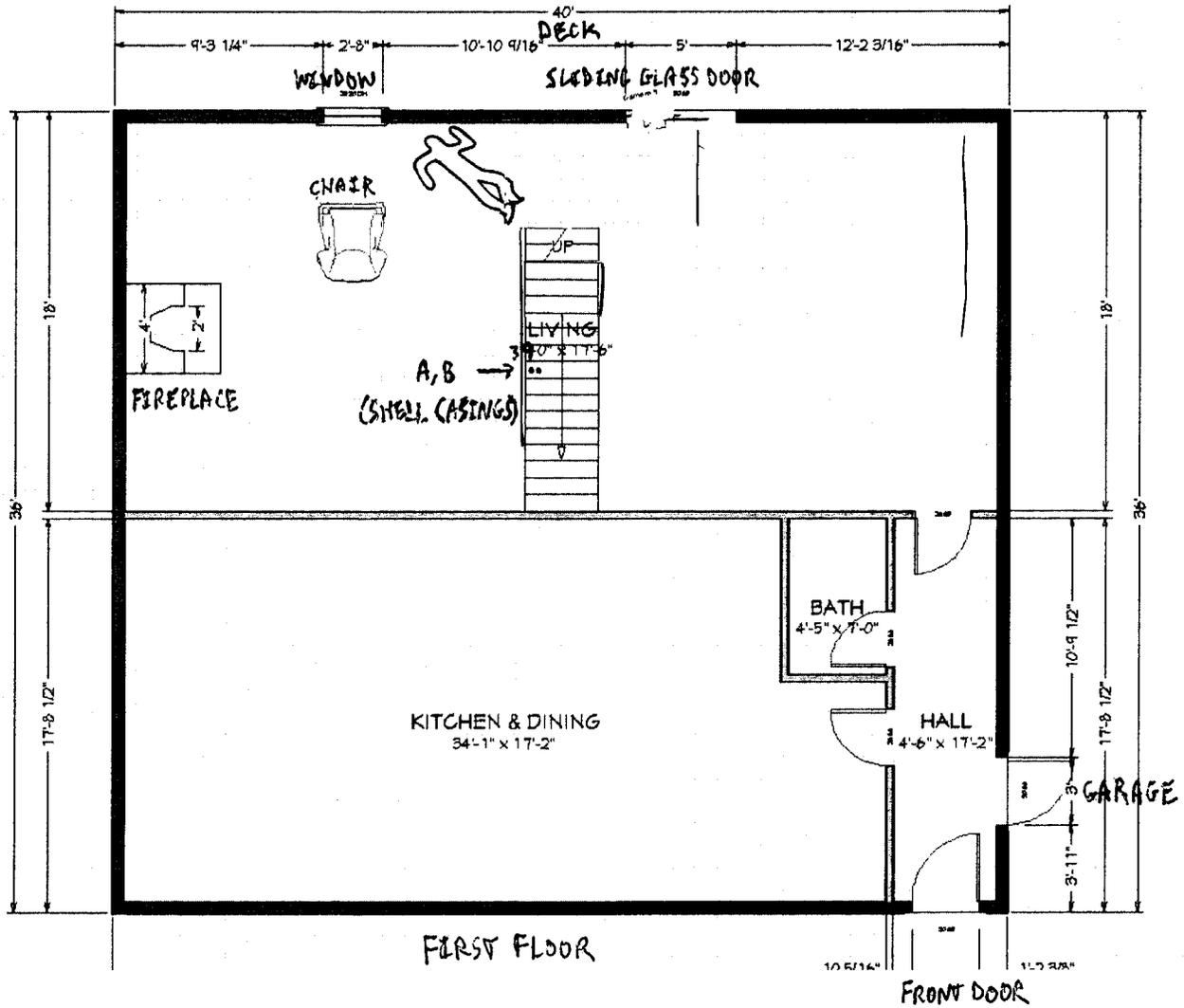
Awards and Recognition

Innovation in Defense Expert Testimony, New Jersey Defense Bar - 2010

Honored for ground-breaking defense testimony in the *Shipp*s case about how Battered Spouse Syndrome is grounds for self-defense even if there is pre-meditation involved. Defense theory presented through crime scene reconstruction evidence.

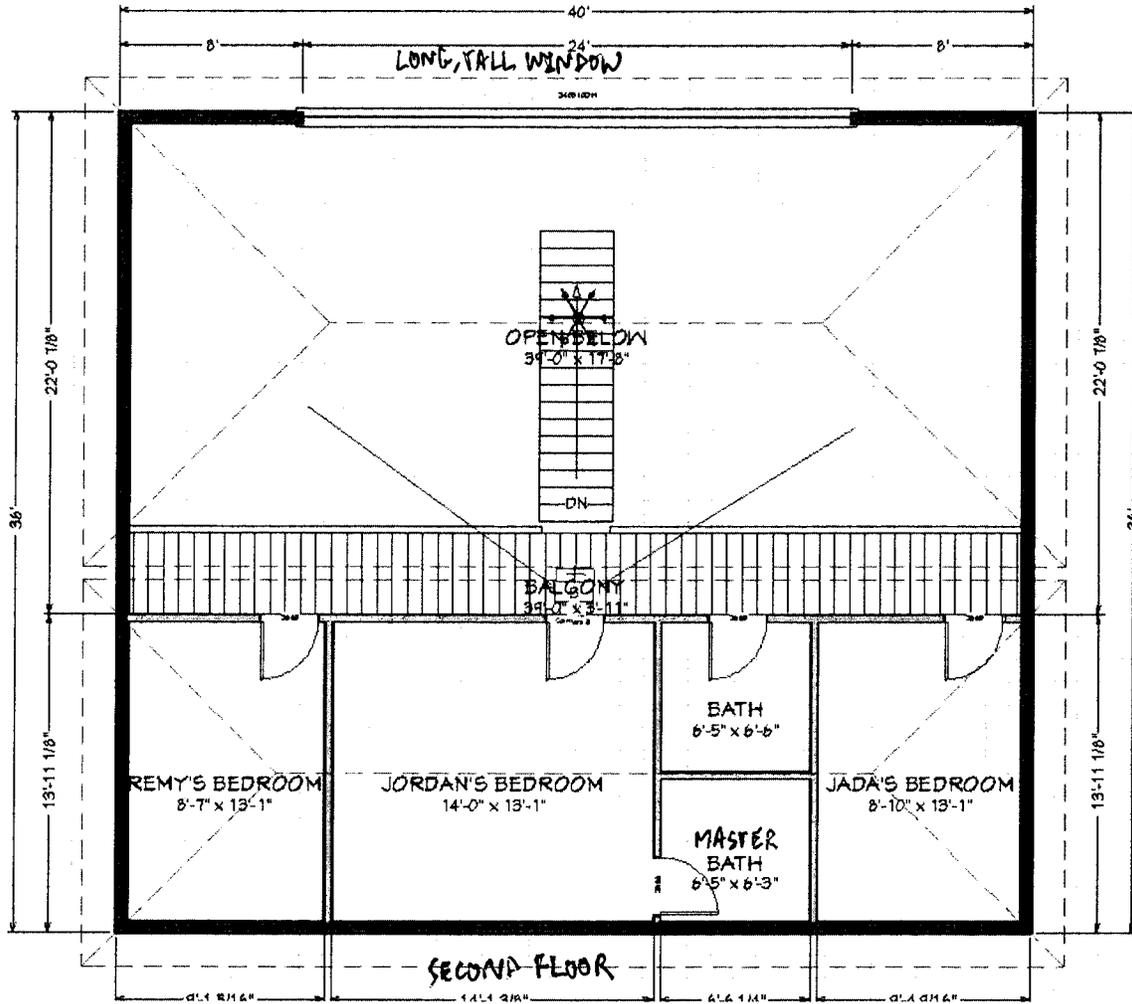
Expert in Crime Scene Reconstruction, New Jersey Courts – 2004; 2007; 2010

EXHIBIT S1



Det. Singer
 Metropolitan County Prosecutor's Office
 1111 Ocean Drive
 August 30, 2013
 State v. Jordan Abrams

EXHIBIT S2



Det. Singer
Metropolitan County Prosecutor's Office
1111 Ocean Drive
August 30, 2013
State v. Jordan Abrams

Exhibit S3 View from Above



Det. Jerry/Gerrie Singer
Metropolitan County Prosecutor's Office
1111 Ocean Drive
Date of Incident: August 30, 2013

Exhibit S4 View from Side



Det. Jerry/Gerrie Singer
Metropolitan County Prosecutor's Office
1111 Ocean Drive
Date of Incident: August 30, 2013

Exhibit S5 View from Below



Det. Jerry/Gerrie Singer
Metropolitan County Prosecutor's Office
1111 Ocean Drive
Date of Incident: August 30, 2013

1 **S6 – Inventory of items taken from the home**

2
3 **PROPERTY REPORT**

4
5 Glock 17, recovered by Det. Peeler, and given to me at the scene, with 15 rounds in cartridge, which fits up to 17 rounds.

6
7 Blue long-sleeved sweatshirt, recovered from downstairs bathroom

8
9 Black backpack, worn by Jordan Abrams:

10
11 Swiss army knife

12 Water purification tablets

13 Black ski mask, one-size-fits-all

14 3 MREs (military surplus meals-ready-to-eat)

15 Canteen

16 First aid kit

17 Flashlight

18
19 On dresser in master bedroom:

20
21 TASER

22 TASER instruction booklet

23 20 9mm Parabellum bullets

24 Handout which says, in its entirety, “Save the dunes! Rally Saturday in front of Abrams’ Castle!”

25
26 Inside of floor safe, 54” high, closed but unlocked (all weapons unloaded):

27
28 “Genuine Reproduction George Patton Pearl-Handled” revolver - inoperable

29 Colonial wood-handled smoothbore rifle (uses black powder and round lead ball)

30 Pershing Rifle

31 Smith and Wesson revolver, firing 38 special bullets

32 Cylinder fitting the Smith and Wesson revolver, for firing 9mm bullets

33 Receipt from purchase of Glock 17, from Bob’s Gun Emporium, reported as sold to Jordan Abrams, with date of sale
34 listed as May 23, 2012

35
36 Duffel bag (found on floor of bedroom):

37 Five antique knives

38
39 Shell casings from two 9mm Parabellum bullets, both found on middle step of the stairs, on the far left, touching each other
40 Rounded broom handle, 30 inches long, one inch in diameter, with one end tapered and the other end being flat-topped,
41 found twelve inches in front of Chris Pavano’s body.

42
43 Cellular phone, recovered from Det. Peeler, who found it in Jordan Abrams’ front left pocket. I tested it upon receiving it,
44 and found that it was operable, able to make phone calls.

45
46 Rusty spray paint can (found a few feet away from the front door)

47
48 A case (two six packs) of unopened Rock IPA Beer, found immediately outside of the back sliding glass door, covered in
49 broken glass

50
51 750 ml bottle of Sweetie’s Concord Grape Vodka, unopened, found just inside of the sliding glass door, in the living room

52
53 *Det. Jerry/Gerrie Singer*

54 Det. Jerry/Gerrie Singer

55 Dated: August 31, 2013

1 **S7 - Relevant Portions of the Autopsy report authored by Medical Examiner Cecil Quinn, and dated**
2 **September 3, 2013:**

3
4 I examined the body of Chris Pavano, a nineteen-year-old Caucasian male, five-foot-eleven inches tall, 200 pounds in
5 weight. His hair was bushy and colored a bright green.

6
7 It was unlikely he would have been able to walk after being shot because his left lung had been perforated, and a bullet
8 had penetrated his spinal cord; he probably died within 30 seconds of being shot.

9
10 The bullet entered directly into his left alveola, of his left pectoral muscle, and was extracted from decedent's left lung,
11 where it had lodged, and was saved for examination by the firearms and tool mark examiner, Det. Singer. Decedent's rib
12 was broken from the bullet, behind the pectoral muscle, which undoubtedly slowed the bullet, so that it lodged in the lung,
13 and did not exit or even hit any rear rib.

14
15 There was no evidence of stippling on decedent's body or decedent's shirt, nor any gunshot residue.

16
17 Decedent died as a direct result of the single gunshot wound.

18
19 **Supplemental Report of September 25, 2013, to Autopsy Report:**

20
21 Toxicology results, which I just received from the State Laboratory, reveal, from the blood and urine I had submitted to
22 them from Chris Pavano's body, unequivocally that Pavano had no alcohol in his system at the time he died. Nor did he
23 have in his system any THC (the active ingredient for marijuana), cocaine, heroin, morphine, PCP or LSD. Accordingly,
24 he was not under the influence of any of the aforementioned substances at the time of death.

1

2

3 **Transcript of audio dialogue from YouTube video, and description of video:**

4

5 (Title Page reads: April 1, 2013, in front of Cranberry Shores' Town Hall, with Jordan Abrams leaving from a Council
6 Meeting)

7

8 Chris Pavano (approaching Jordan Abrams, who has just exited the front doors to Town Hall, just outside the doors.

9 Pavano is holding up a piece of paper, close to Abrams' face): Will you admit that you weren't really the killer of the

10 deadly "Ace of Clubs" sniper?

11

12 Jordan Abrams: What are you talking about, Chris?

13

14 Pavano (blocking Abrams from moving forward – there are railings on either side of them. Pavano's still waving the piece
15 of paper): This letter to the editor in the *Metro Times* says you didn't kill him.

16

17 Abrams: I don't have to answer to you. Now move (Abrams pushes Pavano to one side, lightly, with one hand).

18

19 Pavano (not moving): Isn't it true that Vera Kozar killed Ace?

20

21 Abrams: I never said who killed that sniper. I don't control what journalists print.

22

23 Pavano: So it's true?

24

25 Abrams: Look, when the legend becomes fact, you print the legend.

26 (Video ends)

27

28 *(Prepared by a transcriber mutually agreed upon by the parties.)*

J1 JOINT EXHIBIT

1
2 **Audio-recorded statement of Jordan Abrams, recorded for Remy Abrams' 8th grade project – "My Hero," March**
3 **13, 2013. The questions are from Remy Abrams.**

4
5 Q: Did you ever surprise yourself when you were in the Air Force?

6
7 A: Yes, the first time I was confronted with a vested bomber. I was working alone at the time. A person with a bomber vest
8 – you don't know how he or she will trigger the bomb. Is it hand controlled, or is it a place to press on the clothing? The
9 military engrains into you how to act. With that type of threat, you shoot between the eyes, to eliminate the motor skills
10 of that person. But I saw how the military had programmed me. Like everything I did was by instinct. I mean, I don't
11 remember thinking about it.

12
13 Of course, I had the time to line up my shot. And I was quite a distance away. I wasn't directly threatened; other people
14 were, both our people and Afghani civilians. You have to realize soldiers in the field, getting shot at, at close range, they
15 don't always have the luxury of time to line up their shot.

16
17 Q: Were you ever afraid?

18
19 A: Oh, lots of times. But the worst time was when I got trapped in that bombed building. I've told you the story probably
20 20 times.

21
22 Q: Yeah, but we're recording, mom/dad. You gotta tell us the 21st or 101st time.

23
24 A: 101st time? So you've been counting, huh? OK. A mortar round collapsed the building we were in. Lucky me – I'd
25 been on the first floor of that three-story building. But I was lucky. The building had really collapsed around me; not on
26 me. So I kept my cool. The saying in training was, "when trapped, tap!" So that's what I did. My voice was hoarse, and
27 didn't do much good, but that tapping I did on the water pipe That's how and why they found me.

28
29 Q: Do you think that anything you learned in Afghanistan would do you any good here?

30
31 A: Remy, what I learned over there helps me get through every day. Especially since mom/dad died.

32
33 Q: How do you mean?

34
35 A: For example, I always think ahead. I use "the Rule of Three." When I have to make a decision, I come up with three
36 possibilities, and use the best option I could think of. Also, I don't wait for someone to help me. I help myself. Like when
37 Grandma had that stroke in the car. Sure, I could have called 911. But we were already in the car, so I drove her to the
38 hospital. I could hear my old commander telling me, when it was happening, his old saying, "You might be dead before
39 the cavalry gets here!" In those old John Wayne films I make you watch, sometimes the cavalry comes to save the day. But
40 you notice that John Wayne doesn't duck and cover, just waiting to hear those horsemen's bugles!

41
42 Q: So is that time you got trapped the reason that we do all these drills, these scenarios, where we practice dealing with
43 emergencies?

44
45 A: I suppose that's part of it, but I just believe in being prepared. That's why I tried to get you guys involved in Scouting.

46
47 Q: With the silly uniforms.

48
49 A: There's nothing silly about it. And those drills I learned from the military, and teach you and Jada, may one day save
50 your life.

51
52 Q: But we've never had any of those emergencies you have prepared us for. Even Hurricane Sandy ended up being a big
53 nothing.

54 A: So you're complaining that you've never been in a building that collapsed, or anything exciting like that? As for Sandy,
55 why put yourself in harm's way when you have advance warning and can avoid the emergency altogether? Stick it out in a
56 hotel. Don't be a hero when no heroics are called for. If I can protect my family, the family I have left, without confronting
57 any danger, so much the better.

58
59 Q: Do you hate the Afghani people?

60
61 A: No. I learned from them. I got to know Afghans who were interpreters. The Pashtunwali, for example, have their Code
62 of Honor.

63
64 Q: What is that?

65
66 A: For example, if a stranger is in trouble, you protect that person, even in the face of danger. Remember that movie we
67 saw, *Lone Survivor*? Like that. And, part of it is that you are expected to protect your land and your home against any
68 incursion, ugh, against anyone going against your land.

PART XI

EXPLANATION OF PERFORMANCE RATINGS USED ON MOCK TRIAL COMPETITION SCORESHEETS

Please consider the criteria listed below when evaluating student performances. Participants will be rated in the categories listed in the score sheet on a scale of **5-10**. **Fractional points are NOT to be awarded.**

Please use the following guide when awarding points:

5-6: Average (exhibiting only a few of criteria listed below)

7-8: Very Good (exhibiting many of the criteria listed below)

9-10: Excellent (exhibiting virtually all of the criteria listed below)

The judge(s) will score student performance in each category, not the legal merits of the case. Each category on the score sheet must be evaluated separately. Note that one team must be awarded more total points than the other. **There are no ties. The tiebreaker category is overall team performance. In the event of a tie score, the judge(s) shall make a final determination based on overall team performance. While this category must be rated like all other categories, judges may award an additional point to the team with the better overall team performance in order to break a tie.** This category is designed to measure whether the team stayed within established time limits, followed mock trial rules and procedures, and demonstrated excellent teamwork. See Part VIII for more information.

Also please note that all post-trial evaluations by the judge(s) will be qualitative. Numerical scores will not be released. The purpose is to re-emphasize the educational goals of the competition.

EVALUATIVE CRITERIA

Attorneys

Opening/Closing Statements:

- Establishes theory of the case (opening)/continues theory of case (closing).
- Clearly provides overview of team's case and position in a persuasive fashion.
- Addresses strengths of own case, and weaknesses of opponent's case.
- Demonstrates a thorough understanding of the issues.
- Exhibits mastery of case and materials.
- Applies applicable law effectively.
- Refers to key witnesses.
- Is articulate and professional in presentation, with minimal use of notes.
- Discusses burden of proof.
- States relief requested.
- Displays appropriate decorum to judges, opposing team and teammates.
- Demonstrates spontaneity, summarizes evidence and incorporates examples from actual trial (closing).

Direct Examination:

- Effective in phrasing straightforward questions and eliciting information.
- Exhibits mastery of case and materials.
- Observes rules of competition at all times.
- Demonstrates understanding of mock trial procedures and rules of evidence.
- Uses case theory appropriately and effectively.

- Avoids leading and narrative questions.
- Responds effectively to opponent's objections.
- Demonstrates proper use of objections in cross-examination.
- Makes effective use of time.
- Interacts well with witnesses.
- Demonstrates confidence and speaks sufficiently loudly and clearly to be heard and understood.

Cross Examination:

- Skillfully utilizes leading questions.
- Does not ask "one too many" questions, i.e. cross examines witnesses judiciously.
- Does not invite invention.
- Effectively able to rephrase questions.
- Exhibits mastery of case and materials.
- Observes rules of competition at all times.
- Demonstrates understanding of mock trial procedures and rules of evidence.
- Responds effectively to opponent's objections.
- Demonstrates proper use of objections in direct examination.
- Effectively exposes contradictions or weaknesses of other side's case.
- Interacts well with witnesses. Confidently manages difficult witnesses.
- Able to proceed without reading from prepared script.
- Demonstrates confidence and speaks sufficiently loudly and clearly to be heard and understood.

Witnesses

Direct Examination:

- Dress and demeanor are appropriate for witness being portrayed. (Costumes are not allowed. See case stipulations.)
- Demonstrates extensive knowledge of the facts and theory of team's case.
- Observes rules of competition at all times.
- Convincingly and credibly portrays character throughout testimony, without relying on notes. (See R.5:4-7.)
- Shows emotion appropriate to the role.
- Effectively responds to questions without inventing material facts.
- Demonstrates confidence and speaks sufficiently loudly and clearly to be heard and understood.

Cross Examination:

- Convincingly and credibly portrays character throughout testimony, without relying on notes. (See R.5:4-7.)
- Able to field questions with confidence and poise.
- Observes rules of competition at all times.
- Does not become flustered or uncertain when responding to unanticipated or leading questions.
- Able to avoid impeachment.
- Employs invention but only appropriately.
- Demonstrates confidence and speaks sufficiently loudly and clearly to be heard and understood.

IMPORTANT NOTICE

Teams must enter the names of the students and roles they are playing **on the score sheet** and submit same to the judge during the pre-trial conference. Prepare one sheet for the prosecution/plaintiff and one for the defense. Permission is granted to enlarge the score sheet on a photocopier if necessary in order to include this information. **Please type or print clearly.**

2015-2016 VINCENT J. APRUZZESE MOCK TRIAL COMPETITION Score Sheet

Prosecution/Plaintiff: _____ Defendant: _____
(Team Code) (Team Code)

Date: _____ **Competition Level:** _____ **Round:** _____

On a scale of **5 to 10** rate the Prosecution/Plaintiff and Defendant in the categories below.

DO NOT USE FRACTIONS.

	PROSECUTION/PLAINTIFF		DEFENDANT	
	Name	Score	Name	Score
Opening Statements				
Prosecution/Plaintiff's First Witness				
Witness Performance – Direct Examination:				
Witness Performance – Cross Examination:				
Attorney – Direct Examination:				
Attorney – Cross Examination:				
Prosecution/Plaintiff's Second Witness				
Witness Performance – Direct Examination:				
Witness Performance – Cross Examination:				
Attorney – Direct Examination:				
Attorney – Cross Examination:				
Prosecution/Plaintiff's Third Witness				
Witness Performance – Direct Examination:				
Witness Performance – Cross Examination:				
Attorney – Direct Examination:				
Attorney – Cross Examination:				
Column Subtotals:				

(Continued on next page.)

2015-2016 VINCENT J. APRUZZESE MOCK TRIAL COMPETITION Score Sheet

Prosecution/Plaintiff: _____ Defendant: _____
(Team Code) (Team Code)

Date: _____ **Competition Level:** _____ **Round:** _____

On a scale of **5 to 10** rate the Prosecution/Plaintiff and Defendant in the categories below.

DO NOT USE FRACTIONS.

	PROSECUTION/PLAINTIFF		DEFENDANT	
	Name	Score	Name	Score
Defense's First Witness				
Witness Performance – Direct Examination:				
Witness Performance – Cross Examination:				
Attorney – Direct Examination:				
Attorney – Cross Examination:				
Defense's Second Witness				
Witness Performance – Direct Examination:				
Witness Performance – Cross Examination:				
Attorney – Direct Examination:				
Attorney – Cross Examination:				
Defense's Third Witness				
Witness Performance – Direct Examination:				
Witness Performance – Cross Examination:				
Attorney – Direct Examination:				
Attorney – Cross Examination:				
Closing Arguments				
Overall Team Performance*				
Column Subtotals:				
Subtotals from preceding page				
Column Totals				

Please advise county or state coordinator of scores before critique.

Judge(s) Signature(s)

*This category **MUST** be graded with all the other categories, and can also be used as a tiebreaker.



WINNER (P or D)

HONOR ROLL PAST MOCK TRIAL COMPETITION WINNERS

1982–83	Voorhees High School Hunterdon County	2000–01	Montclair High School Essex County
1983–84	Middlesex High School Middlesex County	2001–02	High Point Regional High School Sussex County
1984–85	Holy Spirit High School Atlantic County	2002–03	Mainland Regional High School Atlantic County
1985–86	Cherry Hill High School West Camden County	2003–04	Kittatinny Regional High School Sussex County
1986–87	St. Mary High School Bergen County	2004–05	Torah Academy Bergen County
1987–88	Kittatinny Regional High School Sussex County	2005–06	Montclair High School Essex County
1988–89	Cherry Hill High School East Camden County	2006	Middle Township High School Cape May County, American Mock Invitational, Second Place
1989–90	Cherry Hill High School East Camden County	2006–07	Middle Township High School Cape May County
1990–91	Bergen Catholic High School Bergen County <i>(Winners of State and National Competitions)</i>	2007-08	Crossway Homelearners Atlantic County
1991–92	Atlantic City High School Atlantic County	2008	Crossway Homelearners Atlantic County, American Mock Invitational, Fourth Place
1992–93	Atlantic City High School Atlantic County	2008-2009	Mainland Regional High School Atlantic County
1993–94	Don Bosco Preparatory High School Bergen County	2009-2010	West Morris Mendham High School Morris County
1994–95	Hunterdon Central High School Hunterdon County	2010-2011	Middle Township High School Cape May County
1995–96	Lower Cape May Regional High School Cape May County	2011-2012	Oratory Preparatory School Union County
1996–97	Kittatinny Regional High School Sussex County	2012-2013	West Morris Mendham High School Morris County
1997–98	Cherry Hill High School East Camden County <i>(Winners of State and National Competitions)</i>	2013-2014	West Morris Mendham High School Morris County
1998–99	Hunterdon Central High School Hunterdon County	2014-2015	Mainland Regional High School Atlantic County
1999–00	Bergen Catholic High School Bergen County		

PAST MOCK TRIAL CASES

Year	Case	Topic
1982–83	<i>St. Clair v. St. Clair</i>	Child custody
1983–84	<i>Vickers v. Hearst</i>	Host liability when serving alcohol
1984–85	<i>Hudson v. Daily Metropolis</i>	Freedom of press
1985–86	<i>State v. Percy Snodgrass</i>	Murder trial
1986–87	<i>Vincent Taylor v. Lance Memorial</i>	Male nurse claims sex discrimination
1987–88	<i>Barr v. Zuff</i>	Employment discrimination relating to AIDS
1988–89	<i>State v. Martha Monroe</i>	Battered Woman Syndrome
1989–90	<i>Elyse Roberts v. City of Metropolitan</i>	Sexual harassment in the workplace
1990–91	<i>State v. Diane Lynch</i>	Prosecution of mother for death of “cocaine baby”
1991–92	<i>Chris M. v. Dr. Terry Preece and Metropolitan School District</i>	Educational malpractice
1992–93	<i>State of New Jersey v. Jan Stover</i>	Hate crime
1993–94	<i>In the Matter of the Estate of Daniel Nugent</i>	Will contest
1994–95	<i>United States of America v. Luis Cosme-Sanchez</i>	Drug smuggling
1995–96	<i>Oliver Yanov and Annette Yanov v. Judy Williams and Kevin Williams</i>	Adoption
1996–97	<i>State of New Jersey v. Pat Peterson</i>	Fraternity hazing
1997–98	<i>Fran Wilkins v. Metropolitan School District</i>	Negligence
1998–99	<i>Brennan v. New Jersey Interscholastic Athletic Association</i>	Student is barred from playing baseball due to alleged performance-enhancing device
1999–00	<i>State of New Jersey v. Daniel Gunnet</i>	Student is charged with aggravated manslaughter and death by vehicular homicide
2000–01	<i>Betty Groom v. Metropolitan College and H.B. Williams</i>	Wrongful death suit involving a college junior who died at a campus rock concert

2001–02	<i>State v. Pat Petrecca</i>	Road rage
2002–03	<i>Melendino v. Cornwall</i>	Student is injured in fire in illegal casino
2003–04	<i>State v. Mel Perfect</i>	An honor student is charged with felony murder, conspiracy to commit burglary and conspiracy to commit computer theft
2004–05	<i>Farrow v. Simon</i>	Bullying
2005–06	<i>State v. Dagger</i>	Murder of reality TV show host
2006–07	<i>Fectious v. Tagen Burgers, LLC</i>	Food safety
2007–08	<i>State of New Jersey v. Avery Fisher</i>	Performance–enhancing drugs
2008–09	<i>AARCI v. Dillon Matthews</i>	Illegal downloading of music files
2009–2010	<i>State of New Jersey v. Loren Perry</i>	Kidnapping of a child
2010–2011	<i>Jordan Pederson v. J.E. Moody</i>	Distracted driving/walking
2011–2012	<i>State of New Jersey v. Pat Hopper</i>	Bias crime
2012–2013	<i>Capella v. Petzicon Products, Inc.</i>	Product liability
2013–2014	<i>State v. Sid Sawyer</i>	Vehicular homicide and DWI
2014–2015	<i>Payton Reynolds v. Smithville School District and Dalton Fisher</i>	Negligence

NJSBF HIGH SCHOOL MOCK TRIAL POLICY REGARDING A COMBINED TEAM

The intent of the New Jersey State Bar Foundation (NJSBF) High School Mock Trial policy regarding a combined team is to encourage schools, which would otherwise be unable to compete because of an inability to field a full team, to request permission to combine their students with those of another school. In order to form a combined or cooperative mock trial team under the above circumstances, the boards of education or governing bodies of both schools must submit a joint request to the Mock Trial Committee of the New Jersey State Bar Foundation. Teams that combine without such permission will be disqualified.

The intent of the cooperative mock trial program is to afford greater opportunity to students to participate in mock trial only when the enrollment of their high school would not allow either the initiation of such a program or its continuance. Only schools that qualify under the specific enrollment requirements will be permitted to apply to form a combined team with any other equally qualified school. No cooperative mock trial team should be undertaken to enhance the competitive advantage of a member school or for the purpose of “venue shopping.”

The following guidelines were adopted by the New Jersey State Bar Foundation’s Mock Trial Committee and will be utilized to implement cooperative mock trial teams in order to afford the opportunity for as many students as possible to participate in the NJSBF Vincent J. Apruzzese Mock Trial Competition. Factors considered in granting approval of a combined team include, but are not limited to, the following:

- The boards of education or governing bodies of both schools approve the request to form a combined team.
- The host school accepts the responsibilities and obligations that go along with that designation. The combined team will compete in the county in which the host school is located. (See #7 of application form regarding designation of the host school.)
- The total student population of each school involved is under 200 students per class year (800 for a 4-year high school and 600 for a 3-year high school).
- A pattern of declining enrollment in mock trial, i.e., insufficient number of team members in or from the previous year to field a team.
- The schools involved have made a good faith effort to recruit students for mock trial without success.
- The boards of education or governing bodies of both schools certify that they are not applying to form a combined team for the purpose of strengthening their current teams.
- The boards of education or governing bodies of both schools certify that, without a combined team, the schools involved would not be able to participate in the competition.

The Mock Trial Committee will review requests on a case-by-case basis and will advise applicants of its decision in writing. The application form and guidelines for a cooperative mock trial team can be downloaded from the NJSBF website, www.njsbf.org. The completed application is to be submitted to:

Sheila Boro
Director of Mock Trial Programs
New Jersey State Bar Foundation
One Constitution Square
New Brunswick, NJ 08901-1520

The application must be approved by both boards of education or other governing bodies, signed by both school principals and submitted to the State Bar Foundation’s Mock Trial Committee with the approval of their County Mock Trial Coordinator(s). The application form will be reviewed by the Mock Trial Committee and its decision will be final. Schools must make an application **prior** to their enrollment in NJSBF’s Vincent J. Apruzzese Mock Trial Competition and, if approved, must enroll in mock trial as one single team and remain as a single team throughout the competition school year. Approval is only for the school year in which it is given.

**NJSBF VINCENT J. APRUZZESE MOCK TRIAL COMPETITION
COMBINED TEAM APPLICATION**

Combined Team Application for School Year: _____

Cooperating Schools

School #1 (Sponsoring/Host)

Address

Principal Name & Email

Enrollment

School #2

Address

Principal Name & Email

Enrollment

Combined enrollment: (no. of pupils)

1. Mock trial is open to all students in both schools in grades 9 through 12. Both schools represent that they have made a good faith effort to recruit students for a mock trial team without success and that one or both schools has been unable to obtain enough student participation to field a team for the school year for which a cooperative team approval is sought. Both schools certify that they are not applying to form a combined team for the purpose of strengthening their current teams.

Please attach a sheet outlining the circumstances in both schools which have led to this cooperative team application specifically setting forth why, without a combined team, the schools involved would not be able to participate in the competition.

2. Approved (public schools): Both Boards of Education Yes _____ No _____ Date _____

3. Approved (non-public schools): Superintendent(s)/ School Governing Bodies Yes _____ No _____ Date _____

4. County Coordinator approval:

_____, Coordinator, _____ Approved: Yes _____ No _____ Date _____
(signature) (County)

County Coordinator approval:

_____, Coordinator, _____ Approved: Yes _____ No _____ Date _____
(signature) (County)

5. Public Schools Agreement: _____ agrees to act as the Sponsoring/Host school.
(name of school)

Non-Public Schools Agreement: _____ agrees to act as the Sponsoring/ Host school.
(name of school)

6. The participating schools shall agree on the legal, financial, staff and personnel responsibilities of each school, including but not limited to, such considerations as transportation, release time, rules, and supervisory services.

7. The Sponsoring/Host School for the combined mock trial team shall be the larger of the two schools based on enrollment of grades 9-12. The combined mock trial team shall function as any other extracurricular activity in that school and will compete in the NJSBF Mock Trial Program in the county in which the host school is located.

8. A participating school shall not withdraw from a Cooperative Program until the completion of the involved Mock Trial Competition season.

9. The Sponsoring/Host School will be considered the home site, and as such will be entitled to all county and state awards.

10. The student participants shall be subject to NJSBF's Vincent J. Apruzzese Mock Trial Competition eligibility rules as well as the eligibility rules of both schools; where rules are at variance, the more stringent rules will be in effect.

11. The decision of the NJSBF State Mock Trial Committee will be final, with NO appeals.

I hereby attest to the accuracy of all facts contained herein. I have also read and agree to abide by all qualifications set forth in the application.

_____, Principal _____, School #1

_____, Principal _____, School #2

This agreement shall terminate at the end of the school year for which cooperation is sought. Renewal must be accompanied by a new application.

New Jersey State Bar Foundation Approval: Yes___ No___

_____, Executive Director, NJSBF

_____, Chair, NJSBF Mock Trial Committee

Please return original to the NJSBF after making a copy for your files:

Sheila Boro
Director of Mock Trial Programs
New Jersey State Bar Foundation
One Constitution Square
New Brunswick, NJ 08901-1520

ATTENTION

HIGH SCHOOL MOCK TRIAL COACHES
and ART TEACHERS

COURTROOM ARTIST STUDENT COMPETITION

In conjunction with the

**New Jersey State Bar Foundation
Vincent J. Apruzzese High School
Mock Trial Competition**

Encourage your art students to sketch your school's mock trial team in action—then, select your top entry for judging in the statewide competition.

The winner will be presented with an award at the mock trial finals at the New Jersey Law Center, New Brunswick, in March 2016.



Thursday, Oct. 8

**A FREE INSTRUCTIONAL
WORKSHOP** conducted
by professional courtroom
artists will be offered to
high school art teachers
and art club moderators at
the New Jersey Law Center.

For more information, contact
Cindy Pellegrino at 732-937-7507
or cpellegrino@njsbf.org.

Visit our website
njsbf.org





New Jersey State Bar Foundation
New Jersey Law Center
One Constitution Square
New Brunswick, NJ 08901-1520
1-800-FREE LAW
www.njsbf.org