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## Mock Trial Quick Guide

Mock Trial is a strategy that can make any content material across academic subjects more engaging and authentic for students. Because of the nature of our adversarial court system, it is naturally an inquiry-based project that allows students to ask the important questions and use a variety of skills to find solutions. Also a great model for historical trials.

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### Theory of the case

Both Prosecution / Plaintiff and Defense should plan a "theory of the case." This is the "story" you intend to tell via your witnesses in their direct testimony. It should educate the jury and provide the basis for the decision you hope to be rendered.

**Opening statement:** the first introduction of this theory. It includes:

*Your Honor, members of the jury, my name is \_\_\_ and I represent \_\_\_ in this case. We intend to prove that \_\_\_. You will hear the testimony of \_\_\_ who will testify that \_\_\_\_\_. When you have heard all the facts, please return a verdict of \_\_\_ .*

**Closing argument:** - attorney reviews the theory of the case reminding the jury of evidence that your witnesses have presented. *You have heard the testimony of \_\_\_ who stated \_\_\_.*

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### Direct Examination

- Prosecution/plaintiff calls their witnesses first. When they "rest" their case - Defense is on.
- Ask clear and simple questions that allow the witness to tell their story in their own words.
- Witnesses should not try to make up facts that aren't in the witness statements.

The witness is the "focus" and attorney simply guides along  
*"And what happened next?"*

*During direct witnesses tell the essential elements of the theory of the case*

*During direct, opposing counsel uses objections to keep testimony / evidence out of the trial*

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### Cross Examination

During cross, opposing counsel attack the credibility of a witness and discredit testimony - they are lying, not telling the full story, aren't qualified to make that statement, inconsistent with witness statement, etc.

*During Cross, the attorney who did the direct should use objections to protect their witness.*

*Attorney doing cross seeks to keep control of witness. Confine them to yes / no" answers. Isn't it true that ....*

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## Rules of Evidence / Objections

**Objections used by opposing counsel during the direct of a witness.** Trying to limit introduction of evidence and break up the flow of testimony. Objection can be raised after counsel has asked question or as interruption to witnesses answer.

Objection	Explanation
Leading question	Counsel is leading the witness. (Counsel is suggesting the answer in the question; usually calls for a "yes" or "no" answer)
Relevance	This question has nothing to do with facts / outcome of case,
Opinion	Counsel is asking witness to give an opinion. (Does not apply if witness has been qualified as an expert.)
Beyond the scope of statement	The witness is inventing facts not found in witness statement
Narrative answer	The witness is no longer responding to counsel's questions and is just into extended storytelling.
Lack of personal knowledge	The witness has no basis or direct observation that would enable him/her to answer this question.
Speculation	Question calls for speculation on the part of this witness.

**Objections used by counsel to protect their witness during cross examination by opposing counsel.** Trying to foil opposing counsel's cross. Defend your witness and give them time to formulate a response. Object as soon as question is asked.

Objection	Explanation
Argumentative question	Counsel's question is argumentative. Opposing counsel is badgering the witness.
Asked and Answered	Use when opposing counsel asks a repeat (or similar) question in attempt to get a new answer.
Beyond the scope of statement	The witness is asked about facts not found in witness statement
Speculation / Not qualified	Question calls for speculation on the part of this witness.
Lack of personal knowledge	The witness has no basis or direct observation that would enable him/her to answer this question.
Compound question	Witness is being asked multiple questions in one

**Objections to witness response can be raised by counsel as they cross examine.**

Non-responsive answer	Witness is not answering my question on cross examination.
Narrative answer	You ask a "yes/no" question and they explain. <i>Just yes or no, please.</i>