**Mock Trial Preparation**



**Rules of Professional Conduct**

All lawyers in Ontario are governed by a set of rules created by the Law Society of Upper Canada. Lawyers must follow these rules or they risk a suspension of their right to practice law, or even disbarment. The rules also require counsel to treat the Court with candour, courtesy, fairness and respect. If the decorum of the courtroom is not respected there is a risk that the right of all parties to a fair hearing might be lost.

**Getting Started:**

First, as a team each side should read over the case information.

Once the team members are familiar with the facts, the witness roles can be developed. Credibility of witnesses is very important to a team’s presentation of its case. As a result, students acting as witnesses really need to ‘get into’ their roles and attempt to think like the persons they are portraying.

Students who are witnesses should read over their fact sheets many times and have other members of the team ask them questions about the facts until they know them by heart.

Lawyers will be developing their questioning abilities in deciding how to approach each witness and determining what questions to ask in order to elicit preferred responses. Lawyers must remember to approach direct examination very differently than cross-examination. To prepare, lawyers must read through the witness statements of their own witness (for direct examination) and the witnesses of the opposing side (for cross examination).

**Specific Rules for Team Lawyers**

1. Each of the lawyers must engage in either the direct examination or cross –examination of a witness

2. Lawyers may use notes to present their cases, but should not have to read each question

3. Fact sheets may NOT be disputed at the trial

4. For the purpose of the trial we will consider that no Charter breaches occurred during arrest or investigation

**Specific Rules for Team Witnesses**

1. All witnesses, including the accused, must take the stand.

2. Witnesses are not permitted to use notes when testifying during the trial with one exception: police officers can use notes if the notes were made during the investigation of the crime. The notes are NOT the fact sheets.

3. The fact sheet binds each witness. While students should develop personalities for their characters, they cannot deviate from the fact sheets.

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| **Lawyers, To introduce notes during the direct examination of police officer:**Just after officer has been sworn in say, “Officer, did you have occasion to come into contact with anyone in court today?” Officer: “yes” (points to the accused) Crown: “Let the record show that the officer has pointed to the accused. ““Did you make any notes regarding this contact?” Officer: “Yes, I made them on my own and they have not been altered.” Crown: “Do you have an independent recollection of the events of ----date?” Officer “Yes, these notes are merely to refresh my memory” Crown: “Your Honour, I ask that the officer be able to refer to his/her notes |

**POINTERS for lawyers**

* Decide which are the most important points to prove your side of the case and make sure such these points are introduced at trial
* Tell clearly what you intend to prove in an opening statement and argue effectively in your closing statement that the facts and evidence presented have proven your case
* Follow the formality of the court, ex. Standing up when the judge enters or when addressing the judge, calling the judge “Your Honour”, etc.
* Phrase questions on direct examination in order for them not to be leading questions
* At end of direct examination of a witness say, “I have no further questions of this witness, Your Honour” then, to your witness say, “Please remain seated, my friend will have some questions for you”
* On cross examination, leading questions are expected. Ask witness to “Answer yes or no please.” Then, proceed to frame questions by making suggestions to the witness, or by “putting” facts to the witness

-“I suggest to you that … (put your statement/question here)…is that not true?”

* Do not ask so many questions on cross examination that well-made points are lost. When a witness has been contradicted or otherwise discredited, student lawyers tend to ask additional questions, which often lessen the impact of points, previously made
* Recognise what questions are likely to generate answers that will make good points for your side. Rely on the use of these questions. Avoid pointless questions!
* Be prepared to think quickly on your feet when a witness gives an unexpected answer

**Opening Statements:**

Although one lawyer will deliver the opening statement, writing it should be a team exercise in which all members brainstorm:

• What are the most important facts to tell the judge?

• What evidence should be stressed by your side?

• What kind of verdict do you want from the judge?

• How will you seek such a verdict?

(See additional handout for further instructions on opening statements)

**Closing Statements:**

A closing statement (also called a summation) is your last opportunity to present your side of the story. It should be noted that closing statements should not be totally composed before trial. They are supposed to highlight the important developments, which have occurred during the trial that were favourable to your side. The more relaxed and informal such statements are, the more effective they are likely to be.

(See additional handout for further instructions on closing statements)

**Objections!**

Either the Crown Prosecutor or the Defence Counsel may object to a question posed to a witness, or the response of the witness.

Once Counsel objects to a question, the judge stops the examination and may ask the examining Counsel to explain why he/she is pursuing that line of questioning. Council conducting the examination may also *ask* the judge to be permitted to answer to the objection (explain why he/she is asking the question).

Then the judge may either allow (**sustain**) the objection, preventing the evidence from being introduced, or **overrule** the objection, allowing the question to be answered. If the judge sustains the objection, the lawyer must withdraw the question. If the judge overrules the objection the lawyer may continue.

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| ***Common Reasons for Objections:*****-Leading questions**: During direct-examination, lawyers must allow their witnesses to tell their own story; they must not lead their witnesses through the story. You may ask your witness what happened, but you may not ask questions, which give away what answer you, want.Correct: Tell us what you saw.Incorrect: Did you see the green truck hit the red car?Correct: How fast was the car travelling?Incorrect: Would you say that the car was travelling at 100 km/hour??\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**-Hearsay**: Questions must limit witnesses to tell facts they know from *personal* knowledge. You may only ask your witness about those things which s/he saw or experienced directly. A witness may not talk about things s/he has been told by someone else.Correct: I saw 5 cats in Mrs. Smith’s kitchen.Incorrect: Joan told me Mrs. Smith has 5 cats.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**-Opinions and conclusions**: Unless the witness is qualified as an expert, s/he should not give opinions or conclusions. You may not ask your witness his/her opinion about things other than common knowledge unless s/he is an expert in the field. For example, an average citizen can give an opinion about the speed of a car, or the height of a person. However, only an expert, an auto mechanic for example, could give an opinion about the condition of the brake linings in a car.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**-Immaterial and irrelevant**: The information is not closely related to the case, and is therefore not important.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**-Non-responsive answer**: The witness’ answer is not addressing the question.\*These are only a few objections. They are probably the most common ones used. They will adequately serve your needs. |

**How to Raise an Objection…**

• Stand

• Await the attention of the Judge

• State the reason for the objection

• Address the Court, not opposing counsel

• Take your seat while the other side responds

• Stand if the Court addresses you

**Entering Exhibits**

Although typically exhibits are entered through the Crown, either side is able to enter exhibits that support their case.

***How to Enter an Exhibit***

With respect to introducing exhibits (either documents or goods) into evidence, the item must be introduced through a witness who can identify it and testify as to the truth of its contents (this is called *laying the foundation* of the exhibit).

• Announce to the court that you have a document/item that you wish to show the witness

• Seek the Court’s permission to approach the witness

• Introduce the document/item as you show it to the witness: eg., “Madam, I’m now showing you a photograph. Have you seen it before?” or “Can you identify it?”

Another example…

• Ask the witness if the document/item is familiar: eg., “Please tell the Court if you recognize this and what it is.”

• After the item has been identified, ask the Court for it to be made an exhibit. Then, hand the document to the clerk to be marked as an exhibit. The clerk will mark the exhibit and it will be formally entered into evidence. (Exhibits are marked sequentially. Eg. The first exhibit to be entered is exhibit 1)

•Proceed to question the witness about the exhibit.

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| **Example:** Counsel: Your Honour(s), permission to approach the witness to put this to them?Counsel: Do you recognize this diagram?Witness: Yes, I drew it.Counsel: When?Witness: Shortly after the incident occurred.Counsel: How can you be sure?Witness: You will notice that it is dated and initialled in the bottom right-hand corner by me.Counsel: Does it fairly and accurately depict the scene as you recall it?Witness: Yes, it isn’t drawn to scale, but it does show where everyone was standing.Counsel: Your Honour, I would like this diagram to be marked as an exhibit.  |

Additionally, a lawyer may want to question a witness about his/ her statement. This is called

“Putting the witnesses statement to them”( i.e. getting them to say, yes, I made that statement to the police).

To do this you have to first ask the judge for permission to approach the witness, and then show them the statement before you ask: “Is this the statement you made to the police?” “Do you agree that it is accurate?”

You just have to verify the statement once and then you can read from it.

**Preparation for the CROWN PROSECUTOR**

Duties: The Crown prosecutor must help maintain law and order in our society. When a crime is committed the Crown prosecutor’s job is to bring all the facts of the crime to the courtroom.

To secure a conviction the Crown must prove:

• The date

• The place

• That the crime was committed

• That the accused is the culprit

• That all the elements of the crime have been fulfilled

Note: the “elements” of the crime are all the little acts that go to make up the final complete transaction or crime. These will differ depending on the crime.

**Strategy Notes:**

BEFORE YOU BEGIN, you will need to think about the following ideas:

• Who are you? When you play one of the roles in a mock trial, you need to know as much as you can about WHO that character is. Imagine what it feels like to be a Crown prosecutor. What would a Crown prosecutor wear in court? How would s/he walk into the courtroom? How would s/he speak? What kind of language would s/he use? Practice your role. Try to BE that role.

PREPARE YOUR CASE

• Read the indictment. It will tell you what crime the police believe has been committed as well as when and where they believe it was committed. It will also tell you who is accused of committing the crime.

• Read the applicable law. Pick out all the elements so that you know what you have to prove about the crime.

• Talk to witnesses and find out the following information:

• What happened?

• Where?

• When (date and time)?

• Who was at the scene of the crime?

• Did the act show any other qualities necessary to fulfil the elements of the crime: for example intention?

When you interview your witnesses, practice asking questions so that they relax and are able to tell their accounts of the crime.

Decide in what order you will be calling your witnesses. In having witnesses tell their stories try to start at the beginning of the incident and continue to the end. Sequence of events is important, so the account makes sense to the judge and jury.

**ANTICIPATE YOUR OPPOSITION**

Once you have prepared your case, you should spend time thinking about the other side’s case. Place yourself in the Defence lawyer’s shoes. Ask yourself what points s/he will try to make. Make sure your own witnesses have covered them.

In cross examination you may ask leading questions of witnesses called by the Defence lawyer. Your job in cross examination is to show any biases, mistakes, or contradictions in the witness’ testimony and to bring out further evidence concerning the case. Therefore, you will ask questions to pinpoint specific information which you want made clear, such as:

Wasn’t it true that the snow was falling quite heavily on the night of the crime?

Could the falling snow have impaired your vision?

(Leading questions can often be answered with a “yes” or “no”)

-Be careful not to harass the witness because that will only confuse the witness and may influence the judge against you or your case.

-Never ask a question unless you know what the answer is. You may receive a statement that defeats your case.

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**Example of the Structure of a Crown Opening Statement:**

## Opening Statement for the Crown

## “Opening Statement for the CrownOpening Statement for the CrownGood Morning Your Honour, Learned Friends.

**Good \_\_\_\_\_\_\_\_\_ your Honour ‑ Learned Friends**Good \_\_\_\_\_\_\_\_\_ your Honour Learned FriendsMy name is Smith, initial J, for the record, and along with my colleagues, I represent the Crown in the matter of the Crown and (last name of accused).

The accused, (name), stands charged with ….

The body of the court will hear today the testimonies of two witnesses:

We anticipate to hear the following evidence:

The attending officer, (name), ….

In the course of his investigation, Officer …..

Motive, although not necessary to prove guilt, should never be left unconsidered and unacknowledged. The theory of the Crown is that motive is evident considering …..

We are aware that the burden of proof rests on us, the Crown, to prove our case beyond a reasonable doubt. Thus, the Crown will establish and show the body of the Court that the identity of the (criminal) is none other than the accused, (name).

Furthermore, Your Honour(s), the Crown will produce direct evidence that links (accused) to the ….

In establishing that, we will have proven both elements of the crime, the *mens rea* and the *actus rea*, revealing that (accused) had the intent and did, in fact, complete the act.

The defence may have us believe that… but…

We are confident that by the end of the trial, we will have met our burden and it will be shown through evidence before the body of the court that the accused had the motive, the opportunity, and the means to commit the crime and that (the accused) did, in fact, (commit the …)

If we had any reason to believe otherwise, we would not be here. Your Honour(s), the Crown is here today, not to win or to lose, rather we are here to serve the public and it is our submission that the facts of this case point towards a guilty verdict.

Thank you, Your Honour(s), The Crown is ready to proceed.”

**Example of the Structure of a Crown Summation:**

“Permission to begin, your Honour(s)? Again, my name is Smith, Initial J., for the record.

Crown counsel respectfully submits that today, for the body of the Court, we have proven the guilt of the accused beyond any reasonable doubt. The theory of the Crown was proven sound through the testimonies of (Witness 1) and (Witness 2)

 As the court has heard, the Crown has proven both elements of the Crime: actus rea and mens rea. This was forwarded with circumstantial, eyewitness and direct evidence.

 The first charge against (accused) was …

Two independent and reliable witnesses said …

Officer ….., a credible officer working on the police force for \_\_\_\_\_ years, testified that …

There has been no evidence presented by the Defence to corroborate the accused’s claims.

 I would also like to point out that the testimony of the defence witnesses was tainted by… This speaks to character.

We respectfully submit that Your Honour(s) weight their testimonies accordingly .

Let us review what the Defence was unable to do today:

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“In its entirety, the evidence presents but one conclusion…”

 Your honour(s), it is clear that …… is a major issue in this case. As the body of the court has heard, ….

… clearly concludes him/her to have the means and the motive to …

 Your honour(s), we respectfully submit that the Crown has met its burden, and that you return a verdict of guilty.

**Preparation for the DEFENCE COUNCIL**

Duties: The Defence lawyer’s job is to protect the rights of the accused. The defence does not have to prove anything, so generally you would not have to call any witnesses. (It is the right of the accused to remain silent.) However, in this mock trial, all witnesses must be called.

**Strategy notes:**

Before you begin, you will need to think about the following ideas:

Who are you? When you play one of the roles in a mock trial, you need to know as much as you can about that character. Imagine what it feels like to be a Defence lawyer. What would a Defence lawyer wear to court? How would s/he walk into the courtroom? How would s/he speak? What kind of language would s/he use? Practice your role. Try to BE that role.

Know the law and the case.

Read the indictment. It will tell you what crime the police believe has been committed as well as when and where they believe it was committed.

It will also tell you who has been accused of committing the crime.

Read the applicable law. Pick out all the elements so you know what the Crown must prove about the law.

Talk to the witnesses and find out the following information:

What happened?

Where?

When (date and time)?

Who was at the scene of the crime?

Did the act show any other qualities necessary to fulfill the elements of the crime: for example, intention?

Remember that the Crown has to prove these facts as well as all the elements of the crime set out in the law.

Plan what you’ll need to prove your case, who you’ll call, and in what order.

When you interview your witnesses, practice asking questions so that they relax and are able to tell their accounts of the crime.

**ANTICIPATE YOUR OPPOSITION**

Your first task in protecting the rights of the accused during the trial is to be prepared to question witnesses that the Crown calls. Place yourself in the Crown prosecutor’s shoes and ask yourself what points he/she will try to make. Be ready to cross examine the prosecution witnesses on points where their evidence disagrees with the evidence of your witnesses**. Your job in cross-examination is to show their bias, mistakes, or contradictions.** Don’t ask questions unless you know the answer.

Each lawyer has a responsibility to see that the evidence is presented correctly. Thus, if you think the Crown prosecutor is not following the rules of evidence you should object to the questions.

Opening statement (Defence Counsel)

Purpose: To deny that the Crown has a valid cause; and, in a general way, to outline the facts from the standpoint of the defendant.

**Example of the Structure of a Defence Opening Statement:**

# Opening Statement for the Defence

**“Good morning your Honour, Learned Friends.**

My name is Doe, initial J, and along with my colleagues, I am the counsel for the accused, (name) in the case of Regina and (accused’s name).

Your Honour(s), as the body of the court will hear, we have been brought together here today because an awful crime has been committed; the (crime that occurred). But there is another misfortune in this case. Our client, (name) stands wrongfully accused of these crimes.

We anticipate the following evidence to be given. On the (time of day/night and date), (accused) was …

 Defence will call (witness) and we anticipate that s/he will tell the court that …

 If we are to believe (witness), then her/his testimony buttresses that of (the accused’s) and we respectfully submit that the court must conclude that ….

We also anticipate to hear in the testimony of (the accused), …

Your Honour(s), the theory of the Defence is that ….

Your Honour(s), defence counsel and our criminal justice system have only one objective today; and that is to prevent yet another misfortune from occurring--the wrongful conviction of an innocent person.

Thank you, Your Honour(s), the Defence is ready to proceed.

Defence calls all its witnesses…

Judge: “anymore witnesses from the Defence?”

Counsel “No, The DEFENCE RESTS, your Honour”

Summation:

Be sure you tell the judge how you have proven your case. Remember the Crown must have proven with regard to the crime:

-The date

-The place

-That the crime was committed

-That the accused is the culprit

The Crown must prove all these things beyond a reasonable doubt. If the Crown has failed to do so, this should be pointed out to the judge

**Example of the Structure of a Defence Closing Statement (Summation):**

“Permission to begin, Your Honour(s)? Again, my name is Doe, Initial J., for the record.

(State date crime was committed). To some, this was an unmemorable day. For others, this was a day that would profoundly affect them. This was the day that…

This was a terrible crime. However, (accused) stands charged for this very crime and convicting an innocent man/woman would constitute a crime of another sort.

 Today the body of the court has heard the evidence and the unravelling of events from both parties. We must now look logically at the technicalities of this case, not in terms of emotional tendencies but as they relate to the law.

 It is in this examination, Your Honour(s) that you will come to realize that not nearly enough evidence was presented by our learned friends for the court to make an assumption of guilt. The onus was on the Crown to prove, beyond a reasonable doubt, that the accused, (accused name) is guilty on all counts. They did not do so and, indeed, we raised doubts in the Crown’s case.

 Let us review what the Crown was unable to prove. As the court clearly heard, there are doubts about …

Defence submits that there are too many discrepancies in the Crown’s case.

Due to this…

The Crown is relying solely on …

Your Honour(s), I respectfully submit that the testimony of (witness 1), which buttresses that of (the accused) …

The Crown has not established the actus reus/mens rea element of the crime…

Your Honour(s), (the accused’s) fate is in your hands and we respectfully submit that you render a verdict of “not guilty.” Thank you Your Honour(s), those are our submissions, subject to any questions you may have.”

**Preparation for the WITNESS OR ACCUSED**

Duties: Witnesses and the accused are the people who have seen or experienced the event in question. Their task is to answer the lawyer’s questions. They must answer clearly and truthfully so that the judge and jury can understand what really happened.

**Strategy Notes:**

Before you begin, you will need to think about the following ideas:

Who are you? When you play one of the roles in a mock trial, you need to know as much as you can about that character. Imagine what it feels like to be a witness or accused. What would a witness/accused wear in court? How would s/he walk into the courtroom? How would s/he speak? What kind of language would s/he use? Practice your role. Try to BE that role.

* You should remember that a witness gives information not only through the words s/he says but also through manners, clothes, and attitude. Your dress and manner should reflect the character you want to show
* During the trial, answer the lawyers’ questions as honestly as possible
* In direct examination, tell your story to the court as clearly and completely as you can, without prompting
* After you give your evidence, you will be cross examined by the lawyer representing the other side. The lawyer will ask questions about parts of your evidence. Answer his/her questions clearly but as briefly as possible
* Make eye contact with the judge (and the jury, if there is one)
* Memorize your statement!
* Try not to be shaken in cross-examination
* If you do not know the answer to a question, say so. It is not an offence nor does it detract from your credibility not to know the answer to every question. A perfect recollection to everything that happened is not expected of a lay witness, nor is that lay witness expected to recall the exact words spoken by everyone involved
* Do not guess at an answer. If you guess, you are bound by your answer. If you are pressed by either the Trial Judge or the Crown Attorney to guess, assume, or speculate, prefix your answer by saying : “I can only guess” or “I can only assume” or any other expression which indicates that this is not of your own knowledge
* If you do not understand a question say so
* If you do not understand the meaning of a word used, say so. The legal profession depends on their use of the English language, but few know the meaning of every legal word or every word in the dictionary.
* If you did not hear the question, say so and ask to have it repeated
* Do not avoid a question, even if you think the answer is harmful to your case
* Beware of the question “Is it possible that……”. Counsel will not usually ask such a question unless it is possible. If it is possible, a reasonable answer would be “yes, it is possible, but I do not think so (or, not likely in these circumstances)”
* Maintain a balance between nervousness and calmness. An absence of nervousness suggests that it is a pat story; it is too well rehearsed, or that through experience in Court you are too knowledgeable
* Do not use the language of your lawyer. A Judge can tell if it is your way of expressing yourself, or you have been coached by your lawyer and you are simply mouthing the lawyer’s words. Use regular language. Do not use foul language
* If you hear either your counsel or the Crown object to a question or answer, do not complete your answer until the Trial Judge has determined the propriety (admissibility) of the question or answer
* Read open/closings. You have to say in court what they say you said!
* If other side refers to your statement, say “what statement?” They have to put it to you first. Take your time and read it over to yourself i.e. when they ask you to read it, do just that, don’t read it aloud

Know how to address the various members of the Counsel:

The Judge: Your Honour

The Crown Attorney: Sir, Madam

Your own defence Counsel: Sir, Madam

Do not lose your temper. This can be fatal to your credibility in the witness box. It will give a bad impression, assists the other side, and may will incur the displeasure of the Trial Judge.

Do not argue with opposing counsel or the Judge. You are there to answer questions and give your account of events which are the subject of the charge(s). Being argumentative will affect your credibility in the witness box.

**Preparation for the JUDGE**

* It is the role of the trial judge to preside over the courtroom and see that order is maintained.
* In a trial with a jury, the judge acts as trier of law, while the jury acts as trier of fact.
* A judge must be impartial, not allowing bias to cloud his/her judgement

Responsibilities:

-In the mock trial, as a judge you must learn the different grounds for objections and be ready to rule on them quickly.

-You must also instruct the jury and direct them to decide upon a verdict. (see below)

-You must be ready to impose an appropriate sentence, based on the charges (even if the result is acquittal, you must show that you did this research)

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| The Supreme Court of Canada recently restated the required elements of a trial judge's final charge to the jury…* "(1) instruction on the relevant legal issues, including the charges faced by the accused;
* (2) an explanation of the theories of each side;
* (3) a review of the salient facts which support the theories and case of each side;
* (4) a review of the evidence relating to the law;
* (5) a direction informing the jury they are the masters of the facts and it is for them to make the factual determinations;
* (6) instruction about the burden of proof and presumption of innocence;
* (7) the possible verdicts open to the jury; and
* (8) the requirements of unanimity for reaching a verdict."
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As a judge, you will need to research and prepare to deliver your charge to the jury (jury instructions). Look for examples on which to base your own instructions. Make sure your instructions are clear!

# PROPER COURTESY IN THE COURTROOM

The courtroom is a formal setting, and there are some specific etiquette rules to follow that may not be familiar to you. Here are some pointers:

• When facing the judge, counsel for the accused usually sits at the table to the left and counsel for the crown sits at the table to the right.

• When the judge enters, all counsel, and everyone else in the courtroom, must stand-up. Counsel then bow to the judge. Sit down when the clerk instructs everyone to do so.

• When you are getting ready to address the judge, either stand at your table, or by the podium (if there is one). Wait until the judge seems ready to proceed. The judge may nod or may say that you can proceed. If you are not sure, ask the judge if you may proceed.

• As court starts, introduce yourself for the first time “may it please the court, I am John Doe, first name John spelt J-O-H-N, last name Doe spelt, D-O-E, appearing for (the Crown/ the Defence). (After that it is, “again, I am Doe, initial J”).

The first counsel to address the court should introduce other counsel. For example, after you introduce yourself you might say “my colleagues [names] are also appearing for the crown,” then “my friends [name] and [name] appear for the accused.”

• Every other counsel should introduce themselves again before starting to address the court.

• Stand every time you are addressing or being addressed by the judge.

• Refer to your co-counsel as “my colleague” or “my co-counsel”. Opposing counsel should be referred to as “my friend” or “counsel for [name of accused]”

•When speaking, always address your comments to the court, NEVER to opposing counsel. There should be no exchange of communication directly between counsel, unless approved/directed by the judge.

•When opposing counsel stands to speak, sit down. Both counsel should not be standing at the same time.

•Do not interrupt other counsel unless it is to make an objection to evidence being tendered. Do not interrupt other counsel during submissions (opening/closing).

•If the Judge poses a question to you, answer the question first. You may wish to go on to say, after answering the questions, that you would like an opportunity to give further explanation if the court would consider it. Explanation follows the direct answer.

•If your motion or submission or objection is not successful, receive it courteously and simply indicate that you are thankful for the court’s consideration.

•If other counsel is making submissions to the Judge(s), do not make negative facial expressions or body language movements. This is distracting and rude.

•When waiting for your turn in the courtroom, do not rattle papers or talk loudly with other counsel.

•When starting, “Permission to begin, Your Honour(s)?”

•Remember to say at the end of our case “The Crown/Defence rests, Your Honour(s)”

•After direct examination of your witness say “Thank you, Your Honour(s)” to the judge(s) and then turn back to our witness and say “Please stay seated, my learned friends will have some questions to ask of you”

• If it is not your turn to address the judge, pay attention to what is happening. Take notes that you can use during your submissions or closing statements.

• Try not to distract the judge. If you need to talk with your co-counsel, write a note.

**General Marking Scheme:**

**Knowledge: Shows a clear understanding of his/ her role. Courtroom decorum is observed.**

**Thinking: Applies appropriate approach to his/her role. Role is researched and prepared.**

**Communication: Speaks clearly and uses appropriate language, body language, eye-contact**

**Application: Overall performance is credible and convincing**



