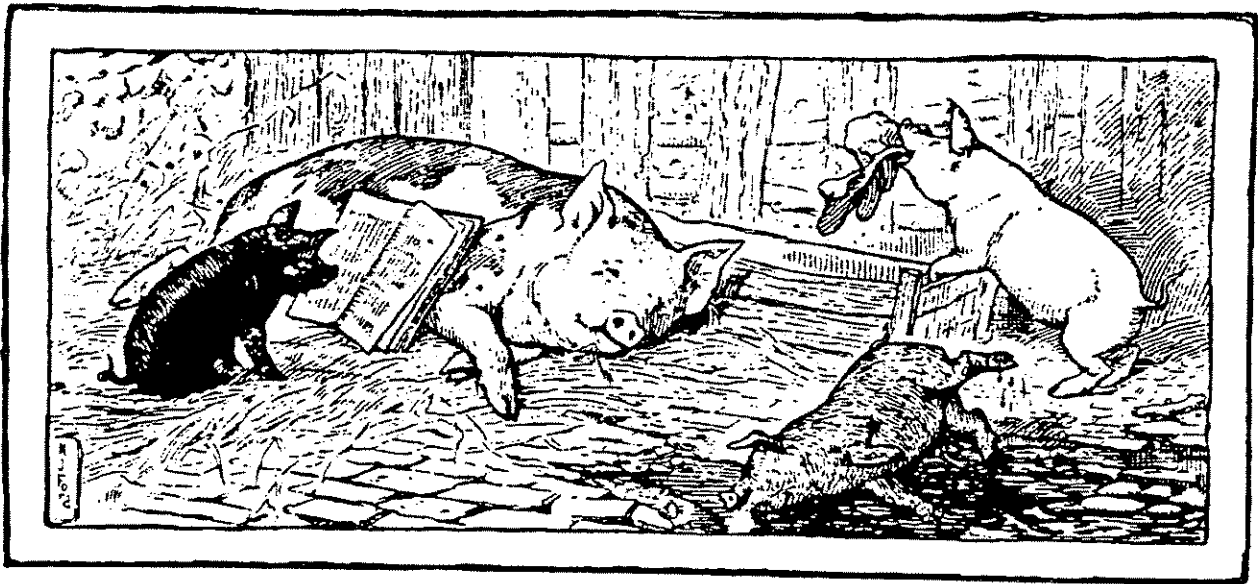


Mock Trial

a script and how-to guide

for the case:

The Big Bad Wolf v. the Three Little Pigs



Grades K - 6

The Big Bad Wolf
v.
The Three Little Pigs

Mock Trial
Materials and How-to Guide

Grades K through 6



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MOCK TRIAL SCRIPT

**B. B. WOLF (a/k/a BIG BAD WOLF)
v.
CURLY PIG
(For Pre-School Children Through Primary Grades)**

**Prepared by
Carol Anshaw
Chicago, Illinois**

PARTICIPANTS IN TRIAL:

Judge

B.B. Wolf

Curly Pig

Jack Smith

Plaintiff's Counsel

Defendant's Counsel

Jurors

Bailiff

SCENE: The Onceuponatime Courthouse. The Bailiff enters the courtroom and calls the case of B.B. Wolf, also know as Big Bad Wolf, vs. Curly Pig. Wolf is seated with his attorney at the plaintiff s table, Pig with his counsel at the defendant's table.

JUDGE: This is the case of Wolf vs. Pig. As I understand the pleadings, the charge against Pig is attempted Wolf cooking. Now, are there any opening statements?

ATTY FOR WOLF: Your honor, in this case, we will show that last August 19, the defendant, Mr. Pig, did indeed attempt to cook the plaintiff. We will show that he placed a steaming cauldron of boiling water in a spot where he was sure Mr. Wolf would show up, and that furthermore, his cookbook was found open to the recipe for Poached Wolf. Thank you, your honor.

JUDGE: Does the attorney for Curly Pig have any opening statement?

ATTY FOR PIG: Your honor, Mr. Wolf's charge is ridiculous. We will show that the cauldron was inside Mr. Pig's home -- a home Mr. Wolf was trying to forcibly enter. We will also show that Mr. Wolf's actions were just the latest in a long series of harassments of the Pig family -- harassments that include the eating of Mr. Pig's two brothers, Larry and Moe. We will show that Curly Pig was merely protecting his home and life.

JUDGE: Very well, call your first witness

ATTY FOR WOLF: I call B.B. Wolf as my first witness.

(B.B. Wolf gets up, goes forward to be sworn in.)

JUDGE: Please raise your right paw.

(B.B. Wolf does so.)

JUDGE: Do you swear that the evidence you are about to give is the truth, the whole truth and nothing but the truth?

WOLF: I do.

JUDGE: Please be seated.

ATTY FOR WOLF: Please state your name.

WOLF: My name is Big B. Wolf. Most of my friends just call me B.B.

ATTY FOR WOLF: Where do you live?

WOLF: Oh, I've got a nice little den in the woods outside (*insert local city*). You know, it's got redwood paneling. I've got a pretty nice stereo.

ATTY FOR WOLF: A kitchen?

WOLF: Well, uh, I uh, eat out a lot, you might say.

ATTY FOR WOLF: Ah, yes. Well, let's move on to the morning of August 1, 1994. Do you recall your whereabouts on that morning?

WOLF: Yes, I do. Quite clearly, actually. I was taking my usual morning stroll and I passed the house of my old pal, Curly Pig. I was admiring his house – it's quite well built, you know – and thought I'd pay good old Curly a visit and tell him just that – what a fine job he'd done in building that place of his. Anyway, I knocked on the door and called out his name, but there was no answer. And so I knocked harder and called out louder, but still there was no answer. And then I sat down on the front porch to wait. I figured Curly was probably out at the store or something and would be back in a minute. You see, I really did want to see my old buddy, and I don't get into that neighborhood all that often. And then it hit me, Curly is a real sound sleeper and was probably just sleeping in I thought if I just left, he'd be sorry I hadn't woken him. So I tried to think of a way I could get into the house to wake him up. And I thought and I thought and finally it came to me – I could climb down the chimney.

ATTY FOR WOLF: And so did you?

WOLF: Well, yes and no. That is, I started to, but when I got almost all the way down, suddenly someone took the lid off this cauldron of water boiling down there. Someone who wanted me to fall into the kettle.

ATTY FOR PIG: Objection! The witness is guessing at my client's motives.

JUDGE: I agree. Objection sustained. Continue, Mr. Wolf.

WOLF: Well, lucky for me, the steam was so powerful that it just sort of whooshed me right up and out of the chimney. I took off like all get out and decided Curly Pig was no friend of mine.

ATTY FOR WOLF: Your honor, that is all of our evidence. The Wolf rests.

JUDGE: Very well. We will now hear Curly Pig's side of the case.

ATTY FOR PIG: Your honor, as my first witness, I will call Mr. Jack Smith.

(Jack Smith, a middle-aged man in his business suit, gets up, comes forward, raises his right hand to be sworn. Judge administers the oath. Smith sits down.)

ATTY FOR PIG: What is your name?

SMITH: My name is Jack Smith.

ATTY FOR PIG: What is your occupation?

SMITH: I run the J. Smith Building Supply Company.

ATTY FOR PIG: Mr. Smith, are you familiar with the Pig family?

SMITH: Well, I've got quite a few Pigs among my customers. There's Porky Pig. And Higgeldy Piggeldy. And of course, Miss Piggy.

ATTY FOR PIG: Then let me be more specific. Are you familiar with the Three Little Pigs -- Larry, Moe and Curly?

SMITH: Ah yes. Now there's a sad story for you.

ATTY FOR PIG: Just how is it you came to know the Three Little Pigs?

SMITH: Well, when their poor mother sent them out into the world to make their own ways, they each came to me for building materials for their houses. The first brother, Larry, came to me and asked for a bundle of straw to build a house. I told him, "Kid this isn't going to give you the tightest security," but he insisted on straw, and so I sold him a bundle.

ATTY FOR PIG: Do you know if that house ever got built?

SMITH: Oh, it got built all right. But it didn't last long.

ATTY FOR PIG: Just what do you mean by that?

SMITH: Well, right after he got it built -- I think it was the day after that nice little house-warming party he had -- that old wolf over there (points at plaintiff) he's always up to no good...Why it wasn't a week before that that he was over on the other side of the forest making trouble for Little Red Riding Hood and her poor Granny.

ATTY FOR WOLF: Objection! This testimony about Little Red Riding Hood is completely irrelevant to the case at hand.

JUDGE: Objection sustained. Mr. Wolf's attorney is correct. Proceed, Mr. Smith, but try to stay on the track.

SMITH: Harumph. Well, the wolf came over to the Little Pig's house and said, "Little Pig, Little Pig, Let me come in. And the pig said, "Oh no, not by the hair on my chinny chin chin." So the wolf got mad and said, "Then I'll huff and I'll puff and I'll blow your house in." So he huffed and he puffed and down came the house and he ate up the little pig.

JUDGE: Did I hear you correctly, Mr. Smith? Did you say he ate the pig up?

SMITH: Yes indeed, your honor. We're talking major porkocide.

ATTY FOR WOLF: Objection! I don't think we need that kind of uncalled-for

character assassination from the witness.

JUDGE: Sustained. Mr. Wolf's attorney is correct.

ATTY FOR PIG: Mr. Smith, did you not also sell building materials to Curly Pig's other brother, Moe?

SMITH: Sure did. He wanted to build with sticks. I tried to talk him out of it. I said, "You know, kiddo, you're going to have a lot of draft problems with a twig house, not to mention wolf problems." But he was set on a twig cabin, and so I sold him a load.

ATTY FOR PIG: And can you tell the court the present state of that house?

SMITH: I guess you'd call its present state gone. Pretty much as soon as Moe had that cabin finished, old B.B. – notice how didn't want to mention that that middle B stands for Bad – stopped by with his "Little Pig, Little Pig, Let me come in" routine. And Moe said, "Oh no, not by the hair on my chinny chin chin." And the wolf said, "Then I'll huff and I'll puff and I'll blow your house in." And he did just that, and ate up poor little Moe same as he did Larry. At this point, everyone was beginning to get the picture that B.B. didn't have any good intentions toward those Little Pigs. And so I for one was glad when Curly came to me and wanted to build his place out of bricks – a nice little Colonial was just what he had in mind.

ATTY FOR WOLF: I really must object to this entire line of questioning, your honor. The witness' testimony is pure hearsay. He never actually saw any of these things happen.

JUDGE: Sustained. Perhaps, solicitor, you could move to another line of questioning.

ATTY FOR PIG: Actually, your honor, I'm through with this witness. If Mr. Smith could step down, I'd like to call my client, Curly Pig to the stand.

(Curly Pig rises, comes to stand, is sworn in, sits down.)

ATTY FOR PIG: Please state your name

PIG: Curly Pig.

ATTY FOR PIG: What is your address, Mr. Pig?

PIG: I live at 283 Sty Lane, just off Mud Avenue.

ATTY FOR PIG: Now, Mr. Pig, are you familiar with the plaintiff in this case, Mr. B.B. Wolf? Are you, as he has testified, a good old pal of Mr. Wolf's?

PIG: Are you kidding? That wolf in sheep's clothing?

WOLF: Now wait a minute. Just because I'm wearing my shearling suit. Is there some law against that?

PIG: He's just trying to look innocent. But he is not, let me tell you!

JUDGE: Gentleanimals, please. If you don't stop this bickering, I'll have to hold you both in contempt of court. Let's proceed with the questioning.

ATTY FOR PIG: Going back a bit, then, Mr. Pig -- how did you first come to know Mr. Wolf?

PIG: Well, not under the friendliest of circumstances. I started knowing of him when he huffed and puffed and blew in the houses of my brothers, Larry and Moe. I mean talk about excessive. Nobody told this guy breaking and entering doesn't mean breaking the whole house and then entering it.

ATTY FOR PIG: When did you come to know Mr. Wolf personally?

PIG: After he'd done in my brothers, I guess B.B. thought I'd be easy pickings. What he hadn't counted on was that I'd built my house out of bricks. And so when he came over one morning with his cheap "Little Pig! Little Pig! Let me in!" trick, I just told him no way, by the hair of my chinny chin chin, and kept right on watching TV. "Then I'll huff and I'll puff and I'll blow your house in," he said, and I

laughed. I just went into the kitchen to make myself a snack. Just a small one. I don't like to make a wolf of myself. Anyway, all the while I was in the kitchen, I could hear him out there huffing and puffing. When I went to bed that night, he was still huffing and puffing, but he wasn't going to get in. I made sure of that when I built that house with bricks.

ATTY FOR PIG: And that was the last you ever saw of Mr. Wolf?

PIG: Are you kidding? That was only the first I saw of him. About a week later, he came by and said -- real sweetly -- "Oh Little Pig, I know where to find the loveliest sweet turnips." He must've known pigs are fools for turnips. Anyway, I asked him where. "Oh," he said, "In Farmer Brown's farm. If you're ready tomorrow morning at six, I'll come by for you and we can go there together and get some for our dinner." Boy, that wolf must think I'm dumb. I knew that those turnips were only going to be the side dish in his dinner. And I knew just who he had in mind for the main course.

ATTY FOR PIG: And so you didn't go?

PIG: And so I got up at five, picked my turnips and was back home having turnip stew by the time he came by at six.

ATTY FOR PIG: What was Mr. Wolf's reaction to this?

PIG: Oh, he was fuming all right. But he didn't show it. That wolf is one cool cucumber. He just watched me eating my stew and said, through the window, real sweetly, "Oh Little Pig, I know where you can get the juiciest red apples. I know where there is a tree just full of them." Being a curious fellow, I asked him where "Oh, in Farmer Green's garden. If you're ready at five o'clock tomorrow morning, I'll take you there." I said fine. Of course, the next morning, I was up and off to Farmer Green's garden at four.

ATTY FOR PIG: And back home eating apple pie at five?

PIG: Nope. Old Wolfie is pretty smart. He had me figured out

by then. So he got up at four, too. I had just finished my picking and was about to come down out of the tree with a big bag of red apples when I looked down and saw old B.B. looking up at me, grinning with those rather largish choppers of his.

ATTY FOR PIG: So what did you do?

PIG: Well, I tried to do some fast thinking. He said, "Good morning Curly. My, but you're up early. How are the apples?" A real cool cucumber, like I told you. But I can be cool, too. I said, "They're delicious, wait a moment and I'll throw one down to you." And I threw it so far that I was practically home by the time he found it.

ATTY FOR PIG: And that was the last time you saw Mr. Wolf before August 10?

PIG: Oh no. He came by one morning later that week. This time he had a new trick. "How would you like to go to the fair, Curly?" he asked me. I said sure, just to see what he had up his sleeve. "Well then," he said, "be ready at three this afternoon and I'll come by for you." Well, I went to the fair by myself around noon and was on my way back with a butter churn I'd bought when who did I see coming up the hill toward me but old Wolfie himself.

ATTY FOR PIG: What happened then?

PIG: I got inside the churn to hide. But I tipped it over getting in and it started rolling down the hill with me inside it. I guess the strange sight of a churn on the loose like that scared the living daylights out of him. At any rate, he took off like a shot. The next day, he came to my house and told me he was sorry he had missed me the day before, but that just as he was coming for me, something strange had come rolling down the hill and frightened him so much that he had run straight home. Well, I had to laugh and tell him that what had frightened the big bad wolf so much was just me rolling down the hill in a butter churn. I think it might've been right about then that he decided to eat me up.

ATTY FOR PIG: How did you know this?

PIG: Well, I didn't know it, but he had this look in his eye -- a nasty glint -- and then he started climbing up the side of the house. At first I couldn't imagine what he was doing, and then it came to me -- the chimney! And so I rushed to the fireplace -- I already had a big pot of water on the boil for my tea -- and took the lid off. I only wanted to warn him off. How was I to know he was already climbing down the chimney?

ATTY FOR PIG: Thank you, Mr. Pig. That's all the questions I have.

ATTY FOR WOLF: I'd like to cross examine the witness if I may. *(He steps forward to witness stand.)* Mr. Pig, I've been listening to this account of your dealings with Mr. Wolf, and it seems to me that you were doing an awful lot of teasing and baiting of my client. Wouldn't you say that's true?

PIG: Well, maybe I was having a little fun with the old boy, but seeing as he was trying to eat me, that doesn't seem like such a great crime, does it?

ATTY FOR WOLF: I'll ask the questions here, if you please. What about the reports that the cookbook next to your fireplace was found open to the recipe for Poached Wolf? Is this true?

PIG: Yes, but it's not how it seems. I had it open to Warm Apple Pie. I was going to bake one with my extra apples. But then, when I took that lid off that cauldron, I guess that shot of steam must've flipped a few pages forward to Wolf, Poached.

ATTY FOR WOLF: You expect the court to believe that?

PIG: Well, it's the truth, by the hair on my chinny chin chin.

ATTY FOR WOLF: All right, Mr. Pig. Thank you. You may step down.

(Pig steps down.)

JUDGE: Are there any summaries?

ATTY FOR WOLF: Your honor, we have shown that Mr. Pig did, on several occasions, taunt and tease Mr. Wolf, that he did lift the lid on the cauldron just as Mr. Wolf was coming down the chimney to pay him a visit, and that his cookbook -- and let the fact speak for itself -- was open to the recipe for Poached Wolf. I'm sure the jury agrees that he was attempting to do harm to Mr. Wolf.

ATTY FOR PIG: Your honor, we have shown that Mr. Wolf had it in for the Pig family. Clearly, he was up to no good any of the times he came over to Curly Pig's house. Mr. Pig is a law-abiding citizen who was minding his own business when Mr. Wolf began harassing him. If he teased Wolf, well, he certainly was egged on to it. I'm sure the jury will agree that his lifting the lid off the kettle and his cookbook opening to the wolf recipe just as Mr. Wolf came town the chimney were mere coincidences. He did not mean any real harm to come to Mr. Wolf.

JUDGE: Thank you. Does that conclude the evidence?

ATTORNEYS: *(both)* Yes it does.

(Judge turns to jury.)

JUDGE: You now have heard the evidence. Now it is your job to decide whether Mr. Pig was trying to poach Mr. Wolf. Will you please go with the Bailiff to the jury room, and after you have decided, would you please come back and tell the Court whether Curly Pig was trying to do in Mr. B.B. Wolf by lifting the lid off the cauldron of boiling water just as Mr. Wolf was coming down his chimney?

(Bailiff takes the jurors to the jury room. After a while, jurors come back with a verdict.)

JUDGE: Have you reached a verdict?

JUROR: Yes, we have, your honor.

JUDGE: What is the verdict?

JUROR: The jury has voted and has determined that...

GUIDE TO CONDUCTING MOCK TRIALS*

INTRODUCTION

The mock trial has proven to be an effective learning tool for elementary and secondary school students. It helps students develop useful knowledge about the law, questioning techniques, critical thinking, and oral advocacy skills.

Good mock trials will also leave student participants with an appreciation of the difficulties that judges, lawyers and juries face in attempting to present all relevant facts and legal arguments and insure the just resolution of the issues involved.

Below is a brief outline explaining the various types of mock trials that can be presented, how to prepare for and conduct mock trials in the classroom, and how to conduct mock trial competitions with other classes and schools.

TYPES OF MOCK TRIALS

The mock trial begins where actual trials begin – with a conflict or a dispute that the parties have been unable to resolve on their own. Mock trials may draw upon historical events, trials of contemporary interest, school and/or classroom situations, or hypothetical fact patterns. Most mock trials use some general rules of evidence and procedure, an explanation of the basic facts, and brief statements for each witness. Other mock trial formats range from free-wheeling activities where rules are created by the student participants (sometimes on the spot) and no scripts are used, to serious attempts to simulate the trial process based on simplified rules of evidence and procedure, to dramatic re-enactments of historical trials in which scripts are heavily relied upon.

ELEMENTARY MOCK TRIALS

Most of the suggestions in this section apply to secondary mock trials. Some of these are applicable to elementary students as well, but with modifications required by the age of the children.

Before the mock trial: Ask children to read the fairy tale, or read it to them. Ask them what happened in the story, and provide opportunities for questions and answers. Then the teacher (or lawyer) may want to introduce the children to the roles of people in the courtroom, and appropriate legal vocabulary. Explain that the children will be conducting a trial to determine guilt or innocence in a criminal trial or to determine liability (fault) in a civil trial. Then pass out the mock trial, and assign parts.

The trial itself: Kids will enjoy putting on the play—probably before an audience of

parents, siblings, and well-wishers. The trial can end with the verdict, or you could go on to ask each jury member to present reasons for reaching the verdict.

After the trial: If a guilty verdict is reached, ask students about appropriate punishment. In a civil case, ask what damages are appropriate if liability is found. Kids can follow up by converting other fairy tales to mock trials. An attorney could be a resource person throughout the writing process. This will help children learn more about procedures, appropriate questions, objections, and courtroom roles.

PREPARING FOR A MOCK TRIAL

After teaching students about the purpose of trials and the procedure involved, we suggest the following:

- A. Distribute mock trial materials to the students. The facts and basic law involved should be discussed with the entire class. Teachers may develop fact patterns and witness statements (e.g., brief summaries of each witness' testimony), have students develop them, or use the materials provided in this package.
- B. Try to match the trial to the skills and sophistication of your students. For example, if your students are unfamiliar with mock trials, you probably should begin with a simple exercise. Remember that the aim of mock trials isn't always to imitate reality, but rather to create a learning experience for students. Just as those learning piano begin with simple exercises, so those learning mock trials can begin simply and work up to cases which more closely approach the drama and substantive dimensions of the real thing.
- C. Students should be selected to play attorneys and witnesses, and then groups formed to assist each witness and attorney prepare for trial. A case could easily involve the entire class. For example, at least two could be assigned as witnesses and twelve students can serve as the jury.

Such a division of tasks directly involves approximately two dozen students, and others can be used as bailiff, court reporter, judge, and as possible replacements for participants, especially witnesses, in the event of an unexpected absence.

Still other students may serve as radio, television or newspaper reporters who observe the trial and then "file" their reports by making a presentation to the class in the form of an article or editorial following the trial.

- D. Students work in the above mentioned task-groups in class for one or more class periods, with the assistance of the teacher and an attorney or law student. During the preparation time, jurors might explore the role of the jury, the

historical development of the jury system, and other topics related to their part in the mock trial.

Student attorneys should develop questions to ask their own witnesses and rehearse their direct examination with these witnesses. Witnesses should become thoroughly familiar with their witness statements so that their testimony will not be inconsistent with their witness statements. (These statements, which may be considered to be sworn-to pretrial depositions or affidavits, can be used by the other side to impeach a witness who testifies inconsistently with the statement).

On direct examination (that is, either the plaintiff's or defendant's attorneys questioning their own witnesses), questions should not be leading – they should not have the answer included as part of the question. Leading questions may, however, be used in cross-examining a witness in order to impeach the witness' credibility in the testimony.

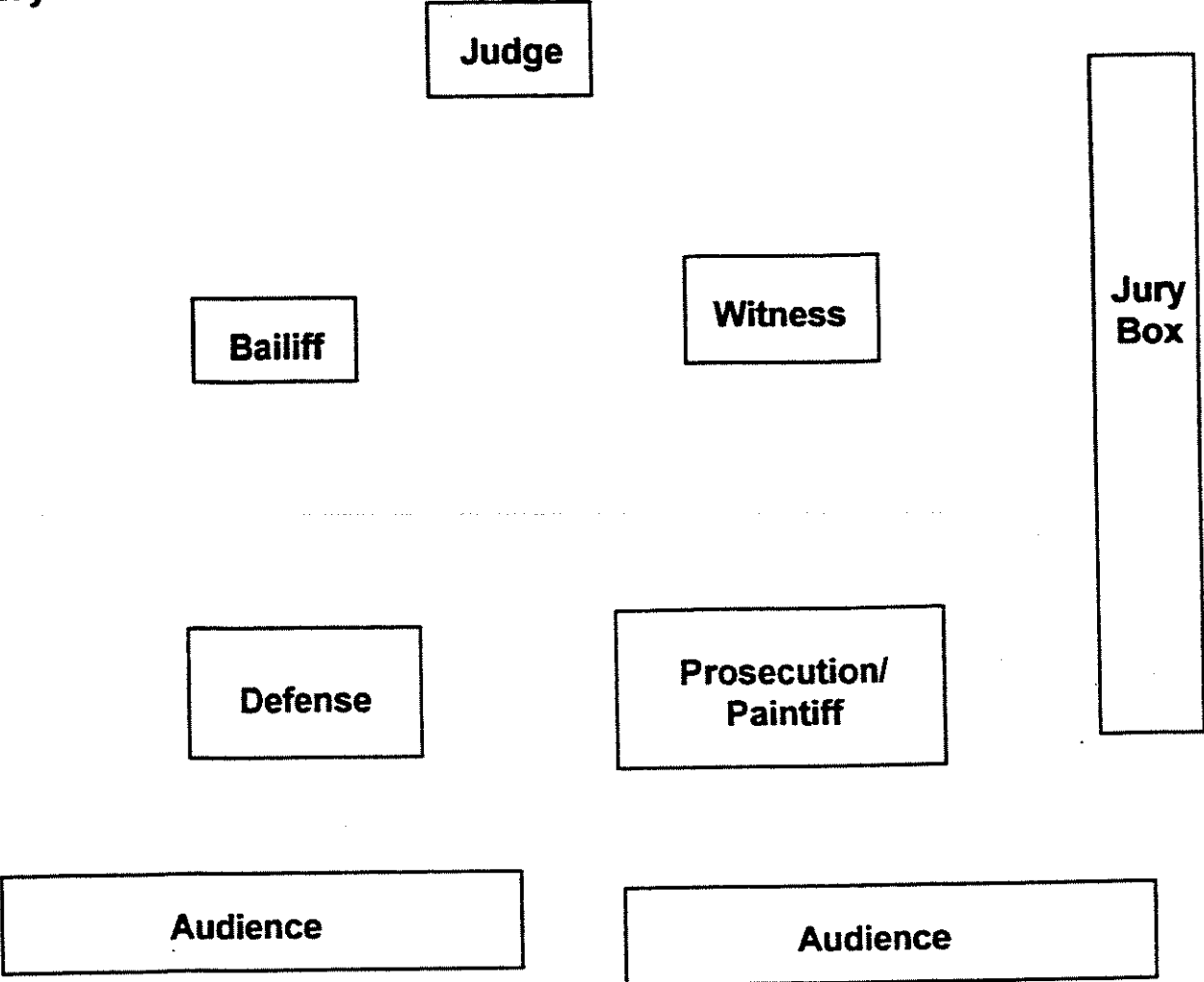
While some attorney-witness groups are constructing the questions and testimony for direct examination, other attorneys should be thinking about how they will cross-examine the witnesses for the other side. As mentioned, the purpose of cross-examination is to make the other side's witnesses seem less believable in the eyes of those determining the facts of the case (i.e., the jurors in a jury trial or the judge if no jury is used). Leading questions, sometimes requiring only a yes or no answer, are permitted. Frequently it is wise to ask relatively few questions on cross-examination so that the witness will not have an opportunity to reemphasize strong points to the jury.

During cross-examination, for example, the attorneys for the plaintiff might try to suggest that the testimony of the defense witnesses is inconsistent.

CONDUCTING A MOCK TRIAL

- A. Once all preparation has been completed, convert the classroom into a courtroom by rearranging desks as shown in the diagram. It is also helpful to have long tables for each attorney's team to work from; the teacher's desk can serve as the judge's bench.

Layout of Classroom



- B. Conduct the trial with a teacher, students or resource person (perhaps a law student, lawyer or actual judge) as a judge. A student jury may be used. The role of the jury is often minimized in television trials. Students should understand that the jury determines the facts in a case, primarily through their acceptance or rejection of the testimony offered by various witnesses for both sides. The judge deals with questions of law and explains to the jurors the key legal issue in the case.

Participants:

judge (could be a visitor to class with legal experience)

prosecutor(s) or plaintiff's attorney(s) in a civil case

defense attorney(s)

witnesses for the prosecution

witnesses for the defense

bailiff (swears in witnesses and marks evidence)

jury composed of twelve persons, one of whom should be named jury foreman; alternates may also be designated.

C. *Simplified Steps in a Trial:*

1. *Calling of Case by Bailiff:* "All rise. The Court of _____ is now in session. Honorable Judge _____ presiding."
2. *Opening Statement:* First the prosecutor (criminal case) or plaintiff's attorney (civil case), then the defendant's attorney, explain what their evidence will be and what they will try to prove.
3. *Prosecution's or Plaintiff's Case:* Witnesses are called to testify (direct examination) and other physical evidence is introduced. Each witness called is cross-examined (questioned so as to break down the story or be discredited) by the defense.
4. *Defendant's Case:* Same as the third step except that defense calls witnesses for direct examination; cross-examination by prosecution/plaintiff.
5. *Closing Statement:* An attorney for each side reviews the evidence presented and asks for a decision in his/her favor.

6. *Jury Instructions (Jury Trials Only)*: The judge explains to the jury appropriate rules of law that it is to consider in weighing the evidence. As a general rule, the prosecution (or the plaintiff in a civil case) must meet the burden of proof in order to prevail. In a criminal case this burden is very high. In order that innocent persons do not lose their freedom, the prosecution must set out such a convincing case against the defendant that the jurors believe "beyond a reasonable doubt" that the defendant is guilty. In a civil case, plaintiff has burden of proving his/her case by "a preponderance of the evidence." In most states the entire jury has to be convinced, though a recent Supreme Court case permits (but does not requires) 9-3 verdicts in state noncapital criminal cases. Understanding that a unanimous (or 9-3) decision by the jury is required will help students understand why jury deliberations are sometimes so lengthy.

7. *Deliberation and Decision*: In making a decision, the judge or jury considers the evidence presented and decides which witnesses were most credible.

For educational purposes, it may be best to have the jury deliberate in front of the entire class, instead of retiring to a private place as occurs in actual trials. This will enable students to see first-hand the process of decision making, enabling them to learn what evidence was persuasive and why. Since the student jury may be representative of the community, their deliberations should provide a good analogy to real jury deliberations.

Once the jury reaches a verdict, the jury foreman writes the verdict on a slip of paper and hands it to the judge who reads it in "open court."

8. *Sentencing (Criminal Trials Only)*: After a defendant is found guilty, a study of the defendant's background is usually prepared by a probation officer, who then makes a sentencing recommendation. The judge pronounces sentence.

D. Don't interrupt the trial to point out errors. If a witness comes up with an off-the-wall comment, or if a student playing an attorney fails to raise an obvious objection, let it go. Wait until the debriefing, when you'll be able to put the whole exercise in perspective.

E. Set aside sufficient time for debriefing what happened in the trial. The debriefing is the most important part of the mock trial exercise. It should bring the experience into focus, relating the mock trial to the actors and processes of the American court system.

Students should review the issues of the trial, the strengths and shortcomings of

each party's case, and the broader questions about our trial system. Does our judicial system assure a fair trial for the accused? Are some parts of the trial more important than others? Would you trust a jury of your peers to determine your guilt or innocence? Students should also explore their reactions to playing attorneys, witnesses, jurors, and the judge. What roles do each play in the trial process?

If a resource person has participated in the mock trial, the debriefing is an excellent way to make the most of his or her experience and insights. Since the mock trial is a common frame of reference, the resource person has a natural vehicle for expressing ideas and observations, and students should be better able to grasp the points that are being discussed.

MOCK TRIAL COMPETITIONS

A variety of spin-offs have come from mock trials. One of the most rewarding is the area-wide mock trial competition. These competitions are like single elimination basketball tournaments. That is, teams from different schools compete against each other, with the losers eliminated and the winners proceeding to the next round. (Of course, the same model could be used for competitions between classes within a school.) Many state and local law-related education (LRE) projects have been conducting mock trial competitions for many years. For information, contact the LRE Clearinghouse, Division for Public Education, American Bar Association, Mail Stop 15.3, 541 N. Fairbanks Court, Chicago, IL 60611-3314.

These competitions are real attention-grabbers, which build students' interest, involve volunteers in a creative way, and provide excellent public relations and publicity for your program. The competitions need not be expensive. They can usually take advantage of time donated by lawyers and judges, and judges or law schools can often make courtrooms available at no cost.

There is one point to remember that applies to mock trials at any level. Don't forget that the objective is not the precise replication of an actual trial but a learning experience for you, your students, and even for any resource persons who may be helping out. The emphasis shouldn't be on perfection, but on a nonthreatening exercise with plenty of time for debriefing, enabling the class to go over key points in the trial and better understanding the whole experience. To put it another way, don't forget that mock trials should be both fun and a learning experience.

Glossary of Legal Terms

A

acquittal A verdict after a trial that a defendant in a criminal case has not been proven guilty beyond a reasonable doubt of the crime charged. Note that the defendant is not found "innocent." The defendant does not have to prove anything; rather, the state is found not to have proved its case.

admissible Evidence which can be legally and properly introduced in a civil or criminal trial.

adversary system The trial methods used in the U.S. and some other countries, based on the belief that truth can best be determined by giving opposing parties full opportunity to present and establish their evidence, and to test by cross-examination the evidence presented by their adversaries, under established rules of procedure before an impartial judge and/or jury. An **adversary proceeding** is one having opposing parties; contested (differs from *ex parte* proceeding).

B

bailiff A court attendant who keeps order in the courtroom and has custody of the jury.

bench The seat occupied by the judge; more broadly, the court itself, as in **bench trial**, a trial heard by a judge without a jury.

best evidence Primary evidence; the best evidence available; evidence short of this is "secondary"; i.e., an original letter is the "best evidence," a photocopy is "secondary evidence."

beyond a reasonable doubt The standard in a criminal case requiring that the jury be satisfied to a moral certainty that every element of a crime has been proven by the prosecution. This standard of proof does not require that the state establish absolute certainty by eliminating all doubt, but it does require that the evidence be so conclusive that all reasonable doubts are removed from the mind of the ordinary person.

burden of proof In the law of evidence, the necessary or duty of affirmatively proving a fact or facts in dispute on an issue raised between the parties in a lawsuit. The responsibility of proving a point—the burden of proof—is not the same as the standard of proof. "Burden of proof" deals with which side must establish a point or points; "standard of proof" indicates the degree to which the point must be proven. For example, in a civil case the burden of proof rests with the plaintiff, who must establish his or her case by such standards of proof as "a preponderance of evidence" or "clear and convincing evidence."

C

charge to the jury The judge's instruction to the jury concerning the law which applies to the facts of the case.

circumstantial evidence Evidence which merely suggests something by implication. For example,

physical evidence, such as fingerprints, from which an inference can be drawn. Circumstantial evidence is indirect, as opposed to eyewitness testimony, which is direct.

clear and convincing evidence Standard of proof commonly used in civil lawsuits and in regulatory agency cases. It governs the amount of proof that must be offered in order for the plaintiff to prevail.

conviction A judgment of guilt against a criminal defendant.

corroborating evidence Supplementary evidence that strengthens or confirms the initial evidence.

cross-examination The questioning of a witness produced by the other side.

D

damages Money awarded by a court to a person injured by the unlawful act or negligence of another person.

defendant In a civil case, the person being sued. In a criminal case, the person charged with a crime.

direct evidence Proof of facts by witnesses who saw acts done or heard words spoken, as distinguished from circumstantial, or indirect, evidence.

direct examination The first questioning of witnesses by the party on whose behalf they are called.

due process of law The right of all persons to receive the guarantees and safeguards of the law and the judicial process. Includes such constitutional requirements as adequate notice, assistance of counsel, and the rights to remain silent, to a speedy and public trial, to an impartial jury, and to confront witnesses.

E

ex parte On behalf of only one party, without notice to any other party. For example, a request for a search warrant is an ex parte proceeding, since the person subject to the search is not notified of the proceeding and is not present during the hearing. An **ex parte proceeding** is one in which only one side is represented (differs from adversary system or proceeding).

exclusionary rule The rule preventing illegally obtained evidence to be used in any trial.

H

hearsay Evidence that is not within the personal knowledge of the witness but was relayed to the witness by a third party. Hearsay evidence generally is not admissible in court, although there are many exceptions under which it can be admitted.

hostile witness A witness whose testimony is not favorable to the party who calls him or her as a

witness. A hostile witness may be asked leading questions and may be cross-examined by the party who calls him or her to the stand.

hung jury A jury that cannot reach a verdict.

I

impeachment of a witness An attack on the credibility (believability) of a witness, through evidence introduced for that purpose.

inadmissible That which under the rules of evidence cannot be admitted or received as evidence.

instructions (also called charge) Judge's directions to the jury regarding the law in the case and its authority to determine the facts and to draw inferences from the facts in order to reach a verdict.

J

jury A certain number of persons selected according to law and sworn to inquire into matters of fact and declare the truth about matters of fact before them. A **grand jury** is traditionally composed of as many as 23 people who decide whether the facts of a criminal case are sufficient to issue an indictment charging a person with a crime. A **petit jury** is an ordinary or trial jury, composed of six to twelve persons, which hears either civil or criminal cases.

L

leading question A question which suggests the answer desired of the witness. A party generally may not ask one's own witness leading questions; leading questions may be asked only of hostile witnesses and on cross-examination.

liable Legally responsible for.

M

mistrial A trial which is terminated before a verdict is reached, either because of some extraordinary circumstance, because of fundamental error prejudicial to the defendant (such as an improper drawing of jurors), or because of a hung jury.

O

objection The process by which one party takes exception to some statement or procedure. An objection is either sustained or overruled by the judge.

overrule Judge's decision not to allow an objection.

P

plaintiff The person who brings a civil lawsuit.

preponderance of the evidence Greater weight of the evidence, the common standard of proof in civil cases.

prosecutor A trial lawyer representing the government in a criminal case.

public defender Government lawyer who provides free legal defense services to a poor person accused of crime.

R

rebuttal Evidence disproving other evidence previously given or reestablishing the credibility of challenged evidence.

re-direct examination Opportunity to present rebuttal evidence after one's evidence has been subjected to cross-examination.

rules of evidence Standards governing whether evidence in a civil or criminal case is admissible.

S

self-incrimination, privilege against The constitutional right of people to refuse to give testimony against themselves that could subject them to criminal prosecution. The right is guaranteed in the Fifth Amendment to the U.S. Constitution. Asserting the right is often referred to as "taking the Fifth."

sentence A court's determination of the punishment to be inflicted on a person convicted of a crime.

T

testimony Evidence given by a witness under oath; does not include evidence from documents and other physical evidence.

V

verdict Conclusion, as to fact or law, that forms the basis for the court's judgment.

W

witness One who testifies to what he or she has seen, heard or otherwise experienced.

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