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Michigan High School  
Mock Trial Tournament 2011  
Materials

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**MICHIGAN  
CENTER  
FOR  
CIVIC  
EDUCATION**

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# Introduction

Welcome to students, teachers, attorneys, educators, judges, law students, legal assistants and others who will participate in the 2011 Michigan High School Mock Trial Tournament.

We hope that you will find your involvement to be an intellectually stimulating and personally rewarding experience. Beyond that, the Tournament's goals are to:

- Further understanding of the law, court procedures and the legal system.
- Increase proficiency in basic life skills such as listening, speaking, reading and reasoning.
- Promote communication and cooperation between the school community—teachers and students—and the legal profession.

The Tournament is governed by the rules set out in the pages that follow. The final segment of this packet contains the Case Materials.

The 2011 mock trial case was initially drafted by the Illinois State Bar Association as a criminal case. It was substantially re-written to be a civil case for use in Pennsylvania by Jonathan A. Grode, a third year student at Temple University James Beasley School of Law and Jane Meyer, Esq., of the Pennsylvania State Bar Young Lawyers' Division Mock Trial Committee and the National High School Mock Trial Championship Board of Directors. The case problem was again substantially re-written for use in New Mexico by Shannon L. Donahue, Esq., of Shannon L. Donahue, PC, Michelle Giger, President and CEO of Center for Civic Values, and Karl Johnson, Esq., of Luebben, Johnson & Barnhouse, LLP. Next, the case was adapted for use in Arizona by Dewain D. Fox, Esq., Fennemore Craig, PC; Lance R. Broberg, Esq., Tiffany & Bosco, PA; and Tiffany F. Broberg, Esq., Ridenour, Hinton, Kelhoffer & Lewis, PLLC.

We extend sincere thanks to the Arizona, New Mexico, Pennsylvania, and Illinois mock trial programs for granting permission to adapt this case for use in Michigan.

We hope you find these materials interesting and educational, and we wish you the best of luck at this year's tournaments.

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## A. General Tournament Rules

### 1. Eligibility to Participate

The Tournament is open to all high schools in Michigan. A school may enter teams in either of the regional tournaments, but not both. An official team consists of from six to ten students from the same school and one or more adult coaches. Since there are a total of twelve roles to be played, depending upon the size of the team, two to six members of a team will have to take on dual roles. Requests to combine students from more than one school to form a team will be considered on a case-by-case basis. Such requests must be made before the registration deadline.

### 2. Regional Tournaments

The regional tournaments will be conducted in the courtrooms of the Kent County Courthouse in Grand Rapids on Saturday, March 5, 2011, and of the Oakland County Courthouse in Pontiac on Saturday, March 12, 2011.

### 3. State Final Tournament

Ten teams will compete in the State Finals Tournament on Saturday, March 26, 2011 in Lansing. The ten finalists will be selected from the teams that performed the best in the two regional tournaments. The number of teams in the Final Tournament from each regional tournament will be in proportion to the total number of teams competing in each regional tournament.

### 4. Tournament Structure

- a. At each Tournament, there will be three rounds of trials. All teams are guaranteed the opportunity to participate in at least two rounds, and are assured to be assigned at least one round as the Plaintiff and at least one as the Defense. Teams may elect to withdraw after the first two rounds of the tournament. The desire to do so must be made known to the tournament director immediately following the completion of the second round. Each round will be judged by three Tournament judges, who will be lawyers or members of the judiciary. In all rounds, each team will face a different opponent.
- b. Tournament staff will make every effort to ensure that teams will not present the same side of the case before any judge to whom that team presented its case in an earlier round. However, should this occur, it will not be considered a violation of the Tournament Rules.
- c. Advancement will be governed by the following criteria:
  - i) Win/Loss Record – equals the number of rounds won or lost by a team;
  - ii) Total Number of Ballots – equals the number of scoring judges' votes a team earned;
  - iii) Total Number of Points Accumulated;
  - iv) Point Spread Against Opponents – The point spread is the difference between the total points earned by the team whose tie is being broken less the total points of that team's opponent in each previous round. The greatest sum of these point spreads will break the tie in favor of the team with the largest cumulative point spread.
- d. Sides (plaintiff or defense) and pairings for the first rounds of the Regional Tournaments will be determined in advance by random drawing. In the remaining rounds teams will be power matched (see Rule 5 below). In the State Final Tournament, teams will be paired depending on their Regional totals.

- e. Sides and pairings in the first two rounds of the State Final Tournament will be determined by the teams' Regional totals. With the ten finalist teams ranked 1 to 10, the pairings for the two rounds will be:

First Round	Second Round
10 v. 1	1 v. 6
9 v. 2	2 v. 7
8 v. 3	3 v. 9
7 v. 4	4 v. 8
6 v. 5	5 v. 10

- f. Pairings in the semi-final round of the State Final Tournament will be determined by the totals from the first two rounds. With the four top teams ranked 1- 4, the pairings for the semi-final round will be: 1 v. 4, and 2 v. 3.
- g. In determining sides in the semi-final round of the State Final Tournament, the following procedure shall be used:
- i.) If paired teams represented opposite sides in the previous round, sides will be flipped for the semi-final round.
  - ii.) If paired teams represented the same side in the previous round, the following procedure will be used:
    - a. The team with the numerical code (not ranking) which comes first numerically will be considered the "Designated Team."
    - b. A coin will be tossed by the tournament director or a designee.
    - c. If the coin comes up heads, the Designated Team shall represent the plaintiff. If the coin comes up tails, the Designated Team shall represent the defendant.
  - iii.) If either method above creates a rematch (pairing and sides) from an earlier round (including regional tournaments), sides will be flipped.
  - iv.) At the discretion of the tournament director, this process may be altered to accommodate special circumstances.
- h. The same procedure as described above will be used for determining sides in the championship round of the State Final Tournament.
- i. A "bye" becomes necessary when an odd number of teams are present for any given round of the tournament. In the event of a circumstance resulting in an odd number of competing teams, the following procedure will apply:
- i.) The team drawing the "bye" (no opponent for a single trial round) in rounds two or three will, by default, receive a win and three ballots for that round.
  - ii.) For the purpose of power-matching, the team drawing the "bye" in the second round will temporarily be given points equal to their points earned in the first round. At the end of the third round, the average from both actual trial rounds participated in by the team will be used for the final points given for the team's bye round.
  - iii.) The team drawing the "bye" in the third round will be given points equal to the average of its own points earned in its preceding trials.
  - iv.) A team receiving a "bye" in the first round will be awarded the average number of points for all round-one winners, which total will be adjusted at the end of each round to reflect the actual average earned by that team.

## 5. Power Matching

Score sheets are to be completed individually by the judges. The team that earns the highest points on an individual judge's score sheet is the winner of that ballot. The team that receives the majority of the three ballots wins the round. The ballot votes determine the win/loss record of the team for power matching and ranking purposes.

Power matching will provide that:

1. Pairings for the first round will be at random;
2. All teams are guaranteed to present each side of the case at least once;
3. At the conclusion of the first round, four pools will be determined by win/loss record and by the side of the case portrayed in the first round. The first pool will consist of all teams with a record of (1-0) that portrayed the Plaintiff team. The second pool will consist of all teams with a record of (1-0) that portrayed the Defense team. The third pool will consist of all teams with a record of (0-1) that portrayed the Plaintiff team, and the fourth pool will consist of all teams with a record of (0-1) that portrayed the Defense team. Sorting within pools will be determined in the following order: (1) win/loss record; (2) ballots; (3) points, (4) point spread. For determining pairings for the second round, *if the total number of teams in the first and second pools is equal*, the team at the top of the first pool will be paired with the team at the bottom of the second pool. The next highest team in the first pool will be paired with the next lowest team in the second pool, and so on until all teams in the first and second pools are paired for the second round. The process will then be repeated with the third and fourth pools;
4. If the first and second pools are unequal in number, excess teams from the *bottom* of the pool with the greater number will be moved to create a fifth pool, and a sixth pool will be created from the *top* of either the third or fourth pool, whichever has the surplus. Pairings will then be made as described above, matching teams from the first and second pools, the third and fourth pools, and the fifth and sixth pools;
5. Following the second round, three pools will be created, based upon win/loss record; (2-0), (1-1), and (0-2); and sorted as described above. If the first pool has an even number of teams, pairings for the third round will be determined by pairing the team at the top of the pool with the team at the bottom; the next highest to the next lowest, and so on until all teams are paired. If there are an odd number of teams in the first pool, the team at the bottom will be paired with the top team from the second pool. Team pairings in the first pool will then proceed as described above. The pairing of teams in the second and third pools will follow the same procedure.
6. Teams will not meet the same opponent twice;
7. Bracket integrity in power matching will supersede alternate side presentation in the third round. If teams are paired for the third round that portrayed the same side of the case in the second round (for example, both teams portrayed the Defense), the lower team in the pool will be assigned the same side of the case that they portrayed in the second round.

## 6. Tournament Logistics

- a. Coaches must report to the registration table to register their team between 7:45 and 8:15 a.m. on the day of the Tournament.
- b. A Tournament Headquarters location will be announced at each courthouse. Observation of the Tournament is open to all.

- c. We are visitors in these courthouses and all participants should be especially careful to observe appropriate standards of behavior. Among other things, the Code of Proper Conduct provides that participants should not go anywhere in the building other than courtrooms, eating areas, and restrooms and that food or beverages not be brought into the courtrooms or anywhere other than designated eating areas. See Code of Proper Conduct, p. 26, and Rule 8, p. 9.

## B. Rules of Procedure for Trials

### 1. Competitors

- a. Each participating high school team shall be composed of from 6 to 10 students from that school. During a single trial/round six students from that team must participate, three as attorneys and three as witnesses. No more than six students from a team may participate in a single trial/round.
- b. All witnesses are gender neutral and may be played by either male or female students.

### 2. Timekeepers

- a. Each team is responsible for providing an official timekeeper or timekeepers. The timekeeper may be a member of the team, or a student or adult who is not part of the team. Coaches may not be timekeepers. Stopwatches will be provided by the tournament director.
- b. In the event that a courtroom does not have a bailiff assigned, both team's official timekeeper will be called forward by the presiding judge and seated in view of each team. The only bailiff duty that timekeepers will assume in the absence of a bailiff is that of keeping time. All other bailiff duties will be performed by the judges.
- c. Each team's official timekeeper is required to attend the scheduled on-site timekeeper orientation. If a team does not send an official timekeeper to the required orientation meeting, that team will defer to its opponents' official timekeeper(s) in all rounds of the competition where there is not a bailiff present.
- d. If a team chooses to assign more than one student to the timekeeper role, then all students who will be assigned to the timekeeper role must attend the timekeeper orientation. The team's official timekeeper will keep time for both sides during all competition rounds.

### 3. Judges and Bailiffs

- a. A single Tournament judge shall preside at the trial. Two other judges shall be present at all times to judge the performance of the competing teams; however, they shall not participate in conducting the trial. The non-presiding judges shall sit in the jury box and the participants shall address them as though they were the jury. All three judges shall score the competitors.
- b. Every attempt will be made to recruit a bailiff for each courtroom. The bailiff will swear the witnesses, keep time, act as liaison to the Tournament Director and generally assist and advise the judges. In the event that a courtroom is without a bailiff, each team in the courtroom will be asked to provide a trained timekeeper to perform those duties. All other bailiff duties will be assumed by the presiding judge and tournament staff. Coaches may not serve as timekeepers.

- c. Each judge and bailiff will be supplied with a full Tournament packet and will attend an Orientation Meeting. Each Team's designated timekeeper will attend a short training session immediately preceding the first round of the tournament.

#### **4. Identification of Teams**

A team's identity shall not be revealed to any judge. Team numbers (or letters) will be randomly drawn in advance. Team members shall not wear or carry any item that identifies the school the team members represent.

#### **5. Ban on Coaching During Trial**

- a. Once the trial begins no coaching is permitted by anyone for the duration of the trial. Student attorneys may consult with one another and with their witnesses.
- b. To avoid even the appearance of impropriety, the three attorneys trying the case and the three witnesses may not engage in conversation with other team members, coaches or observers until after closing arguments.
- c. Any team member (including team members not participating in the trial and coaches) who observes any violation of this rule shall report it immediately to the presiding judge. The judge shall order the clock stopped and shall inquire into the circumstances of the accusation. Where a violation is found, the judges shall deduct 10 points from a team's total score on the scoring summary sheet.
- d. These rules on coaching during trial remain in force during any emergency recess which may occur.

#### **6. Ban on Scouting**

No team members, alternates, teachers or attorney coaches or any other persons associated with the team's preparation shall view other teams in competition, other than those paired against them, so long as they remain in competition themselves.

#### **7. Videotaping**

A team may videotape its trials. The opposing team and the presiding judge should be notified prior to the calling of the case. The bailiff should be consulted at the time of courtroom check in. See Code of Conduct, page 26, for further information regarding videotaping.

#### **8. Code of Proper Conduct; Signatures of Participants**

- a. The Code of Proper Conduct governs all team members, coaches, and supporters, such as fellow students and parents who are present during the Tournament.
- b. A copy of the Code must be signed by all team members and coaches and submitted to the Tournament registration table between 7:45 and 8:15 a.m. on the day of the Tournament. Teams are responsible for making invited guests and parents aware of the Code and its rules regarding conduct during the Tournament.

#### **9. Claims of Rule Violations**

- a. Any claim of a violation of a Tournament rule should be immediately called to the attention of the presiding judge. A claimed violation of the ban on coaching during a trial may be raised by any team member. Only the attorneys trying the case may raise violations of all other rules.

- b. If, immediately after closing arguments, a team has serious reason to believe that a material rules violation has occurred, and the team was unable (as opposed to unprepared) to raise the issue at the time the violation occurred, a *student member* of the team must indicate that the team intends to file a dispute. The judges will proceed with their scoring uninterrupted, and the bailiff will provide the student attorney with a dispute form. In the absence of a bailiff, a dispute form can be taken from the tournament rules packet. The student may communicate with counsel and/or student witnesses before preparing the form. At no time in this process may team sponsors or coaches communicate or consult with the student attorneys. Only student attorneys may invoke the dispute procedure.
- c. The bailiff will show the dispute form to the judges, who will determine whether the dispute should be heard or denied. In the absence of a bailiff, the presiding judge will collect the form. If the dispute is denied, the presiding judge will record the reasons for this, and announce the decision during the judges' critique. If the judges feel the grounds for the dispute merit a hearing, the form will be shown to opposing counsel for their written response. After this, each team will designate a spokesperson. After the spokespersons have had time (not to exceed three minutes) to prepare, the presiding judge will conduct a hearing on the dispute, providing each spokesperson three minutes for a presentation. The judge may question the spokespersons. At no time in this process may team sponsors or coaches communicate or consult with the student attorneys. The judges' decision will be recorded in writing on the dispute form and attached to the scoresheets, with no further announcement.
- e. The judges will consider the dispute before making their final scoring decisions. The dispute may or may not affect the final decision or scores, but the matter will be left to the discretion of the scoring judges.
- f. The above procedure is only intended to be used in the most unusual of circumstances. Routine rule violations, such as the wrong attorney objecting, must be brought to the attention of the presiding judge when the violation occurs. Similarly, any question regarding the application of tournament rules by the presiding judge must be raised prior to closing arguments.

## **10. Commencement of Trial**

- a. A team's six students who will try the case and an adult coach shall report to the bailiff in their assigned courtroom prior to the time set for trial. In the absence of a bailiff, teams should present themselves to the presiding judge.
- b. The bailiff, or presiding judge, shall inquire whether anyone present is connected with any school in the tournament other than the schools competing in that courtroom. Note that the judges should not know the identities of the schools (Rule 4) so this inquiry should be done without revealing the identity of any team to the judges. Anyone in the wrong courtroom should be directed to the correct courtroom or to Tournament Headquarters.
- c. The bailiff, or presiding judge, will call the courtroom to order to commence the trial. The Presiding Judge shall ask counsel to state their appearances for the record and thereafter the trial shall proceed as in Rule 12.
- d. Each team will prepare a typed team roster and will deliver four copies of that roster before

each trial. Three copies will be presented to the bailiff, and one copy will be given to the opposing team. In the absence of a bailiff, rosters will be given to the presiding judge. The roster must include 1) the name of each attorney and the names of each witness that attorney will examine; 2) the name of each student who is portraying a witness, which witness that student will portray and the gender of that witness.

Each team should bring 12 copies of the roster with them on tournament day. See a sample roster on page 28.

### **11. Governing Law; Motions, Pre-trial Agreements**

- a. All trials will be governed by the Tournament Rules, and may rely on the case law included in the Tournament Materials. No reference to other legal authorities (except for the ones provided in the case materials) should be made.
- b. No motions may be made by either party, nor entertained by the Court. In the event of an emergency, a recess may be called. Should a recess be called, teams are not to communicate with any observers, coaches, or instructors.
- c. Attorneys are encouraged to call the court's attention to particular parts of the case materials, as well as these Rules, in support of points being urged upon the Court.
- d. Pre-trial agreements between teams (such as agreements to not pursue certain lines of questioning) are not permitted. Agreements between parties are stipulated in the tournament packet. Teams are allowed to confer before trial in order to determine the gender of witnesses.

### **12. Order of Trial, Time Limits, etc.**

- a. Each party is required to call all three of its witnesses, but may do so in any order. Witnesses shall not be ordered sequestered.
- b. The order of the trial and the time limits are as follows:
  1. Opening Statement \*.....5 minutes per side
  2. Direct and Redirect (optional) Examination.....25 minutes per side
  3. Cross and Recross (optional) Examination.....20 minutes per side
  4. Closing Argument.....5 minutes per side

\* Defense may reserve Opening Statement until after the examination of the witnesses for the Plaintiff.

- c. The bailiff, or timekeepers, will be provided with a stopwatch and one-minute warning signs. The bailiff, or timekeepers, shall keep track of time on a time sheet, which shall be available for inspection by either side at any time. The bailiff, or timekeepers shall inform the appropriate participants and the judge whenever a party has one minute left in any portion of its allotted time, by holding up a one-minute warning sign. When time is up, the bailiff, or timekeepers, will announce "Time." A side may not continue beyond the time limits unless the presiding judge, for good cause shown, grants additional time.
- d. Time for objections, extensive questioning from the judge, or administering the oath will not be counted as part of the allotted time during examination of witnesses and opening and closing statements. Time does not stop for introduction of exhibits.
- e. Attorneys are not required to use the entire time allotted to each part of the trial. However,

time left over in one part of the trial cannot be carried over to another part.

- f. Requests for additional time at any point in the trial are not permitted.
- g. Voir dire examination of a witness is not permitted.

### **13. Attorneys**

- a. Of the three attorneys on a team, one shall give the opening statement, and another shall give the closing statement. The same attorney may not give both the opening and the closing statement. Each of the three attorneys shall also conduct all direct examination and objections as to one witness for the attorney's side and all cross examination and objections as to one witness for the opposing side. Attorneys may consult with one another and with the witnesses, but with no one else. See Rule 5, Ban on Coaching, p. 9.
- b. The attorney shall stand whenever addressing the court, a witness or the jury. When arguing a point, attorneys should direct their remarks to the court and not to opposing counsel.

### **14. Opening Statements**

- a. Each side shall have up to five minutes to present its opening statement. The Plaintiff gives the opening statement first. The Defense may present its opening statement immediately after the Plaintiff's opening statement or may reserve it until after the close of the Plaintiff's evidence.
- b. An opening statement should tell the jury and the court what that party intends to prove and should explain that party's theory of the case. Argument is improper in an opening statement.

### **15. Evidence**

- a. No evidence other than the testimony (not affidavits) of the six witnesses, and the exhibits included in the case materials, may be offered.
- b. Stipulations shall be considered part of the record and already admitted into evidence. Stipulations, charges, or the jury instructions will not be read into the record.
- c. No other exhibits or enlargements of exhibits may be offered. No demonstrative evidence should be offered or admitted.

### **16. Witnesses, Witness Statements; Extrapolation**

- a. Witnesses may not refer to notes when testifying. Witnesses may not be recalled.
- b. Absolutely no props or costumes are permitted unless authorized specifically in the case materials. Costuming is defined as hairstyles, clothing, accessories (such as glasses), and make-up which are case-specific. Nor may witnesses adopt false accents.
- c. Each witness must admit that his or her witness statement is a true copy of a statement that he or she made and signed. The statement may be used to impeach the witness where appropriate, but is not itself admissible into evidence.
- d. Each witness is bound by the facts contained in his/her own witness statement. A witness is

not bound by facts contained in other witness statements. A witness may not be cross-examined about facts or information contained in other witness statements.

- e. If a witness is non-responsive, the witness may be instructed by the judge to answer “yes” or “no” on a question by question basis. However, a witness is not bound to answer all questions “yes” or “no.”
- f. Minor extrapolations of facts not in the record are allowed, provided they may be reasonably inferred from the case materials and are neutral toward both sides. A fair extrapolation would be background information such as date or place of birth. This would be a minor extrapolation and would be allowed to amplify or humanize the case, assuming those facts are relevant. An unfair extrapolation would be one that adds material support to the party who called the witness or weakens the case of the other party.
- g. A party may object to testimony on the ground that it is “beyond the scope of the witness statement” or is an “unfair extrapolation.” Refer to Section G: Unfair Extrapolation for more on this objection. Attorneys are encouraged to refer presiding judges to Section G for instructions on handling the Unfair Extrapolation objection.
- h. If the objection is sustained, the court should strike the improper testimony. The Judges must also take account of unfair extrapolation in scoring the witness and opposing counsel.
- i. The decision of the presiding judge in ruling on this objection, as with other objections, is final. If the objection is overruled, it may be renewed as to further questions or answers.
- j. Attorneys should also recognize that unfair extrapolation can also be challenged through cross examination demonstrating the absence of the extrapolation in the witness’ statement.
- k. Publishing to the jury is not permitted. The only documents that teams may present to the court are the individual exhibits as they are introduced into evidence and the team roster form.
- l. Exhibit notebooks are not to be provided to the judges. Exhibits are to be shown to opposing counsel and handed to the bailiff.
- m. Rosters are to be provided to the opposing team and the bailiff before the trial commences. In the absence of a bailiff, rosters will be collected by one of the judges.

## **17. Procedure for Introduction of Exhibits**

As an example, the following steps effectively introduce exhibits:

- a. All evidence will be pre-marked as exhibits.
- b. Ask for permission to approach the bench. Show the presiding judge the marked exhibit. “Your honor, May I approach the bench to show you what has been marked as Exhibit No. \_\_\_?”
- c. Show the exhibit to opposing counsel.
- d. Ask for permission to approach the witness. Give the exhibit to the witness.

- e. "I now hand you what has been marked as Exhibit No. \_\_ for identification."
- f. Ask the witness to identify the exhibit. "Would you identify it please?"
- g. Witness answers with identification only.
- h. Offer the exhibit into evidence. "Your Honor, we offer Exhibit No. \_\_ into evidence at this time. The authenticity of this exhibit has been stipulated."
- i. Court: "Is there objection?" (If opposing counsel believes a proper foundation has not been laid, the attorney should be prepared to object at this time.)
- j. Opposing Counsel: "No, your Honor," or "Yes, your Honor." If the response is "yes," the objection will be stated on the record. Court: "Is there any response to the objection?"
- k. Court: "Exhibit No. \_\_ is/is not admitted."

### **18. Closing Arguments**

- a. Each side shall have five minutes for closing argument. Plaintiff may reserve time for rebuttal.
- b. Closing argument should be directed at persuading the jury to render a decision for that attorney's side, relying on argument and the testimony of the witnesses and any exhibit that was admitted.
- c. It is improper closing argument to: a) refer to facts where there was no evidence of them, b) state a personal opinion as to the credibility of a witness, or c) present arguments designed to inflame passion or prejudice.

### **19. Scoring; Announcement of Results**

- a. Each judge should mark his or her performance rating sheet during the trial, at the end of each segment.
- b. After closing arguments, the Judges will retire to deliberate. Each judge shall complete his or her rating sheet. The Judge shall give the completed sheets to the bailiff who shall double-check the scores. In the absence of a bailiff, the presiding judge will collect the three rating sheets and hold them until they are collected by tournament staff.
- c. The bailiff must deliver all copies of the rating sheets to Tournament Headquarters at the end of each trial.
- d. After the final round is complete, the identities of the advancing teams will be announced. Within two weeks after each tournament, coaches will receive Performance Summary Sheets for their school.

### **20. Judges' Comments**

- a. After the judges have completed the Performance Rating Sheets and have discussed the comments they will make, the presiding judge will reconvene the proceedings.

- b. The judges will not announce the winning team.
- c. The judges are encouraged to make brief comments regarding the performances of the attorneys and witnesses. The judges should not indicate how they would rule on the merits of the case.
- d. In any round where the total time used for the trial meets or exceeds two hours, the judging panel is limited to 10 minutes for comments to the teams. The bailiff, or timekeepers, will monitor the time spent on comments. Presiding judges are to limit the session to a combined total of ten minutes.
- e. The length of a trial may require the tournament director to exclude the comment session altogether.

## C. Rules of Evidence

In American trials, complex rules are used to govern the admission of proof (i.e., oral or physical evidence). These rules are designed to ensure that all parties receive a fair hearing and to exclude evidence deemed irrelevant, incompetent, untrustworthy, unduly prejudicial, or otherwise improper. If it appears that a rule of evidence is being violated, an attorney may raise an objection to the judge. The judge then decides whether the rule has been violated and whether the evidence must be excluded from the record of the trial. In the absence of a properly made objection, however, the judge will probably allow the evidence. The burden is on the mock trial team to know the Rules of Evidence and to be able to use them 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 its numbering system. Where rule numbers or letters are skipped, those rules were not deemed applicable to mock trial procedure. Text in italics or underlined represent simplified or modified language.

Not all judges will interpret the Rules of Evidence (or procedure) the same way, and mock trial attorneys should be prepared to point out specific rules (quoting, if necessary) and to argue persuasively for the interpretation and application of the rule they think appropriate.

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### **ARTICLE I. GENERAL PROVISIONS**

#### **Rule 101. Scope**

*These Rules of Evidence govern the trial proceedings of the Michigan High School Mock Trial Tournament.*

#### **Rule 102. Purpose and Construction**

*These Rules are intended to secure fairness in administration of the trials, eliminate unjust delay, and promote the laws of evidence so that the truth may be ascertained.*

### **ARTICLE II. JUDICIAL NOTICE -- Not Applicable**

### **ARTICLE III. PRESUMPTIONS IN CIVIL ACTIONS AND PROCEEDINGS -- Not Applicable**

### **ARTICLE IV. RELEVANCY AND ITS LIMITS**

#### **Rule 401. Definition of “Relevant Evidence”**

“Relevant evidence” means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

#### **Rule 402. Relevant Evidence Generally Admissible; Irrelevant Evidence Inadmissible**

All relevant evidence is admissible, except as otherwise provided by these Rules. Evidence which is not relevant is not admissible.

### **Rule 403. Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time**

Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

### **Rule 404. Character Evidence Not Admissible To Prove Conduct; Exceptions; Other Crimes**

(a) **Character evidence generally.** Evidence of a person's character or a trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion, except:

- (1) **Character of accused** - In a criminal case, evidence of a pertinent trait of character offered by an accused, or by the prosecution to rebut the same, or if evidence of a trait of character of the alleged victim of the crime is offered by an accused and admitted under Rule 404 (a)(2), evidence of the same trait of character of the accused offered by the prosecution;
- (2) **Character of alleged victim** - In a criminal case, and subject to the limitations imposed by Rule 412, evidence of a pertinent trait of character of the alleged victim of the crime offered by an accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the alleged victim offered by the prosecution in a homicide case to rebut evidence that the alleged victim was the first aggressor;
- (3) **Character of witness** - Evidence of the character of a witness, as provided in Rules 607, 608 and 609.

(b) **Other crimes, wrongs, or acts.** Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, provided that upon request by the accused, the prosecution in a criminal case shall provide reasonable notice in advance of trial, or during trial if the court excuses pretrial notice on good cause shown, of the general nature of any such evidence it intends to introduce at trial.

### **Rule 405. Methods of Proving Character**

(a) Reputation or opinion. - In all cases where evidence of character or a *character trait* is admissible, proof may be made by testimony as to reputation or in the form of an opinion. On cross-examination, *questions may be asked regarding relevant, specific conduct.*

(b) Specific instances of conduct. - In cases where character or a character trait is an essential element of a charge, claim, or defense, proof may also be made of specific instances of that person's conduct.

### **Rule 406. Habit, Routine Practice**

Evidence of the habit of a person or the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization, on a particular occasion, was in conformity with the habit or routine practice.

#### **Rule 407. Subsequent Remedial Measures**

When, after an injury or harm allegedly caused by an event, measures are taken that, if taken previously, would have made the injury or harm less likely to occur, evidence of the subsequent measures is not admissible to prove negligence, culpable conduct, a defect in a product, a defect in a product's design, or a need for a warning or instruction. This rule does not require the exclusion of evidence of subsequent measures when offered for another purpose, such as proving ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.

#### **Rule 408. Compromise and Offers to Compromise**

(a) **Prohibited uses.** Evidence of the following is not admissible on behalf of any party, when offered to prove liability for, invalidity of, or amount of a claim that was disputed as to validity or amount, or to impeach through a prior inconsistent statement or contradiction:

(1) furnishing or offering or promising to furnish--or accepting or offering or promising to accept--a valuable consideration in compromising or attempting to compromise the claim; and

(2) conduct or statements made in compromise negotiations regarding the claim, except when offered in a criminal case and the negotiations related to a claim by a public office or agency in the exercise of regulatory, investigative, or enforcement authority.

(b) **Permitted uses.** This rule does not require exclusion if the evidence is offered for purposes not prohibited by subdivision (a). Examples of permissible purposes include proving a witness's bias or prejudice; negating a contention of undue delay; and proving an effort to obstruct a criminal investigation or prosecution.

#### **Rule 409. Payment of Medical or Similar Expenses**

Evidence of furnishing or offering or promising to pay medical, hospital, or similar expenses occasioned by an injury is not admissible to prove liability for the injury.

#### **Rule 410. Inadmissibility of Pleas, Plea Discussions, and Related Statements**

Except as otherwise provided in this Rule, evidence of the following is not, in any civil or criminal proceeding, admissible against a defendant who made the plea or was a participant in the plea discussions:

(1) a plea of guilty which was later withdrawn;  
(2) a plea of *nolo contendere*;  
(3) any statement made in the course of any proceeding under Rule 11 of the Federal Rules of Criminal Procedure or comparable state proceeding regarding either of the foregoing pleas;  
or

(4) any statement made in the course of plea discussions with an attorney for the prosecuting authority which does not result in a plea of guilty or which results in a plea of guilty which is later withdrawn.

However, such a statement is admissible (1) in any proceeding wherein another statement made in the course of the same plea or plea discussions has been introduced and the statement ought, in fairness, be considered with it, or (2) in a criminal proceeding for perjury or false statement if the statement was made by the defendant under oath, on the record and in the presence of counsel.

#### **Rule 411. Liability Insurance (*civil case only*)**

Evidence that a person was or was not insured against liability is not admissible upon the issue whether the person acted negligently or otherwise wrongfully. This rule does not require the exclusion of evidence of insurance against liability when offered for another purpose, such as proof of agency, ownership, or control, or bias or prejudice of a witness.

### **ARTICLE V. PRIVILEGES**

#### **Rule 501. General Rule**

*There are certain admissions and communications excluded from evidence on grounds of public policy. Among these are:*

- (1) communications between husband and wife;*
- (2) communications between attorney and client;*
- (3) communications among grand jurors;*
- (4) secrets of state; and*
- (5) communications between psychiatrist and patient.*

### **ARTICLE VI. WITNESSES**

#### **Rule 601. General Rule of Competency**

Every person is competent to be a witness.

#### **Rule 602. Lack of Personal Knowledge**

A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. This rule is subject to the provisions of Rule 703, related to opinion testimony by expert witnesses. (*See Rule 2.2*)

#### **Rule 607. Who May Impeach**

The credibility of a witness may be attacked by any party, including the party calling the witness.

#### **Rule 608. Evidence of Character and Conduct of Witness**

(a) **Opinion and reputation evidence of character.** The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations: (1) the evidence may refer only to character for truthfulness or untruthfulness, and (2) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence or otherwise.

(b) **Specific instances of conduct.** Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' character for truthfulness, other than conviction of crime as provided in rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the court, if probative of truthfulness or untruthfulness, be inquired into on cross-examination of the witness (1) concerning the witness' character for truthfulness or untruthfulness, or (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

The giving of testimony, whether by an accused or by any other witness, does not operate as a waiver of the accused's or the witness' privilege against self-incrimination when examined with respect to matters that relate only to character for truthfulness.

### **Rule 609. Impeachment by Evidence of Conviction of Crime**

(a) **General rule.** For the purpose of attacking the character for truthfulness of a witness,

(1) evidence that a witness other than an accused has been convicted of a crime shall be admitted, subject to Rule 403, if the crime was punishable by death or imprisonment in excess of one year under the law under which the witness was convicted, and evidence that an accused has been convicted of such a crime shall be admitted if the court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused; and

(2) evidence that any witness has been convicted of a crime shall be admitted regardless of the punishment, if it readily can be determined that establishing the elements of the crime required proof or admission of an act of dishonesty or false statement by the witness.

(b) **Time limit.** Evidence of a conviction under this rule is not admissible if a period of more than ten years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the court determines, in the interests of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect. However, evidence of a conviction more than 10 years old as calculated herein, is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.

(c) **Effect of pardon, annulment, or certificate of rehabilitation.** Evidence of a conviction is not admissible under this rule if (1) the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, and that person has not been convicted of a subsequent crime that was punishable by death or imprisonment in excess of one year, or (2) the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(d) **Juvenile adjudication.** Evidence of juvenile adjudication is generally not admissible under this rule. The court may, however, in a criminal case allow evidence of a juvenile adjudication of a witness other than the accused if conviction of the offense would be admissible to attack the credibility of an adult and the court is satisfied that admission in evidence is necessary for a fair determination of the issue of guilt or innocence.

(e) **Not Applicable**

## **Rule 610. Religious Beliefs or Opinions**

Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature the witness' credibility is impaired or enhanced.

## **Rule 611. Mode and Order of Interrogation and Presentation**

(a) **Control by Court.** - The Court shall exercise reasonable control over questioning of witnesses and presenting evidence so as to:

1. make the interrogation and presentation effective for ascertaining the truth,
2. avoid needless consumption of time, and
3. protect witnesses from harassment or undue embarrassment.

(b) **Scope of cross examination.** - *The scope of the 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, and may inquire into any omissions from the witness statement that are otherwise material and admissible.*

(c) **Leading questions.** - Leading questions should not be used on direct examination of a witness except as may be necessary to develop the witness' testimony. Ordinarily leading questions should be permitted on cross-examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, interrogation may be by leading questions.

(d) **Redirect/Re-cross.** - *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 or re-cross, but such questions must be limited to matters raised on redirect examination and should avoid repetition.*

## **Rule 612. Writing Used to Refresh Memory**

*If a written statement is used to refresh the memory of a witness either while testifying or before testifying, the Court shall determine that the adverse party is entitled to have the writing produced for inspection. The adverse party may cross examine the witness on the material and introduce into evidence those portions, which relate to the testimony of the witness.*

## **Rule 613. Prior Statements of Witnesses**

(a) **Examining Witness Concerning Prior Statement.** In examining a witness concerning a prior statement made by the witness, whether written or not, the statement need not be shown nor its contents disclosed to the witness at that time, but on request the same shall be shown or disclosed to opposing counsel.

(b) **Extrinsic Evidence of Prior Inconsistent Statement of Witness.** Extrinsic evidence of a prior inconsistent statement by a witness is not admissible unless the witness is afforded an opportunity to explain or deny the same and the opposite party is afforded an opportunity to interrogate the witness thereon, or the interests of justice otherwise require. This provision does not apply to admissions of a party-opponent as defined in rule 801(d)(2).

## **ARTICLE VII.OPINIONS AND EXPERT TESTIMONY**

### **Rule 701. Opinion Testimony by Lay Witness**

If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness, and (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue, and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.

### **Rule 702. Testimony by Experts**

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case.

### **Rule 703. Bases of Opinion Testimony by Experts**

The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence in order for the opinion or inference to be admitted. Facts or data that are otherwise inadmissible shall not be disclosed to the jury by the proponent of the opinion or inference unless the court determines that their probative value in assisting the jury to evaluate the expert's opinion substantially outweighs their prejudicial effect.

### **Rule 704. Opinion on Ultimate Issue**

(a) Except as provided in subdivision (b), testimony in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact.

(b) No expert witness testifying with respect to the mental state or condition of a defendant in a criminal case may state an opinion or inference as to whether the defendant did or did not have the mental state or condition constituting an element of the crime charged or of a defense thereto. Such ultimate issues are matters for the trier of fact alone.

### **Rule 705. Disclosure of Facts or Data Underlying Expert Opinion**

The expert may testify in terms of opinion or inference and give reasons therefor without first testifying to the underlying facts or data, unless the Court requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross examination.

## ARTICLE VIII. HEARSAY

### Rule 801. Definitions

The following definitions apply under this article:

(a) **Statement.** - A “statement” is an oral or written assertion or nonverbal conduct of a person, if it is intended by the person as an assertion.

(b) **Declarant.** - A “declarant” is a person who makes a statement.

(c) **Hearsay.** - “Hearsay” is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

(d) **Statements which are not hearsay.** A statement is not hearsay if-- ...

(1) **Prior statement by witness.** - The declarant testifies at the trial or hearing and is subject to cross examination concerning the statement and the statement is (A) inconsistent with the declarant’s testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition, or (B) consistent with the declarant’s testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive, or (C) one of identification of a person made after perceiving the person;  
or

(2) **Admission by party-opponent.** The statement is offered against a party and is (A) the party's own statement in either an individual or a representative capacity or (B) a statement of which the party has manifested an adoption or belief in its truth, or (C) a statement by a person authorized by the party to make a statement concerning the subject, or (D) a statement by the party's agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship, or (E) a statement by a coconspirator of a party during the course and in furtherance of the conspiracy. The contents of the statement shall be considered but are not alone sufficient to establish the declarant's authority under subdivision (C), the agency or employment relationship and scope thereof under subdivision (D), or the existence of the conspiracy and the participation therein of the declarant and the party against whom the statement is offered under subdivision (E).

### Rule 802. Hearsay Rule

Hearsay is not admissible except as provided by these Rules.

### Rule 803. Hearsay Exceptions, Availability of Declarant Immaterial

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

(1) **Present sense impression.** - A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.

(2) **Excited utterance.** - A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

(3) **Then existing mental, emotional, or physical conditions.** - A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.

(4) **Statements for purposes of medical diagnosis or treatment.** Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.

(5) **Recorded recollection.** A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the witness' memory and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party.

(6) **Records of regularly conducted activity.** - A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

(18) **Learned treatises.** - To the extent called to the attention of an expert witness upon cross examination or relied upon by the expert witness in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice. If admitted, the statements may be read into evidence but may not be received as exhibits.

(21) **Reputation as to character.** - Reputation of a person's character among associates or in the community.

(22) **Judgment of previous conviction.** - Evidence of a final judgment, entered after a trial or upon a plea of guilty (but not upon a plea of nolo contendere), adjudging a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the Government in a criminal prosecution for purposes other than impeachment, judgments against persons other than the accused.

#### **Rule 804. Hearsay Exceptions, Declarant Unavailable**

(a) **Definition of unavailability.** "Unavailability as a witness" includes situations in which the declarant

- (1) is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of the declarant's statement; or
- (2) persists in refusing to testify concerning the subject matter of the declarant's statement despite an order of the court to do so; or
- (3) testifies to a lack of memory of the subject matter of the declarant's statement; or
- (4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or
- (5) is absent from the hearing and the proponent of a statement has been unable to procure the declarant's attendance (or in the case of a hearsay exception under subdivision (b)(2), (3), or (4), the declarant's attendance or testimony) by process or other reasonable means. A Declarant is not unavailable as a witness if exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of a statement for the purpose of preventing the witness from attending or testifying.

(b) **Hearsay exceptions:** The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

- (1) Former testimony. Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.
- (2) Statement under belief or impending death. In a prosecution for homicide or in a civil action or proceeding, a statement made by a declarant while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be impending death.
- (3) Statement against interest. A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless believing it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.
- (4) Statement of personal or family history. (A) A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; (B) a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as likely to have accurate information concerning the matter declared.

- (5) Forfeiture by wrongdoing. A statement offered against a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.

**Rule 805. Hearsay within Hearsay**

Hearsay included within hearsay is not excluded under the hearsay rule if each part of the combined statement conforms with an exception to the hearsay rule provided in these rules.

**ARTICLE IX. AUTHENTICATION AND IDENTIFICATION** – Not Applicable

**ARTICLE X. CONTENTS OF WRITING, RECORDINGS AND PHOTOGRAPHS** – Not Applicable

**ARTICLE XI. OTHER** – Not Applicable

## D. Code of Proper Conduct

1. Students promise to compete with the highest standards of deportment, showing respect for their fellow-students, opponents, Judges, coaches, and tournament personnel. Competitors should focus on accepting defeat and success with dignity and restraint. Trials will be conducted honestly, fairly, and with the utmost civility. Students will avoid all tactics they know are wrong or in violation of the Rules, including the use of unfair extrapolations. Students will not willfully violate the Rules of the competition in spirit or in practice.
2. Teacher-Sponsors agree to focus attention on the educational value of the Mock Trial Tournament. They shall discourage willful violations of the Rules. Teachers will instruct students as to proper procedure and decorum and will assist their students in understanding and abiding by the tournament's Rules and this Code of Conduct.
3. Attorney-Coaches agree to uphold the highest standards of the legal profession and will zealously encourage fair play. They will promote conduct and decorum in accordance with the Tournament's Rules and this Code of Conduct. Attorney-Coaches are reminded that they are in a position of authority and thus serve as positive role models for the students.
4. Trial Viewing/Scouting. No team members, alternates, attorney-coaches, teacher-sponsors, or any other persons associated with the team's preparation shall view other teams in competition so long as they remain in competition themselves.
5. Coaching during Trial. Once the trial begins no coaching is permitted by anyone for the duration of the trial. Student attorneys may consult with one another and with their witnesses. To avoid even the appearance of impropriety, the three attorneys trying the case and the three witnesses should not engage in conversation with other team members, coaches or observers until after closing arguments.
6. Teams and observers may not go anywhere in the building other than the assigned courtrooms, the cafeteria/designated eating areas, and the restrooms.
7. Food or beverages may not be brought into the courtrooms or anywhere other than the cafeteria/designated eating areas.
8. For the first morning and afternoon trials, teams and observers may not enter the courtrooms until given permission to do so by the bailiff.
9. Teams and observers may not: a) touch any equipment, papers, exhibits, etc. that are not associated with the Tournament, b) erase anything written on a chalkboard unless written during a previous Tournament round, c) move anything in an assigned courtroom (including podium and chairs) without permission from the bailiff or judge, d) move anything that does not belong to a team member or observer from one courtroom to another.
10. If a team videotapes any of its trials, that videotape is the sole property of the team and may not be made available to any other schools for any reason, especially for the purposes of scouting, etc.

*Code of Proper Conduct continued*

## Signature Form

2011 Michigan High School Mock Trial Tournament

A copy of the Code must be signed by all team members and coaches and submitted by a team coach when s/he registers the team at the registration table between 7:45 and 8:15 a.m. on the day of the Tournament.

---

(Name of School)

*We, the undersigned, have read the Code of Proper Conduct and agree to uphold it throughout our participation in the 2011 Michigan High School Mock Trial Tournament:*

Students: *Type or print names clearly; sign name next to it.*

Coaches:

Date: \_\_\_\_\_

## E. Sample Official Team Roster

### **OFFICIAL TEAM ROSTER**

**TEAM ID** \_\_\_\_\_

#### **Plaintiff Case**

##### **Attorney 1**

Student name: \_\_\_\_\_ . Name of witness s/he will examine: \_\_\_\_\_ .

##### **Attorney 2**

Student name: \_\_\_\_\_ . Name of witness s/he will examine: \_\_\_\_\_ .

##### **Attorney 3**

Student name: \_\_\_\_\_ . Name of witness s/he will examine: \_\_\_\_\_ .

**Jamie Anderson** will be portrayed by \_\_\_\_\_ (Student Name).

Male or Female. Circle one.

**Chris Hopp** will be portrayed by \_\_\_\_\_ (Student Name).

Male or Female. Circle one.

**Marty D. Robertson, MD** will be portrayed by \_\_\_\_\_ (Student Name).

Male or Female. Circle one.

#### **Defense Case**

##### **Attorney 1**

Student name: \_\_\_\_\_ . Name of witness s/he will examine: \_\_\_\_\_ .

##### **Attorney 2**

Student name: \_\_\_\_\_ . Name of witness s/he will examine: \_\_\_\_\_ .

##### **Attorney 3**

Student name: \_\_\_\_\_ . Name of witness s/he will examine: \_\_\_\_\_ .

**Taylor Williams** will be portrayed by \_\_\_\_\_ (Student Name).

Male or Female. Circle one.

**Pat Clifford** will be portrayed by \_\_\_\_\_ (Student Name).

Male or Female. Circle one.

**Sydney Freed, PhD** will be portrayed by \_\_\_\_\_ (Student Name).

Male or Female. Circle one.

## F. Judge's Instructions

- 1. Materials.** Every judge should have the Rules and Case Materials and the Judges Scoring Packet.
- 2. Judges roles and Location.** The Presiding Judge (as designated by the Tournament Director) should sit alone behind the bench and act as a judge presiding at a common law trial. Rulings should be made according to the Tournament Rules and the Case Materials. Rules of Evidence are adapted from the Federal Rules of Evidence. The two other Judges should sit in the jury box throughout the trial as the jury. They should not participate in rulings by the Presiding Judge in conducting the trial.
- 3. Opening Court.** The trial should commence in accordance with Rule 10.
- 4. Role of Presiding Judge.** The Presiding Judge has a delicate task and restraint is required. A trial is an adversarial proceeding and this Tournament is a competition as well. The central goal is to give the participating young people a positive educational experience. But it would be unfair and contrary to the idea of law if one side or the other was given an unfair advantage. Obviously the judge must be evenhanded. Moreover, the judge should avoid injecting him or her self into the examination of witnesses even though in a real case that would be appropriate. Otherwise one side will gain an advantage they have not earned. In addition, the judge should take special care to avoid intimidating the student lawyers and witnesses, so they feel comfortable and free to act at the true level of their capacity. The judge should be encouraging to both sides and still maintain the essential form of a trial.
- 5. Scoring Student's Performances.** All of the Judges should score the teams according to the instructions in the Guidelines for Performance Rating Sheet. All Judges should familiarize themselves with that sheet in advance of the Tournament.
- 6. Bailiff.** Every attempt will be made to have a bailiff present in each courtroom to swear in witnesses, keep time, act as liaison to the Tournament Director, and generally assist and advise the Judges. In the event that a courtroom is without a bailiff, each team in the courtroom will be asked to provide a trained timekeeper to perform those duties. All other bailiff duties will be assumed by the presiding judge and tournament staff. Coaches may not serve as timekeepers.
- 7. Questions Regarding Tournament Rules.** If questions arise regarding application of the Tournament Rules, the Presiding Judge should entertain arguments by the attorneys regarding construction of the Rules and should encourage the attorneys to make reference to the Rule in question. The Presiding Judge has the sole authority to make decisions about the conduct of the trial.
- 8. Procedure at End of Trial.** The bailiff, or presiding judge, will clear the courtroom (Unless chambers are available) and the Judges should total the scores for each side. After all Judges have completed their Rating Sheets, the Presiding Judge will reconvene the proceedings. The bailiff will take all of the Rating Sheets to Tournament Headquarters. In the absence of a bailiff, the presiding judge will collect the three rating sheets and hold them until they are collected by tournament staff. There is a limit of 10 minutes for the Judges to complete the score sheets and 10 minutes for oral comments. Judges are encouraged to offer positive and constructive comments to the teams after the bailiff has left with the sheets. Judges are not to announce the scores or the winner or rule on the merits of the case.

## G. Unfair Extrapolation

### **Background**

Each team competing in the Michigan High School Mock Trial Tournament has been provided with the same materials for this year's problem. Since there are strict time limitations for the examination of witnesses, opening statements and closing arguments, and so that all teams are trying the same case, the trial is limited to the materials provided to each team. Information from outside of the materials provided (known in the Tournament as "unfair extrapolation") is not permitted unless it is a minor detail used to humanize the case.

Thus a minor extrapolation of a fact not in the materials is permitted so long as it may be reasonably inferred from the case materials and is **neutral to both sides**. For example, a *fair* extrapolation would be background information such as the witness's date of birth or place of birth. An *unfair* extrapolation is one that *strengthens* the case of the party attempting to extrapolate or which *weakens* the case of the other party.

A suggested procedure for dealing with this objection is as follows.

### **Dealing With an Unfair Extrapolation**

When an opposing attorney objects on the basis of unfair extrapolation, the Presiding Judge should ask the questioning Attorney if the information sought is in the materials provided for the Tournament competition. If the Attorney says it is, he should be asked to point it out. If he can point it out, it is not unfair extrapolation and the objection should be overruled.

If the Attorney admits that the information is not in the materials provided, or if he cannot point it out, the Presiding Judge should then ask the questioning Attorney if the information sought is neutral to both sides. (Practice Pointer: If the Attorney is fighting to get the information in, it is probably not neutral to both sides or he/she wouldn't be wasting his/her time.)

If the Attorney claims it is neutral to both sides, yet it does not involve something innocuous like a date or place of birth, then the Presiding Judge should sustain the objection since information that is neutral to both sides is not going to help a court decide a case.

If the Attorney admits that the information sought is not neutral to both sides, then the objection should be sustained as being unfair extrapolation.

## H. Guidelines for Performance Rating

You are rating team performance, not the legal merits of the case presented. In deciding which team (Attorneys and Witnesses) has made the better overall presentation in the case you are judging, please use the following criteria. It is recommended that you use the “5–6” range as an indication of an average performance, and adjust higher or lower for stronger or weaker performances. **Rating must be on a whole point basis (partial points not allowed).**

<u>Points</u>	<u>Performance</u>	<u>Criteria for Rating Performance</u>
1–2	Not Effective (Poor)	Disorganized, unsure of self, illogical, uninformed, demonstrates lack of preparation and understanding of task, simply ineffective in communications.
3–4	Fair	Minimal performance and preparation; performance is passable but lacks depth in terms of knowledge of task and materials; communication lacks clarity and conviction.
5–6	Good (Average)	Good, but less than spectacular performance; has fundamental understanding of task and can perform outside the “script” but with less confidence that when using the “script”; grasps major aspects of the case but does not convey a mastery of the case; communications are clear and understandable but could be more persuasive; acceptable but uninspired performance.
7–8	Excellent	Presentation is fluent, persuasive, clear and understandable; organized materials and thoughts well and exhibits a mastery of the case and of the materials provided; presentation was both believable and skillful.
9–10	Outstanding	Thinks well on feet, is logical, keeps poise under duress; performance was resourceful, original and innovative; can sort out the essential from the non-essential and uses time effectively to accomplish major objectives; knows how to emphasize vital points of trial.

Judges should consider the following criteria when rating each of the following segments of the trial:

Opening Statement	In the opening statement, the attorney presented a clear description of their theory of the case, setting forth what their proofs expected to show and why the court should find in their favor.
Direct Examination	On direct examination of the witnesses, the attorney used non-leading, non-speculative and non-hearsay questions that brought out key information for their side of the case. The attorney exhibited a clear understanding of trial procedures and responded to objections appropriately.
Cross Examination	On the cross-examination of the witnesses, the attorney effectively

impeached the witness or discredited the testimony. The attorney obtained favorable testimony although the other side called the witness. The attorney controlled the witness by asking good leading questions, demanding a “yes” or “no” answer where appropriate. The attorney exhibited a clear understanding of trial procedures and argued objections appropriately.

Witnesses

The witnesses were believable in their characterizations and convincing in their testimony. The witnesses were well prepared for answering the questions posed under direct examination. The witnesses responded well to questions posed under cross-examination.

Closing Argument

In the closing argument, the attorney effectively showed the reasons for their side prevailing and pointed out the flaws in the other side’s case. The attorney exhibited a clear understanding of the facts and the law. The attorney effectively responded to unexpected testimony or rulings.

Team Performance

Team Members were courteous, observed general courtroom decorum, and spoke clearly and distinctly. Team members worked together well. Team members had a coherent theory of the case. Team members exhibited a clear understanding of the facts, issues, and the law.

# I. Performance Rating Sheet

Judge: \_\_\_\_\_

Round:            A.M. 1                    A.M. 2                    P.M. 1    (circle one)

Plaintiff: Team Number \_\_\_\_\_                    Defense: Team Number \_\_\_\_\_

Points:    Poor (1-2);    Fair (3-4);    Good (5-6);    Excellent (7-8);    Outstanding (9-10)

*{Please consult Performance Rating Guidelines for explanation of rating criteria}*

		PLAINTIFF	DEFENSE
Opening Statements:			
Plaintiff First Witness Name:	Direct examination by attorney		
	Cross examination by attorney		
	Witness's Performance		
Plaintiff Second Witness Name:	Direct examination by attorney		
	Cross examination by attorney		
	Witness's Performance		
Plaintiff Third Witness Name:	Direct examination by attorney		
	Cross examination by attorney		
	Witness's Performance		
Defense First Witness Name:	Direct examination by attorney		
	Cross examination by attorney		
	Witness's Performance		
Defense Second Witness Name:	Direct examination by attorney		
	Cross examination by attorney		
	Witness's Performance		
Defense Third Witness Name:	Direct examination by attorney		
	Cross examination by attorney		
	Witness's Performance		
CLOSING STATEMENTS (and rebuttal, if any):			
Overall team performance (award 1-10 points):			
<b>TOTAL POINTS:</b>			

## J. Bailiffs' Instructions

- 1. Materials.** Every bailiff should have the Tournament Packet and a Judges Scoring Folder.
- 2. Orientation.** All bailiffs must attend the bailiffs' orientation. Bailiffs will receive two stopwatches for timekeeping and will be given time to practice using the stopwatches.
- 3. Procedure Before Trial.** Bailiffs should check in the teams and turn on the microphone in the witness box.

When everyone is ready, the Bailiff should ask the judges to leave the courtroom so they can make an "entrance." As the judges enter the courtroom, the bailiff should stand and say, "All rise. The court is now in session." The bailiff should then sit at the clerk's desk in front of the bench.
- 4. Procedure During Trial.** Bailiffs should meet with their panels of Judges prior to the beginning of each trial. It is important that all parties understand their responsibilities during the trial.

As each witness is called, the bailiff should see that they come forward and stand before the bailiff, who shall tell them to raise their right hand and shall use the following "oath" for each witness: "Do you promise that the testimony you are about to give will faithfully conform to the rules of this mock trial tournament?"

Accurate timekeeping is very important. It is essential that bailiffs study the time limits (See Rule 12 and the Time Sheet prior to the trial.)

Bailiffs should insure that all participants and observers adhere to items 7 through 9 of the Code of Proper Conduct.
- 5. Procedure After Closing Arguments.** The Judges have 10 minutes to complete their Performance Rating Sheets. It is the bailiff's responsibility to enforce this time limit.

The bailiff should ask everyone to leave the courtroom or have the Judges retire to an office or jury room, if available. If the teams must wait in the hall while the Judges are deliberating, the bailiff should remind team members to not disturb other courtrooms with noise.

When the Judges have completed their Performance Rating Sheets, the bailiff will call the court back to order. The bailiff will take all copies of the Performance Rating Sheets to Tournament Headquarters. The teams are not to be told their scores or the winner of the trial.

After turning in the Performance Rating Sheets, the bailiff will return to the courtroom and watch the clock. If the judges' comments threaten to delay the teams' departure for their next round, or lunch, the bailiff should firmly but politely tell the Judges that time has expired.
- 6. Dispute Settlement**

Bailiffs shall be familiar with the Rule 9, Claims of Rule Violations, as they have a role to play in distributing and transporting the Dispute Form.

# K. Time Sheet

Courtroom # _____	A.M. - 1 <sup>st</sup> _____	A.M. - 2 <sup>nd</sup> _____	P.M. _____
Plaintiff – Team # _____		Defense - Team # _____	

Plaintiff	Time	Defense	Time
Opening Statement (max 5 min) Give 1 min warning at 4 minutes		Opening Statement (max 5 min) Give 1 min warning at 4 min	
Plaintiff team has 25 min for this entire section, give one minute warning at 24 minutes		Defense team has 20 min for this entire section, give one minute warning at 19mins	
1 <sup>st</sup> Witness Direct Exam	<i>S</i>	1 <sup>st</sup> Witness Cross Exam	
1 <sup>st</sup> Witness Redirect (optional)	<i>T</i>	1 <sup>st</sup> Witness Re-cross (optional)	
2 <sup>nd</sup> Witness Direct Exam	<i>A</i>	2 <sup>nd</sup> Witness Cross Exam	
2 <sup>nd</sup> Witness Redirect (optional)	<i>R</i>	2 <sup>nd</sup> Witness Re-cross Exam	
3 <sup>rd</sup> Witness Direct Exam	<i>T</i>	3 <sup>rd</sup> Witness Cross Exam	
3 <sup>rd</sup> Witness Redirect (optional)		3 <sup>rd</sup> Witness Re-cross Exam	
Plaintiff team has 20 min for this entire section, give one minute warning at 19mins		Defense team has 25 min for this entire section, give one minute warning at 24 minutes	<i>S</i>
1 <sup>st</sup> Witness Cross Exam		1 <sup>st</sup> Witness Direct Exam	<i>T</i>
1 <sup>st</sup> Witness Re-cross Exam		1 <sup>st</sup> Witness Redirect Exam	<i>A</i>
2 <sup>nd</sup> Witness Cross Exam		2 <sup>nd</sup> Witness Direct Exam	<i>R</i>
2 <sup>nd</sup> Witness Re-cross Exam		2 <sup>nd</sup> Witness Redirect Exam	<i>T</i>
3 <sup>rd</sup> Witness Cross Exam		3 <sup>rd</sup> Witness Direct Exam	
3 <sup>rd</sup> Witness Re-cross Exam		3 <sup>rd</sup> Witness Redirect Exam	
Each team is allowed 5 min for their closing arguments, Plaintiff is allowed to use part of the time to follow the Defense with a rebuttal.			
Closing		Closing	
Rebuttal			

# L. Dispute Form

## MICHIGAN HIGH SCHOOL MOCK TRIAL COMPETITION

## **DISPUTE FORM**

(Please Print)

Round Number \_\_\_\_\_ Plaintiff Team Number \_\_\_\_\_ Defense Team  
Number \_\_\_\_\_

Number of Team Lodging Dispute \_\_\_\_\_

Grounds for Dispute:

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Initials of Team Spokesperson: \_\_\_\_\_

Decision of Presiding Judge (**CIRCLE ONE**)      Hearing Granted      Hearing  
Denied

If hearing granted, response of opposing

team: \_\_\_\_\_

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Initials of Opposing Team Spokesperson: \_\_\_\_\_

Decision of presiding Judge (**DO NOT ANNOUNCE**)

\_\_\_\_\_ A substantial Rules Violation has occurred (report to panel).

\_\_\_\_\_ No substantial Rules Violation has occurred (do not report to panel).

Reasons (s) for presiding judge's

decision: \_\_\_\_\_

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\_\_\_\_\_  
Signature of Presiding Judge

## M. Basic Trial Techniques

The following trial tips are being provided to acquaint students with basic trial techniques as they prepare to be witnesses and attorneys in Mock Trials. These tips are adapted and modified in part from the 1999 Wisconsin High School Mock Trial Tournament. These tips are an introduction to the trial process and should be used to assist students understand that process. They are not intended to be a substitute for the advice of Teacher and Attorney Coaches.

### I. General Suggestions

- A. Always be courteous to witnesses, other attorneys and judges.
- B. Rise when addressing the judge.
- C. Never address remarks to opposing counsel.
- D. While natural movement of attorneys during trial is encouraged, do not approach the bench, jury box or witness without permission from the judge.
- E. Avoid making objections unless you are relatively sure that the judge will agree with you.
- F. If the judge rules against you on a point or in the case, take the defeat gracefully and act cordially toward the judge and jury and the opposing team.

### II. Attorneys

#### A. Opening Statements

- 1. Objective: to acquaint the judge and jury with the case and to outline what you are going to prove through witness testimony and the admission of evidence.
- 2. What should be included:
  - a. Introduction of you and your client.
  - b. A short summary of the facts.
  - c. The burden of proof (amount of evidence needed to prove a fact) and who has it.

- d. A clear and concise overview of the witnesses and physical evidence that you will present and how each will contribute to proving your case.
  - e. What relief you are seeking.
3. Advice in presenting an opening statement
- a. Appear confident.
  - b. Use eye contact when speaking to the judge and jury.
  - c. Use the future tense in describing what you will do, i.e. "The facts will show," or "Our witness testimony will prove that..."
  - d. Outline the case from your point of view.
  - e. Try not to read. Look up at the judge/jury occasionally.
  - f. Learn your case thoroughly including the facts, law and burden of proof.
  - g. Do not exaggerate or offer facts that will not be proven.
  - h. Do not argue the law.

#### B. Direct Examination

1. Objective: to obtain information from favorable witnesses you call in order to prove the facts of your case, to present your witness to the greatest advantage, to establish your witness' credibility and to present enough evidence to get a favorable verdict.
2. What should be included:
  - a. Isolate exactly what information each witness can contribute to proving your case and prepare a series of questions designed to obtain that information.
  - b. Be sure all items you need to prove your case will be presented through your witness.
  - c. Use clear, simple questions.
  - d. Never ask a question to which you do not know the answer.

3. Advice in presenting
  - a. Try to keep to the questions that you've practiced with your witnesses and ask a limited number.
  - b. Be relaxed and clear in the presentation of your questions.
  - c. Listen to the answers.
  - d. Do not rush yourself or your witness so that the judge and jury cannot hear or understand the question or answer.
  - e. Be sure to have all documents marked for identification before you refer to them at trial. Then refer to it by its name/number (i.e. Exhibit 1 or Exhibit A).
  - f. Avoid leading questions. These are questions that suggest the answer desired by the questioning attorney to the witness and often only require a "yes" or "no" answer.
  - g. Avoid complex and verbose questions.
  - h. Avoid redundant, monotonous questioning.
  - i. When your facts are in evidence, cease questioning.

### C. Cross-examination

1. Objective: to obtain favorable information from witnesses called by the opposing counsel, and if a witness has no testimony favorable to your case, to make that witness less believable.
2. Some of the types of questions to ask:
  - a. Impeachment: These are questions that reflect on a witness' credibility by showing that s/he has given a contrary statement at another time. Counsel may impeach a witness by use of the witness statement. If counsel chooses to proceed in this manner because a witness testifies inconsistently with his statement, wait until cross-examination. First, show opposing counsel the passage in the statement and then, having obtained the Judge's permission to approach the witness, hand the witness the statement. Counsel should ask questions of that witness that establish the witness made the statement. Then the attorney can read aloud, or ask the witness

to read aloud, the part of the statement the attorney claims is inconsistent with the witness' testimony. The attorney may then further question the witness about the inconsistency or leave the matter for closing arguments.

- b. Questions that indicate bias or prejudice or that the witness has a personal interest in the outcome of the case (i.e. tenant testifying against former landlord on trial for shoplifting who evicted tenant a month earlier).
- c. Questions that weaken the testimony of the witness by showing that his or her opinion is questionable (i.e. a person with poor eyesight claims to have observed all of the details of a fight that took place over 50 yards away).
- d. Admissions or other testimony that is helpful to your case.

### 3. Advice in Presenting

- a. Anticipate each witness' testimony and write your questions accordingly, but be ready to adapt your questions at trial depending on the actual testimony elicited during direct exam.
- b. In general, only ask leading questions.
- c. Always listen to the witness' answer.
- d. Avoid giving the witness an opportunity to re-emphasize the points made against your case during direct exam.
- e. Do not give the witness an opportunity to explain anything. Keep to the "yes" or "no" answers whenever possible.
- f. Do not harass or attempt to intimidate the witness or quarrel with the witness.

### D. Objections

- 1. Objections are a normal, natural part of any trial. Their purpose is to present to the judge a rule of evidence that will bar an answer to the question asked (or result in striking an answer from the record if already given). In mock trials, they may also be used to bring a procedural problem to the judge's attention, such as an unfair extrapolation or continuing past the expiration of time.

2. If you are asking questions either on direct exam or cross-exam and an attorney from the other side objects to your questions remember:
  - a. Do not panic, objections are normal.
  - b. Think about why you decided to ask the particular question in the first place (i.e. if on direct, is it a question that is relevant to proving your case? If on cross, is it asked to impeach the witness by showing bias?)
3. If you are the objecting party remember:
  - a. If you are going to object, try to do so before the witness answers the question.
  - b. Have the specific objection in mind when you do so. For example, you may say, "Objection Your Honor, the witness is being asked to provide hearsay testimony."
  - c. Be prepared to explain to the judge why the question is objectionable and why the witness cannot or should not be permitted to answer it.

#### E. Redirect/Recross (Optional)

1. Objective: to rehabilitate a witness or repair damage done by your opponent.
2. Advice
  - a. If the credibility or reputation for truthfulness of the witness has been attacked on cross-examination, the attorney whose witness has been damaged may wish to ask more questions.
  - b. Try to keep questions at a minimum and ask only those necessary to save the witness' truth-telling image in the eyes of the judge and jury.
  - c. Limit questions to issues raised on cross-examination.

#### F. Closing Arguments

1. Objective: to provide a clear and persuasive summary of the evidence you presented to prove the case, along with the weaknesses of the other side's case, and to argue for your position.

2. What should be included:
  - a. This is your opportunity to put the pieces together for the jury and judge.
  - b. Isolate the issues and describe briefly how your presentation addresses these issues.
  - c. Review the witnesses' testimony and physical evidence. Outline the strengths of your side's witnesses and the weaknesses of the other side's witnesses (i.e. bias, credibility or self-interest). Indicate why the physical evidence admitted into evidence supports your case or weakens your opponent's case. You may use these exhibits during your argument.
  - d. This is your opportunity to be an advocate. Forcefully argue your point of view. Argue your case by stating how the law applies to the facts as you have proven them.
  - e. This is also an opportunity to correct any misunderstandings that the judge or jury may have.
  - f. Remind the judge and jury of the required burden of proof. If you have the burden, tell how you have met it. If you don't, tell how the other side failed to meet its burden.
  - g. Try not to read. Maintain eye contact or at least look up occasionally.
  - h. Be careful to adapt your closing argument at the end of the trial to reflect what the witnesses actually said and what the physical evidence actually showed.
  - i. Avoid using ridicule. Avoid illogical or confusing arguments.
3. Plaintiff may reserve time for rebuttal. This is limited to the scope of Defense's closing argument.
  - a. Listen to Defense's argument carefully.
  - b. Pick one or two main points to rebut that can be summarized in several sentences.

### **III. Witnesses**

#### **A. General Suggestions**

1. Familiarize yourself with your witness statement.
2. If you are going to be testifying about records or documents, familiarize yourself with them before coming to trial.
3. Listen carefully to the questions. Before you answer, make sure you understood what has been asked. If you don't understand, ask that the question be repeated or clarified.
4. When answering questions, speak clearly, don't mumble or mutter.
5. If the judge interrupts your answer or an attorney objects while you are answering, stop talking. If an attorney objects to a question you are asked, do not begin your answer until the judge tells you to do so.

#### B. Direct Examination

1. Advice in preparing and presenting
  - a. Learn the case thoroughly, especially your witness statement.
  - b. Review your testimony with your attorney. Know the questions that your attorney will ask and prepare clear and convincing answers that contain the information the attorney is trying to get you to say.
  - c. Be relaxed as possible on the witness stand.
  - d. Make sure that if you paraphrase or put any of the witness statement in your own words, it is not inconsistent with or a material departure from the case materials.

#### C. Cross-examination

1. Advice in preparing or presenting
  - a. Think about all the possible weaknesses, inconsistencies or problems in your statement and be prepared to answer questions about them as best as you can.
  - b. Practice with your attorney, asking him/her to act as opposing counsel.
  - c. Be as relaxed and in control as possible.

- d. Listen to the question carefully and make sure you understand what is being asked before you answer it. If you don't understand the question ask for it to be clarified. If you didn't hear the question, ask that it be repeated.
- e. Do not panic if the judge or an attorney asks you a question you haven't rehearsed. Think about your statement and the case materials and answer the question when you are ready.
- f. Be sure your testimony is never inconsistent with, nor a material departure from the case materials.



## N. Case Materials

**Case No. 2011 MT**

**Jaime Anderson vs. Taylor Williams**

**IN THE CIRCUIT COURT FOR THE COUNTY OF MADISON**

## INTRODUCTION

This year's case, *Jamie Anderson v. Taylor Williams*, is a civil action focused on cyberstalking, a timely topic in today's computer age.

The plaintiff is Jamie Anderson, a Clearwater High School senior, who used the school's chat room as a means to stay on top of her/his academic pursuit of the highly coveted valedictorian scholarship. The plaintiff was tied with defendant Taylor Williams for top spot in the class until her/his concentration was allegedly destroyed after reading threatening postings in the chat room between March 8 and March 12, 2010. The cyberstalker sent Jamie additional threats via an anonymous e-mail on March 12, 2010, in a message that also included a link to a threatening web page.

The plaintiff contends that these statements caused her/him severe emotional distress, resulting in lower grades and loss of the valedictorian scholarship. Anderson alleges that the defendant was the person who posted the threatening remarks in order to cause Anderson to lose the valedictorian scholarship. Williams' actions, according to Anderson, violated the State of Michigan's civil cyberstalking statute (fabricated for this year's case). All events, characters and documents created for the 2011 case are fictional.

## WITNESS AND EXHIBIT LIST

The following witnesses shall be called by the parties.	
FOR THE PLAINTIFF	FOR THE DEFENSE
Jamie Anderson	Taylor Williams
Chris Hopp	Pat Clifford
Marty D. Robertson, MD	Sydney Freed, PhD
The following exhibits may be used by teams in trial. They are pre-marked and are to be referred to by number as follows:	
EXHIBIT NUMBER	EXHIBIT DESCRIPTION
1	Chat Room Excerpt, March 8, 2010
2	Chat Room Excerpt, March 10, 2010
3	Chat Room Excerpt, March 11, 2010
4	Chat Room Excerpt, March 12, 2010
5	E-Mail to Jamie Anderson, March 13, 2010
6	M_Space Page
7	Jamie Anderson High School Transcript
8	Taylor Williams Inside Textbook Cover
9	Jamie Anderson Medical Record
10	Sydney Freed, PhD, Vita

**STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF MADISON**

JAMIE J. ANDERSON,  <p style="text-align:right">Plaintiff,</p> <p style="text-align:center">vs.</p> TAYLOR F. WILLIAMS,  <p style="text-align:right">Defendant.</p> <hr/>		Case No. 2011 MT  <b>COMPLAINT</b>
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Plaintiff, by and through counsel undersigned, for his/her complaint states and alleges as follows:

1. At the time of the events described in this complaint, Plaintiff was an 18-year old individual residing at 447 St. Mark’s Street, Clearwater, Michigan.
2. At the time of the events described in this complaint, Defendant was an 18-year old individual residing at 1194 Mayfair, Clearwater, Michigan.
3. At all times relevant hereto, both Defendant and Plaintiff were high school seniors at Clearwater High School, in Clearwater, Michigan.
4. All events described herein occurred in Madison County, Michigan.
5. Venue is proper in Madison County, State of Michigan.
6. At all times relevant hereto, both Plaintiff and Defendant were participating members of the Clearwater High School On-Line Student Chat Room (“Chat Room”), which was supported, sponsored and maintained by Clearwater High School.
7. For purposes of identification in the Chat Room, Plaintiff was, at all times relevant hereto, associated with the user identification “jammin@ClearwaterHS”.
8. At all times relevant hereto, Plaintiff was associated with the electronic mail address “jammin@ClearwaterHS.edu”.
9. For purposes of identification in the Chat Room, Defendant was, at all times relevant hereto, associated with two user identifications, “Shockwave” and “Fatalflaw”.

10. At all times relevant hereto, Defendant was associated with the electronic mail address “user94040@KZMail.com”.

11. On several occasions between March 8, 2010, and March 12, 2010, Defendant harassed Plaintiff by knowingly transmitting to Plaintiff threatening remarks via Chat Room postings.

12. Defendant harassed Plaintiff on March 13, 2010, by knowingly and intentionally transmitting a threatening message via electronic mail.

13. As a result of Defendant’s conduct referred to in paragraphs 11 and 12 above, Plaintiff suffered substantial emotional distress including, but not limited to, sleeplessness, nightmares, generalized anxiety disorder, inability to eat, paranoia, panic attacks and fear of immediate and future bodily harm as well as financial loss.

14. As a result of Defendant’s conduct referred to in paragraphs 11 and 12 above, Plaintiff’s academic performance drastically deteriorated in the last quarter of the 2009-2010 academic school year, resulting in Plaintiff losing the Clearwater High School “Gugel” valedictorian scholarship.

## COUNT I

### (Cyberstalking)

15. Plaintiff incorporates the allegations in paragraphs 1-14 as though fully set forth at length.

16. Defendant is liable for the damages suffered by the plaintiff for cyberstalking under MCL § 12-775 for knowingly and intentionally harassing Plaintiff through the use of electronic communications on at least two separate occasions, causing Plaintiff to suffer substantial emotional distress and fear of imminent or future bodily harm.

17. On or about March 8, 10, 11, 12 and 13, 2010, Defendant knowingly identified Plaintiff in the Chat Room and electronically transmitted threats directed specifically at Plaintiff without lawful justification, causing Plaintiff substantial emotional distress and fear of bodily injury.

18. Specifically, on March 8, 2010, Defendant wrote: "Jam's in the window. Exercise all you want, my friend, you won't be able to run fast enough." A copy of the transcript from the Chat Room dated March 8, 2010, is attached as Exhibit 1.

19. Specifically, on March 10, 2010, Defendant wrote: "Jamming's been seen wearing school colors all week. Be careful, water bottles, sideline bottles, they don't always contain water, they can be deadly." A copy of the transcript from the Chat Room dated March 10, 2010, is attached as Exhibit 2.

20. Specifically, on March 11, 2010, Defendant posted: "Anticipation is what it's all about, and building fear. You never know when you'll be forced to face your greatest fear...suffocation, poison, torture, painful prolonged death... Time is running out, my Jammin friend. You should really watch what you drink. Water can be poisonous, when it's not water." A copy of the transcript from the Chat Room dated March 11, 2010, is attached as Exhibit 3.

21. Specifically, on March 12, 2010, Defendant stated: "I admit to being a bit mad, by some people's standards, but madness can be a good thing. It gives me direction, focus and an outlet for my aggression" and "Anyone wanna talk some pain and suffering? Time is running out, my Jammin friend. Maybe we can meet? ... Jam will rot just like Jelly if buried long enough." A copy of the transcript from the Chat Room dated March 12, 2010, is attached as Exhibit 4.



**STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF MADISON**

JAMIE J. ANDERSON,  <p style="text-align:right">Plaintiff,</p> <p style="text-align:center">vs.</p> TAYLOR F. WILLIAMS,  <p style="text-align:right">Defendants.</p> <hr/>		Case No. 2011 MT  <b>ANSWER</b>  (Assigned to the Hon. Raymond C. Justice)
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Defendant, by and through counsel undersigned, answers Plaintiff’s complaint as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted.

9. Admitted in part and denied in part. Admitted that Defendant was associated with the user identification “Shockwave” during all relevant times in the complaint. Defendant specifically denies any association with the user identification “Fatalflaw” during the times relevant to the allegations in the complaint, and demands strict proof thereof at trial. Defendant avers, by way of further information, that Defendant was associated with the user identification “Fatalflaw” during the 2008- 2009 academic school year.

10. Denied. Defendant specifically denies being associated with the email address user94040@KZMail.com, and demands strict proof thereof at trial.

11. Denied. It is specifically denied that Defendant knowingly or intentionally harassed plaintiff via any type of electronic transmission. Strict proof thereof is demanded at trial.

12. Denied. It is specifically denied that defendant sent any electronic mails to Plaintiff. Strict proof thereof is demanded at trial.

13. Denied. It is specifically denied that Defendant knowingly or intentionally engaged in any harassing conduct directed toward Plaintiff. Strict proof thereof is demanded at trial. By way of further answer, the allegation in paragraph 12 is a conclusion of law to which no response is required. That allegation is therefore deemed denied. To the extent that a responsive pleading is required, Defendant lacks sufficient information or knowledge to form a belief as to whether or not Plaintiff suffered substantial emotional distress, fear of bodily harm or financial loss.

14. Denied. It is specifically denied that Defendant engaged in any conduct directed toward Plaintiff that resulted in Plaintiff's deteriorated academic performance. Strict proof thereof is demanded at trial.

## COUNT I

### (Cyberstalking)

15. Defendant incorporates the responses to paragraphs 1 through 14 of Plaintiff's Complaint as if fully set forth at length.

16. Denied. Defendant specifically denies knowingly or intentionally harassing Plaintiff through any electronic transmissions. Strict proof thereof is demanded at trial. By way of further answer, the remaining averments of this paragraph constitute conclusions of law to which no response is required. Those allegations are therefore deemed denied. To the extent that a response is required, Defendant lacks sufficient information or knowledge to form a belief as to whether or not Plaintiff suffered substantial emotional distress or fear of bodily harm.

17. Denied. Defendant specifically denies electronically transmitting threats directed toward Plaintiff in the Chat Room. Strict proof thereof is demanded at trial. By way of further answer, the allegations in paragraph 17 constitute conclusions of law to which no response is required. As such, those allegations are deemed denied. To the extent that a response is required, Defendant lacks information or knowledge sufficient to form a belief as to whether Plaintiff suffered substantial emotional distress and fear of bodily injury.

18. Denied. Defendant specifically denies authoring the transmission cited in paragraph 18 of Plaintiff's Complaint. Strict proof thereof is demanded at trial.

19. Denied. Defendant specifically denies authoring the transmission cited in paragraph 19 of Plaintiff's Complaint. Strict proof thereof is demanded at trial.

20. Admitted in part, denied in part. Defendant admits authoring the following statement: "Anticipation is what it's all about, and building fear. You never know when you'll be forced to face your greatest fear...suffocation, poison, torture, painful prolonged death..." By way of further answer, Defendant maintains that such a statement is lawfully justified, and thus is excepted from coverage under the applicable cyberstalking statute. Further, Defendant specifically denies authoring the following statements, demanding strict proof thereof at trial: "Time is running out, my Jammin friend. You should really watch what you drink. Water can be poisonous, when it's not water."

21. Admitted in part, denied in part. Defendant admits authoring the following statement: "I admit to being a bit mad, by some people's standards, but madness can be a good thing. It gives me direction, focus and an outlet for my aggression." By way of further answer, Defendant maintains that such a statement is lawfully justified, and thus is excepted from

coverage under the applicable cyberstalking statute. Further, Defendant specifically denies authoring the following statements, demanding strict proof thereof at trial: “Anyone wanna talk some pain and suffering? Time is running out, my Jammin friend. Maybe we can meet? ... Jam will rot just like Jelly if buried long enough.”

22. Denied. Defendant specifically denies transmitting any electronic mail messages to Plaintiff. Strict proof thereof is demanded at trial.

23. Denied. Defendant specifically denies creating or contributing to any M\_Space pages relating to or referring to Plaintiff. Strict proof thereof is demanded at trial.

24. Denied. Defendant specifically denies any and all conduct referred to in paragraph 24 of Plaintiff’s Complaint, and demands strict proof thereof at trial. By way of further answer, the averments of this paragraph also constitute conclusions of law to which no response is required. To the extent that a response is required, Defendant lacks information or knowledge sufficient to form a belief as to whether Plaintiff suffered any substantial emotional distress, fear or financial loss.

#### **GENERAL ANSWER**

25. Defendant hereby denies any and all allegations set forth in the Plaintiff’s Complaint not expressly admitted herein.

### **AFFIRMATIVE AND OTHER DEFENSES**

26. Plaintiff's Complaint fails to state a claim upon which relief can be granted.

27. The injuries and/or damages asserted in this case, to the extent they are proven, were not caused by any actionable cyberstalking on the part of the Defendant, but rather were caused by factors, individuals or entities beyond Defendant's control.

28. The two Chat Room transmissions directed to Plaintiff by Defendant, identified as "Shockwave", were lawfully justified as a non-violent communications and an exchange of information related to Defendant's course of study.

29. Plaintiff's injuries and/or damages, to the extent proven, were caused in whole or in part by her/his own preexisting conditions, including but not limited to anxiety disorder.

WHEREFORE, Defendant demands judgment in her/his favor and against Plaintiff.

RESPECTFULLY SUBMITTED this 19th day of July, 2010.

By: /s/

\_\_\_\_\_  
**Attorney for Defendant**

## APPLICABLE LAW

### MCL § 12-775:

#### **Cyberstalking.**

- A. A person commits the civil offense of cyberstalking when, knowingly and without lawful justification, and on at least two separate occasions, the person harasses another person through the use of an electronic communication.
- B. Any offense committed under this section may be deemed to have been committed either at the place from which the communication was made or at the place where the communication was received.
- C. Definitions: As used in this Section,
  - 1. "Electronic communication" means any transfer of signs, signals, writings, sounds or data of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system. "Electronic communication" includes transmissions by a computer through the Internet to another computer.
  - 2. "Harass" means to engage in a knowing and intentional course of conduct directed at a specific person that alarms, torments, or terrorizes that person. The course of conduct must be of a kind that would cause a reasonable person to suffer substantial emotional distress, or be in fear of bodily injury.
  - 3. "Lawful justification" means any peaceable, nonviolent, or non-threatening activity expressing political views or providing lawful information to others.
- D. In a civil action brought pursuant to this section, the plaintiff shall establish by a preponderance of the evidence that the defendant committed the offense of cyberstalking against the plaintiff.
- E. Damages: in a civil action under this section, plaintiff may seek to recover any and all compensatory damages.
- F. No action shall be commenced under this section more than two years after the most recent conduct prohibited under this section.

**STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF MADISON**

JAMIE J. ANDERSON,  <p style="text-align:right">Plaintiff,</p> <p style="text-align:center">vs.</p> TAYLOR F. WILLIAMS,  <p style="text-align:right">Defendant.</p> <hr/>		Case No. 2011 MT  <b>MINUTE ENTRY</b>
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Having reviewed the Defendant’s Motion for Summary Judgment on the sole claim of Cyberstalking pursuant to MCL § 12-775, the Plaintiff’s Response thereto and the Defendant’s subsequent Reply, for the reasons set forth below, Defendant’s motion is denied.

**Background**

Plaintiff, Jamie Anderson, claims that s/he suffered damages as a result of cyberstalking committed against her/him by the Defendant, Taylor Williams, while both were senior students at Clearwater High School. Specifically, Plaintiff alleges that between March 8 and March 13, 2010, Defendant knowingly and intentionally transmitted a series of threats via postings made to a school administered chat room, an M\_Space internet web page and an anonymous electronic mail message sent directly to Plaintiff. These communications allegedly caused Plaintiff substantial emotional distress, including fear of bodily harm, and financial loss by virtue of Plaintiff’s inability to maintain a high grade point average resulting in the loss of a school scholarship. Plaintiff’s Complaint seeks a jury trial for compensatory damages under the applicable cyberstalking statute, MCL § 12-775.

In Defendant’s Answer in this case, Defendant denies transmitting any of the allegedly actionable statements, instead proffering that he/she was a victim of identity theft. Moreover, Defendant alleges that the two transmissions he/she did send to Plaintiff were lawfully justified by his/her course of study, and that any injury Plaintiff

sustained from receipt of those transmissions was not reasonable, but was an exaggerated reaction based upon Plaintiff's pre-existing anxiety disorder and general fears.

### **Legal Discussion**

Summary judgment is a means available to litigants for prompt and expeditious disposition of a controversy without a trial, when there is no genuine dispute as to any material fact and the party seeking judgment is entitled to judgment as a matter of law. Discovery has been conducted in this matter, and both parties have fully briefed the issues. Defendant's summary judgment motion is ripe for disposition.

By way of background information, with the advent of the world wide web and all its new technological means for communication, the civil cyberstalking statute at issue here is a recently enacted one designed by our legislative branch to curb the ever- expanding opportunities for the untoward harassment of our citizens. In order to succeed in a civil action under MCL § 12-775, the Plaintiff must establish, by a preponderance of the evidence, that another person "knowingly and without lawful justification, and on at least two separate occasions . . . harasses another person through the use of an electronic communication." MCL § 12-775(A). The statute defines "harasses" as engaging in a "knowing and intentional course of conduct directed at a specific person that alarms, torments, or terrorizes that person." MCL § 12-775(C)(2). Further, the conduct at issue must be such that would cause a "reasonable person to suffer substantial emotional distress, or be in fear of bodily injury." Id.

As the statute plainly states, there exists an exception to the types of covered conduct in subsection (A), by inclusion of the phrase "without lawful justification." MCL § 12-775(A). Subsection (C)(3) defines "lawful justification" as "any peaceable, nonviolent, or non-threatening activity expressing political views or providing lawful information to others." MCL § 12-775(C)(3).

Here, in Defendant's view, two separate grounds warrant the entry of judgment in her/his favor: first, Defendant claims that s/he did not send the transmissions that Plaintiff has attributed to Defendant by virtue of (1) identity theft of her/his user identification and password in the chat room, (2) that s/he was not the user associated with the electronic mail address user94040@KZMail.com, and (3) that s/he did not create or contribute to the M\_Space internet web page at issue; and second, that (1) the two transmissions Defendant admits sending to Plaintiff as "Shockwave" are lawfully justified as non-violent communications, and (2) that neither of those communications could cause a reasonable person to suffer "substantial emotional distress" or "fear of bodily injury" as required by the statute. Defendant claims that Plaintiff's particularly fragile emotional state and pre-existing generalized anxiety disorder exaggerated any reasonable reaction to those two communications.<sup>1</sup>

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<sup>1</sup> Defendant also raises the defense that, since s/he was not prosecuted by the Madison County Attorney's Office for the crime of cyberstalking due to the apparent untraceability of both the electronic mail address user and the M\_Space internet web page posting, s/he is somehow immune from civil proceedings as well. Of course, since the burden of proof in criminal proceedings is far greater than that of civil proceedings, *i.e.*, proof of one's case beyond a reasonable doubt versus by a preponderance of the evidence, the lack of a criminal prosecution has no bearing on the viability of a civil lawsuit challenging the same conduct. Therefore, such reasoning is not a proper basis for the entry of judgment in Defendant's favor.

In order to prevail at trial, Plaintiff must prove, by a preponderance of evidence, that (1) Defendant did, in fact, intentionally direct at least two threatening transmissions to Plaintiff and, if successful with that venture, (2) that Plaintiff, under a “reasonable person” standard, suffered substantial emotional distress or fear of bodily harm as a result of those transmissions.<sup>2</sup> If Plaintiff prevails on both fronts, the jury will then reach the issue of damages.

The record before the Court cannot be said to be free from genuine issues, or disputes, regarding the material facts of this case. First, Plaintiff must demonstrate that Defendant knowingly directed, on two separate occasions, threats to Plaintiff via electronic means. The evidence of record, which consists of various sworn witness statements and other associated exhibits, does not conclusively establish either that Defendant, or someone *other* than Defendant, authored and transmitted the threatening communications to Plaintiff, either as “Fatalflaw”, electronic mail address user94040@KZMail.com, or via the M\_Space internet web page posting. It is not the responsibility, nor the ability, of the judge to rule on genuine issues of fact at the summary judgment stage – that is the sole province of the jury. Since there is conflicting evidence of record, the Court cannot, and will not, rule in either party’s favor on this issue at this stage of the proceedings.

The same can be said regarding the second argument in Defendant’s motion for summary judgment. Whether Defendant’s admitted transmissions to Plaintiff as “Shockwave” qualify as harassing statements under the act, or are lawfully justified excepting them from the reach of the statute, is an issue of fact for the jury to determine, not an issue of law for the judge to decide. Similarly, whether Plaintiff, as a reasonable person, suffered substantial emotional distress or fear of bodily harm as a result of receiving these transmissions, as a matter of liability distinct from the issue of damages, is also a matter of fact for the jury to determine.

This is a case of first impression in this Court, and one raising important questions of vast public importance based on a recently enacted statute. In accordance with our adversarial system of justice, a jury of the parties’ peers will hear all admissible evidence, weigh it accordingly, and reach conclusions of fact to which this new law will be applied.

Therefore, this court enters the following Order:

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<sup>2</sup> Here, however, the parties have agreed that the issues of liability and damages will be bifurcated, such that only the issue of liability will be tried to a jury and, in the event that Plaintiff establishes liability, a second phase of that jury trial will separately address the issue of damages.

**STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF MADISON**

JAMIE J. ANDERSON,

Plaintiff,

vs.

TAYLOR F. WILLIAMS,

Defendant.

Case No. 2011 MT

**ORDER**

**AND NOW**, this 3<sup>rd</sup> day of January, 2011, Defendant Taylor Williams' summary judgment motion is hereby DENIED. This case is scheduled for a one-day trial during the March 2011 Civil Trial Term.

**BY THE COURT**

Distribution:  
Plaintiff's counsel  
Defendant's counsel

**STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF MADISON**

<p>JAMIE J. ANDERSON,</p> <p style="text-align:right">Plaintiff,</p> <p style="text-align:center">vs.</p> <p>TAYLOR F. WILLIAMS,</p> <hr/> <p style="text-align:right">Defendant.</p>		<p>Case No. 2011 MT</p>  <p><b>MINUTE ENTRY</b></p>
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**The parties have stipulated to the following:**

1. For purposes of this mock trial problem, it is stipulated that the Michigan Compiled Laws include MCL § 12-775: Cyberstalking.
2. This case will be bifurcated. Only the issue of whether the defendant’s action(s) caused plaintiff’s alleged harm is before the jury. The issue of damages is not before the jury.
3. All pleadings and exhibits (and their pre-markings) are authentic. The parties reserve the right to dispute any legal or factual conclusions based on these items and to make objections other than to authenticity.
4. All signatures in these materials are authentic.
5. Only registered student users of the Clearwater High School computer network system can access the system by logging into the system using a designated username and password. Once logged on, the registered student user can access school email and school sponsored chat rooms.
6. All students registered to use the computer network system must be logged on to view or participate in live chat room discussions. The contents of any chat

discussion remain viewable for the entire day that they are posted. The contents are not viewable to registered users after midnight of the day they are posted.

7. Any registered student user who logs onto the school computer network system cannot log on again at the same or on another computer, using the same username and password, until s/he log outs and ceases her/his current session.
8. During the week of March 8 through 10, 2010, Shockwave, Fatalflaw and Jammin@ClearwaterHS logged onto the senior class chat room only at the times indicated in Exhibits 1 through 4.
9. All times depicted on chat room dialogue and emails, in Exhibits 1-5, are accurate.
10. Plaintiff's bedroom window, as shown in Exhibit 6, is the larger window with the air conditioner in it. The picture was taken at some time prior to October 2009. There was no air conditioner in the window in March 2010.
11. The crossed-off word on the inside cover of Defendant's 11<sup>th</sup> grade English textbook, depicted in Exhibit 8, is visible upon close inspection. The crossed off word appears to be "Kingcrag."

## **JURY INSTRUCTIONS**

Ladies and Gentlemen of the Jury:

It will be your duty to decide the facts. You must decide the facts only from the evidence presented in court. You must not speculate or guess about any fact. You must not be influenced by sympathy or prejudice. You will hear the evidence, decide the facts, and then apply the law I will give you to those facts. That is how you will reach your verdict(s). In doing so you must follow that law whether you agree with it or not. You must not take anything I may say or do during the trial as indicating any opinion about the facts. You, and you alone, are the judges of the facts.

### **The Evidence**

You will decide what the facts are from the evidence presented here in court. That evidence will consist of testimony of witnesses, any documents and other things received in evidence as exhibits, and any facts stipulated, or agreed to, by the parties or which you are instructed to accept.

You will decide the credibility and weight to be given to any evidence presented in the case, whether it be direct evidence or circumstantial evidence. **Direct evidence** is a physical exhibit or the testimony of a witness who saw, heard, touched, smelled or otherwise actually perceived an event. **Circumstantial evidence** is the proof of a fact from which the existence of another fact may be inferred. You must determine the weight to be given to all the evidence without regard to whether it is direct or circumstantial.

Admission of evidence in court is governed by rules of law. I will apply those rules and resolve any issues that arise during the trial concerning the admission of evidence. If an objection to a question is sustained, you must disregard the question and you must not guess what the answer to the question might have been. If an exhibit is offered in evidence and an objection to it is sustained, you must not consider that exhibit as evidence. If testimony is ordered stricken from the record, you must not consider that testimony for any purpose. Do not concern yourselves with the reasons for my rulings on the admission of evidence. Do not regard those rulings as any indication from me of the credibility or weight you should give to any evidence that has been admitted.

In deciding the facts of this case, you should consider what testimony to accept, and

what to reject, you may accept everything a witness says, or part of it, or none of it. In evaluating testimony, you should use the tests for accuracy and truthfulness that people use in determining matters of importance in everyday life, including such factors as: the witness' ability to see or hear or know the things to which he/she testified; the quality of his/her memory; the witness' manner while testifying; whether he/she has any motive, bias, or prejudice; whether the witness is contradicted by anything he/she said or wrote before trial, or by other evidence; and

the reasonableness of the testimony when considered in the light of the other evidence. Consider all of the evidence in light of reason, common sense, and experience.

A witness qualified as an expert by education or experience may state opinions on matters in that witness's field of expertise, and may also state reasons for those opinions. Expert opinion testimony should be judged just as any other testimony. You are not bound by it. You may accept or reject it, in whole or in part, and you should give it as much credibility and weight as you think it deserves, considering the witness's qualifications and experience, the reasons given for the opinions, and all the other evidence in the case.

As I mentioned earlier, it is your job to decide from the evidence what the facts are. Here are six rules on what is and what is not evidence:

1. **Evidence to be considered:** You are to determine the facts only from the testimony of witnesses and from exhibits received in evidence.
2. **Lawyers' statements:** Ordinarily, statements or arguments made by the lawyers in the case are not evidence. Their purpose is to help you understand the evidence and law. However, if the lawyers for both/all parties agree or stipulate that some particular fact is true, you should accept it as true.
3. **Questions to a witness:** By itself, a question is not evidence. A question can be used only to give meaning to a witness's answer.
4. **Objections to questions:** If a lawyer objects to a question and I do not allow the witness to answer, you must not try to guess what the answer might have been. You must also not treat the objection as evidence or guess the reason why the lawyer objected in the first place.
5. **Rejected evidence:** At times during the trial, testimony or exhibits will be offered as evidence, but I might not allow them to become evidence. Since they never become evidence, you must not consider them.
6. **Stricken evidence:** At times I may order some evidence to be stricken, or thrown out. Because it is no longer evidence, you must not consider it.

### **Burden of Proof and the Elements of the Claim**

Burden of proof means burden of persuasion. On any claim, the party who has the burden of proof must persuade you, by the evidence, that the claim is more probably true than not true. This means that the evidence that favors that party outweighs the opposing evidence. In determining whether a party has met this burden, consider all the evidence that bears on that claim, regardless of which party produced it. In civil cases such as this one, the plaintiff has the burden of proving those contentions that entitle him/her to relief.

In this case, the plaintiff has the burden of proving that the defendant committed cyberstalking. If, after considering all of the evidence, you feel persuaded that these propositions are more probably true than not true, your verdict must be for the plaintiff. Otherwise, your verdict should be for the defendant.

**The Elements of Civil Cyberstalking:** A defendant is liable under MCL § 12-775 for cyberstalking when s/he knowingly and without lawful justification, and on at least 2 separate occasions, harasses the plaintiff through the use of an electronic communication. To prevail, the plaintiff must prove each of the following propositions by a preponderance of the evidence:

- That plaintiff received at least two electronic communications [defined as any transfer of signs, signals, writings, sounds or data of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system. ("Electronic communication" includes transmissions by a computer through the Internet to another computer)]; AND
- That the defendant was responsible for transferring the electronic communications alleged to have harassed the plaintiff; AND
- That the electronic communications transferred by defendant harassed the plaintiff; AND
- That the defendant knowingly harassed the plaintiff; AND
- That the harassing communications were specifically directed to the plaintiff; AND
- That there was no lawful justification for the communication [defined as any peaceable, nonviolent or nonthreatening activity intended to express political views or to provide lawful information to others]; AND
- That the communications alarmed, tormented or terrorized the plaintiff; AND
- That plaintiff, as any reasonable person would, suffered substantial emotional distress as a result OR that plaintiff, as any reasonable person would be, was in fear of bodily injury.

If you find, after consideration of all the evidence, that all of the above elements more likely than not occurred, you should find the defendant liable.

## STATEMENT OF JAMIE ANDERSON

1

2 I am Jamie Anderson and I graduated from Clearwater High School (CHS) in June  
3 2010. I'm currently 19 years old and enrolled at Clearwater Community College for the  
4 spring term. I live with my parents at 447 St. Mark's Street, Clearwater, Michigan. I had  
5 to delay college for a semester due to all the problems caused by Taylor Williams. I  
6 hope to transfer to MSU if I can recover some more; I am still having trouble sleeping  
7 and have nightmares. I would have gotten into a better school if Taylor had not set  
8 out to sabotage me. I was on the verge of being class valedictorian which would have  
9 won me a scholarship and helped me afford tuition at one of two Ivy League schools I  
10 had been accepted to. But when all of this happened, I could not concentrate and had  
11 a real poor final quarter and lost the scholarship. I think after this court stuff is  
12 resolved I can move on with my life. I need closure. I need to know it will not happen  
13 again and that Taylor Williams will be held accountable.

14

15 This all started because our school sponsors a chat room. I didn't even use the chat  
16 room, though, until like in January of my senior year when I needed to find out the  
17 next week's math assignment. So I logged on to the senior class chat room from  
18 home and I got an immediate response. After that experience, I became kind of  
19 hooked. My chat room and email user names were the same,  
20 Jammin@ClearwaterHS and Jammin@ClearwaterHS.edu. My best friend Casey  
21 Waller, who graduated with me, always called me Jam or "the Jam" because my room  
22 at home was so messy that the door jammed up against stuff. My real name is Jamie, so  
23 it fit.

24

25 Prior to the start of every school year, before we register to use the school's chat  
26 room and email accounts, we have to read and sign the usual release that says school  
27 authorities monitor user activity. In each chat room, there is a "red button" scheme to  
28 protect students from sleazy activities. We were warned to remain anonymous and not  
29 reveal personal information. Thinking back, I should have been much more careful in  
30 choosing a user name and email address. I think Taylor knew who I was by my name  
31 and targeted me.

32

33 This whole nightmare started last March 8, right before third quarter exams. I was  
34 logged on to the senior class chat room and students were talking about joggers  
35 running outside. Someone named Fatalflaw wrote a really weird post: "Jam's in the  
36 window. Exercise all you want, my friend, you won't be able to run fast enough."  
37 Someone else on the thread asked if I was on the track team and after I said no,  
38 Fatalflaw chimed in with this even weirder post: "Not on the team, but practices  
39 nonetheless. In the window." I had never seen Fatalflaw post in the senior class chat  
40 room before but I thought whoever it was had been watching me at home. The night  
41 before Casey Waller had been at my house and we'd been uploading music and  
42 pictures to each of our M\_Space profiles. After that, we started goofing around in my  
43 room, doing jumping jacks and running in place. I rarely close the drapes, so anyone  
44 could have seen us through the window. A lot of kids walk by my house since it is  
45 only a few blocks from the high school. I assumed Fatalflaw saw us exercising. I called

1 Casey, who hadn't been logged on and Casey kind of shrugged it off.

2

3 I kind of forgot about Fatalflaw until two days later, Wednesday, March 10, when s/he  
4 sent me more weird messages. The first said "Jammin has been seen wearing school  
5 colors all week. Be careful, water bottles, sideline bottles, they don't always contain  
6 water, they can be deadly." That shook me up because I thought the line about school  
7 colors and water was directed at me. I'm kind of known for carrying a water bottle  
8 everywhere at school and also, I had been wearing my soccer team warm ups, which  
9 are orange and black. Our team was doing fundraising at school all week to travel to an  
10 out-of-state tournament. Shockwave then joined the thread and said s/he knew Fatalflaw  
11 somehow and thought the whole thing was "gentle ribbing." If only.

12

13 By the way, Shockwave was someone who had posted in the senior class chat room all  
14 year. Though I didn't know it was Taylor Williams at the time, I began to suspect.  
15 There was an incident earlier that Wednesday (March 10) in the cafeteria, that thinking  
16 back, connected Taylor to Shockwave and Fatalflaw. Over lunch, Casey and I walked by  
17 Taylor who began laughing and pointing at us. Taylor said, and we both heard it  
18 perfectly, "there goes Jammin@ClearwaterHS, The Jam." Then Taylor said  
19 menacingly, "Jam better watch what s/he eats, might not be able to get away so fast next  
20 time."

21

22 Although I was a bit scared by the posts I felt like a detective looking for evidence to  
23 determine for sure if someone was marking me for trouble. Casey was also drawn to it,  
24 even though it was freaking us out. It really never occurred to me to press the red  
25 button though I felt panicky.

26

27 The next day, March 11<sup>th</sup>, I logged onto the chat room from home. There was a flurry  
28 of chatter about our history class topic on terrorism and the law. It was a pretty  
29 stimulating discussion actually. But then I saw another reference to "Jam," this time  
30 from Shockwave, who wrote: "Anticipation is what it's all about, and building fear.  
31 You never know when you'll be forced to face your greatest fear ... suffocation,  
32 poison, torture, painful prolonged death." I made the mistake of calling Shockwave a  
33 freak. Shockwave responded by saying "Jam is full of fear. Would make a great  
34 experiment." And then Shockwave wrote "You can keep your friends around you, but the  
35 clock is ticking. Time is on my side." It sounded almost the same as the messages from  
36 Fatalflaw. And then Fatalflaw joined in again saying something that really scared me:  
37 "Time is running out, my Jammin friend. You should really watch what you drink. Water  
38 can be poisonous, when it's not water."

39

40 A day later, March 12th, I twice logged on after school and saw more scary postings, this  
41 time by both Shockwave and Fatalflaw. The first time I was on for only a few minutes. I  
42 read back a few posts and saw that someone had just responded to Shockwave's  
43 comments from the day before regarding suffocation and torture, saying that the  
44 language was inappropriate and scary. I was glad others recognized what I thought.  
45 Shockwave was logged on and tried to defend her/his comments saying, "I admit to  
46 being a bit mad ... but madness can be a good thing. It gives me direction, focus and an

1 outlet for my aggression.” Also, Shockwave basically admitted knowing my identity.  
2 Then, as soon as Shockwave noticed that I was logged on, Shockwave asked me whether  
3 I could come out of my second floor roost to play. That really scared me because it tied  
4 in to Fatalflaw’s comment about seeing me exercise in the window. I thought  
5 Shockwave and Fatalflaw were part of a conspiracy. I thought about using the panic  
6 button, but I really didn’t want to draw attention to myself that way. What if they had  
7 closed down the CHS chat room? It would have been my fault and everyone would have  
8 blamed me.

9

10 I logged off right away, locked the bedroom door and called Casey’s mobile. Casey  
11 really calmed me down. I said I wanted to tell my parents, but Casey wasn’t sure.  
12 Casey thought we could figure it out on our own. Anyway, I logged back on about an  
13 hour later because I was curious. I saw that while I was off, Fatalflaw and Shockwave  
14 had been talking about torture, though Fatalflaw had since logged off. Shockwave  
15 immediately noticed I was back on and made a remark about my exercising and how  
16 everyone will become a victim. I stayed quiet because I was petrified and logged off right  
17 after Shockwave did.

18

19 I told my parents about the chat room threats and they took me to the police station that  
20 night. We met with Officer Chris Hopp. And that is her/his real name. After I gave  
21 my story, which was pretty much everything I mentioned above, Officer Hopp said  
22 police would investigate after the weekend, because they didn’t think I was in imminent  
23 danger.

24

25 I thought the worst was over, but the next day, Saturday March 13, was the most  
26 unnerving part. I'd received an incoming KZMail from a sender named  
27 user94040@KZMail.com. It was sent to my school account and had “Fear” in the subject  
28 line. I’m aware KZMail.com gives out free email accounts and is often used by  
29 spammers. It’s pretty much anonymous, so far as I can tell. The sender figured my  
30 school email address, I guess, by just adding “.edu” to my name  
31 Jammin@ClearwaterHS. Against my better judgment, I opened the mail. The message  
32 said, "FF may lose control at any time ... longs to test your control. How long will you  
33 last, my jammin friend? If you're afraid, you better stay locked up in your 2nd floor  
34 roost and not go out to play. You could be sorry. You could be dead.” The sender  
35 then told me to check out a link to an M\_Space page. My heart was pounding.

36

37 I clicked the link and the page that came up freaked me out: it was all about me and how  
38 I was the subject of some bizarre experiment. The page included Fatalflaw’s chat room  
39 messages from that week, including some I hadn’t seen, like that Jam would be buried  
40 and rot, and talk of pain and suffering. Most unnerving of all was a picture of my  
41 bedroom window! It was the same digital photo I had uploaded and posted on my  
42 own my M\_Space page a few months back but which I had since taken down. I was  
43 frozen there in front of my computer calling for my parents. I was trembling. Taylor had  
44 gone way too far with this stuff.

45

46 I believe Taylor chose to stalk me because Taylor has a deranged interest in fear and also  
47 because we were competing with about ten others for the school’s valedictorian

1 scholarship. I don't think it is a coincidence that right after Taylor was arrested those  
2 chat room messages stopped and the M\_Space page was never completed.

3

4 The valedictorian scholarship is a really big deal at Clearwater High School. Former  
5 Clearwater grad Sue Gugel, who made piles of money in Silicon Valley, endowed  
6 the fund. The valedictorian can get up to \$15,000 per year for four years. Co-  
7 valedictorians split the funds. I was pretty sure I would get the whole 15K. I thought  
8 Taylor and I had a friendly competition, but Taylor must have been intimidated by my  
9 grades and sought to sabotage my last semester, which s/he did. My GPA fell from a  
10 perfect 4.0 through seven semesters, to a 3.33 my last semester. My final GPA fell to  
11 3.83 and my class rank with it, from a tie with Taylor for number one to number nine. I  
12 lost the Gugel. Taylor was certainly capable of it. We have kind of a long history.

13

14 Taylor and I grew up in the same neighborhood and s/he knows where my room is. In  
15 elementary school, we often played together. When we got to middle school, we sort  
16 of drifted apart. I became interested in sports and Taylor got involved with computers  
17 and psychology. We still talked but one day in 8<sup>th</sup> grade when we were at the bus  
18 stop, Taylor showed me a bottle filled with clear liquid that had a chemical symbol on it.  
19 Taylor then "accidentally" spilled some on my arm. I was obviously scared but Taylor  
20 just stood there laughing, telling me it was only water. S/He told me that s/he just wanted  
21 to see my reaction. Taylor commented on how it was the fear that is almost worse than  
22 the injury itself, especially if the anticipation lasts for a long time. I just looked at Taylor  
23 like s/he was an alien. After that startling episode, I kept Taylor at bay.

24

25 Something strange happened again in English class during our junior year. Taylor was  
26 frustrated that none of the main characters in assigned readings presented challenging  
27 psychological profiles. The teacher permitted Taylor to do an extra-credit report on  
28 Jack the Ripper, which I thought was an unfair advantage the rest of the class didn't get.  
29 The presentation was horrible, but I guess I can be a bit more sensitive than some.  
30 The report was unnecessarily graphic. Taylor seemed to enjoy the class' discomfort with  
31 some of the descriptions and photographic materials circulated during the report. I asked  
32 the teacher if I could be excused in the middle of the report, I was that upset. I was given  
33 permission, but had to explain to the teacher why I was so upset. I did not discuss the  
34 incident with my parents when I got home and was actually sort of embarrassed that a  
35 report could make me so upset.

36

37 I must say that all these messages from Taylor about me being some guinea pig in a  
38 bizarre experiment took a terrible toll on me. I mean, Taylor threatened to impose future  
39 bodily harm on me, to poison my water, that kind of stuff. While this was occurring, I  
40 couldn't sleep or eat and had frequent panic attacks and lots of nightmares. I would often  
41 get out of bed and look across the street to see if someone was watching. During the day,  
42 I would constantly look over my shoulder and made sure Casey was always with me.  
43 Eventually, I got help from a psychologist and family doctor. They both diagnosed me  
44 with generalized anxiety disorder and prescribed medication and psychotherapy sessions,  
45 which have helped, though I am still suffering. I had to stop the therapy when my  
46 parent's insurance ran out.

47

**WITNESS ADDENDUM**

1  
2  
3

4 I have reviewed this statement, and I have nothing of significance to add. The  
5 material facts are true and correct.

Signed,

/s/  
Jamie Anderson

SIGNED AND SWORN to before me on this 13<sup>th</sup> day of January, 2011.

/s/  
Notary Public  
State of Michigan

My Commission Expires: November, 1, 2011

## STATEMENT OF CHRIS HOPP

1

2 I am Chris Hopp, a Clearwater City Police Officer assigned to our elite cyber crimes  
3 squad, which means I've received special training in computers and on-line security  
4 issues. I have a degree in computer science from Northern Michigan University and  
5 graduated with honors ten years ago. I served four years in the Navy as a computer  
6 technician on board the U.S.S. Reliant. This is my 6th year on the force. I spend much of  
7 my time investigating cyber crimes, including identity theft and child predation. It is a  
8 growth industry.

9

10 I was on duty the night of March 12, 2010, when Jamie Anderson and her/his parents  
11 filed a criminal complaint concerning a cyberstalker. Jamie was, at the time, a high  
12 school senior at Clearwater High School. Jamie presented as highly agitated,  
13 nervous, shaking and at times crying. Jamie's parents tried to tell me what happened,  
14 but they were unsure. So, I set out to calm Jamie down by offering soda and making  
15 small talk about her/his school soccer team. Jamie relaxed a bit but remained on edge,  
16 occasionally wringing her/his hands and pacing. Jamie was clearly frightened.

17

18 After about fifteen minutes, I was able to interview Jamie. S/he said that over the past  
19 week at school, between Monday, March 8 and Friday, March 12, persons using the  
20 pseudonyms Fatalflaw and Shockwave had threatened her in a CHS chat room.  
21 Jamie didn't have printed dialogue, but claimed the chat room communications indicated  
22 these persons had been watching Jamie both at school and through Jamie's bedroom  
23 window. S/he stated that talk of a painful and prolonged death was directed at her/him  
24 and that s/he was warned to watch out because her/his water bottle might be poisoned.  
25 Jamie offered that s/he is known for carrying a water bottle at school. I asked Jamie if  
26 s/he had contacted or complained to any school officials or personnel, and s/he replied  
27 s/he had not.

28

29 Jamie offered that there had been an incident in the school cafeteria two days earlier,  
30 on Wednesday, March 10, involving fellow senior Taylor Williams that had also upset  
31 Jamie. According to Jamie, Taylor saw Jamie and teased Jamie about being nicknamed  
32 "the Jam." I asked Jamie if s/he believed Williams could be one of the chat room  
33 perpetrators and Jamie said yes. Jamie went on to describe Taylor Williams as a  
34 "freak" and "loser" who had a bizarre interest in the macabre and who, four years  
35 earlier, had "accidentally-on purpose" spilled liquid on Jamie that Williams said was  
36 poison, but was water. Jamie said that at the time Taylor spilled water, Taylor acted  
37 very strangely, as if Taylor were conducting an experiment on Jamie. Jamie believed  
38 the allusions to poisonous water bottles in the chat room discussion were connected to  
39 that event.

40

41 I concluded the interview and told Jamie's parents I would investigate more in the  
42 next week. I advised Jamie to stay out of the chat room and inform me of new  
43 developments. It seemed like a fairly simple investigation though since I assumed that  
44 this school-run chat room was only accessible to a defined set of registered users and  
45 that generally, if you aren't registered and logged on, you can't even view the chat.

1 These assumptions were later confirmed by the school. My plan was to inform the  
2 school of Jamie's complaints and find out who was registered as Fatalflaw and  
3 Shockwave, and obtain the relevant chat room discussions.

4  
5 On Monday morning March 15, I received a call from Jamie's dad who said someone  
6 identified as "FF," who he assumed was Fatalflaw, emailed Jamie over the weekend  
7 with a threatening message that included a link to an alarming M\_Space page. I gave  
8 Jamie's dad my email address and told him to forward the email to me.

9  
10 On Tuesday, March 16, I contacted Clearwater High School administration and met with  
11 the computer instructor and webmaster Pat Clifford. Instructor Clifford provided me  
12 copies of all chat room dialogue that involved Jamie's pseudonym  
13 Jammin@ClearwaterHS, as well as Fatalflaw or Shockwave, from the week of March 8.  
14 I read the print outs and found relevant dialogue on March 8, 10, 11 and 12.

15  
16 Instructor Clifford, or Sensei Cliff as s/he's known, accessed school computer records  
17 and confirmed that Jammin@ClearwaterHS was registered to Jamie Anderson and  
18 Shockwave was registered to Taylor Williams. Shockwave's password is "Jtripp06."  
19 Curiously, Clifford discovered Fatalflaw had not been registered for the 2009 school  
20 year which completely perplexed the Sensei. However, s/he recalled the pseudonym  
21 Fatalflaw from monitoring Clearwater High School chat rooms the prior school year.  
22 Sure enough, Clifford discovered Fatalflaw had been registered to Taylor Williams the  
23 year before with "Kingcrag," the associated password. According to Clifford, that  
24 username and password should have been automatically deactivated at the end of the  
25 2008-09 school year. Clifford discovered that March 8, 2010, was the first time  
26 Fatalflaw had logged onto the school computer system during the 2009-10 school year.

27  
28 During my investigation, Sensei Cliff confirmed that before any student can use  
29 school email or school chat rooms, they must log on with their school username and  
30 password. They don't need to do this to access the internet though. In addition, any  
31 student who seeks access to school email or school chat rooms from non-school  
32 computers via the internet must also logon using the school username and password. All  
33 chat room and email logon history is available to the school, including which  
34 school computer was used if the student used a school computer. Using this logon  
35 history, I was able to determine that every chat room posting made by Shockwave and  
36 Fatalflaw, between March 8 and March 12, was made from Clearwater High School  
37 computers. I also discovered that all postings made by Shockwave were made from  
38 computers located in the Clearwater High School computer lab. It was the same for  
39 Fatalflaw's postings except for one. The March 8 posting was made from a Library  
40 computer, 2nd floor student lounge. The lab and library are about a one minute walk  
41 from each other.

42  
43 With regard to the computer lab, Sensei Cliff informed me s/he was usually the on-  
44 site after-school "babysitter" in charge of monitoring the computer lab, and had been so  
45 the week of March 8. S/He indeed recalled that Taylor Williams, who was a regular  
46 presence in the lab, had been in the lab after school every day that week, though Cliff did

1 mention that Taylor left early Thursday evening to do an interview with the school news.

2  
3 With this information in hand, I met with Taylor at the police station after school on  
4 Wednesday, March 17. I showed her/him the chat room dialogue from March 8 through  
5 10. Williams readily admitted being Shockwave but denied posting as Fatalflaw, though  
6 s/he admitted that had been her/his Clearwater High School username during junior year.  
7 Asked how this could have happened, Williams suggested her/his identity had been  
8 stolen by someone out to get Taylor or even Jamie. Taylor quickly recalled that during  
9 her/his junior year, s/he wrote the Fatalflaw username and Kingcrag password in an  
10 English textbook. Taylor believed I could track it down.

11  
12 Later that week, on March 19, I got around to opening the email and M\_Space page link.  
13 I found them much more disturbing than the chat room postings. The content included an  
14 actual threat of future bodily harm against Jamie on the M\_Space page and alluded to  
15 the fact that Jamie was the subject of an experiment in creating fear. The major  
16 problem posed was that both the KZMail and M\_Space page were most likely  
17 untraceable, which they were. The email had been generated through a KZMail.com  
18 account under the username user94040@KZMail.com and sent to Jamie Anderson at  
19 her/his school email address. KZMail.com is a company like Yahoo.com that allows  
20 anyone to register and obtain a free email account. All you need is an internet connection  
21 to do so. Under the law, KZMail doesn't have to make any real attempt to verify that  
22 the account users are in any way traceable to real people. Indeed, according to  
23 KZMail records, the user94040 account was created Tuesday, March 9, and the account  
24 was deleted on March 13. According to KZMail, the only email sent from the account  
25 was the one to Jammin@ClearwaterHS.edu. The person who registered the account  
26 did so under the name Jammin Gugel, used the password \$15Kx4nyet, identified as a  
27 female, listed DOB as 1/1/50 and postal code of 94040. Under the security question for a  
28 lost password, the registrant chose the security question as "who was your childhood  
29 hero" with the answer JTR.

30  
31 As for the M\_Space page, it was also a dead end. M\_Space.com, by the way, is a  
32 hugely popular social networking website. It is basically a way for mainly kids to  
33 advertise themselves by creating their own web pages and listing their network of  
34 friends, creating personal profiles, and uploading photos, music and videos. It has an  
35 astounding number of registered users, over 100 million English speakers by last  
36 count. Kids basically go to the website, logon and fill in key fields provided by  
37 M\_Space. There is no fee. The only information required to join is a valid email address.

38  
39 I was able to find out from M\_Space.com that the page in question was created Tuesday,  
40 March 9, 2010, and updated once, on Friday, March 12, times unknown. The person who  
41 registered did so under the name of Jammin Gugel, the password \$15Kx4nyet and used  
42 the email address user94040@KZMail.com, which registered as valid, according to  
43 M\_Space. M\_Space has since deleted the page.

44  
45 Prior to seeing the KZMail and M\_Space page, I thought the chat room discussions were  
46 a school disciplinary issue. Now, it was looking like a cyberstalking crime with Taylor

1 the prime suspect, possibly the first such prosecution in our state under the new  
2 cyberstalking law. Both the KZMail and M\_Space page directly connected the sender of  
3 the KZMail and the creator of the M\_Space page to Fatalflaw, who is Taylor  
4 Williams. The M\_Space page in particular incorporated the content of Fatalflaw's  
5 Clearwater High School chat room discussions and Fatalflaw fit the profile of someone  
6 who had access to all the chat room discussions at issue. Less directly, but still  
7 convincingly, the content of Fatalflaw's chat room discussions further connected these  
8 items to Shockwave's chat room discussion, who is admittedly Taylor Williams. I thus  
9 went back to investigate whether it was possible someone other than Taylor had  
10 logged in as Fatalflaw in the chat room.

11  
12 First, I spoke with Clifford again, on March 19, about how, if Fatalflaw and Shockwave  
13 were the same person, they could both have been logged on to the senior class chat room  
14 at the same time on March 12. Clifford explained that only one registered user may be  
15 logged on at any one time on a single computer and that if a user is logged on, that same  
16 user cannot log on to the school system using the same username and password from  
17 another computer, until that username is logged out. Sensei Cliff offered to get me a  
18 print out of the log on history but I didn't really need to know which computers  
19 Fatalflaw and Shockwave had posted from since the pertinent information was that they  
20 had posted from different computers in the same room.

21  
22 I also tried to talk to Taylor again about where s/he had been and what s/he had been  
23 doing Saturday, March 13, when the KZMail was sent with the M\_Space page link,  
24 but her/his parents refused any more contact. I eventually obtained a search warrant for  
25 Taylor's home computer. Our experts searched it and found no relevant connections to  
26 the KZMail.com or M\_Space.com websites, basically because it had never supported an  
27 internet connection. This was no surprise though since Taylor probably accessed both  
28 websites using the school-provided internet. Or, s/he could easily have used a public  
29 computer with internet access. There are three internet cafés and a public library in the  
30 downtown area alone that provide free internet access.

31  
32 Next, I investigated Taylor's claim that someone stole her/his Fatalflaw name and  
33 password from a school book. I checked with the eleventh grade English teacher who  
34 discovered that the textbook used by Taylor, which had a school identification number  
35 on it, had not been assigned to a current junior class student. Since it was an extra copy,  
36 it had been shelved in the library with other school texts available for students who  
37 needed access to their text books, but who didn't have them. I did find, inside the cover  
38 of Taylor's old textbook, the Fatalflaw username and underneath was writing almost  
39 entirely crossed out, though upon closer inspection, I could still read a word that looked  
40 like Kingcrag. Library staff informed me that students used the textbooks occasionally,  
41 though they had no way of knowing which students or how many students looked in any  
42 one text book.

43  
44 Since I had no basis to believe someone other than Taylor was Fatalflaw and the  
45 author of the KZMail and M\_Space page, I decided to go ahead with criminal  
46 cyberstalking charges. Ultimately, the County Attorney's Office decided to drop the

1 prosecution, mainly because the lack of traceability to the KZMail and M\_Space page.  
2 This is a problem our legislators need to deal with. Going into cyberspace, whether it be  
3 chat rooms, interactive internet sites or sending and receiving emails from unknown  
4 persons, can all be like going into the rabbit hole; there is no way to tell if anyone is who  
5 they say they are in the cyberspace universe. It's a dangerous cauldron of anonymity,  
6 full of predators, identity thieves and other criminals. Little good comes out of  
7 cyberspace anonymity. Hopefully, someday, our legislators will wake up to this and  
8 make some laws that require verifiable traceability of all electronic communication. If  
9 such laws existed when this incident occurred, we would have definitive proof that  
10 Taylor Williams sent the KZMail and created the M\_Space page, and Taylor Williams  
11 would have been convicted.

12 **WITNESS ADDENDUM**

13  
14  
15 I have reviewed this statement, and I have nothing of significance to add. The material  
16 facts are true and correct

Signed,

/s/  
Chris Hopp

SIGNED AND SWORN to before me on this 13<sup>th</sup> day of January, 2011.

/s/  
Notary Public  
State of Michigan

My Commission Expires: November, 1, 2011

1 **STATEMENT OF MARTY D. ROBERTSON, MD**

2 My name is Marty Robertson, and I am a family practitioner. I earned my BA at  
3 Portland State University and my MD from the University of Oregon Health Sciences  
4 Center, also in Portland. It is there that I did both my internship and residency in  
5 family medicine.

6  
7 I am a member in good standing with the Michigan Board of Medicine, and I am  
8 certified by the American Board of Family Practice (“AMBF”), which means – I am  
9 proud to say – that that I have met the most rigorous standards necessary to practice  
10 family medicine, and I have achieved the highest level of education attainable in my  
11 field. I have also earned what are called *Certificates of Added Qualifications* (“CAQs”).  
12 These are offered in adolescent medicine, geriatric medicine, sports medicine, sleep  
13 medicine, and hospice/palliative medicine, provided the physician has met additional  
14 residency training requirements, which I did. My CAQs are in adolescent and sleep  
15 medicine.

16  
17 Family practitioners provide treatment for a variety of medical illnesses, as well as  
18 preventative care and health education for patients. We treat all family members,  
19 regardless of sex or age. We perform a broad variety of tasks and are expected to use a  
20 wide degree of creativity and latitude in our approach. We administer medications,  
21 perform checkups, and provide preventative care and counsel. Many of us perform  
22 minor surgery and still others – although certainly not I – deliver babies.

23  
24 I chose family practice because there was a shortage of primary care physicians or  
25 family practitioners, as we are more commonly called. This is due, I think, to three  
26 primary factors: the lesser prestige associated with the specialty, the lesser pay within  
27 the specialty, and the increasingly frustrating practice environment. In the United  
28 States, physicians are increasingly forced to do more administrative work and to take  
29 on higher malpractice premiums because of wildly profitable insurance monopolies  
30 that charge ridiculous amounts. But I digress. In my particular case, the AMBF  
31 requires me to pass a series of annual competency tests in various areas within my  
32 specialty, as well as in other areas outside my specialty, so that I am better able to  
33 diagnose my patients or refer them to further treatment.

34  
35 One of these areas is anxiety disorders, which affect nearly four million Americans  
36 each year. The anxiety disorders include panic disorder (with and without a history of  
37 agoraphobia), agoraphobia (with and without a history of panic disorder), generalized  
38 anxiety disorder, specific phobia, social phobia, obsessive-compulsive disorder, acute  
39 stress disorder, and post-traumatic stress disorder. In addition, there are adjustment  
40 disorders with anxious features, anxiety disorders due to general medical  
41 conditions, substance-induced anxiety disorders, and the residual category of anxiety  
42 disorder not otherwise specified.

43  
44 The exact cause of Generalized Anxiety Disorder, or GAD, is not fully known, but a  
45 number of factors – including genetics, brain chemistry and environmental stresses –  
46 appear to contribute to its development. As to genetics and its role in GAD, some

1 research suggests that family history plays a part because the tendency to develop  
2 GAD may be passed on in families. With regard to brain chemistry, GAD has been  
3 associated with abnormal levels of certain neurotransmitters in the brain.  
4 Neurotransmitters are special chemical messengers that help move information from  
5 nerve cell to nerve cell. If the neurotransmitters are out of balance, messages cannot  
6 get through the brain properly. As a result, it can alter the way the brain reacts in  
7 certain situations, leading to anxiety.

8  
9 In my experience as Jamie Anderson's physician, however, the GAD is definitely  
10 environmental resulting directly from her/his having received repeated threats from a  
11 cyberstalker. I have been the family doctor for the Andersons since s/he was six years  
12 old. Jamie has had routine physical examinations throughout the years I've known  
13 her/him. While it's true that other factors such as abuse, the death of a loved one,  
14 divorce, or changing jobs or schools, could lead to GAD, none of these is relevant in  
15 Jamie's case, and s/he has never displayed any signs of mental illness or psychological  
16 disorder. There is no history of severe physical ailment or medical condition in the  
17 family. In fact, the most serious thing for which we've treated Jamie was a broken  
18 nose, after s/he got hit in the face with a soccer ball.

19  
20 Jamie had an annual physical in December of 2009, and then came to see me in April of  
21 the following year. S/He was experiencing a variety of symptoms such as heart  
22 palpitations, sweating, insomnia, shortness of breath, feelings of panic, and so on.  
23 S/He described having several of these episodes, most recently in March of 2010,  
24 which s/he attributed to fears stemming from several cyberstalking incidents.

25  
26 The symptoms s/he told me about led me to consider that perhaps s/he was suffering from  
27 generalized anxiety disorder. This is usually treated with medication, specific types  
28 of psychotherapy, or both. Treatment choices depend on the problem and the person's  
29 preference. But well before treatment begins, the doctor must conduct a careful  
30 diagnostic evaluation to determine whether the symptoms actually are caused by GAD  
31 or a physical problem. Accordingly, I ordered a variety of tests including an MRI and a  
32 CAT scan, which didn't reveal anything out of the ordinary. As a matter of fact, the  
33 results were all well within normal ranges. What was of note, however, was that since  
34 her/his last physical s/he had dropped 13 pounds; this is hardly typical for a happy  
35 teenager. When all possible physiological ailments were ruled out, I diagnosed Jamie's  
36 condition as GAD, and my conclusion was confirmed by an independent psychological  
37 evaluation conducted at St. Winstons. It was then necessary to decide upon a treatment  
38 course for Jamie.

39  
40 As I mentioned previously, the two primary ways to treat GAD are medication and  
41 psychotherapy, either alone or in combination. For instance, I could have put her/him on  
42 benzodiazepines which are sedatives. They have the advantage of easing anxiety within  
43 30 to 90 minutes, but they can be habit-forming if taken for more than a few weeks. The  
44 most commonly prescribed among these are Xanax, Librium, Klonopin, Valium and  
45 Ativan. Unfortunately, all of them can cause unsteadiness, drowsiness, reduced muscle  
46 coordination and problems with balance. A different type of anti-anxiety medication

1 often prescribed for GAD is BuSpar. While this medication typically takes several weeks  
2 to improve symptoms, it doesn't pose a risk of dependence, but a common side effect  
3 is a brief feeling of lightheadedness shortly after taking it. Less common side effects  
4 include headaches, nausea, nervousness and insomnia. As a result, I did not consider any  
5 of these drugs suitable to treat a high school student.

6  
7 As for the psychotherapy, cognitive behavior therapy, which helps the patient identify  
8 unhealthy, negative beliefs and behaviors and replace them with healthy, positive  
9 ones, can help improve symptoms of GAD. It's based on the idea that the patient's own  
10 thoughts — not other people or their actions — determine how you react. In this  
11 way, even if an anxiety-producing situation doesn't change, a patient can change the way  
12 s/he thinks about it or responds to it. This is generally a short-term treatment and  
13 emphasizes learning to develop a sense of mastery and control over your thoughts and  
14 feelings. That's something I told her/him to discuss with the therapist I referred her/him  
15 to.

16  
17 Treatment for GAD is tailored to each person and given the severity of the feelings  
18 Jamie was experiencing related to the cyberstalking, it was a matter of some concern  
19 about how best to proceed. After all, the symptoms were severe enough to warrant more  
20 potent prescription drugs, and I certainly didn't want her/him to suffer unnecessarily.  
21 Nonetheless, I settled on a dose of 15 mg twice a day of Lamaprox, a very mild, non-  
22 habit-forming sedative, believing that if that weren't strong enough, then Jamie could  
23 discuss it with the therapist.

24  
25 I also encouraged Jamie to learn some stress management techniques and explained  
26 the preliminary evidence showing that aerobic exercise may have a calming effect on  
27 those who suffer from GAD. Finally, since caffeine, certain illicit drugs, and even  
28 some over-the-counter cold medications can aggravate the symptoms of anxiety  
29 disorders, I cautioned against ingesting any of those. I suggested s/he stay on the  
30 medication and continue therapy for at least a year, even if the GAD symptoms  
31 dissipated.

32  
33 It is my professional, medical opinion that Jamie's GAD is a direct consequence of  
34 the cyberstalking directed at her/him on the internet and in the chat rooms. Let's not  
35 forget about that young girl, Megan – she was from Missouri I believe – who committed  
36 suicide after being harassed on the internet by an anonymous person. Imagine how  
37 fearful it would make you to wonder if every person you saw or passed in the hall or  
38 on the street might be “the one?” It isn't surprising in the least that Jamie has  
39 developed GAD. As I mentioned previously, I've known her/him for years now, and  
40 there has never been even a hint of GAD until this cyberstalking business. Further, s/he  
41 has always been an excellent, confident student and nothing in her/his personal life has  
42 happened to change that except the cyberstalking incidents.

### **WITNESS ADDENDUM**

I have reviewed this statement, and I have nothing of significance to add. The

material facts are true and correct.

Signed,

/s/  
Marty R. Robertson, MD

SIGNED AND SWORN to before me on this 22nd day of December, 2010.

/s/  
Notary Public  
State of Michigan

My Commission Expires: November, 1, 2011

## STATEMENT OF TAYLOR WILLIAMS

1 I am Taylor Williams and am almost 19 years old. I graduated from Clearwater High  
2 School in 2010. I live at home with my parents and plan to go to college next year. A lot of the  
3 schools I applied to would not let me in with criminal charges pending. Since my name  
4 was cleared this fall, I should be able to go to any school I want. Unfortunately, I didn't  
5 get the valedictorian scholarship due to Jamie Anderson's bogus charges, and really thin  
6 skin. I graduated third overall, nonetheless. It's looking like I'll be able to afford tuition with  
7 some of the aid packages I've been offered.

8  
9 I plan to major in psychology with a minor in law enforcement. I am very interested in  
10 studying first-hand accounts of how victims survive traumatic events, their thought processes,  
11 their physical strengths and stuff like that. I mean, if we all knew what it took to survive a  
12 terrible situation, we'd be able to learn to withstand just about any terror we could ever expect.  
13 I think my research is going to be very useful someday. I have an honest curiosity about these  
14 things. I think most people have some interest in this topic, though not my CHS classmates.

15  
16 When I was at CHS, I often used the computers in the lab to conduct internet research  
17 or to access the CHS senior class chat room or school email. My parents are very caring, but  
18 they believe it is a waste to spend money on computers and other tech stuff. Plus, buying a  
19 new computer would have been an economic burden on my parents. They did permit me,  
20 however, prior to my senior year, to accept a used computer so I could write my papers and  
21 stuff but it didn't have internet connection, which really limited its usefulness. As a result, I was  
22 still a regular in the computer lab my senior year while school was in session, plus I was  
23 friendly with Sensei Cliff, the lab monitor. When school was out of session and during  
24 weekends, my only option was to access the internet at the public library downtown.

25  
26 The school chat room was a great way to share my thoughts. Student reaction to my posts  
27 often provided me great insight into my area of interest. My interest has always been purely  
28 academic. That said, I absolutely deny ever writing anything, under my senior year  
29 pseudonym, Shockwave, with intent to threaten any specific person. I only ever posted during  
30 my senior year as Shockwave, period. I was not Fatalflaw and had nothing to do with  
31 Fatalflaw's chat room threats to Jamie or with the KZMail, or the M\_Space page. Fatalflaw  
32 was a name I used my junior year that someone obviously stole and used to set me up.

33  
34 Anyone with half a brain who reads my posts in context will immediately discover that  
35 Jamie's claims are bogus. It's when you pull the dialogue apart and start looking for ugliness  
36 that it appears possibly threatening. On March 10, I made only two comments. The first was  
37 right after Fatalflaw had posted something about "Jammin" wearing school colors all week. My  
38 immediate thought was that it was strange someone had resurrected my username Fatalflaw  
39 from my junior year. I guess I assumed someone recalled the name and thought it really cool,  
40 which I guess was kind of an honor. Anyway, looking back, I should have suspected a set up  
41 of some kind and reacted more strongly, but hindsight is 20/20. Someone even asked if I  
42 knew Fatalflaw and I said "Aware of flaw." What I meant was kind of a double meaning: I knew  
43 of "a flaw" that allowed use of my old username.

1 On March 11, I posted some discussion specifically related to a history class discussion on  
2 criminals and crime. I interjected my philosophy about how some criminals use fear to  
3 control. Lots of students are often upset by this reality. I also wondered out loud how we  
4 students could handle being victims and suffering from pain, noting that doctors study that stuff  
5 all the time. My comment about whether “Jam” would volunteer to be the subject of such a  
6 study was just a tweak at Jamie. I pretty much knew Jamie was Jammin@ClearwaterHS given  
7 the name Jammin and because we’d both been posting on the senior class chat room all year.  
8 Jamie pretty much provided clues to her/his identity over the course of the year by stating that  
9 s/he ran cross country, played soccer, was in certain classes, etc. I bet you that by the end of our  
10 senior year I could have identified half the regular posters. Our class was only about 200  
11 students anyway, so the pool wasn’t that large. Like I said, I was only joking about whether Jam  
12 would volunteer for a study.

13  
14 This discussion from March 11 continued and I tried to steer the conversation to the area of  
15 my academic interest, fear and victimization. Our history class had discussed torture camps.  
16 Anticipating something dreadful is often worse than the actual happening, when it finally occurs.  
17 Like going to the dentist. You think how awful it's going to be, but then you do it and it's not all  
18 that bad. Fear gets to you, as I posted in the chat. Jamie, not surprisingly, called me a “freak,”  
19 and I just kind of overreacted and said “Jam is full of fear. Would make a great experiment.”  
20 I was poking fun at Jamie again, kind of an inside joke at how scared Jamie is of her/his own  
21 shadow. Let me explain.

22  
23 Jamie and I used to be friends back in elementary school, but we lost contact. As kids, when we  
24 played together, Jamie was always afraid of doing things. Anyway, we had an incident at a bus  
25 stop in seventh grade when a friend and I were pretending we had some chemicals in a water  
26 bottle. My friend spilled the water on Jamie and s/he became hysterical, thinking it was  
27 poison or something. S/he wouldn’t get on the bus and Jamie’s parents had to pick her/him up. I  
28 thought it was hilarious, but it did kind of end our friendship.  
29

30 Plus, there was an incident our junior year. Jamie was mad because I was allowed to do an  
31 extra credit report in English class on Jack the Ripper. As I was giving my report Jamie  
32 became so unsettled that s/he got up and walked out during my presentation. Can you imagine  
33 someone doing that! Actually, I think what most upset Jamie was that a few students, including  
34 Jamie’s sidekick Casey, were enthralled by my report, asking all kinds of questions about Jack  
35 the Ripper. It was really cool actually to have inspired that response. I don't quite understand  
36 why Jamie and some others freaked out. I wasn't exposing any deep dark psychological secret or  
37 showing pictures you can't see every day on regular television programs. But, that's the kind  
38 of stuff that interests me; some of us are weaker than others and can't handle the darker side  
39 of life. Anyway, I logged out on March 11 after I made the comment about Jam being full of  
40 fear.

41  
42 On March 12, I logged on to discover that students were re-hashing the chat from the day before  
43 about pain and suffering. Someone accused me having identified Jammin, which I admitted.  
44 They also raised the same old stuff about how I was nuts. I prefer the word "mad." It's so much  
45 more poetic, somehow. Loads of highly productive and famous people have been thought to be  
46 mad, but they still gain fame and fortune for their thought processes. I tried to explain that I was  
47 just expanding upon the history class discussion. I also played along with their lack of  
48 sophistication and stereotype of me, admitting I was “a bit mad” but that madness gave me  
49 “direction, focus and an outlet for my aggression.” When I saw Jam log on again, I needled Jam

1 to come out and play with the rest of us. All I meant was for Jam to join the conversation.

2  
3 I stayed logged on while Fatalflaw joined the group. I was surprised again to see that name – my  
4 name actually – from the year before. Flaw seemed interested in the substance of the discussion  
5 about pain and the like. I discussed how many of us will be victims at some point in our lives.  
6 Flaw didn't stay with the discussion for long though and logged off. I was disappointed; I  
7 thought I had a compatriot out there. I then accused Jammin of chickening out by not posting. I  
8 tried to keep the discussion going but no one would bite. Then I logged off. And for all this, I  
9 was almost prosecuted for a crime and am sitting here today.

10  
11 I understand that the main reason this case exists is because Jamie believes I was Fatalflaw on  
12 the chats, and the person who created the KZMail and M\_Space page. I was not. As noted, my  
13 senior year I registered the username Shockwave with password Jtripp06, after Jack the  
14 Ripper. The year before I registered as Fatalflaw with the password Kingcrag. I thought  
15 initially, when this whole situation arose, that someone just re-registered my old username  
16 Fatalflaw, and used their own new password. I later found out from Officer Hopp that wasn't the  
17 case. Our old usernames and passwords were supposed to expire at the end of each school  
18 year. I guess the school technology staff really screwed that up.

19  
20 Nonetheless, whoever was Fatalflaw had stolen my identity somehow. As I explained to  
21 Officer Hopp, I'm absolutely positive that I had written Fatalflaw/Kingcrag information inside  
22 my English book from junior year and I had turned it in without erasing the information. This  
23 had been my "flaw." I understand that book was found in the library and that lots of students  
24 have seen it. I'm also absolutely positive that the person Jamie is looking for looked in that  
25 book. Another thing. Whoever found my name in the text book probably knew Fatalflaw was  
26 me. During my junior year, I was, as Fatalflaw, a well known and frequent poster, not only in  
27 the junior class chat room, but in other chat rooms. I was just one of those people who could  
28 dominate a chat room discussion. I know for a fact that lots of regular posters figured out that I  
29 was Fatalflaw, because they would ask me around school.

30  
31 There are just too many other reasons I am not the guilty party here. How could I be two people  
32 at one time? For instance, on March 12, both Fatalflaw and me, as Shockwave, logged on  
33 to chat at the same time. It would be so obvious something were up if I had been hopping  
34 around from computer to computer. Also, there is a posting from March 11 at 4:42 by Fatalflaw.  
35 Problem is, I wasn't near a computer then. I had logged off at 4:16 to run across the hallway for  
36 a 4:15 interview with the Sensei. I was writing an article for our on-line newspaper about on-  
37 line research, which I was becoming an expert at. The meeting lasted about half an hour then I  
38 went home. I'm sure Sensei Cliff recalls it. I told this to Officer Hopp. Furthermore, I don't have  
39 the technology at home, or the expertise, to have opened a KZMail account or to have created  
40 the M\_Space page. Plus, no way I could have sent that KZMail on Saturday. I was driving  
41 around all day delivering food from 12:30 PM to 8:30 PM for a downtown Chinese food place I  
42 worked for on weekends This could have all been cleared up if someone would have just  
43 checked.

44  
45 Why would I do this anyway? Jamie thinks I tried to knock her/him out of the top spot in  
46 class rankings and win the Gugel scholarship, worth \$15K per year. But Jamie and I were not  
47 the only ones trying to win the scholarship. There were probably over a dozen students who  
48 could have won the big money if Jamie and I were out of the way. Nonetheless, the school and  
49 police never questioned any of the other top students, they just went straight for me because it

1 was easy and they didn't want to upset all the parents. Like I said, I ended up ranked third.  
2 Even Jamie's sidekick Casey, who ended up eighth, was ahead of Jamie. That must have killed  
3 Jamie.

4

5 I think this is all a ploy and that Jamie may even been involved. Jamie certainly had a motive to  
6 get me in trouble. Jamie probably never forgot about the bus stop incident, which I admit was a  
7 little bit mean, but it was over five years ago. Get over it. Maybe it was the Jack the Ripper  
8 incident junior year. Jamie seems to think we have some sort of feud ever since seventh  
9 grade, but really all of this drama is going on inside her/his head. Jamie, I guess always saw me  
10 as some sort of competition for her/him and needs excuses for her/his inadequacies. Really s/he  
11 is not that smart. It's funny how the popular athlete types always think things should go their  
12 way. That's not the way the world works and the sooner they learn it the better off they will be.  
13 You can't blame someone else for your own problems.

14 Finally, I have to clear up one thing Jamie alleged, which is that I threatened Jamie in the school  
15 cafeteria while this alleged cyberstalking was going on. Never happened.

16

17 If anyone is the victim here it is me. Not only was I actually arrested, but I was like the first  
18 person ever to be charged with cyberstalking in the entire state. Plus, my grades suffered, I lost  
19 the Gugel, I couldn't get into college this year, and on top of that, Jamie is suing me. I guess this  
20 is what you get for being too smart, for wanting to enlighten classmates, for wanting to excel.  
21 Everyone is jealous and I am paying the price. My future has been placed in jeopardy because  
22 Jamie got spooked by things I did not even write.

23

24

25 **WITNESS ADDENDUM**

26

27 I have reviewed this statement, and I have nothing of significance to add. The  
28 material facts are true and correct.

Signed,

/s/ \_\_\_\_\_  
Taylor Williams

SIGNED AND SWORN to before me on this 14<sup>th</sup> day of January, 2011.

/s/ \_\_\_\_\_  
Notary Public  
State of Michigan

My Commission Expires: November, 1, 2011

## STATEMENT OF PAT CLIFFORD

1 My name is Pat Clifford and I was a computer instructor at Clearwater High School from 2008-  
2 2010. I started there right after college where I majored in computer engineering with a minor  
3 in computer systems analysis. I really have the Midas touch with computers. I was so good, in  
4 fact, that my friends call me Sensei Cliff. Plus, I'm kind of into Eastern philosophy. Anyway,  
5 I couldn't find a job initially that was worthy of my degrees, so CHS was more than happy  
6 to have me. It was a good first job, as it turned out. The kids were fun. I left Clearwater  
7 though at the end of last year and started up my own business called Sensei-tional  
8 Technologies. I've been at it for less than a year but I'm already raking in more than at  
9 Clearwater High School, though I don't get summers off.

10  
11 I'm proud of what I accomplished at Clearwater High School though. I pushed for more  
12 computers dedicated to student use and rehabbed a dozen or so computers that were on the  
13 shelf. I was like my own MASH unit for disabled computers. I created the school chat  
14 room system, added students to the school email system and doubled the number of internet  
15 connections for student computers. I'm still amazed how many students didn't have internet  
16 access from their homes. It was the only way to keep the playing field somewhat even, though.

17  
18 Computers dedicated for students only were housed two places at CHS: the computer lab and  
19 a lounge just off the library, on the second floor. Thanks to me, I had all thirty-five lab  
20 computers up and working last year, plus another ten in the library. From any of these  
21 computers, students could access the internet without needing to log on. The web browser  
22 was right on the desktop. The reason access was so easy was that internet surfing was pretty  
23 strictly monitored by Super Scout, a program that collects logon data and blocks  
24 inappropriate websites, downloads of MP3 files, for instance, or uploads of videos or picture  
25 files; you know, all the things students really like to do. We didn't spoil all their fun though;  
26 they could still visit sites like UTube, and M\_Space.

27  
28 Students could also access the school's network from any computer. That network had two  
29 main features; access to school email and school chat rooms. These were log on only  
30 resources though. In order to log on, the student had to have registered a username and  
31 password of their choice. The great thing about the network was that students could access it  
32 from non-school computers via the internet.

33  
34 The best part of my job was setting up this stuff; the worst part was monitoring the  
35 computer lab after school, when it was especially busy. It was more like babysitting  
36 actually. Fortunately, my office and desktop were across the hallway from the lab, which  
37 was convenient since kids could come over to me when they needed my expertise. I  
38 was also responsible for logging into the chat rooms from time to time to make sure the kids  
39 were discussing appropriate topics; I was supposed to provide an adult presence.

40  
41 The lab computers were arranged in cubby holes and provided students some privacy. Unless  
42 you were standing right behind them, you couldn't see what a student was writing or  
43 reading. The library computers are monitored by library staff but they didn't have much  
44 to do since most students preferred the lab because the library computers were out in

1 the open for anyone to see. The school computers were available until 6 PM on school  
2 days.

3  
4 I first became aware of this incident between Jamie and Taylor on Tuesday, March 16 of 2010.  
5 The Principal introduced me to a cyber crimes investigator named Chris who told me s/he  
6 was investigating alleged cyberstalking claims made by senior Jamie Anderson against  
7 registered users Fatalflaw and Shockwave arising in an CHS senior class chat room.  
8 Although I didn't say anything to Chris, I just about laughed out loud at the notion  
9 cyberstalking could happen in a school chat room. All the users are registered and all chat  
10 is traceable. Who would be so stupid? I mean, in the pantheon of chat rooms, school chats are  
11 romper rooms compared to what might await a poor teenage student on open internet chats,  
12 where no one is who they say they are. Surprisingly, I kept my mouth shut and dutifully  
13 printed out copies of all chat room dialogue involving Jamie's pseudonym,  
14 Jammin@ClearwaterHS, and Fatalflaw and Shockwave.

15  
16 Upon request, I accessed records that showed Shockwave was Taylor Williams with the  
17 associated password Jtripp06. I couldn't find Fatalflaw's registration which confounded me.  
18 The name looked familiar though, and I recalled that Taylor Williams had been Fatalflaw the  
19 year before. I think everyone who visited chat rooms knew that. Taylor had a real unique  
20 voice in the chat rooms. Anyway, I went back and verified Taylor was Fatalflaw and  
21 Kingcrag the password.

22  
23 The Fatalflaw username and password should have been automatically deactivated at the end  
24 of Taylor's junior year. For the life of me, I never did figure that one out. Some day, when  
25 I can meditate on it, I'll find the answer. In the meantime, I checked for Chris and discovered  
26 that during the 2009, school year, Fatalflaw's first log on was not until March 8, 2010. I  
27 thought Fatalflaw's March debut pretty odd, and suggested to Chris that someone must be  
28 using Taylor's old username, or, God forbid, had hacked the system.

29  
30 I also checked the logon history from the week of March 8 of all the chats involving Jammin,  
31 Shockwave and Fatalflaw. I discovered that Jammin/Jamie posted exclusively from non-  
32 school computers and that Shockwave/Taylor's postings were all done from CHS  
33 computers located in the lab. Fatalflaw also made all her/his postings from the lab, except for  
34 the March 8 posting, which was from a library computer. I could even tell from which  
35 computer the postings were made since I knew the IP address. An IP address – Internet  
36 Protocol Address – is a unique number assigned to a computer and other devices, like printers  
37 and fax machines so they can identify and communicate with each other on a computer  
38 network. It's kind of equivalent to a street address or a phone number.

39  
40 I told Officer Chris that I saw Taylor Williams in the lab after school every day that week. The  
41 lab, in fact, had been very busy the week of March 8 because it was right before third quarter  
42 exams. It was pretty much filled to capacity every day, even on Friday, though most of the  
43 students were gone by 5:00 or 5:30 that day. If you ask me specifically who was there that  
44 week, I couldn't tell you because it was well over a hundred kids. If I had the log on history  
45 though, I could at least identify students who had logged on to chat rooms or email from  
46 school computers, though not if they just went on the internet. Chris never asked for it though,  
47 but must have known such a list likely existed, given s/he's a cyber crimes expert.

1  
2 Chris did ask me if I noticed Taylor moving around a lot in the lab, and I said no. I told  
3 Chris that Taylor did leave the lab early on Thursday, March 11, because s/he was  
4 interviewing me for an article s/he was writing for the school newspaper about on- line  
5 research. I told Chris that the meeting had been scheduled for 4:15, though we started a few  
6 minutes late. I'd guess about 4:20. It lasted around a half an hour, after which I chased Taylor  
7 home.

8  
9 Taylor was, by the way, a regular in the lab and chat rooms during the two years I was at CHS.  
10 Taylor was an extremely serious student who was one of the few kids who used the chat rooms  
11 as an educational tool. Taylor's folks couldn't afford a computer so the school resources were  
12 a godsend. I kind of grew fond of Taylor last year even though s/he could be too serious and  
13 occasionally brooding, which was not my style. Actually, I trusted Taylor so much that before  
14 this happened, I would let Taylor stay and work in the lab beyond 6 PM so long as Taylor  
15 turned off the lights and locked up. Taylor never once betrayed my trust.

16  
17 This little high school drama between Jamie and Taylor made some of the CHS big wigs  
18 consider closing the chats. I got sucked into that bureaucratic black hole, attending meeting  
19 after meeting with the Principal, Superintendent, other staff and Jamie's mother. The students  
20 clearly like the chats and since they used pseudonyms, they were at liberty to discuss topics  
21 they wouldn't otherwise discuss. CHS eventually sided with me, but has since adopted a policy  
22 that all students sign in, with pen and paper, to both the computer lab and library lounge. Might  
23 as well have them chisel their names in stone. As I told Chris, the log on history for email and  
24 chat room usage was basically the same as a pen and paper sign in sheet. And it was  
25 actually better since it identified which computer was used by the IP address. S/he said  
26 all she needed to know was that Fatalflaw and Shockwave had both posted threats from school  
27 computers. Anyway, that log on information is gone now, having been deleted out of the  
28 system at the end of the school year in June 2010. CHS needed the space.

29  
30 I do need to mention that, before they register, students agree to adhere to written guidelines,  
31 including an obligation that they hit the "panic" or "red button" in case something alarms them  
32 in a chat room. The panic button was used a few times during my time monitoring the CHS  
33 chat rooms and on one occasion, I had to deactivate a user account. That was the time when a  
34 student I'll call Larry left a computer workstation without logging out of a chat room. The next  
35 student, I'll call Moe, sat down and saw an opportunity. Moe posted a message that Larry  
36 was madly in love with another student, let's call her Curly. This embarrassed both Larry and  
37 Curly, who were not really in love at all, though they were a bit co-dependent. Curly hit the  
38 panic button and I ended up deactivating Moe's account.

39  
40 Same thing here: Jamie could have controlled this situation early on by hitting the panic  
41 button after the first or second message from Fatalflaw. Had Jamie followed the guidelines, I  
42 would have deactivated Fatalflaw. Or even better, had Jamie hit the panic button early on, I  
43 could have set up the system so that I would be alerted on my desktop if Fatalflaw logged on. I  
44 would have been able to discover which computer Fatalflaw was using and discover her/his  
45 identity.

46  
47 I do find it very feasible that someone stole Taylor's Fatalflaw username and password from a

1 textbook. It's just very common for students to forget their passwords. They will often write  
2 their usernames, passwords, email addresses and other information on the covers of books or  
3 notebooks. I've even found this kind of information written on mirrors in the restrooms. It  
4 may be a bit surprising, but identity theft does not only occur with credit cards. We try to  
5 tell them to keep that kind of information strictly confidential, but kids these days, can't make  
6 'em listen. Seems to me, Taylor is the victim here, guilty only of not protecting her/his identity.

7  
8 As to whom the identity thief might have been, I'm not quite sure. Maybe it was one of the  
9 kids competing with Taylor for the 2010 Gugel scholarship. One of my extracurricular jobs at  
10 Clearwater was as a member of the academic awards committee. The only actual reason I  
11 joined was because I got to meet Sue Gugel, a former CHS grad and current Silicon Valley  
12 goddess, who endowed the scholarship. Anyway, the competition for the 2010 scholarship was  
13 exceedingly fierce. There were about fifteen students at the beginning of that school year who  
14 had a legitimate shot to win. There was just way too much pressure on the kids, and the  
15 teachers too, who had to worry about every grade they gave out. I think competition is a good  
16 thing, but truthfully, it made this particular group turn nasty. Teachers who'd been at  
17 Clearwater a long time commented on how ugly things were at the top of the class. There was  
18 just a bad vibe all year long, and not just between Taylor and Jamie.

19  
20 Another reason someone might have tried to set Taylor up is because Taylor was kind of an  
21 easy target. I mean, her/his areas of interest were pretty dark, and just too different given the  
22 sometimes stifling conformity that appeals to many high school students; plus, I don't think  
23 Taylor had a whole lot of friends, so far as I could tell. As for Jamie, I only know a little bit  
24 about her/him from reading her/his posts in the chat rooms. I couldn't get a good feel for  
25 Jamie except that s/he seemed a bit meek. I thought Jamie should have confronted Fatalflaw  
26 when this all came about. Casey Waller I didn't know at all. Casey had been registered in the  
27 school network as CWALLYRICH, but records showed Casey never used the chat rooms, only  
28 email.

29  
30 I've since had the chance to read through all the chat room dialogue at issue and there is  
31 nothing in there written by Taylor, as Shockwave, that is remotely inappropriate. I should  
32 know since it had been my job to make such judgments as the chat room monitor. The stuff  
33 Fatalflaw wrote does seem to cross the line, especially when considered with the KZMail and  
34 M\_Space page that Fatalflaw created. But it's pretty clear to me that this case is about identity  
35 theft.

36  
37  
38  
**WITNESS ADDENDUM**

39 I have reviewed this statement, and I have nothing of significance to add. The material facts are  
40 true and correct.

Signed,

/s/

\_\_\_\_\_

Pat Clifford

SIGNED AND SWORN to before me on this 15<sup>th</sup> day of January, 2011.

/s/  
\_\_\_\_\_  
Notary Public State of Michigan

My Commission Expires: November, 1, 2011

## STATEMENT OF SYDNEY FREED, PhD

1

2 My name is Sydney Freed, and I have had a clinical psychology practice for 17 years. I have  
3 treated a number of patients over the years for a variety of illnesses including those resulting  
4 from the patient having been a victim of stalking. I have also treated patients accused of  
5 stalking. Most recently, I have been seeing an increasing number of patients who have been the  
6 victims of cyberstalking. As my attached Vita indicates, I have written articles and given  
7 presentations on stalking. I have also reviewed research that has looked at the impact of  
8 stalking on the victim's psychological condition.

9

10 I was engaged by defense counsel for Taylor Williams and asked to interview and evaluate  
11 Jamie Anderson. In preparation, I reviewed the statements of Jamie Anderson and Taylor  
12 Williams; the Senior Class Chat Room Dialogue Excerpts of March 8, 2010, March 10, 2010,  
13 March 11, 2010 and March 12, 2010; the KZMail to Jamie Anderson from March 13, 2010; the  
14 M\_Space Page; Jamie Anderson's High School Transcript and Anderson's medical record as  
15 prepared by Marty R. Robertson, MD.

16

17 I conducted my evaluation of Jamie Anderson on November 30, 2010. Based on my extensive  
18 interview and my review of the aforementioned documents, I must say that while I agree with Dr.  
19 Robertson's diagnosis that Jamie Anderson suffers from generalized anxiety disorder, I disagree  
20 strenuously with the notion that the GAD was brought on by any of these so-called  
21 cyberstalking incidents Anderson describes. Frankly, it is my opinion s/he is exaggerating by  
22 quite a bit the psychological trauma s/he claims resulted from the events and instead suffers  
23 from GAD brought on by either genetics or brain chemistry. There is simply no evidence to  
24 suggest that environmental stresses, the third known cause of GAD, were extreme enough to have  
25 caused the onset of GAD.

26

27 Anxiety, the body's reaction to a perceived, anticipated or imagined danger or threatening situation,  
28 is a common occurrence. Most people experience it before or after a stressful event, such as an  
29 important presentation or a traumatic loss. A little anxiety isn't always a bad thing, either: it can  
30 help motivate you to do your best and to respond appropriately to danger. Sometimes, though,  
31 anxiety develops spontaneously, even when a stressful or threatening situation isn't immediately  
32 apparent. According to the National Institutes of Mental Health (NIMH), persons with generalized  
33 anxiety disorder anticipate disaster and are overly concerned about health issues, money,  
34 family problems, or difficulties at work. For instance, a co-worker's careless comment about the  
35 economy becomes a constant vision of an imminent pink slip; a spouse's criticism of a new  
36 outfit becomes dread that the marriage is over. People with generalized anxiety disorder usually  
37 realize that their anxiety is more intense than the situation calls for, though some convince  
38 themselves that their worrying is protective or otherwise helpful. Either way, people with GAD  
39 can't seem to turn off the worry. Sometimes just the thought of getting through the day  
40 produces anxiety. Most people with GAD don't avoid workplace or social situations, but they go  
41 about their activities filled with exaggerated worry and tension, even though there is little or  
42 nothing to provoke them. For others, the anxiety and physical symptoms of generalized anxiety

1 disorder interfere significantly. General anxiety disorder goes far beyond the type of anxiety that  
2 most of us experience. It is characterized by excessive, exaggerated anxiety and worry about  
3 everyday life events. People with symptoms of generalized anxiety disorder tend to always  
4 expect disaster and can't stop worrying about health, money, family, work or school. In people  
5 with GAD, the worry often is unrealistic or wholly out of proportion for the situation. Daily life  
6 becomes a constant state of worry, fear and dread. Eventually, the anxiety so dominates the  
7 person's thinking that it interferes with daily functioning. When worry becomes so excessive and  
8 persistent that it limits or inhibits a person's daily activities, it becomes a disorder that needs to be  
9 recognized and treated and I'm convinced that's the situation we have with Jamie Anderson.

10  
11 While Jamie Anderson was a senior at Clearwater High School, s/he was the target of so-called  
12 cyberstalking in the aforementioned four Senior Class chat room dialogues. A threatening  
13 KZMail was also sent to Anderson on March 13, 2010, which referred to an M\_Space page. The  
14 M\_Space page showed a digital photo of Anderson's bedroom window and incorporated the chat  
15 room dialogue. Anderson reported the chat room incidents to her/his parents on March 12, 2010,  
16 and they took her/him to the police that very day to file a formal report. A couple of days  
17 later, Anderson's parents reported the KZMail and M\_Space page to the police. Taylor  
18 Williams, a class mate and at one time a friend of Jamie's, has admitted to making some of the less  
19 threatening statements in the chat room, but s/he has denied making the remainder of the statements  
20 or creating the KZMail or the M\_Space page.

21  
22 Jamie Anderson presents no obvious physical ailments although s/he complains that as a result of  
23 the cyberstalking, s/he has experienced a variety of problems including trouble sleeping, weight  
24 loss, difficulty concentrating in class, increased anxiety levels, fear of bodily harm, lack of  
25 motivation, and loss of self-esteem. Anderson also describes experiencing panic attacks and claims  
26 that s/he is still having these symptoms, although s/he does admit that over six months after  
27 the cyberstalking incidents, the symptoms are less severe. During the interview, Anderson appeared  
28 slightly nervous, but I noted nothing I would consider to be out of the ordinary.

29  
30 My review of the medical records shows that on April 27, 2010, Anderson's physician concluded  
31 Jamie was suffering from GAD. As I mentioned earlier, I agree with Robertson's diagnosis.  
32 However, I was quite surprised that s/he prescribed only Lamaprox, a mild, non-habit forming  
33 sedative to treat Anderson; with the symptoms Anderson alleges, I would have expected Robertson  
34 to have prescribed one of the benzodiazepines or anti-depressants. What is more surprising,  
35 however, is that during the evaluation I conducted of Anderson, I learned that s/he has  
36 discontinued the drug.

37  
38 Based on my interview with Anderson, my extensive experience treating victims of stalking, and  
39 my review of relevant research in the area, it is my opinion that Anderson is grossly exaggerating  
40 her/his symptoms – most likely for the purpose of increasing the amount of damages s/he might  
41 recover in her/his pending lawsuit against Taylor Williams.

42  
43 I base this opinion on the fact that when a victim of stalking experiences psychological symptoms  
44 like the symptoms Anderson is trying to claim, a very different set of circumstances exist. For  
45 instance, in a true stalking situation where emotional or psychological damage occurs, one would

1 expect the victim to have been in a prior intimate relationship with the stalker and to have  
2 been either actually exposed to or threatened with violence. In addition, we generally see the  
3 stalker following the victim or conducting some type of surveillance of the victim. Also, you would  
4 expect to see the victim subjected to a broad variety and numerous instances of stalking activities  
5 over an extended period of time about which the victim would have been reluctant to formally  
6 report to authorities. Additionally, it is highly unusual for a stalking victim's academic career to  
7 suffer.

8  
9 Contrast these facts with Anderson's case. The alleged stalker was a casual classmate and not  
10 someone Anderson even knew very well. While I suppose one could say there was an implied threat  
11 of violence against Anderson, s/he was never actually a witness to or victim of any violence. I  
12 would agree that some of the chat room dialogue and the digital picture of Anderson's bedroom  
13 window indicate the stalker conducted some surveillance of Anderson's home, but s/he didn't  
14 actually follow her/him. Further, while the stalking occurred in the chat room, through the KZMail  
15 and on the M\_Space page, the type of stalking was similar and does not constitute different types of  
16 stalking activity. Also, there were, at most, only six separate stalking incidents, it all lasted for a  
17 short period of time, and it was definitely not what I would describe as intrusive. Finally,  
18 Anderson clearly was not reluctant to formally report the stalking either to her/his parents or to law  
19 enforcement officials.

20  
21 Based on the above, it is my opinion that Jamie Anderson has not suffered the psychological  
22 injuries about which s/he complains or, at most s/he is exaggerating those symptoms. Similarly, Dr.  
23 Robertson's diagnosis of generalized anxiety disorder and her/his opinion as stated in Anderson's  
24 medical records that there is a possibility that Anderson will never overcome the disorder  
25 completely and may be prone to panic attacks the rest of her/ his life is supported neither by the  
26 research on stalking nor by my experience treating stalking patients. Finally, it is my opinion  
27 that the decline in Anderson's grades during the last semester of school was more likely caused by  
28 the stress of competing for the valedictorian scholarship than by the stalking incidents.

29  
30 **WITNESS STATEMENT**

31  
32  
33 I have reviewed this statement, and I have nothing of significance to add. The material facts are true  
34 and correct.

Signed,

/s/ \_\_\_\_\_  
Sydney Freed, PhD

SIGNED AND SWORN to before me on this 20<sup>th</sup> day of January, 2011.

/s/ \_\_\_\_\_  
Notary Public  
State of Michigan

My Commission Expires: November, 1, 2011

## CHAT ROOM EXCERPT, MONDAY, MARCH 8, 2010

### ***Jammin@ClearwaterHS enters chat room at 4:57 PM***

Jammin@ClearwaterHS: 4:58 PM Hi everyone. Is our history assignment from pp 399 to 414?  
BTW - Anyone in here seen the student play? Hamlet? 2B or not 2B

Cannonball: 4:59 PM Nope. Shakespeare ain't my bag. :(

### ***Fatalflaw enters chat room at 4:59 PM***

### ***Southernbell enters chat room at 4:59 PM***

Butters: 4:59 PM I heard it was good, but haven't seen.

Cannonball: 5:02 PM I'd rather be outside than in on a day like today.

Chancy5: 5:03 PM You already said that Cball, why don't you get off the computer and do something about it.

Micahforce: 5:05 PM Just walked by track on my way to lab. Joggers out in force. Go track team.

PhoebeS: 5:11 PM So why R we on our computers?

Jammin@ClearwaterHS: 5:11 PM I'm going out now. Get some PM sunshine and exercise.

Fatalflaw: 5:11 PM Jam's in the window. Exercise all you want, my friend, you won't be able to run fast enough.

Micahforce: 5:12 PM Jam, you run with the track team?

Southernbell: 5:12 PM If you do, run fast and win!

Jammin@ClearwaterHS: 5:13 PM Not on track team but on X country team in Fall. Come Spring, I'm a soccer star

Fatalflaw: 5:14 PM Not on the team, but practices nonetheless. In the window.

Cannonball 5:15 PM Fatalflaw, you're creeping me out. You are new here, aren't you. Don't I remember you from last year. Where'd U come from anyway? Gotta go ...

### ***Jammin@ClearwaterHS exits chat room 5:15***

### ***PM Canonball exits chat room at 5:17 PM***

### ***Fatalflaw exits chat room at 5:25 PM***

\* \* \*

## CHAT ROOM EXCERPT, WEDNESDAY MARCH 10, 2010

### ***Jammin@ClearwaterHS enters chat room 3:18 PM***

Southernbell: 3:19 PM Anyone know if school doing a flag day celebration again?

Zulu: 3:21 PM Don't know but last year's celebration was a gas. Check the student bulletin board?

Southernbell: 3:21 PM did that. Nothing there.

Jammin@ClearwaterHS: 3:23 PM Last year's was cool. The color guard was awesome.

### ***Fatalflaw enters chat room 3:23 PM***

Fatalflaw: 3:24 PM Speaking of color, Jamming's been seen wearing school colors all week. Be careful, water bottles, sideline bottles, they don't always contain water, they can be deadly.

Southernbell: 3:24 PM What's that all about, why you keep talking about Jammin?

Fleetstreet: 3:25 PM Yeah, what's up? Southernbell: 3:25 PM Talk like that can prompt a panic button alert, you goof.

### ***Fatalflaw exits chat room at 3:26 PM***

### ***Shockwave enters chat room 3:27 PM***

Shockwave: 3:28 PM Just read the chain. Nothing wrong with some gentle ribbing.No harm done. You guys should drop it.

Southernbell: 3:29 PM Guess you were not watching the other day, seems like Flaw is out to get Jammin. That's not what this chat room is for. You know teachers read this stuff, you goin' to get kicked off.

### ***Jammin@ClearwaterHS: exits chat room 3:30 PM***

Southernbell: 3:30 PM Fatalflaw been resurrected from last year, apparently. Hey Shockwave, you know FF2010? You two should get together sometime.

Shockwave: 3:31 PM Aware of Flaw. Not interested.

### ***Shockwave exits chat room 3:32 PM***

\* \* \*

## CHAT ROOM EXCERPT, THURSDAY, MARCH 11, 2010

### **Shockwave enters chat room at 3:45 PM**

### **Jammin@ClearwaterHS enters chat room at 3:50 PM**

TravellerX: 3:55 PM Anyone on from history? Some pretty strange stuff in that class.

Striker8: 3:55 PM like what?

### **Allthumbs enters chat room 3:57 PM**

TravellerX: 3:58 PM like lots of talk about killing. Really freaky.

Shockwave: 3:59 PM Some criminals used fear as control; fear is stronger than chains and fences.

TravellerX: 4:00 PM Upset quite a few students in the class. Some had relatives who had been victimized. It was a sad class.

Southernbell: 4:01 PM My neighbor survived an assault. She absolutely never talks about it.

Striker8: 4:01 PM understandable not to talk about pain and suffering when it's been so close.

Shockwave: 4:03 PM Wonder if anyone our age would handle the situation well. Would be interesting to try to re-create the atmosphere.

Southernbell: 4:03 PM U R kidding? Who would want to do that?

Striker8: 4:04 PM Someone not quite right in the head.

Shockwave: 4:04 PM Don't call me crazy.

Striker8: 4:05 PM I didn't. But the thought of studying pain and suffering? Come on.

Shockwave: 4:06 PM It would be amazing to study pain and suffering. Doctors must do it all the time. Long-term effects of suffering could produce some interesting data. Volunteers? Hey, Jam you still here?

Jammin@ClearwaterHS: 4:08 PM just listening

Allthumbs: 4:09 PM Don't respond to that kind of comment.

Southernbell: 4:10 PM Yeah, Shok is as crazy as that Flaw character

Shockwave: 4:12 PM Listen good and respond or don't. Anticipation is what it's all about, and building fear. You never know when you'll be forced to face your greatest fear...suffocation, poison, torture, painful prolonged death.

Jammin@ClearwaterHS: 4:13 PM You're a freak

Shockwave: 4:14 PM Thanks for the compliment. Jam is full of fear. Would make a great experiment.

Allthumbs: 4:14 PM Shockwave, you're about crossing the line there with all that torture talk.

Shockwave: 4:15 PM Don't be such babies. It's talk. GG<sup>a</sup> and study for exams.

### **Shockwave signs off at 4:16 PM**

TravellerX: 4:16 PM What a freak, not even worth reading his nonsense.

---

<sup>a</sup> Gotta go

\* \* \*

***Fatalflaw signs on at 4:32 PM***

Fatalflaw: 4:33 PM Jammin is still there. Time is running out my Jammin friend. You should really watch what you drink. Water can be poisonous, when it's not water.

***Jammin@ClearwaterHS signs off at 4:34***

***PM Fatalflaw signs off at 4:46 PM***

\* \* \*

## CHAT ROOM EXCERPT, FRIDAY MARCH 12, 2010

Talon: 3:35 PM Hey all, there's been talk at school that someone in the chat room is freaking people out. Anyone on line a witness. Was thinking of writing something about cyberstalking for our online school paper.

Allthumbs: 3:36 PM I think you are referring to Fatalflaw and this other person, Shockwave, they have been really trying to scare people.

Talon: 3:37 PM Why would someone do that?

### ***Shockwave enters chat room 3:38 PM***

Coreforce: 3:38 PM Who knows? Shockwave, you nuts or what?

Shockwave: 3:39 PM I was just talking about a history class. I can't help if people take things out of context.

Allthumbs: 3:40 PM You were crossing a line. You obviously ID'd Jammin and have been trying to freak em out. you crazy?

Shockwave: 3:41 PM 1<sup>st</sup> Q: U and me and everyone on system pretty much know who we all are by now. School years almost over, genius. 2<sup>nd</sup> Q: I admit to being a bit mad, by some people's standards, but madness can be a good thing. It gives me direction, focus and an outlet for my aggression. Ever wonder bout pain and suffering?

### ***Jammin@ClearwaterHS enters chat room 3:43 PM***

Shockwave: 3:44 PM Jamming, can you come out of your 2nd floor roost and play?

### ***Jammin@ClearwaterHS exits chat room 3:47 PM***

\* \* \*

### ***Fatalflaw enters chat room at 4:31 PM***

Fatalflaw: 4:32 PM NE1<sup>a</sup> talking about torture yet? Pretty cool stuff,

eh? LaLa: 4:32 PM not me:-(

HMSPinapore: 4:33 PM me neither.:-( :-(

Southernbell: 4:33 PM Not that again. Flaw, UR seriously messed. I am really considering hitting the panic button. No one but you and Shok talk about this stuff. GIAR<sup>b</sup> already. Get your own room and leave us all alone.

CATGIRL: 4:35 PM What was going on? Free speech?

Shockwave: 4:36 PM discussion on pain and torture and what can be learned from fear. Hey Bell, why are you so afraid of what you don't want to understand? Statistics say almost all of us going to be victims at some point in our lives.

LaLa: 4:38 PM So what? You can't let fear guide your whole life.

---

<sup>a</sup> Anyone

<sup>b</sup> Give it a rest

CATGIRL: 4:39 PM No kidding. What a waste of time. I guess, even though it's not worth thinking about, Shockwave is entitled to say whatever. We don't have to listen.

**Fatalflaw exits chat room 4:39 PM Jammin@ClearwaterHS**

**enters chat room at 4:40 PM**

Jammin@ClearwaterHS: 4:41 PM Not this again. Glad Flaw is off though. Shockwave: 4:42 PM You chickened out before.

Jammin@ClearwaterHS: 4:42 PM Had better things to do. Shockwave: 4:42 PM Like what, more exercising?

Jammin@ClearwaterHS: 4:42 PM Inappropriate question.

Shockwave: 4:43 PM Not really, but never mind. Back to the discussion. Everyone's going to be a victim. Even all of us. I've actually been one already so statistically I may be out of the picture.

LaLa: 4:43 PM What happened to you?

Shockwave: 4:44 PM to quote someone above, inappropriate question.

LaLa: 4:44 PM sorry

Shockwave: 4:45 PM Just remember, the clock is ticking. Time is on my side. Time is running out my friend.

LaLa: 4:45 PM What's that supposed to mean?

Shockwave: 4:46 PM Just that statistically, all of you are going to have to endure. GG.<sup>a</sup>

CATGIRL: 4:46 PM Same here. Wkd starting.

**Shockwave exits chat room at 4:47 PM**

**Jammin@ClearwaterHS exits chat room at 4:50**

**PM Fatalflaw enters chat room 4:55 PM**

Fatalflaw: 4:56 PM Hello? NE1ER<sup>b</sup>? Anyone wannatalk some pain and suffering? Time is running out, my Jammin friend. Maybe we can meet?

\* \* \*

Fatalflaw: 5:09 PM Jam will rot just like Jelly if buried long enough.

**Fatalflaw exits chat room 5:10 PM**

---

<sup>a</sup> Gotta go

<sup>b</sup> Anyone here?

## E-MAIL TO JAMIE ANDERSON

**From:** Anderson, Jamie  
**Sent:** Monday, March 15, 2010, 8:32 AM  
**To:** Hopp, Chris  
**Subject:** FW: Fear

---

**From:** user94040@KZMail.com  
**Sent:** Saturday, March 13, 2010, 2:54 PM  
**To:** "Jammin" <jammin@ClearwaterHS.edu>,  
**Subject:** Fear

---

FF may lose control at any time...longs to test your control. How long will you last, my jammin friend? If you're afraid, you better stay locked up in your 2nd floor roost and not go out to play. You could be sorry. You could be dead.

Hey check out: [http://www.m\\_space.com/jammin@ClearwaterHS](http://www.m_space.com/jammin@ClearwaterHS) – sometimes it really is all about you!

# M SPACE PAGE

## M SPACE Jammin@ClearwaterHS experiment

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### jammin@ClearwaterHS experiment



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**SUBJECT:**

High School Senior Clearwater, MI United States

Last Login: 3/12/2010

### An Experiment in Creating Fear

**Jammin@ClearwaterHS's Latest Blog Entry** [[Subscribe to this Blog](#)]

[private profiles](#) (view more) NONE

Top 8, 16, 20, 24 friends :) (view more) [jammin@ClearwaterHS](#) has **0** friends.

**LOCATION:** 447 St. Mark's Street Clearwater, MI SECOND FLOOR WINDOW. (pictured).

#### [jammin@ClearwaterHS experiment Blurb](#)

#### About the experiment:

Subject Jammin@ClearwaterHS has been subjected to various veiled threats through high school academic chat room with goal of creating fear and anticipation of bodily harm in order to study subjects reaction. The subject is unaware of experiment or source of comments.

**Hypothesis:** The fear of the harm will be more painful both physically and mentally to the subject than the actual harm that occurs.

#### BLOG ENTRIES:

The following entries document the date and exact language of threat made to the subject. Reactions to the threats in general and reaction to actual bodily harm imposed will be added at the conclusion of the experiment. Viewers of this page and those interested in this subject are welcome to comment their own personal reaction to the threats listed below. Your participation and suggestions are greatly appreciated.

**3/8 5:11pm:** Jam's in the window. Exercise all you want, my friend, you won't be able to run fast enough.

**3/8 5:14pm:** Not on the team, but practices nonetheless. In the window.

**3/10 3:24pm:** Speaking of color, Jamming's been seen wearing school colors all week. Be careful, water bottles, sideline bottles, they don't always contain water, they can be deadly.

**3/11 4:43pm:** Jammin is still there. Time is running out my Jammin friend. You should really watch what you drink. Water can be poisonous, when it's not water.

**3/12 4:56pm:** Anyone wanna talk some pain and suffering? Time is running out, my Jammin friend. Maybe we can meet?

**3/12 5:09pm:** Jam will rot just like Jelly if buried long enough.

### Contact: the jammin@ClearwaterHS

[Send Message](#)

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[Instant Message](#)

[Block User](#)

[Add to Group](#)

[Mark User](#)

**M Space URL:**

[http://www.m\\_space.com/jammin@ClearwaterHS](http://www.m_space.com/jammin@ClearwaterHS)

## JAMIE ANDERSON HIGH SCHOOL TRANSCRIPT

<u>TRANSCRIPT</u>										
<p>Anderson, Jamie            447 St. Mark's Street            Clearwater, Michigan, 85310            DOB: 10.15.1991            PHONE: 623.555.1212</p>										
Academic Year Fall 2006/Spring 2007						Academic Year Fall 2007/Spring 2008				
<u>Course</u>	<u>1<sup>st</sup></u>	<u>2<sup>nd</sup></u>	<u>MID</u>	<u>3<sup>rd</sup></u>	<u>4<sup>th</sup></u>	<u>FIN AVE</u>	<u>GRADE</u>	<u>PTS</u>		
Fr.ENG	97	95	96	93	98	97	96	A	4.0	
Alg. 1	93	93	94	96	92	95	94	A	4.0	
Science	99	98	97	99	94	97	97	A	4.0	
ScoSt	98	97	94	95	97	99	97	A	4.0	
Span 1	100	100	99	100	98	97	99	A	4.0	
PE 1	97	98	100	95	96	96	97	A	4.0	
<p><b>GPA: 4.0   Class Rank: T1/228</b></p> <p><b>ADVISOR COMMENTS:</b> Jamie is extremely bright and athletic. Jamie is working hard and to potential. A serious and motivated student. Keep up the good work next year!</p>										
Academic Year Fall 2008/Spring 2009						Academic Year Fall 2009/Spring 2010				
<u>Course</u>	<u>1<sup>st</sup></u>	<u>2<sup>nd</sup></u>	<u>MID</u>	<u>3<sup>rd</sup></u>	<u>4<sup>th</sup></u>	<u>FIN AVE</u>	<u>GRADE</u>	<u>PTS</u>		
Jr.ENG	98	93	97	93	97	92	95	A	4.0	
Calc 1	98	97	96	97	95	94	96	A	4.0	
Chemtry	92	99	97	95	94	93	95	A	4.0	
Wrld Hs	99	97	94	92	91	100	96	A	4.0	
Span 3	100	100	100	95	98	99	99	A	4.0	
Health	100	100	100	100	100	100	100	A	4.0	
<p><b>GPA: 4.0   Class Rank: T1/224</b></p> <p><b>ADVISOR COMMENTS:</b> Jamie had one of her/his best years ever at Clearwater High. In addition to continued high marks, Jamie scored extremely high on the SAT. I continue to expect excellent work product and Jamie exceeds these expectations. Jamie has an excellent chance of becoming valedictorian.</p>										
						<p>So.ENG 98 99 97 99 95 97 97 A 4.0</p> <p>Alg. 2 94 92 96 94 94 93 94 A 4.0</p> <p>Biology 98 100 98 99 96 97 98 A 4.0</p> <p>A. Civ 95 92 96 95 A 4.0</p> <p>Span 2 100 100 100 100 100 97 100 A 4.0</p> <p>PE 2 95 98 94 95 98 92 96 A 4.0</p> <p><b>GPA: 4.0   Class Rank: T1/223</b></p> <p><b>ADVISOR COMMENTS:</b> Jamie had another excellent year. Jamie is a role model to her/his fellow students. Not many people are so gifted in so many areas. There is no doubt Jamie will continue to excel.</p>				
						<p>Sr.ENG 100 95 96 90 79 78 90 A 4.0</p> <p>Calc 2 95 97 96 91 77 72 88 B 3.0</p> <p>Physcs 99 97 100 93 82 80 92 A 4.0</p> <p>Hstry 95 92 92 80 60 55 79 C 2.0</p> <p>Span 4 100 100 100 95 86 80 94 A 4.0</p> <p>Econ 92 95 100 85 70 72 86 B 3.0</p> <p><b>GPA: 3.83   Class Rank: 9/217</b></p> <p><b>ADVISOR COMMENTS:</b> Jamie started the year off strong, but the second half proved difficult. Maybe it was a bit of senioritis, but we expected more from Jamie. Jamie's instructors felt s/he seemed distracted during the final months. I know Jamie will succeed in college and feel Jamie can regain her/his academic dedication and prowess.</p>				

updated 10-27-10

# INSIDE TEXTBOOK COVER

## SYMBOLS FOR REVISION

uname: fataflaw  
pw: kageta

- ab** Problem with abbreviation (32.4 and 32.5, pp. 478–80)
- cap** Problem with capitalization (32.1, pp. 473–75)
- cli** Cliché (9.8, p. 186)
- cs** Comma splice (13.7, pp. 277–79)
- d** Inappropriate diction (9.1, pp. 170–74)
- dg** Dangling modifier (12.18, pp. 266–70)
- euph** Euphemism (9.10C, pp. 189–90)
- frag** Sentence fragment (17.3, pp. 519–22)
- fal** Fallacy or unsound argument (7.5, pp. 127–32)
- jarg** Jargon (9.10A, pp. 188–89)
- mixed** Mixed construction (11.8, pp. 238–40)
- mix met** Mixed metaphor (9.7, p. 185)
- mg** Misused gerund (11.10, pp. 242–43)
- mm** Misplaced modifier (12.15, pp. 262–63)
- mr** Misplaced restricter (12.17, pp. 264–66)
- ms** Error in manuscript format (5.6, p. 75)
- mt** Misused tense (20.9, pp. 372–73)
- num** Error in form of number (32.6, pp. 480–82)
- pass** Misuse of passive voice (22.5, pp. 397–99)
- pr agr/g** Error in pronoun-gender agreement (18.5, pp. 335–37)
- pr agr/n** Error in pronoun-number agreement (18.7, pp. 337–40)
- pr ca** Error in pronoun case (18.12, pp. 347–50)
- pr ref** Error in pronoun reference (18.4, pp. 340–42)

- pr shift** Error in pronoun reference shift (18.8, pp. 340–42)
- pred** Faulty predication (11.9, pp. 240–42)
- pret** Pretentious word (9.10B, p. 189)
- run on** Run on sentence (13.8, pp. 279–80)
- sm** Squinting modifier (12.16, p. 264)
- sv agr** Error in subject-verb agreement (19.2, p. 352)
- tf** Incorrect tense form (20.2, pp. 366–68)
- tgl** Tangled sentence (16.2, pp. 314–16)
- title** Error in form of a title (32.3, pp. 476–78)
- trans bp** Transition needed between paragraphs (8.8, pp. 166–69)
- trans wp** Transition needed within paragraph (8.5, pp. 158–60)
- t shift** Faulty tense shift within sentence (21.5, pp. 386–88)
- und** Error in underlining (32.2, pp. 475–76)
- wedy** Wordiness (9.11, pp. 190–95)
- ¶** New paragraph needed (8.1, pp. 144–48)
- ¶ coh** Paragraph lacks coherence or internal transition (8.4, pp. 157–58)
- ¶ em** Paragraph lacks emphasis (8.3, pp. 154–57)
- ¶ t shift** Faulty tense shift in paragraph (21.6, pp. 388–90)
- ¶ u** Paragraph lacks unity (8.2, pp. 148–54)
- ⊘** Faulty parallelism (14.4, pp. 284–88)
- ⊙ conj** Comma error with conjunction (26.2, pp. 423–24)
- ⊙ cs** Comma error between independent clauses (26.3, pp. 424–25)
- ⊙ res** Comma error with restrictive elements (26.6, pp. 427–29)
- ⊙ ser** Comma error in a series (26.8, pp. 429–30)
- ⊙ a/d** Comma error with address or date (26.11, pp. 431–32)

- ⊙ bp** Comma error between basic sentence parts (26.13, pp. 432–33)
- ⊙** Error with semicolon (27.2, p. 435)
- ⊙** Error with colon (27.4, p. 436)
- ⊙** Error with period (28.2, p. 440)
- ⊙** Error with question mark (28.4, p. 441)
- ⊙** Error with exclamation mark (28.6, p. 442)
- ⊙** Error with quotation marks (29.9, pp. 448–49)
- ⊙** Error with dash (30.2, p. 452)
- [ ]** Brackets needed (30.4, p. 454)
- ⋯** Ellipsis dots needed (30.5, p. 455)
- /** Slash needed (30.6, pp. 456–57)
- Hyphen needed (31.9, pp. 468–70)
- ⊙** Error with apostrophe (31.11, pp. 471–72)
- ×** Obvious error
- ^** Something omitted
- ⊞** Transpose these two elements

- disc** 24 Direct and Indirect Discourse (pp. 12)
- dne** 6 Description, Narrative, Exposition (pp. 22–23)
- edit** 5 Editing Your Essays (pp. 81)
- free** 2 Freewriting Your Thesis (pp. 22–23)
- gl/t** Glossary of Terms (pp. 22–23)
- gl/us** Glossary of Usage (pp. 22–23)
- mech** 32 Mechanics (pp. 22–23)
- mo** 23 Verbs—Mood (pp. 22–23)
- mod** 12 Modifiers (pp. 22–23)
- org** 3 Organizing Your Paper (pp. 29–46)
- par** 8 Writing Paragraphs (pp. 144–69)
- pc** 14 Coordination and Subordination (pp. 144–69)
- pers** 7 Persuasion (pp. 144–69)
- pr** 18 Using Pronouns (pp. 144–69)
- pre** 1 Pre-Writing Your Paper (pp. 144–69)
- read** 10 Reading in Order (pp. 196–23)
- rev** 4 Revising Your Paper (pp. 47–66)
- sent** 17 Complete Sentences (pp. 317–26)
- seq** 21 Verbs—Sequences (pp. 380–9)
- sp** 31 Spelling (pp. 4)
- ss** 11 The Simple Sentences (pp. 2)
- style** 25 Invigorating Your Writing (pp. 413–19)
- sub** 15 Subordination (pp. 351–64)
- sv** 19 Subject-Verb (pp. 351–64)
- t** 20 Verbs—Tense (pp. 351–64)
- vo** 22 Verbs—Active Voice (pp. 391–95)
- w** 9 Choosing Words (pp. 95)

## ABBREVIATIONS FOR CHAPTER TITLES

- coord** 13 Coordination and Compound Sentences (pp. 271–80)
- coord/sub** 16 Coordination and Subordination (pp. 309–16)

## JAMIE ANDERSON MEDICAL RECORD

### **Marty R. Robertson, MD**

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*Specializing in Family Medicine since 1985*

*Re: Medical and Psychological Evaluation of Jamie Anderson*

April 27, 2010

#### 1) HISTORY OF PRESENT CONDITION:

Jamie has been a patient of mine since s/he was 6 years old and has had routine physical examinations throughout her/his life. S/He does not possess a history of severe physical ailment or medical conditions. Jamie has never displayed any symptoms of mental illness in the past. In 2005, Jamie was treated for a broken nose as a result of getting hit in the face with a soccer ball.

#### 2) PRESENT CONDITION:

As a direct result of stress caused by repeated threats received by Jamie over an internet chat room s/he complains of a host of physical and mental ailments. Jamie has experienced trouble sleeping at night (insomnia and night terrors), weight loss, trouble concentrating in class, raised anxiety levels, fear of bodily harm, lack of motivation and loss of self-esteem. On two occasions, Jamie has described episodes commonly considered a panic attack. The description of these attacks includes symptoms such as heart palpitations, chest pain or discomfort, sweating, trembling, tingling sensations, feeling of choking, fear of dying, fear of losing control, and feelings of unreality. The most recent panic attack occurred on March 19, 2010, at approximately 4:30 PM.

#### 3) PHYSICAL EXAM FINDINGS

A series of physical examinations over the past two months including MRI readings and CAT scans reveal no life threatening or life altering physical ailment. All tests came back at normal levels. However, on several occasions Jamie displayed signs of

exhaustion due to a lack of sleep. Between the time of Jamie's last routine physical exam (Dec. 12, 2009) and her/his most recent examination, Jamie has lost 13 lbs.

#### 4) MENTAL EXAM FINDINGS

Jamie appears to have difficulty concentrating. Jamie continually appears nervous and disoriented. S/he also has displayed and continues to display signs of anxiety disorder and severe emotional distress. These symptoms have improved lately, but have not abated over the course of the ongoing medical evaluation and treatment conducted to date.

#### 5) DIAGNOSIS

Jamie is suffering from **generalized anxiety disorder**. Results from independent psychological evaluation conducted at the St. Winston Mental Health Facility on March 23, 2010, confirm this finding.

#### 6) TREATMENT PRESCRIBED

On March 26, 2010, I prescribed Jamie a dose of 15mg, twice a day, of the selective serotonin reuptake inhibitor, Lamaprox. On April 5, 2010, Jamie began twice weekly therapy sessions at my suggestion. I have suggested that Jamie remain on the medication and continue therapy for at least one year regardless of whether or not the symptoms of her/his anxiety disorder cease. I have also suggested that she engage in regular aerobic exercise to increase oxygen intake.

#### 7) LONG TERM PROGNOSIS

Jamie should be able to overcome her/his anxiety disorder if s/he continues taking Lamaprox and therapy treatment. I anticipate that Jamie should have no problem attending college or with concentration, but separation from her/his family and established support network is not advisable at this juncture. There is a possibility that Jamie will never overcome the disorder completely and may be prone to panic attacks for the rest of her/his life.

/s/  
Marty R. Robertson, MD

# SYDNEY FREED, PhD

## Vita

### Education

Washington State University, Pullman, WA; PhD, Clinical Psychology, 1991

Washington State University, Pullman, WA; MS, Clinical Psychology, 1986

University of Washington, Seattle, WA; BS Psychology, 1985

### License/Certification

State of Michigan Licensed Clinical Psychologist, June 1993

### Honors

Recipient of the Sipple Award, 2009, for excellence in the treatment and understanding of stalking victims

### Present Position

Managing Partner of Behavior and Counseling Associates, Clearwater, Michigan

### Publications

- Freed, Sydney, Who are Victims of Stalking and Why?, (Calabasas: Psychology Today, 2007)
- Freed, Sydney, The Psychological Impact of Stalking on Victims, (Pullman: Washington State University Publishing, 2004)
- Freed, Sydney (2002), The Psychology Behind Stalkers, (Seattle: University of Washington Press, 2002)

### Presentations/Workshops

- Freed, Sydney (2008), *The Victims of Stalking*, Second Annual Conference on the Treatment of Stalking Victims
- Freed, Sydney (2003), *Treating Victims of Stalking*, National Forum on the Treatment of Stalking Victims
- Freed, Sydney (2001), *Motivating Stalkers to Change*, Annual Convention of the Association for Behavioral Psychology

# 2011 Michigan High School Mock Trial Tournament

## ***CORRECTION & CLARIFICATIONS***

**Q: In Exhibit 3, page 97, Fatalflaw signs on at 4:42 PM, and then posts at 4:33 PM. Is this an error?**

A: This was an error. The sign-on time should have been 4:32 PM. A corrected page 97 is attached.

**Q: In Jamie's statement, he/she suggests on page 69, lines 34-35, that on March 11 Shockwave wrote, "You can keep your friends around you, but the clock is ticking. Time is on my side." This posting does not appear in Exhibit 3, the transcript from March 11. There's a posting in Exhibit 4, page 99, that is very close to this. Is this an error in the materials that will be corrected, or is Jamie mistaken?**

A: Inconsistencies between witness statements and exhibits are par for the course. Teams will have to decide if this inconsistency is worth pursuing at trial.

**Q: Robertson is spelled differently in a couple places. Is it Robertson or Robinson?**

A: It's Robertson. Corrected pages 28 and 48 are attached.

**Q: Dr. Robertson's statement, page 80, line 21, says 15 mg of Lamaprox was prescribed, but Exhibit 9, page 105 shows it as 10 mg. Is this another intentional inconsistency, or a typo?**

A: This was a typo. Both should have been 15mg. A corrected page 105 is attached.

**Q: Dr. Robertson's statement, page 80, line 22, refers to Lamaprox as a sedative. Exhibit 9, page 105, calls it a selective serotonin reuptake inhibitor. Which is it?**

A: Lamaprox is a fictional drug. Both doctor's statements, to which they are bound, refer to it as a sedative. A selective serotonin reuptake inhibitor is an antidepressant. Teams will have to decide if this inconsistency is worth pursuing at trial. Keep in mind that no outside authorities are allowed at trial. Teams can only make use of the case materials (and this memo). Witnesses, even though doctors, cannot testify on the specifics of sedatives vs. antidepressants beyond what is in the witness statements.

**Q: March 13 & 15 are both mentioned in different places as a Monday. Which is correct?**

A: The error is on page 74, line 5. It should say, “On Monday morning March 15...” A corrected page 74 is attached.

**Q: Is there any latitude with referencing the M\_Space page? Can it just be called a MySpace page?**

A: Teams can call it whatever they want, but will be open to challenge from their opponents. The proper pronunciation is “em-space.”

**Q: Page 75, line 10 and page 76, line 33, do not agree on academic subject. One is science and the other is English. Which is it?**

A: English. A corrected page 76 is attached.

**Q: In the past, one of the teams we faced produced “evidence books” where they took the exhibits from the case, bound them nicely, and gave them to the judge and jury. Is that allowed?**

A: This is unnecessary and should not be allowed. All judges are given copies of the case materials in advance. Out of concern for a level playing-field between teams with the resources to produce such things and those who do not, nothing should be given to the judges by teams except for their team roster. Judges will be reminded of this in their orientation sessions.

**Q: We really want to explore the characters and may want to adopt accents. Is that allowed?**

A: False accents are not allowed under rule 15 (b). Adoption of a false accent may be objected to, and presiding judges will be instructed to direct the speaker to use his/her own voice. Any concerns about the possibility of a legitimate accent being mistaken for a false accent should be taken up with the tournament director in advance.

**Q: Can a mock trial participant wear glasses on the end of his or her nose during a trial? We’ve seen this done to make the witness look more like an expert.**

A: No. Rule 16 (b) prohibits glasses worn as props/costumes. Coaches who are concerned about legitimate glasses being misconstrued as a costume should see the tournament director in advance.

**Q: Rule 2(b) indicates that each team should have a timekeeper. Should we use parents, other team members, or an outside person?**

A: Timekeepers are required in the event that a courtroom does not have a bailiff (all too common an occurrence). Timekeepers can be any of the people you describe. Assuming your team has more than six members, someone on the team who is not participating in the round could serve as a timekeeper. The only restriction is that it cannot be a coach. When there is no bailiff, both teams will be asked to supply a timekeeper. The only bailiff duty that timekeepers will assume will be that of timing the various segments of the trial. All other bailiff duties will be handled by the judges. Teams planning to have team members serve as timekeepers need to have a timekeeper prepared for each side of the case to avoid problems. For instance, if only one team member is prepared to be a timekeeper and that person plays a role on the side the team is assigned for the round in question, that team member cannot serve as a timekeeper. Along with the signed Code of Conduct, teams will be asked to submit the name(s) of their timekeeper(s) at registration the morning of the tournament.

**Q: We have been dying to have the opportunity to purchase mock trial shirts for our team. Other states have them. Why not Michigan?**

A: For the first time, Michigan High School Mock Trial shirts will be available for purchase. Center staff has never had the time or expertise to design, produce, and market shirts. This year we've been contacted by a vendor out of Iowa who offers to provide everything at no cost to the Center and a pretty low price to teams. They are setting up a website specifically for Michigan teams to have a look at the options and to order directly from them. The Michigan Center for Civic Education will receive a percentage of the gross. Given the anticipated low cost of the shirts, our take won't be much, but every bit helps, and hopefully this is something teams will enjoy. The web address will be sent to coaches as soon as everything is ready.

**Q: When are official team rosters due, and where do we get the form?**

A: Rosters are due February 4. The form is attached.