



# General Guidelines for Scoring a Trial Presentation

Mock Trial is a subjective exercise when scoring. It is ultimately up to the perception of each individual Scoring Judge as to how effective the students and teams are in presenting their side of the case. To achieve consistency in points applied to each portion of the case, refer to the Scoring Criteria on next page.

As the trial progresses, the Scoring Judges will award points at each stage of the trial. Performance will be rated on a scale of 1-5 speaker points, according to their role(s) in the trial.

Please keep in mind that this is a **mock** trial, not a real trial, and the students will do things that may not be “realistic” or “what is done in real court.” The point of mock trial is to show their level of preparation, skill, demeanor, and expertise in presenting their side of the case. With that in mind, the students may present their case including things that are for the mock part of the trial:

- Citing rule numbers with every objection.
- Being more formal when addressing the court and witness than normal.
- An attorney being more aggressive on cross examination in order to control the witness.
- Witnesses are acting as a character. They may be creepy, young, old, etc. Rate the performance and believability of the character you see on the stand.
- Focusing on a limited set of facts during cross examination due to competition time limits.
- Prosecuting or defending a case that would “never make it to court in the real world!” They work with what they are given by the competition. Please do not penalize them for a “bad” or “limited” set of facts.

To achieve as much consistency from one round to the next, please adhere to the scoring criteria and performance ratings when considering potential scores for the competition:

- The Scoring Criteria is meant to be a list of what to expect from each stage of the trial. Students’ and teams’ proper handling of these items will translate to the score you give each performance.
- The Performance Ratings lay out what each of the scores means for each part of the trial. This is not meant to be a checklist of assigned points but more of a *guideline* to adjust points as each student presents their role. Scoring Judges should weigh the entire performance of each student and score them with these guidelines in mind.

**Scoring judges should start each presentation expecting a score of 3 and adjust accordingly from there.** In order to show the good from the bad from the great, there must be a differentiation between scores; **everyone cannot get a 5.** Someone has to win, and someone has to lose in this competition. The scores must reflect what the students did during the trial round accurately to advance the competition properly.

Scoring Judges may individually consider penalties for violation(s) of the Rules of Competition, such as using unfair extrapolations, wasting the other team’s time on cross examination (time sucking), a hostile attitude towards the opposing team or judge, etc. Penalties reduce point awards in the appropriate performance categories below and should only be used when misconduct appears intentional. Penalties will not be indicated separately on the scoresheet. If you deducted points to penalize intentional misconduct, please make a note in the scoring sheet with a comment so we can discourage misconduct and significant rules violations.



## EXTRAPOLATIONS: Fair and Unfair

During a mock trial presentation, an extrapolation is the addition or alteration of a fact during the testimony of a witness that is not contained in the case materials. Whether it is **fair** or **unfair** depends on the nature of the expanded testimony and the context within the issues presented by the problem. **The key is to look for an advantage gained by the extrapolating witness.**

This hard-to-define area often arises in mock trials. **Rule 4** of the Rules of Competition exists in an attempt to solve these problems. In short, the buck stops with the presiding judge and presiding judges are asked to **interpret this rule strictly and narrowly.**

During a round, if a question arises regarding a potential extrapolation, the team should be able to point to the area of the case where the witness' testimony and/or the attorney's question originates. This should assist presiding and scoring judges to assess whether a potential extrapolation is fair, and thus allowed, or unfair and not allowed.

**Rule 3(a)** allows witnesses to make fair extrapolations "provided [a] reasonable inference may be made from the witness' statement" and "is one that is neutral." Stated differently, if the nature of the expanded testimony is a logical extension of the facts provided in the witness' statement (or related exhibits), and **no advantage is gained**, then it is not an unfair extrapolation and could arguably be considered a fair extrapolation. For example, if the particular statement (or an exhibit related to that witness) mentions that the witness took an umbrella to a party, the witness could certainly testify s/he thought it was going to rain, so long as that fact is not crucial to the issue at hand.

**Great care should be taken when deciding if an extrapolation is fair or unfair.** A single embellished fact, such as the previous example, could be considered a fair extrapolation. However, if a witness peppers his/her testimony with multiple seemingly "neutral" facts, the witness may then be perceived as very observant and possessive of a detailed memory. This may not impact a substantive issue in the case, but it certainly bears on the apparent credibility of the witness. In this context, the extrapolations "materially affect the witness' testimony," and should be considered unfair as a whole. This is another reason why presiding judges are asked to interpret this rule strictly and narrowly.

Context is equally as important. For example, if a witness testifies that s/he traveled through a green light on a certain date and time, and his/her statement is silent as to that fact, this is an extrapolation. It is an unfair extrapolation only if the issue in the case was the color of the traffic light. If the color of the light is only tangential or immaterial to the issues involved, then no advantage has been gained.

Student attorneys who handle unfair extrapolations by successfully impeaching the witness should be given more points credit than those attorneys who solely rely on the judge to rule on "unfair extrapolation" objections under Rule 4. Additionally, the fact that an attorney may ask a question on cross-examination that might call for extrapolation is not a license for the witness to extrapolate. Rule 3(d) requires the witness to refrain from extrapolating in such an instance.

Each scoring judge should make decisions regarding unfair extrapolations and point deductions independently but **should consider point deductions for using unfair extrapolations to try to gain an advantage or throw off the other team**; evaluators are not bound by the rulings of the presiding judge in determining unfair extrapolations or point deductions.