

New York State  
**2011 Statewide High  
School Mock Trial  
Tournament Materials**

January 18, 2011 Final Edition

*Pat Parker*

vs.

*Village of Empireville and  
Board of Trustees of the  
Village of Empireville*

Law, Youth and Citizenship  
New York State Bar Association®

*Materials prepared by the Law, Youth & Citizenship Program of the  
New York State Bar Association. Supported by  
The New York Bar Foundation*



**New York Statewide  
High School  
Mock Trial Tournament  
Regional Champions**

**2010**

Brighton High School  
Vestal High School  
LEAH Schenectady Homeschool Team  
Scarsdale High School  
**James Madison High School**  
William Floyd High School

**2009**

Pittsford Mendon High School  
Lehman Alternative Community School  
Madrid-Waddington Central School  
Rye Neck High School  
**Tottenville High School**  
W. Tresper Clarke High School

**2008**

Clarence High School  
Bishop Ludden Jr./Sr. High School  
Notre Dame-Bishop Gibbons High School  
Nyack High School  
Tottenville High School  
**East Islip High School**

**2007**

Clarence High School  
Vestal High School  
Potsdam High School  
Blind Brook High School  
**Bronx School for Law, Government and Justice**  
Bay Shore High School

**2006**

Buffalo Academy of the Sacred Heart  
Lehman Alternative Community School  
LEAH Schenectady Homeschool Team  
Blind Brook High School  
**Marymount High School of New York**  
William Floyd High School

**2005**

Buffalo Academy of the Sacred Heart  
Vestal High School  
Notre Dame-Bishop Gibbons High School  
Blind Brook High School  
James Madison High School  
**William Floyd High School**

**2004**

McQuaid Jesuit High School  
Union-Endicott High School  
Notre Dame-Bishop Gibbons High School  
Ramapo High School  
Tottenville High School  
**William Floyd High School**

**2003**

Albany Academy for Girls  
Hunter College High School  
Minisink Valley High School  
Vestal High School  
Williamsville North High School  
**W. Tresper Clarke High School**

**2002**

Pittsford-Mendon High School  
Vestal High School  
Coxsackie-Athens High School  
Ramapo High School  
**The Rabbi Joseph H. Lookstein Upper  
School of Rainaz**  
William Floyd High School

**2001**

St. Francis High School  
Chittenango High School  
Albany Academy for Girls  
Kingston High School  
The Kew-Forest School  
**William Floyd High School**

**2000**

**St. Francis High School**  
Norwich High School  
Notre Dame-Bishop Gibbons High School  
Sleepy Hollow High School  
The Kew-Forest School  
Roslyn High School

**1999**

Orchard Park High School  
Dewitt High School  
The Academy of the Holy Names  
Mt. Vernon High School  
Louis D. Brandeis High School  
**William Floyd High School**

**1998**

Allendale Columbia School  
Seton Catholic Central High School  
Scotia-Glenville High School  
John S. Burke Catholic High School  
The Rabbi Joseph H. Lookstein Upper  
School of Rainaz  
**Stella K. Abraham High School for Girls**

**1997**

**Canisius High School**  
Susquehanna Valley High School  
Waterford-Halfmoon High School  
Mt. Vernon High School  
St. Ann's School  
Hebrew Academy of the Five Towns  
and Rockaway

November 12, 2010

Dear Mock Trial Students, Teacher-coaches and Attorney-advisors:

Thank you for participating in the 2010-11 New York State High School Mock Trial Tournament. This program, now in its 28<sup>th</sup> year, is sponsored by the New York State Bar Association's Committee on Law, Youth and Citizenship and The New York Bar Foundation. Many thanks to the numerous local bar associations across the state that sponsor mock trial tournaments in their counties and to the County Coordinators who spend many hours managing the local tournaments. Thanks also to the teacher-coaches and attorney-advisors who dedicate countless hours to students across the state. Most importantly, special thank you to all the students who devote their time and energy to preparing for the tournament. Their incredible performances, year after year, never cease to amaze us. Congratulations to James Madison High School, the 2009-10 New York State High School Mock Trial Tournament champions.

Please review carefully all of the enclosed mock trial tournament information, paying special attention to the rules of the competition and the simplified rules of evidence with which you must become familiar. The case this year, *Pat Parker v Village of Empireville and Board of Trustees of the Village of Empireville*, is a civil case involving a high school student bringing suit against the village and board for amending a parking law that the student believes is a violation of their right to due process.

The mock trial program is a competition that has two purposes. The first is to teach high school students basic trial practice skills. Students learn how to conduct direct and cross examinations, how to present opening and closing statements, how to think on their feet and learn the dynamics of a courtroom. Students will also learn how to analyze legal issues and apply the law to the facts of the case. The level of skill shown by New York State students is extraordinary, and it is due to the dedication and hard work of both the students and their teacher-coaches and attorney-advisors.

The second and most important purpose of this competition is to teach professionalism. Students learn ethics, civility and how to be zealous but courteous advocates for their clients. Good sportsmanship and respect for all participants are central to this competition. We thank all of our coaches, advisors and judges not only for the skills that they teach, but for the professional example that they set throughout this tournament.

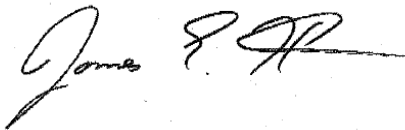
Please note, that for 2010-11, there is a slight change to Rule 802. As a reminder, Rules 701 and 702 are fictitious rules of evidence that do not exist in the actual rules of evidence. They were devised to facilitate a mock trial and without these rules, the participants would have no boundaries in the examination of witnesses. We would like to caution teams against inventing facts and over-using objections based on invention of facts. These types of objections are disruptive to the trial. They should be used sparingly and in only the most egregious situations. You should remember that an objection based on Rule 701 and 702 is not a substantive application of the law or the rules of evidence and will not likely help your overall presentation.

The tournament finals will be held in Albany on May 22 through 24, 2011. The team that is successful in achieving the regional championship in each of the six mock trial regions will be invited to participate in the finals. The New York Bar Foundation will provide the necessary funds for each team's room and board for the two days that the team participates in the tournament finals in Albany. Regional teams consist of the nine students, teacher coach, and attorney advisor whose expenses will be paid by the New York Bar Foundation. If a school can cover the additional room and board costs, the entire team is invited to attend as well.

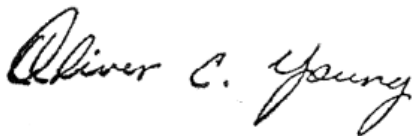
This year's Mock Trial Tournament materials will be posted on the Law, Youth and Citizenship website, [www.lycny.org](http://www.lycny.org). There will also be updates posted on the Mock Trial blog, [www.nysbar.com/blogs/mocktrial](http://www.nysbar.com/blogs/mocktrial). Be sure to "like" the Facebook page too, under NYS Mock Trial and Mock Trial Summer Institute. We also have a Twitter feed, @NYSMockTrial. Throughout the competition, you should check the website and the other sites for important announcements about the competition.

We hope you enjoy working on this year's case. Best wishes to all of you for a successful and challenging mock trial tournament.

Sincerely,

A handwritten signature in black ink, appearing to read "James Hanlon".

James Hanlon, Esq., Akron  
Chair, Committee on Law, Youth and Citizenship

A handwritten signature in black ink, appearing to read "Oliver C. Young".

Oliver C. Young, Esq., Buffalo  
Chair, Mock Trial Subcommittee

Subcommittee Members:

Craig R. Bucki, Esq., Buffalo  
Karen Callahan, Esq. New York City  
Melissa Ryan Clark, Esq., New York City  
Linda J. Cohen, Esq., Albany  
Janet Phillips Kornfeld, Esq., New York City  
Judge Ira Warshawsky, Long Island  
Michael A. Yood, Esq., Buffalo  
Jason Zack, Esq., New York City

## STANDARDS OF CIVILITY

*“ . . . [O]urs is an honorable profession, in which courtesy and civility should be observed as a matter of course.”* Hon. Judith S. Kaye, Former Chief Judge of the State of New York

The following standards apply to all participants in the Mock Trial Tournament, including students, teachers, and attorneys:

1. Lawyers should be courteous and civil in all professional dealings with other persons.
2. Lawyers should act in a civil manner regardless of the ill feelings that their clients may have toward others.
3. Lawyers can disagree without being disagreeable. Effective representation does not require antagonistic or acrimonious behavior. Whether orally or in writing, lawyers should avoid vulgar language, disparaging personal remarks or acrimony toward other counsel, parties or witnesses.
4. Lawyers should require that persons under their supervision conduct themselves with courtesy and civility.
5. A lawyer should adhere to all expressed promises and agreements with other counsel, whether oral or in writing, and to agreements implied by the circumstances or by local customs.
6. A lawyer is both an officer of the court and an advocate. As such, the lawyer should always strive to uphold the honor and dignity of the profession, avoid disorder and disruption in the courtroom, and maintain a respectful attitude toward the court.
7. Lawyers should speak and write civilly and respectfully in all communications with the court and court personnel.
8. Lawyers should use their best efforts to dissuade clients and witnesses from causing disorder or disruption in the courtroom.
9. Lawyers should not engage in conduct intended primarily to harass or humiliate witnesses.
10. Lawyers should be punctual and prepared for all court appearances; if delayed, the lawyer should notify the court and counsel whenever possible.
11. Court personnel are an integral part of the justice system and should be treated with courtesy and respect at all times.

*The foregoing Standards of Civility are based upon the Standards of Civility for the New York State Unified Court System.*

# **2010-2011 Mock Trial Case Materials**

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## PREPARING FOR THE MOCK TRIAL TOURNAMENT

### Learning the Basics

Teachers and attorneys should instruct students in trial practice skills and courtroom decorum. You may use books, videos and other materials in addition to the tournament materials that have been provided to you to familiarize yourself with trial practice. However, during the competition, you may cite only the materials and cases provided in the Mock Trial Tournament materials contained in this booklet. You may find the following books and materials helpful:

Mauet, Thomas A., Trial Techniques (6<sup>th</sup> ed.), Aspen Law and Business  
Murray, Peter, Basic Trial Advocacy, Little, Brown and Company  
Lubet, Steven, Modern Trial Advocacy, National Institute for Trial Advocacy  
Vile, John R., Pleasing the Court: A Mock Trial Handbook (3<sup>rd</sup> ed.), Houghton Mifflin Company

### Preparation

1. Teachers and attorneys should teach the students what a trial is, basic terminology (e.g., plaintiff, prosecutor, defendant), where people sit in the courtroom, the mechanics of a trial (e.g., everyone rises when the judge enters and leaves the courtroom; the student-attorney rises when making objections, etc.), and the importance of ethics and civility in trial practice.
2. Teachers and attorneys should discuss with their students the elements of the charge or cause of action, defenses, and the theme of their case. We encourage you to help the students, but not to do it for them.
3. Teachers should assign students their respective roles (witness or attorney).
4. Teams must prepare both sides of the case.
5. Student-witnesses cannot refer to notes so they should become very familiar with their affidavits and know all the facts of their roles. Witnesses should “get into” their roles. Witnesses should practice their roles, with repeated direct and cross examinations, and anticipate questions that may be asked by the other side. The goal is to be a credible, highly prepared witness who cannot be stumped or shaken.
6. Student-attorneys should be equally familiar with their roles (direct examination, cross examination, opening and closing statements). Student attorneys should practice direct and cross examinations with their witnesses, as well as practice opening and closing arguments. Closings should consist of a flexible outline. This will allow the attorney to adjust the presentation to match the facts and events of the trial itself, which will vary somewhat with each trial. Practices may include a judge who will interrupt the attorneys and witnesses occasionally. During the earlier practices, students may fall “out of role”; however, we suggest that as your practices continue, this be done less and that you critique presentations at the end. Each student should strive for a presentation that is as professional and realistic as possible.
7. Each team should conduct a dress rehearsal before the first round of the competition. We encourage you to invite other teachers, friends and family to your dress rehearsal.





# **PART I**

## **NEW YORK STATE HIGH SCHOOL MOCK TRIAL TOURNAMENT RULES**

### **General Information**

#### **1. TEAM COMPOSITION:**

- a. The Mock Trial Tournament is open to all 9th - 12th graders in public and nonpublic schools who are currently registered as students at that school.
- b. If a school chooses to limit student participation for any reason, this should be accomplished through an equitable “try-out” system, not through disallowing participation by one or more entire grade levels.
- c. Each school participating in the Mock Trial Tournament may enter only **ONE** team.
- d. Members of a school team entered in the Mock Trial Tournament—including teacher-coaches, back-up witnesses, attorneys, and others directly associated with the team’s preparation—are **NOT** permitted to attend the trial enactments of any possible future opponent in the contest. This rule should not be construed to preclude teams from engaging in practice matches, even if those teams may meet later during the competition.

**Violations of this rule can lead to being disqualified from the tournament.**

- e. Immediately prior to each trial enactment, the attorneys and witnesses for each team must be physically identified to the opposing team and the judge by stating their first and last names. Please do not state the name of your school in front of the judge since the judge will not otherwise be told the name of the schools participating in the enactment he or she is judging.

#### **2. OBJECTIONS**

- a. Attorneys should stand when making an objection, if they are physically able to do so.
- b. When making an objection, attorneys should say “objection” and then, very briefly, state the basis for the objection (for example, “leading question”). Do not explain the basis unless the judge asks for an explanation.
- c. Witnesses should stop talking immediately when an opposing party makes an objection. Please do not try to “talk over” the attorney making an objection.

#### **3. DRESS**

We emphasize to the judges that a student’s appearance is not a relevant factor in judging his or her performance. However, we strongly encourage students to dress neatly and appropriately. A “business suit” is not required.

#### **4. STIPULATIONS**

Any stipulations are binding on all participants and the judge, and may **NOT** be disputed at the trial.

#### **5. OUTSIDE MATERIALS**

Students may read other materials such as legislative histories, judicial opinions, textbooks, treatises, etc., in preparation for the Mock Trial Tournament. However, students may cite only the materials and cases provided in these Mock Trial Tournament materials.

#### **6. EXHIBITS**

Students may introduce into evidence or use only the exhibits and documents provided in the Mock Trial Tournament materials. Students may not create their own charts, graphs or any other visual aids for use in the courtroom in presenting their case.

#### **7. SIGNALS AND COMMUNICATION**

The team coaches, advisors, and spectators may not signal the team members (neither student-attorneys nor witnesses) or communicate with them in any way during the trial, including but not limited to wireless devices and text messaging. A witness may talk to his/her student attorney during a recess or during direct examination but not during cross examination.

#### **8. VIDEOTAPING/AUDIOTAPING**

- a. During any tournament round, except State semi-finals and State finals, a trial may be videotaped or audio taped but only if each of the following conditions is satisfied:
  1. The courthouse in which the tournament round is taking place must permit video or audio taping and the team wishing to videotape or audiotape has received permission from the courthouse in advance of the trial. *We note that many state and Federal courthouses prohibit video or audio taping devices in the courthouse.*
  2. The judge consents before the beginning of the trial.
  3. The opposing team consents in writing prior to the time the trial begins. Written consents should be delivered to the County Coordinator. Fax or e-mail is acceptable.
  4. A copy of the video or audio tape must be furnished to the opposing team (at no cost) within 48 hours after the trial.
  5. The video or audio tape may not be shared by either team with any other team in the competition.
- b. Video or audio taping of the State semi-finals and final rounds is **NOT** permitted.

## **9. MOCK TRIAL COORDINATORS**

The success of the New York State Mock Trial Program depends on the many volunteer county and regional coordinators. The appropriate supervisor will be contacted if any representative from a high school, parent, coach, or team member addresses a mock trial volunteer or staff person at any level of the competition in an unprofessional or discourteous manner. County Coordinators may also refer any such matters to the Law, Youth and Citizenship Committee of the New York State Bar Association for appropriate action by the LYC Committee.

## **10. ROLE AND RESPONSIBILITY OF ATTORNEYS**

- a. The attorney who makes the opening statement may not make the closing statement.
- b. Requests for bench conferences (i.e., conferences involving the Judge, attorney(s) for the plaintiff or the people and attorney(s) for the defendant) may be granted after the opening of court in a mock trial, but not before.
- c. Attorneys may use notes in presenting their cases, for opening statements, direct examination of witnesses, etc. Witnesses are **NOT** permitted to use notes while testifying during the trial.
- d. Each of the three attorneys on a team must conduct the direct examination of one witness and the cross examination of another witness.
- e. The attorney examining a particular witness must make the objections to that witness's cross examination, and the attorney who will cross-examine a witness must make the objections to the witness's direct examination.

## **11. WITNESSES**

- a. Each witness is bound by the facts of his/her affidavit or witness statement and any exhibit authored or produced by the witness that is relevant to his/her testimony. Witnesses may not invent any other testimony. However, in the event a witness is asked a question on cross examination, the answer to which is not contained in the witness's statement or was not testified to on direct examination, the witness may respond with any answer that does not materially alter the outcome of the trial.
- b. If there is an inconsistency between the witness statement or affidavit and the statement of facts or stipulated facts, the witness can only rely on and is bound by the information contained in his/her affidavit or witness statement.
- c. A witness is not bound by facts in other witnesses' affidavits or statements.
- d. If a witness contradicts a fact in his or her own witness statement, the opposition may impeach the testimony of that witness.
- e. A witness's physical appearance in the case is as he or she appears in the trial enactment. No costumes or props may be used.

- f. Witnesses shall not sit at the attorneys' table.

## **12. PROTESTS**

- a. Other than as set forth in 12(b) below, protests of judicial rulings are **NOT** allowed. All judicial rulings are final and cannot be appealed.
- b. Protests are highly disfavored and will only be allowed to address two issues: (1) cheating (a dishonest act by a team that has not been the subject of a prior judicial ruling) and (2) a conflict of interest or gross misconduct by a judge (e.g., where a judge is related to a team member). All protests must be made in writing and either faxed or emailed to the appropriate County Coordinator and to the teacher-coach of the opposing team. The County Coordinator will investigate the grounds for the protest and has the discretion to make a ruling on the protest or refer the matter directly to the LYC Committee. The County Coordinator's decision can be appealed to the LYC Committee.
- c. Hostile or discourteous protests will not be considered.

## **13. JUDGING**

The decisions of the judge are final.

## **14. TIME LIMITS**

- a. The following time limits apply:

Opening statements	5 minutes for each team
Direct examination	7 minutes for each witness
Cross examination	5 minutes for each witness
Closing arguments	5 minutes for each team
- b. The judges have been instructed to adhere as closely as possible to the above time limits and that an abuse of the time limits should be reflected in scoring.

## **15. TEAM ATTENDANCE AT STATE FINALS ROUND**

Six teams will advance to the State Finals. All six teams are required to participate in all events associated with the Mock Trial Tournament, including attending the final round of the competition.

## **PART II**

### **NEW YORK STATE HIGH SCHOOL MOCK TRIAL TOURNAMENT POLICIES AND PROCEDURES**

New York's Annual Mock Trial Tournament is governed by the policies set forth below. The LYC Committee and the Law, Youth and Citizenship Program of the New York State Bar Association reserve the right to make decisions to preserve the equity, integrity, and educational aspects of the program.

By participating in the Mock Trial Tournament, participants agree to abide by the decisions rendered by the LYC Committee and the Mock Trial program staff and accept such decisions as final.

#### **1. GENERAL POLICIES**

- a. All mock trial rules, regulations, and criteria for judging apply at all levels of the Mock Trial Tournament.
- b. The Simplified Rules of Evidence and Procedure contained in Part III govern the trial proceedings.
- c. Volunteer County Coordinators administer county tournaments. County Coordinators have sole responsibility for organizing, planning, and conducting tournaments at the county level and should be the first point of contact for questions at the county level.
- d. For any single tournament round, all teams are to consist of three attorneys and three witnesses.
- e. Teams must not identify themselves by their school name to the judge prior to the announcement of the judge's decision.
- f. If a team member who is scheduled to participate in a trial enactment becomes ill, injured, or has a serious conflict and as a result cannot compete, then the team may substitute an alternate team member. If an alternate team member is not available, the local coordinator may declare a forfeit or reschedule the enactment at his or her sole discretion.
- g. Members of a team may play different roles in different rounds, or other students may participate in another round.
- h. Winners in any single round will be asked to switch sides in the case for the next round. Where it is impossible for both teams to switch sides, a coin flip will be used to determine assignments in the next round.
- i. Teacher-coaches of teams who will be competing against one another are required to exchange information regarding the names and gender of their witnesses at least three days prior to each round.

- j. No attorney may be compensated in any way for his or her service as an attorney-advisor to a mock trial team or as a judge in the Mock Trial Tournament.
- k. When a team has a student or students with special needs who may require an accommodation, the teacher-coach **MUST** bring this to the attention of the County Coordinator at least two weeks prior to the time when the accommodation will be needed.
- l. The Judge must take judicial notice of the Statement of Stipulated Facts and any other stipulations.
- m. Teams may bring perceived errors in the problem, or suggestions for improvements in the tournament rules and procedures to the attention of the LYC staff at any time. These, however, are not grounds for protests. Any protest arising from an enactment must be filed with the County Coordinator in accordance with the protest rule in the Tournament Rules.

## 2. SCORING

- a. Scoring is on a scale of 1-5 for each performance (5 is excellent). Judges are required to enter each score on the performance rating sheet (Appendix C) after each performance, while the enactment is fresh in their minds. Judges should be familiar with and use the performance rating guidelines (Appendix B) when scoring a trial.
- b. Judges are required to also assign between 1 and 10 points to **EACH** team for demonstrating professionalism during a trial. A score for professionalism may not be left blank. Professionalism criteria are:
  - Team's overall confidence, preparedness and demeanor
  - Compliance with the rules of civility
  - Zealous but courteous advocacy
  - Honest and ethical conduct
  - Knowledge and adherence to the rules of the competition
  - Absence of unfair tactics, such as repetitive, baseless objections and signals

A score of 1 to 3 points should be awarded for a below average performance, 4 to 6 points for an average performance and 7 to 10 points for an outstanding or above-average performance.

- c. The appropriate County Coordinator will collect the Performance Rating Sheet for record keeping purposes. Copies of score-sheets are not available to individual teams; however, a team can get its total score through the County Coordinator.

### 3. LEVELS OF COMPETITION

- a. For purposes of this program, New York State has been divided into six regions:

Region #1: West

Region #2: Central

Region #3: Northeast

Region #4: Lower Hudson

Region #5: New York City

Region #6: Long Island

- b. See Map and Chart of Counties in Regions (Appendix A).

### 4. COUNTY TOURNAMENTS

- a. All rules of the New York State Mock Trial Tournament must be adhered to at tournaments at the county level.
- b. In these tournaments there are two phases. In the first phase each team will participate in at least two rounds before the elimination process begins, once as plaintiff/prosecution and once as defendant. After the second round, a certain number of the original teams will proceed to the second phase in a single elimination tournament. Prior to the competition and with the knowledge of the competitors, the County Coordinator may determine a certain number of teams that will proceed to the Phase II single elimination tournament. While this number may be more or less than half the original number of teams, any team that has won both rounds based on points, but whose combined score does not place it within the established number of teams, **MUST** be allowed to compete in the phase II single elimination tournament.
- c. The teams that advance to Phase II do so based on a combination of wins and points. All 2-0 teams automatically advance; teams with a 1-1 record advance based on total number of points; if any spots remain open, teams with a record of 0-2 advance, based on their total number of points.
- d. If the number of teams going into the single elimination phase is odd, the team with the most wins and highest combined score will receive a bye. If any region starts the year with an odd number of teams, one team from that region may receive a bye—coin toss, etc.
- e. Phase II of the contest is a single round elimination tournament; winners advance to the next round.
- f. At times, a forfeit may become a factor in determining aggregate point totals and which teams should advance to the single elimination tournament. Each county should review its procedures for dealing with forfeits, in light of the recommended procedures below. Please note that due to the variety of formats in use in different counties, it is strongly urged that each county develop a system which takes its own structure into account and which participants understand prior to the start of the local tournament. That procedure should be forwarded to Stacey Whiteley, the New York State Coordinator, before the first round of competition is held.

- g. If a county has an established method for dealing with forfeits, or establishes one, then that rule continues to govern. If no local rule is established, then the following State rule will apply: *In determining which teams will advance to the single elimination tournament, forfeits will first be considered to cancel each other out, as between two teams vying for the right to advance. If such canceling is not possible (as only one of two teams vying for a particular spot has a forfeit victory) then a point value must be assigned for the forfeit. The point value to be assigned should be derived from averaging the team's point total in the three matches (where possible) chronologically closest to the date of the forfeit; or if only two matches were scheduled, then double the score of the one that was held.*

## **5. REGIONAL TOURNAMENTS**

- a. Teams who have been successful in winning county level tournaments will proceed to regional level tournaments. Volunteer coordinators administer regional tournaments. Coordinators have sole responsibility for organizing, planning and conducting tournaments at the regional level. Participants must adhere to all rules of the tournament at regional level tournaments.
- a. Regional tournaments are held in counties within the region on a rotating basis. Every effort is made to determine and announce the location and organizer of the regional tournaments before the new mock trial season begins.
- b. All mock trial rules and regulations and criteria for judging apply, at all levels of the Mock Trial Tournament.
- c. The winning team from each region will be determined by an enactment between the two teams with the best records (most number of wins and greatest number of points) during the regional tournament. The winning team from each region will qualify for the State Finals in Albany.
- d. The regional tournaments MUST be completed 16 days prior to the State Finals. Due to administrative requirements and contractual obligations, the State Coordinator must have in its possession the schools' and students' names by this deadline. Failure to adhere to this deadline may jeopardize hotel blocks set aside for a region's teacher-coaches, attorney-advisors and students coming to Albany for the State Finals.

## **6. STATEWIDE FINALS**

- a. Once regional winners have been determined, The New York Bar Foundation will provide the necessary funds for each team's room and board for the two days it participates in the State Finals in Albany. Funding is available only to pay for up to nine students, one teacher coach and one attorney-advisor for each team. Students are two to a room. Regional teams consist of the nine students paid for by The New York Bar Foundation. However, as we have done in the past, if schools can cover additional costs for transportation and room and board, all members of a team are welcome to attend the State Finals.



- b. Additional students and adults attending the State Finals will not be reimbursed for their expenses. The cost of those students' and adults' rooms will not be covered by the New York Bar Foundation grant or the LYC Program. The State Coordinator will not be responsible for making room arrangements and reservations for anyone other than the nine students, one teacher-coach and one attorney-advisor for each team. However, every attempt will be made to pass along any special hotel rates to these other participants. Additional students and adults attending the State Finals may participate in organized meal functions but will be responsible for paying for their participation.
- c. Teacher-coaches proceeding to the State Finals must communicate all special dietary requirements and the total number of persons attending to the State Coordinator within 72 hours before the tournament.
- d. Each team will participate in two enactments the first day, against two different teams. Each team will be required to change sides—plaintiff/prosecution to defendant, defendant to plaintiff/prosecution—for the second enactment. Numerical scores will be assigned to each team's performance by the judges.
- e. The two teams with the most wins and highest numerical score will compete on the following day, except that any team that has won both its enactments will automatically advance, regardless of its point total. In the rare event of three teams each winning both of their enactments, the two teams with the highest point totals, in addition to having won both of their enactments, will advance.
- f. The final enactment will be a single elimination tournament. Plaintiff/prosecution and defendant will be determined by a coin toss by the tournament director. All teams invited to the State Finals must attend the final trial enactment.
- g. A judge or a panel of judges will determine the winner. The judge or judges' decision is final.

## **7. MCLE CREDIT FOR JUDGES AND ATTORNEY-ADVISORS**

The LYC Program applies for MCLE credit for attorneys participating in the New York State high school mock trial program. All paperwork is submitted to the MCLE board after the State Finals are held in May. Coordinators and the LYC Program must follow the following procedures:

- a. County Coordinators receive and disseminate the appropriate forms to attorneys and judges that participate in their counties.
- b. The County Coordinators will collect all forms from attorneys who participated in the Mock Trial Tournament during the current year, complete the cover form and return it to the State Coordinator within 6 days of the completion of their final round of the tournament.
- c. The State Coordinator compiles all of the forms and submits them to the MCLE board within 7 days of the completion of the State Finals.

- d. Once the tournament has been accredited, certificates will be generated by MCLE staff at the NYSBA and mailed to attorneys.
- e. According to MCLE rules, each attorney-judge or attorney-coach may earn CLE credits by participating in a specific activity. That is, an attorney-judge earns credits for trial time only; an attorney coach earns credit for time spent working with students only, which does not include the advisor's personal preparation time. A maximum of three (3) CLE credits may be earned for judging or coaching mock trial competitions during any one reporting cycle, i.e., in a two-year period. Finally, an attorney who has been admitted to the New York State Bar in the last two years **MAY NOT** apply for this type of CLE credit.

### **PART III**

## **NEW YORK STATE HIGH SCHOOL MOCK TRIAL SIMPLIFIED RULES OF EVIDENCE AND PROCEDURE**

In trials in the United States, elaborate rules are used to regulate the admission of proof (i.e., oral or physical evidence). These rules are designed to ensure that both parties receive a fair hearing and to exclude any evidence deemed irrelevant, incompetent, untrustworthy, or unduly prejudicial. 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 attorneys to know the rules of evidence and to be able to use them to protect their client and to limit the actions of opposing counsel and their witnesses.

Formal rules of evidence are quite complicated and differ depending on the court where the trial occurs. For purposes of this Mock Trial Tournament, the New York State rules of evidence have been modified and simplified. Not all judges will interpret the rules of evidence or procedure the same way, and you must be prepared to point out the specific rule (quoting it, if necessary) and to argue persuasively for the interpretation and application of the rule that you think is proper. No matter which way the judge rules, you should accept the ruling with grace and courtesy.

### **SCOPE**

- Rule 101: **SCOPE.** These rules govern all proceedings in the mock trial competition. The only rules of evidence in the competition are those included in these rules.
- Rule 102: **OBJECTIONS.** The court shall not consider an objection that is not contained in these rules. If counsel makes an objection not contained in these rules, counsel responding to the objection must point out to the judge, citing Rule 102, that the objection is beyond the scope of the listed objections. However, if counsel responding to the objection does not point out to the judge the application of this rule, the court may exercise its discretion and consider such objection.

### **RELEVANCY**

- Rule 201: **RELEVANCY.** Only relevant testimony and evidence may be presented. This means that the only physical evidence and testimony allowed is that which tends to make a fact which is important to the case more or less probable than the fact would be without the evidence. However, if the probative value of the relevant evidence is substantially outweighed by the danger that the evidence will cause unfair prejudice, confuse the issues, or result in undue delay or a waste of time, the court may exclude it. This may include testimony, physical evidence, and demonstrations that do not relate to time, event or person directly involved in the litigation.

Example:

*Photographs present a classic problem of possible unfair prejudice. For instance, in a murder trial, the prosecution seeks to introduce graphic photographs of the bloodied victim. These photographs would be relevant because, among other reasons, they establish the victim's death and location of the wounds. At the same time, the photographs present a high danger of unfair prejudice, as they could cause the jurors to feel incredible anger and a desire to punish someone for the vile crime. In other words, the photographs could have an inflammatory effect on the jurors, causing them to substitute passion and anger for reasoned analysis. The defense therefore should object on the ground that any probative value of the photographs is substantially outweighed by the danger of unfair prejudice to the defendant. Problems of unfair prejudice often can be resolved by offering the evidence in a manner that retains the probative value, while reducing the danger of unfair prejudice. In this example, the defense might stipulate to the location of the wounds and the cause of death. Therefore, the relevant aspects of the photographs would come in, without the unduly prejudicial effect.*

Rule 202: CHARACTER. Evidence about the character of a party or witness may not be introduced unless the person's character is an issue in the case or unless the evidence is being offered to show the truthfulness or untruthfulness of the party or witness. Evidence of character to prove the person's propensity to act in a particular way is generally not admissible in a civil case.

In a criminal case, the general rule is that the prosecution cannot initiate evidence of the bad character of the defendant to show that he or she is more likely to have committed the crime. However, the defendant may introduce evidence of her good character to show that she is innocent, and the prosecution may offer evidence to rebut the defense's evidence of the defendant's character. With respect to the character of the victim, the general rule is that the prosecution cannot initiate evidence of the character of the victim. However, the defendant may introduce evidence of the victim's good or (more likely) bad character, and the prosecution may offer evidence to rebut the defense's evidence of the victim's character.

Examples:

*A limousine driver is driving Ms. Daisy while he is intoxicated and gets into a car accident injuring Ms. Daisy. If Ms. Daisy sues the limousine company for negligently employing an alcoholic driver, then the driver's tendency to drink is at issue. Evidence of the driver's alcoholism is*

*admissible because it is not offered to demonstrate that he was drunk on a particular occasion. The evidence is offered to demonstrate that the limousine company negligently trusted him to drive a limousine when it knew or should have known that the driver had a serious drinking problem.*

*Sally is fired and sues her employer for sexual harassment. The employer cannot introduce evidence that Sally experienced similar problems when she worked for other employers. Evidence about Sally's character is not admissible to prove that she acted in conformity with her prior conduct, unless her character is at issue or it relates to truthfulness.*

*If an attorney is accused of stealing a client's money, he may introduce evidence to demonstrate that he is trustworthy. In this scenario, proof of his trustworthiness makes it less probable that he stole the money.*

*Richard is on trial for punching his coworker, Larry, during an argument. The prosecution wants to offer that Richard has, in the past, lost his temper and has neared physical altercations. This evidence constitutes character evidence within the meaning of the rule, because it is being offered to show that Richard has a propensity for losing his temper and that he may have acted in conformity with this character trait at the time he struck Larry. Therefore, it would only be admissible if Richard, as the defendant, has decided to place his character at issue.*

**Rule 203: OTHER CRIMES, WRONGS, OR ACTS.** Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person. Such evidence, however, may be admissible for purposes other than to prove character, such as to show motive, intent, preparation, knowledge, or identity.

Examples:

*Harry is on trial for stealing from a heavy metal safe at an office. The prosecution seeks to offer evidence that, on an earlier date, Harry opened the safe and stole some money from the safe. The evidence is not being offered to show character (in other words, it is not being offered to show that Harry is a thief), but rather it is being offered to show that Harry knew how to crack the safe. This evidence therefore places Harry among a very small number of people who know how to crack safes and, in particular, this safe. The evidence therefore goes to identity and makes Harry somewhat more likely to be guilty.*

*William is on trial for murder after he killed someone during a fight. The prosecution seeks to offer evidence that a week earlier William and*

*the victim had another physical altercation. In other words, the victim was not some new guy William has never met before; rather, William and the victim had a history of bad blood. The evidence of the past fight would be admissible because it is not being offered to show that William has bad character as someone who gets into fights, but rather to show that William may have had motive to harm his victim.*

*In the same trial, the evidence shows that the victim died after William struck him in the larynx. William's defense is that the death was completely accidental and that the fatal injury suffered by his victim was unintended and a fluke. The prosecution seeks to offer evidence that William has a black belt in martial arts, and therefore has knowledge of how to administer deadly strikes as well as the effect of such strikes. This evidence would be admissible to show the death was not an accident; rather, William was aware that the strike could cause death.*

## **WITNESS EXAMINATION**

### **a. Direct Examination** (attorneys call and question witnesses)

Rule 301: **FORM OF QUESTION.** Witnesses should be asked direct questions and may not be asked leading questions on direct examination. Direct questions are phrased to evoke a set of facts from the witnesses. A leading question is one that suggests to the witness the answer desired by the examiner and often suggests a “yes” or “no” answer.

Example of a Direct Question: “What is your current occupation?”

Example of a Leading Question: “Isn't it true that in your current position you are responsible for making important investment decisions?”

Narration: While the purpose of direct examination is to get the witness to tell a story, the questions must ask for specific information. The questions must not be so broad that the witness is allowed to wander or “narrate” a whole story. Narrative questions are objectionable.

Example of a Narrative Question: “Please describe how you were able to achieve your financial success.” Or “Tell me everything that was said in the board room on that day.”

Narrative Answers: At times, a direct question may be appropriate, but the witness's answer may go beyond the facts for which the question was asked. Such answers are subject to objection on the grounds of narration.

Objections:

*“Objection. Counsel is leading the witness.”*

*“Objection. Question asks for a narration.”*

*“Objection. Witness is narrating.”*

Rule 302: SCOPE OF WITNESS EXAMINATION. Direct examination may cover all the facts relevant to the case of which the witness has first-hand knowledge. Any factual areas examined on direct examination may be subject to cross examination.

Objection:

*“Objection. The question requires information beyond the scope of the witness’s knowledge.”*

Rule 303: REFRESHING RECOLLECTION. If a witness is unable to recall a statement made in an affidavit, the attorney on direct may show that portion of the affidavit that will help the witness to remember.

**b. Cross examination** (questioning the other side’s witnesses)

Rule 304: FORM OF QUESTION. An attorney may ask leading questions when cross-examining the opponent’s witnesses. Questions tending to evoke a narrative answer should be avoided.

Rule 305: SCOPE OF WITNESS EXAMINATION. Attorneys may only ask questions that relate to matters brought out by the other side on direct examination, or to matters relating to the credibility of the witness. This includes facts and statements made by the witness for the opposing party. Note that many judges allow a broad interpretation of this rule.

Objection:

*“Objection. Counsel is asking the witness about matters that did not come up in direct examination.”*

Rule 306: IMPEACHMENT. An attorney may impeach the credibility of a witness (show that a witness should not be believed) in the following ways:

1. A witness may testify as to another witness’s reputation for truthfulness, provided that an adequate foundation is established for the testifying witness’s ability to testify about the other witness’s reputation.

Example:

*Ben testifies at trial. Jeannette then takes the stand and is familiar with Ben's reputation in the community as not being truthful. Jeannette therefore would be able to testify to Ben's reputation for truthfulness.*

2. Counsel may ask questions demonstrating that the witness has made statements on other occasions that are inconsistent with the witness's present testimony. A foundation must be laid for the introduction of prior contradictory statements by asking the witness whether he or she made such statements.

Example:

*If a witness previously stated that the car was black but at trial testified that the car was red, the witness could be questioned about this prior inconsistent statement for impeachment purposes.*

3. An attorney may ask questions demonstrating the witness's bias in favor of the party on whose behalf the witness is testifying, or hostility toward the party against whom the witness is testifying or the witness's interest in the case.

Examples:

*"Isn't it true that you are being paid to testify at this trial?" If the witness is paid to testify, he may have an incentive not to tell the truth while testifying.*

*Steve is on trial for bank robbery, and calls his father as a defense witness to testify that they were watching football at the time of the crime. On cross examination, the prosecutor could attempt to demonstrate the father's bias that could cause him to fabricate an alibi for his son. Proper questions to impeach the father's credibility might include, "You love your son very much, don't you?" and "You don't want to see your son go to jail, do you?"*

Rule 307: IMPEACHMENT BY EVIDENCE OF A CRIMINAL CONVICTION. For the purpose of attacking the credibility of a witness, evidence that the witness has been convicted of a crime shall be admitted, but only if the crime was a felony or involved moral turpitude, regardless of punishment, and the court determines that the value of this evidence as reliable proof outweighs its prejudicial effect to a party. Crimes of moral turpitude are crimes that involve dishonesty or false statements.



These crimes involve an intent to deceive or defraud, such as forgery, perjury, counterfeiting and fraud.

Example:

*“Have you ever been convicted of criminal possession of marijuana?”*

Objections:

*“Objection. The prejudicial effect of this evidence outweighs its usefulness.”*

*“Objection. The prior conviction being testified to is not a felony or a crime involving moral turpitude.”*

**c. Re-Direct Examination**

Rule 308: LIMIT ON QUESTIONS. After cross examination, up to three, but no more than three questions may be asked by the attorney conducting the direct examination, but such questions are limited to matters raised by the attorney on cross examination. The presiding judge has considerable discretion in deciding how to limit the scope of re-direct.

NOTE: 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 several more questions. These questions should be limited to the damage the attorney thinks has been done and should be phrased so as to try to “save” the witness’s truth-telling image in the eyes of the court. Re-direct examination is limited to issues raised by the attorney on cross examination. Please note that at times it may be more appropriate not to engage in re-direct examination.

Objection:

*“Objection. Counsel is asking the witness about matters that did not come up in cross examination.”*

**d. Re-Cross Examination**

Rule 309: LIMIT ON QUESTIONS. Three additional questions, but no more than three, may be asked by the cross-examining attorney, but such questions are limited to matters on re-direct examination and should avoid repetition. The presiding judge has considerable discretion in deciding how to limit the scope of re-cross. Like re-direct examination, at times it may be more appropriate not to engage in re-cross examination.

Objection:

*“Objection. Counsel is asking the witness about matters that did not come up on re-direct examination.”*

**e. Argumentative Questions**

Rule 310: Questions that are argumentative should be avoided and may be objected to by counsel. An argumentative question is one in which the cross-examiner challenges the witness about his or her inference from the facts, rather than seeking additional facts.

Example:

*“Why were you driving so carelessly?”*

Objection:

*“Objection. “Your Honor, counsel is being argumentative.”*

**f. Compound Questions**

Rule 311: Questions that are compound in nature should be avoided and may be objected to by counsel. A compound question requires the witness to give one answer to a question, which contains two separate inquiries. Each inquiry in an otherwise compound question could be asked and answered separately.

Examples:

*“Tony, didn’t you get sued by the buyer of your company and get prosecuted by the IRS?”*

*“Did you see and feel the residue on the counter?”*

Objection:

*“Objection. “Your Honor, counsel is asking a compound question.”*

**g. Asked and Answered Questions**

Rule 312: Questions that have already been asked of and answered by a witness should not be asked again and may be objected to by opposing counsel.

Objection:

*“Objection. “Your Honor, the witness was asked and answered this question.”*

## h. Speculation

Rule 313: Questions that ask a witness to speculate about matters not within his personal knowledge are not permitted, and are subject to an objection by opposing counsel.

Example:

*"Do you think your friend Robert knew about the robbery in advance?"*

Objection:

*"Objection. Your Honor, the question asks the witness to speculate."*

## HEARSAY

Understanding and applying the Hearsay Rule (Rule 401), and its exceptions (Rules 402, 403 and 404), is one of the more challenging aspects of the Mock Trial Tournament. We strongly suggest that teacher-coaches and students work closely with their attorney-advisors to better understand and more effectively apply these evidentiary rules.

Rule 401: **HEARSAY.** A statement made out of court (i.e., not made during the course of the trial in which it is offered) is hearsay if the statement is offered for the truth of the fact asserted in the statement. A judge may admit hearsay evidence if it was a prior out-of-court statement made by a party to the case and is being offered against that party. The party who made the prior out-of-court statement can hardly complain about not having had an opportunity to cross examine himself regarding this statement. He said it, so he has to live with it. He can explain it on the witness stand. Essentially, the witness on the stand is repeating what she heard someone else say outside of the courtroom. The hearsay rule applies to both written as well as spoken statements. If a statement is hearsay and no exceptions to the rule are applicable, then upon an appropriate objection by opposing counsel, the statement will be inadmissible.

**REASONS FOR EXCLUDING HEARSAY:** The reason for excluding hearsay evidence from a trial is that the opposing party was denied the opportunity to cross-examine the declarant about the statement. The declarant is the person who made the out-of-court statement. The opposing party had no chance to test the declarant's perception (how well did she observe the event she purported to describe), her memory

(did she really remember the details she related to the court), her sincerity (was she deliberately falsifying), and her ability to relate (did she really mean to say what now appears to be the thrust of her statement). The opportunity to cross examine the witness on the stand who has repeated the statement is not enough because the judge or the jury is being asked to believe what the declarant said.

Example:

*Peter is on trial for allegedly robbing a Seven-Eleven store on May 1. A witness who is testifying on Peter's behalf, testifies in the trial "I heard Joe say that he (Joe) went to the Seven-Eleven on May 1." Peter, the party offering the witness's testimony as evidence, is offering it to prove that Joe was in the Seven-Eleven on May 1, presumably to create a question as to whether it could have been Joe at the scene of the crime, rather than Peter. In this example, Joe is the declarant. The reason why the opposing party, in this case the prosecution, should object to this testimony is that the prosecution has no opportunity to cross examine Joe to test his veracity (was he telling the truth or just trying to help his friend Peter out of a mess) or his memory (was Joe sure it was May 1 or could it have been May 2)?*

## EXCEPTIONS

Hearsay may be admissible if it fits into certain exceptions. The exceptions listed below are the only allowable exceptions for purposes of the Mock Trial Tournament.

Rule 402:      **ADMISSION OF A PARTY OPPONENT:** A judge may admit hearsay evidence if it was a prior out-of-court statement made by a party to the case that amounts to an admission that is against that party's interest at trial. Essentially, the party's own out-of-court statement is being offered into evidence because it contains an admission of responsibility or an acknowledgment of fault. The party who made the prior out-of-court statement can hardly complain about not having had the opportunity to cross examine himself. He said it, so he has to live with it. He can explain it on the witness stand.

Example:

*Pam is involved in a car accident. Wendy was at the scene of the crash. At Pam's trial, Wendy testifies that she heard Pam say "I can't believe I missed that stop sign!" At the trial, Wendy's testimony of Pam's out-of-court statement, although hearsay, is likely to be admitted into evidence as an admission against a party's interest. In this example, Pam is on trial so she can testify about what happened in the accident and refute having made this statement or explain the circumstances of her statement.*

Rule 403: STATE OF MIND: A judge may admit an out-of-court 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). Such out-of-court statements of pain or intent do not present the usual concerns with the reliability of hearsay testimony. For instance, when a witness testifies as to a declarant's statement of intent, there are no memory problems with the declarant's statement of intent and there are no perception problems because a declarant cannot misperceive intent. When applying this exception, it is important to keep in mind that the reliability concerns of hearsay relate to the out-of-court declarant, not to the witness who is offering the statement in court.

Example:

*Mike is on trial for a murder that occurred at the West End Restaurant. Mike's defense relies upon the theory that another person, Jane, committed the murder. The defense then calls a witness who testifies that on the night of the murder he heard Jane say that she intended to go to the West End Restaurant. This hearsay statement is admissible as proof of Jane's intent to go to the restaurant.*

Rule 404: BUSINESS RECORDS. A judge may admit a memorandum, report, record, or data compilation concerning an event or act, provided that the record was made at or near the time of the act by a person with knowledge and that the record is kept in the regular course of business. The rationale for this exception is that this type of evidence is particularly reliable because of the regularity with which business records are kept, their use and importance in the business and the incentive of employees to keep accurate records or risk being reprimanded by the employer.

Example:

*Diane is on trial for possession of an illegal weapon. The prosecution introduces a written inventory prepared by a police officer of items, including a switchblade knife, taken from Diane when she was arrested as evidence of Diane's guilt. The written inventory is admissible. In this example, the statement that is hearsay is the written inventory (hearsay can be oral or written), the declarant is the police officer who wrote the inventory and the inventory is being offered into evidence to prove that Diane had a switchblade knife in her possession. The reason that the written inventory is admissible is that it was a record made at the time of Diane's arrest by a police officer, whose job required her to prepare records of items taken from suspects at the time of arrest and it was the regular practice of the police department to prepare records of this type at the time of an arrest.*

Rule 405:     **PRESENT SENSE IMPRESSION.** A judge may admit an out-of-court statement of a declarant's statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter. The rationale for this exception is that a declarant's description of an event as it is occurring is reliable because the declarant does not have the time to think up a lie.

Example:

*James is witnessing a robbery and calls 911. While on the phone with the 911 operator, James describes the crime as it is occurring and provides a physical description of the robber. These hearsay statements are admissible because they are James's description or explanation of an event – the robbery – as James is perceiving that event.*

## **OPINION AND EXPERT TESTIMONY**

Rule 501:     **OPINION TESTIMONY BY NON-EXPERTS.** Witnesses who are not testifying as experts may give opinions which are based on what they saw or heard and are helpful in explaining their story. A witness may not testify to any matter of which the witness has no personal knowledge, nor may a witness give an opinion about how the case should be decided. In addition, a non-expert witness may not offer opinions as to any matters that would require specialized knowledge, training, or qualifications.

Example:

(General Opinion)

*The attorney asks the non-expert witness, "Why is there so much conflict in the Middle East?" This question asks the witness to give his general opinion on the Middle East conflict.*

*Note: This question is objectionable because the witness lacks personal perceptions as to the conflict in the Middle East and any conclusions regarding this issue would require specialized knowledge.*

Objection:

*"Objection. Counsel is asking the witness to give an opinion."*

Example:

(Lack of Personal Knowledge)

*The attorney asks the witness, “Why do you think Abe skipped class?” This question requires the witness to speculate about Abe’s reasons for skipping class.*

Objection:

*“Objection. The witness has no personal knowledge that would enable him/her to answer this question.”*

Example:

(Opinion on Outcome of Case)

*The attorney asks the witness, “Do you think the defendant intended to commit the crime?” This question requires the witness to provide a conclusion that is directly at issue and relates to the outcome of the case.*

Objection:

*“Objection. The question asks the witness to give a conclusion that goes to the finding of the Court.”*

Rule 502: OPINION TESTIMONY BY EXPERTS. Only persons qualified as experts may give opinions on questions that require special knowledge or qualifications. An expert may be called as a witness to render an opinion based on professional experience. The attorney for the party for whom the expert is testifying must qualify as an expert. This means that before the expert witness can be asked for an expert opinion, the questioning attorney must bring out the expert’s qualifications, education and/or experience.

Example:

*The attorney asks the witness, an auto mechanic, “Do you think Luke’s recurrent, severe migraine headaches could have caused him to crash his car into the side of George’s house?”*

Objection:

*“Objection. Counsel is asking the witness to give an expert opinion for which the witness has not been qualified.”*

*However, a doctor can provide an expert opinion on how migraine headaches affect eye sight.*

## **PHYSICAL EVIDENCE**

Rule 601: INTRODUCTION OF PHYSICAL EVIDENCE. Physical evidence may be introduced if it is relevant to the case. Physical evidence will not be admitted into evidence until it has been identified and shown to be authentic or its identification and/or authenticity has been stipulated to. That a document is “authentic” means only that it is what it appears to be, not that the statements in the document are necessarily true.

*A prosecutor must authenticate a weapon by demonstrating that the weapon is the same weapon used in the crime. This shows that the evidence offered (the weapon) relates to the issue (the crime). If the weapon belonged to the prosecutor, it would not be relevant to the defendant’s guilt. The evidence must be relevant to the issue to be admissible.*

NOTE: Physical evidence need only be introduced once. The proper procedure to use when introducing a physical object or document for identification and/or use as evidence is:

- a. Have exhibit marked for identification. *“Your Honor, please mark this as Plaintiff’s Exhibit 1 (or Defense Exhibit A) for identification.”*
- b. Ask witness to identify the exhibit. *“I now hand you what is marked as Plaintiff’s Exhibit 1 (or Defense Exhibit A). Would you identify it, please?”*
- c. Ask witness questions about the exhibit, establishing its relevancy, and other pertinent questions.
- d. Offer the exhibit into evidence. *“Your Honor, we offer Plaintiff’s Exhibit 1 (or Defense Exhibit A) into evidence at this time.”*
- e. Show the exhibit to opposing counsel, who may make an objection to the offering.
- f. The Judge will ask opposing counsel whether there is any objection, rule on any objection, admit or not admit the exhibit.
- g. If an exhibit is a document, hand it to the judge.

NOTE: After an affidavit has been marked for identification, a witness may be asked questions about his or her affidavit without its introduction



into evidence. In order to read directly from an affidavit or submit it to the judge, it must first be admitted into evidence.

Rule 602: **VOIR DIRE OF A WITNESS.** When an item of physical evidence is sought to be introduced under a doctrine that normally excludes that type of evidence (e.g., a document which purports to fall under the business record exception to the Hearsay Rule), or when a witness is offered as an expert, an opponent may interrupt the direct examination to request the judge's permission to make limited inquiry of the witness, which is called "*voir dire*."

The opponent may use leading questions to conduct the *voir dire* but it must be remembered that the *voir dire*'s limited purpose is to test the competency of the witness or evidence and the opponent is not entitled to conduct a general cross examination on the merits of the case.

The *voir dire* must be limited to three questions and any time spent on *voir dire* will be deducted from the time allowed for cross examination of that witness.

## **INVENTION OF FACTS (Special Rules for the Mock Trial Competition)**

Rule 701: **DIRECT EXAMINATION.** On direct examination, the witness is limited to the facts given. Facts cannot be made up. If the witness goes beyond the facts given opposing counsel may object. If a witness testifies in contradiction of a fact given in the witness's statement, opposing counsel should impeach the witness during cross examination.

### Objection:

*"Objection. Your Honor, the witness is creating facts which are not in the record."*

Rule 702: **CROSS EXAMINATION.** Questions on cross examination should not seek to elicit information that is not contained in the fact pattern. If on cross examination a witness is asked a question, the answer to which is not contained in the witness's statement or the direct examination, the witness may respond with any answer that does not materially alter the outcome of the trial. If a witness's response might materially alter the outcome of the trial, the attorney conducting the cross examination may object.

### Objection:

*"Objection. The witness's answer is inventing facts that would materially alter the outcome of the case."*

## PROCEDURAL RULES

Rule 801:      **PROCEDURE FOR OBJECTIONS.** An attorney may object any time the opposing attorneys have violated the “Simplified Rules of Evidence and Procedure.” Each attorney is restricted to raising objections concerning witnesses, whom that attorney is responsible for examining, both on direct and cross examinations.

NOTE:      The attorney wishing to object (only one attorney may object at a time) should stand up and do so at the time of the violation. When an objection is made, the judge will ask the reason for it. Then the judge will turn to the attorney who asked the question and the attorney usually will have a chance to explain why the objection should not be accepted (“sustained”) by the judge. The judge will then decide whether a question or answer must be discarded because it has violated a rule of evidence (“objection sustained”), or whether to allow the question or answer to remain on the trial record (“objection overruled”).

Rule 802:      **MOTIONS TO DISMISS.** Motions for directed verdict or dismissal are not permitted at any time during the plaintiff’s or prosecution’s case.

Rule 803:      **CLOSING ARGUMENTS.** Closing arguments must be based on the evidence presented during the trial.

Rule 804:      **OBJECTIONS DURING OPENING STATEMENTS AND CLOSING ARGUMENTS.** Objections during opening statements and closing arguments are **NOT** permitted.

**PART IV**  
**NEW YORK STATE HIGH SCHOOL MOCK TRIAL**

**TRIAL SCRIPT**

*The facts of this case are hypothetical. Any resemblance between the person, facts and circumstances described in these mock trial materials and real persons, facts and circumstances is coincidental.*

*All witnesses may be portrayed by either sex. All witness names are meant to be gender non-specific. It is stipulated that any enactment of this case is conducted after the named dates in the stipulated facts and witness affidavits.*

*Written and edited by the Mock Trial Subcommittee of the New York State Bar Association's Law, Youth and Citizenship Committee.*



**Case Summary<sup>1</sup>**  
**Pat Parker v. Village of Empireville**  
**and Board of Trustees of the Village of Empireville**

Empireville is a village located entirely within the Town of Empire in the County of Empire in the State of New York. Situated within the village is Excelsior High School, which serves the entire Excelsior Central School District (“ECSD”). The District includes the village and a surrounding area of 20 square miles in the Town of Empire outside the village. Many students require transportation to and from school. Although a number of those students take the bus, some seniors prefer to drive their own cars to school.

The school has a faculty parking lot, but no student parking lot. As such, since the school opened in 1990, the village has permitted seniors who drive their own cars to school to park on one of the four streets (Eagle, Huron, Chippewa, and Pearl) that constitute the perimeter of the school grounds – even though the village banned street parking on all other streets within a five-block radius. A senior who wishes to park on one of the four streets on the perimeter of the high school must pay \$100 to obtain a special permit from the village. This hang tag must be hung from the rear view mirror and be in plain sight.

Traditionally, the Village of Empireville and the ECSD had enjoyed a good working relationship. That changed during the 2009-2010 academic year. In November 2009, the village elected a new mayor: Alex Allen of the “Empireville First” party. Upon taking office on January 1, 2010, Mayor Allen announced several new initiatives intended to improve the quality of life for Empireville’s residents. Two such initiatives called for implementation of a Capital Improvement Program (“CIP”), and for hiring three new “school resource officers” (“SROs”) who, among other things, would patrol around the high school during the early mornings when students would arrive, and during the afternoons when students would go home.

Controversy ensued when Mayor Allen publicly demanded in an interview published in the *Empireville Edition* (the village’s only newspaper), on February 1, 2010, that the ECSD subsidize Empireville’s proposed public improvements in part, and the hiring of the new SROs in full. This was news to ECSD Superintendent Dr. Chris Crangle. Never before had Mayor Allen made such a request to Dr. Crangle or to any member of the school district’s administration. Several days later, the *Edition* published Dr. Crangle’s own “Letter to the Editor.” Citing budgetary constraints and a potential loss of state aid, Dr. Crangle declared that the ECSD could not pay for Mayor Allen’s proposals, and that any such initiatives should be funded entirely by the village itself. In response, Mayor Allen did telephone Dr. Crangle, and they set up a meeting to determine whether they could reach a compromise. That meeting took place on February 26, 2010. After an hour of back-and-forth argument, the Mayor walked out of the meeting unsatisfied.

Now Mayor Allen and his/her “Empireville First” majority on the Empireville Village Board of Trustees sought to show Dr. Crangle who was boss in Empireville. The board meets monthly,

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<sup>1</sup> The foregoing summary of the case is provided solely for the convenience of the participants in the Mock Trial Tournament. This overview itself does not constitute evidence and may not be introduced at trial or used for impeachment purposes.

and its meeting for March 2010 took place on March 11th. Pursuant to the Bylaws of the Village of Empireville Board of Trustees, the village clerk must submit an agenda to the trustees at least three (3) business days prior to the meeting. Nothing new can be added to the agenda, except that the bylaws permit the mayor to place an item on the agenda during a village board meeting under certain circumstances without prior notice to the board or to the public.

At the March 11 meeting—attended by only five (5) people other than the trustees themselves—Mayor Allen exercised this prerogative. S/he made a motion in favor of enactment of an ordinance banning parking on all the streets (Eagle, Huron, Chippewa and Pearl) that surround Excelsior High School. This came as a total surprise to Cameron Curtis, the sole trustee who was a member of the Vision Party, the competitor to Empireville First in village politics. According to Trustee Curtis, s/he spoke “on the question” concerning the mayor’s motion, to ask why it was necessary to ban parking around Excelsior High School. In response, Ryan Ryder, Empireville’s Public Works Commissioner, commented that the ordinance was necessary to “put pressure on the School District and the Superintendent.” Before Trustee Curtis could ask any more questions, the Board voted 4 to 1 in favor of the parking ban. Prior to this vote, the board undertook no studies concerning the effects of imposing a parking ban, held no public hearing, sought no public comment, and told no one at the ECSD about the village’s plan.

The new ordinance provided that the parking ban around Excelsior High School would take effect at 6:00 a.m. on March 15, 2010. At around 2:00 a.m. on March 15, under cover of darkness, Commissioner Ryder and a crew of his/her employees posted “NO PARKING” signs on Eagle, Huron, Chippewa, and Pearl Streets, all around the perimeter of Excelsior High School.

Upon encountering the new “NO PARKING” signs several hours later, some students decided to park anyway, only to find at the end of the day that they had been ticketed by the Empireville Village Police—even though they had the parking permits they had received from the village properly displayed. One of those students who received a ticket was 18 year old Pat Parker.

Pat was angry that s/he and his/her fellow students had received no notice of the new parking restriction from the Village of Empireville. So long as the restriction would remain in effect, Pat’s only realistic option for traveling to and from school would be to take an ECSD bus every day. It would take too long for Pat to walk to and from school, and the only option for parking would be a lot where s/he would need to pay \$10 each day—this was far more than Pat could afford as a high school student.

In reaction to the parking restriction, many students relented and decided to take the bus, but Pat—a member of the award-winning Excelsior High School Mock Trial Team—decided to investigate his/her options for challenging the ordinance. Pat consulted with Dr. Crangle, the ECSD Superintendent; met with a civil rights attorney; and reviewed the minutes from the meeting of the Empireville Board of Trustees on March 11, 2010.

Given his/her investigation, Pat concluded that the enactment of the parking ban around Excelsior High School arose for purely political reasons, without any rational basis; and deprived him/her of the property interest that s/he held in the parking permit that the village had granted

him/her in December 2009. As such, Pat commenced *Parker v. Village of Empireville and Board of Trustees of the Village of Empireville* in New York State Supreme Court, Empire County, as a declaratory judgment action seeking invalidation of the parking ban ordinance, on the grounds that it violated his/her right to due process under Article I, Section 6, of the New York State Constitution.

In response to Pat's lawsuit, the Village of Empireville and the trustees contend that there were several rational bases for enactment of the parking ban ordinance:

- The need to keep the streets around Excelsior High School clear of parked cars, so that snowplows (in winter) and street sweepers (the rest of the year) can freely operate;
- The inability of the roadways surrounding the high school to handle the weight of so many parked cars each school day; and
- Concern that street parking around the high school encourages students to loiter outside before and after school.

Notwithstanding these purported rational bases, Pat Parker submits that none of them were presented to the Village Board of Trustees prior to their vote adopting the parking restriction, and that they merely constitute pretextual reasons concocted by the village in response to his/her lawsuit. Mayor Allen and the board disagree with Parker. The mayor submits that the reasoning behind the ordinance was made known to the board through informal discussions among the trustees, Commissioner Ryder, and the Empireville Chief of Police.

The Supreme Court has ordered that a non-jury trial take place to determine Empireville's true rationale for enacting the parking ban around Excelsior High School, and the court intends to render judgment on Pat Parker's constitutional claims at the close of all proof.

### **STIPULATIONS**

1. All witness statements are sworn and notarized.
2. All items of evidence are eligible for use at trial, following proper procedure for identification and submission.
3. That the Village Clerk of the Village of Empireville is the party responsible for preparing and maintaining the minutes Village Trustee meetings. That if the Village Clerk were called to testify, the testimony would be that the minutes in question were taken on the night of March 11, 2010. That the parties consent that the minutes are to be certified as a true account of the meeting held on March 11, 2010. (Editor's Note: This stipulation merely provides that the minutes are authentic. A party offering the minutes into evidence will still need to set forth proper foundation supporting the offer.)
4. No other stipulations shall be made between the plaintiff/prosecution and the defense, except as to the admissibility of evidentiary exhibits provided herein.

5. The Village of Empireville and Board of Trustees of the Village of Empireville are being represented by the village attorney, Seymour Law, in this action and the court has previously ruled that there is no conflict in this representation.
6. Cameron Curtis was subpoenaed to testify on behalf of the plaintiff. Defendants moved to quash the subpoena. The motion to quash was denied.

Witnesses:

**Plaintiff**

-Pat Parker  
-Chris Crangle  
-Cameron Curtis

**Defense**

-Alex Allen  
-Ryan Ryder  
-I.M. Feddup



STATE OF NEW YORK  
SUPREME COURT : COUNTY OF EMPIRE

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PAT PARKER,

Plaintiff,

**COMPLAINT**

v.

VILLAGE OF EMPIREVILLE and  
BOARD OF TRUSTEES OF THE VILLAGE OF  
EMPIREVILLE

Index No. 2010/11248

Defendants.

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Pat Parker, by his/her attorneys Latham & Greenbush, LLP, for and as his/her  
Complaint, respectfully alleges as follows:

**PARTIES AND VENUE**

1. Pat Parker is a graduate of Excelsior High School in Empireville, New York. S/he resides in the Town of Empire, County of Empire, State of New York.
2. The Village of Empireville is a municipal corporation situated in the County of Empire, State of New York.
3. The Board of Trustees is the governing body of the Village of Empireville.
4. Venue in Empire County is proper for this action, pursuant to CPLR 503(a).

**FACTUAL BACKGROUND**

5. Excelsior High School is a school located in the Village of Empireville, County of Empire, State of New York. It is bounded by Eagle Street, Huron Street, Chippewa Street and Pearl Street.

6. From September 1, 1990, through March 14, 2010, Empireville Municipal

Code Section 25-253 (“Original Municipal Code Section 25-253”) provided as follows:

**Parking Around Excelsior High School.** Parking of motor vehicles shall be permitted around the perimeter of Excelsior High School. Such perimeter consists of the south side of Eagle Street between Huron Street and Pearl Street, the west side of Huron Street between Eagle Street and Chippewa Street, the north side of Chippewa Street between Pearl Street and Huron Street, and the east side of Pearl Street between Eagle Street and Chippewa Street. A person may park a motor vehicle along the perimeter of Excelsior High School on any day from January 1 through June 30, or September 1 through December 31, provided that:

A. Such person is a student registered to take classes at Excelsior High School;

B. Such person has obtained a parking permit from the Empireville Village Clerk, and paid One Hundred Dollars (\$100) as consideration for that permit; and

C. Such person conspicuously displays his or her permit on the dashboard of his or her vehicle.

7. At its meeting on March 11, 2010, the Village of Empireville Board of Trustees voted four (4) to one (1) to amend Municipal Code Section 25-253, such that it would read as follows effective at 6:00 a.m. on March 15, 2010:

***Amended Municipal Code Section 25-253: Parking Prohibited Around Excelsior High School.*** Parking of motor vehicles is prohibited around the perimeter of Excelsior High School. Such perimeter consists of the south side of Eagle Street between Huron Street and Pearl Street, the west side of Huron Street between Eagle Street and Chippewa Street, the north side of Chippewa Street between Pearl Street and Huron Street, and the east side of Pearl Street between Eagle Street and Chippewa Street.

8. The Village of Empireville Board of Trustees held no public hearing concerning this amendment prior to its enactment.

9. The Village of Empireville Board of Trustees solicited no comment on this amendment from the public prior to its enactment.

10. The Village of Empireville Board of Trustees voted to amend Municipal Code Section 25-253 at its meeting on March 11, 2010, even though this amendment did not appear on the official Agenda for the Board's meeting that evening.

11. Upon information and belief, the Village of Empireville Board of Trustees voted on March 11, 2010, to amend Municipal Code Section 25-253 solely for political purposes—namely to retaliate against the Empireville Central School District as a consequence of disagreements between the Mayor of Empireville and the Superintendent of the Empireville Central School District as to policy matters.

12. No rational basis justifies Amended Municipal Code Section 25-253, whose enactment serves no legitimate public purpose other than to achieve the goal of political retaliation.

13. As of March 15, 2010, Pat Parker possessed the parking permit described in Original Municipal Code Section 25-253. S/He had purchased this permit for \$100 in December 2009.

14. The parking permit that Pat Parker purchased in December 2009 stated that it entitled the bearer “to park any motor vehicle along the south side of Eagle Street between Huron Street and Pearl Street, the west side of Huron Street between Eagle Street and Chippewa Street, the north side of Chippewa Street between Pearl Street and Huron Street, or the east side of Pearl Street between Eagle Street and Chippewa Street, on any day from September 1, 2009, through June 30, 2010.”

15. Once Amended Municipal Code Section 25-253 took effect on March 15, 2010, however, the Village of Empireville no longer allowed Pat Parker to park a motor vehicle along any of the streets set forth in the permit.

16. Pat Parker received a ticket from the Village of Empireville Police Department for doing so on March 15, 2010.

**AS AND FOR A FIRST CAUSE OF ACTION**

17. Plaintiff repeat and reallege the allegations contained in paragraphs 1 through 15 with the same force and effect as if set forth fully herein.

18. Pursuant to Article I, Section 6, of the New York Constitution, “[n]o person shall be deprived of life, liberty or property without due process of law.”

19. Pat Parker has a property interest in the parking permit that s/he purchased from the Village of Empireville in December 2009, and which authorized him/her to park a motor vehicle on any street constituting the perimeter of Excelsior High School from September 1, 2009, through June 30, 2010.

20. The Village of Empireville enacted Amended Municipal Code Section 25-253 for political purposes, not for any legitimate reason relating to health, safety, the environment, or the general welfare. Such enactment was so arbitrary as to violate Plaintiff’s rights to substantive due process.

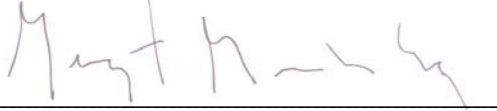
21. Plaintiff is entitled to a judgment declaring Amended Municipal Code Section 25-253 unconstitutional, as a violation of their rights to due process of law under Article I, Section 6, of the New York Constitution.

WHEREFORE, for the foregoing reasons, Plaintiff respectfully request a judgment declaring Amended Municipal Code Section 25-253 unconstitutional, as a violation of Plaintiff’s rights to due process pursuant to Article I, Section 6, of the New York State

Constitution; an order permanently enjoining Defendant from taking any action to enforce the provisions of Amended Municipal Code Section 25-253; and such other and further relief as to this Court seems just and proper.

Dated: Empireville, New York  
May 15, 2010

LATHAM & GREENBUSH, LLP

By: 

George F. Greenbush, Esq.

*Attorneys for Plaintiff*

25 Franklin Street

Empireville, New York 11121

Telephone No.: (518) 555-8200



STATE OF NEW YORK  
SUPREME COURT : COUNTY OF EMPIRE

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PAT PARKER,

Plaintiff,

**ANSWER**

v.

VILLAGE OF EMPIREVILLE and  
BOARD OF TRUSTEES OF THE  
VILLAGE OF EMPIREVILLE,

Index No. 2010/11248

Defendants.

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The Village of Empireville (the “Village”) and the Board of Trustees of the Village of Empireville (the “Board”), by their attorney, for and as their Answer, respectfully alleges as follows:

1. The Village and the Board admit the allegations set forth in paragraphs 1, 2, 3, 5, 6, 7, 8, 10, and 18 of the Complaint.
2. The Village and the Board deny the allegations set forth in paragraphs 9, 11, 12, 20, and 21 of the Complaint.
3. The Village and the Board decline to respond to the allegations set forth in paragraphs 4, 17, and 19 of the Complaint to the extent they assert legal conclusions to which no response is required. To the extent that a response is required, the Village and the Board deny those allegations.
4. The Village and the Board deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraphs 13, 14, 15, and 16 of the Complaint.

5. The Village and the Board deny any and all allegations in the Complaint to which the Village and the Board has not expressly provided a response herein.

**FIRST AFFIRMATIVE DEFENSE**

6. The Complaint fails to state a claim upon which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE**

7. The Court lacks subject-matter jurisdiction over the claim asserted in the Complaint on the ground of mootness.

WHEREFORE, the Village and the Board request dismissal of the Complaint and a judgment declaring the constitutionality of the Village's Amended Municipal Code Section 25-253.

Dated: Empireville, New York  
May 28, 2010

OFFICE OF THE EMPIREVILLE  
VILLAGE ATTORNEY

By: \_\_\_\_\_



Seymour Law, Esq.  
*Attorneys for Defendants*  
100 Village Plaza  
Empireville, New York 11121  
Telephone No.: (518) 555-1610



Affidavit of Pat Parker  
Plaintiff

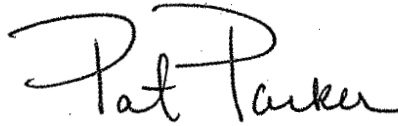
1. My name is Pat Parker. Having graduated from Excelsior High School in Empireville, New York, as valedictorian of the Class of 2010, I now attend Yale University in New Haven, Connecticut. During school breaks and summer vacation, however, I reside with my parents in our farmhouse at 2500 Eight Rod Road in the Town of Empire, New York, but outside the Village of Empireville.
2. I am the Plaintiff in *Parker v. Village of Empireville and Board of Trustees of the Village of Empireville*. I commenced this lawsuit to rectify Empireville's injustice of banning parking around Excelsior High School for the sole purpose of proving a political point.
3. When I was six years old, my parents and I moved to the farmhouse on Eight Rod Road. We love the bucolic surroundings: the crops that my Dad dutifully grows, the adjacent barn where my Mom tends to our chickens, and the vast expanse of fields where I once played as a child. Sometimes I wish we lived closer to "civilization" four miles away in the Village of Empireville—but one look at the sun rising on the eastern horizon makes me quickly forget any such thought.
4. It has always been important to me to do well in school and to be involved in as many activities as I can. Many of those activities concerned public speaking and civic participation somehow. During my senior year of high school, I competed as lead attorney on the Empire County champion Excelsior High School mock trial team, and I also was elected President of the Excelsior High School student government.
5. The Excelsior Central School District, or ECSD, serves the entire Town of Empire, including the Village of Empireville situated therein. All the ECSD schools—the elementary school, the middle school, and the high school—are located in the Village of Empireville, several miles away from my family's farmhouse. This was simply too far for me to walk from my house. So for many years, I would take the yellow district bus to and from school every day.
6. Once I turned 18 years old in December 2009, however, I was determined no longer to ride the bus with all the little kids anymore. My parents had bought me my own set of wheels—a refurbished pickup truck—as my 18th birthday present, so I decided, from that day onward, that I would drive myself to and from school—like most everyone else in the senior class did.
7. Prior to March 2010, student parking around Excelsior High School was always pretty convenient. Four streets -- Eagle, Huron, Chippewa, and Pearl -- bound the perimeter of the high school. Students could park on the side closest to the school on each of those streets. Spaces were first-come, first-served. There was only one string attached: in order to obtain the right to park, one needed to purchase a special permit to do so from the Village of Empireville.

8. On New Year's Eve -- December 31, 2009 -- I went to the Empireville Village Hall, paid my \$100, and purchased a permit to park around the perimeter of Excelsior High School. The permit was a green tag that I would need to hang around my truck's rearview mirror every time I parked. The writing on the tag said: "This tag entitles the bearer to park any motor vehicle along the south side of Eagle Street between Huron Street and Pearl Street, the west side of Huron Street between Eagle Street and Chippewa Street, the north side of Chippewa Street between Pearl Street and Huron Street, or the east side of Pearl Street between Eagle Street and Chippewa Street, on any day from September 1, 2009, through June 30, 2010."
9. On every school day throughout January and February 2010, as well as in the first half of March, I parked my car on one of the four streets that surround Excelsior High School. I never encountered any problems with this street parking, and I appreciated being able to drive my own car to school each day.
10. My academic interests have always revolved around government and civics. I make sure that I keep up with news and current events—whether national, international, or local around Empire County. As such, whenever I am home with my parents, I watch the local news every night at 10:00 p.m. on WEMP-TV.
11. I recall watching a series of news reports on WEMP in February 2010 about a controversy between Alex Allen, the new Mayor of Empireville; and Dr. Chris Crangle, the Excelsior Central School District superintendent. Mayor Allen proposed this absurd scheme to force the school district to pay for public improvements in the village. To me, this was outrageous. If Mayor Allen would have had his/her way, then tax dollars paid to the ECSD by property owners outside the village would subsidize projects inside the Village. The village should pay for its own improvements, in my opinion. Fortunately, Dr. Crangle stood up for all the taxpayers in the ECSD and said no to Mayor Allen's coercion. As such, I have great respect for Dr. Crangle—notwithstanding the "Student of the Year" Award that s/he bestowed on me for the 2009-10 academic year.
12. On March 15, 2010, I arrived at school in my pickup truck, as I had every class day for over two months. Much to my surprise, I found that conspicuous "NO PARKING" signs had been erected all around Excelsior High School. These signs were nowhere to be found the day before, when I had driven with my mom past the high school on our way to the supermarket.
13. Because of the "NO PARKING" signs, there was plenty of open space for parking around Excelsior High School on March 15, 2010. Notwithstanding the signs, I decided to park anyway in my usual spot about mid-block on Eagle Street. I thought that the signs must have been part of a prank, or at least some kind of misunderstanding. Anyway, I had my green parking permit, for which I had paid good money to earn the right to park around the high school through June 2010. As far as I was concerned, my permit entitled me to park, regardless of what some new sign said.

14. Notwithstanding the presence of my parking permit on the rearview mirror, however, I returned to my truck after school on March 15 to find a parking ticket and a corresponding summons to appear in the Empireville Village Court! All the other students who had parked around Excelsior High School received tickets and summonses as well.
15. To put it mildly, I was angry about what the village had done. Prior to March 15, 2010, parking was already prohibited for a radius of several blocks around Excelsior High School. Now, absent the ability to park around the perimeter of the School, I would have no choice but to park my truck on the street approximately one mile away from the school or pay \$10 per day to park in a private lot or go back to taking the district bus every day. I could have easily taken the bus, but for me, the parking ticket problem was a matter of principle. I had paid for my parking permit to last until June 30, 2010, and I did not think the village was entitled to take that right away unilaterally.
16. Around 3:30 p.m. on March 15, 2010, I telephoned the Empireville Village Police to ask why I had been given a parking ticket. During that call, I was advised by a patrolman that the village board of trustees had voted a few days earlier to ban parking around Excelsior High School, and that the ban took effect on the 15th. I protested that my green permit entitled me to park around the school through June 30, but the patrolman said that the new parking ban rendered my permit null and void.
17. At mock trial practice after school on March 16, 2010, I talked with our team's attorney advisor, Ms. Wood, about the parking ticket issue. She told me that in the eyes of the law, my green parking permit was a license ("constitutional property," she called it) that the village could not take away absent some kind of due process. Because the board of trustees had legislated a ban that would apply to any permit-holder, however, she continued that the village probably needed to have only a "rational basis" to justify its action. It would be very difficult, she concluded, to establish the absence of any rational basis behind the parking ban.
18. Disappointed but perseverant, I made an appointment with Dr. Crangle, the Excelsior School District Superintendent, to discuss the problem. We met on March 17, 2010. At that meeting, I learned all kinds of details about the problems with Mayor Allen: the mayor's efforts to extort money from the school district to pay for things that the village could not and Dr. Crangle's recent, difficult discussions with the mayor. Dr. Crangle said s/he was convinced that the parking ban was enacted for nothing more than political purposes.
19. Emboldened to find out the truth, I decided to make an appointment to discuss the parking ban with the mayor him/herself. When I made the appointment for the following week, I told the mayor's secretary that I wanted to interview the mayor for a positive piece for the Excelsior High School newspaper. Of course, this was not true—but if I didn't tell that little fib, how else would I have been able to meet with the mayor?

20. I met with Mayor Allen on March 24, 2010, and much to his/her surprise, asked all kinds of detailed questions about the parking ban. In the course of our discussion, I learned that the village had done no studies before it enacted the ban, and that the ban had been a last-minute addition to the village board's meeting agenda earlier in the month. After a few minutes of pressing the Mayor for further details, s/he became visibly upset, and shouted, "Look, kid: we banned parking to show your school district and its hotshot superintendent who's boss. Deal with it. Now get out of my office!" I obliged, and at that moment I decided once and for all to sue the village to stand up for my rights.

Dated: Empire, New York  
September 7, 2010

A handwritten signature in cursive script that reads "Pat Parker". The signature is written in dark ink and is positioned above a horizontal line.

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Pat Parker

Affidavit of Chris Crangle  
Excelsior Central School District Superintendent

1. My name is Chris Crangle. I am the Superintendent for the Excelsior Central School District (ECSD or the "District"). My office is located at 921 East Village Lane, Town of Empire, New York.
2. I have been the Superintendent of the ECSD for almost seven years and I have over 20 years of experience in the educational system.
3. I attended Southern New York University where I received my Bachelor's of Science degree in Business Administration with a minor in Urban Planning in 1985 and a Ph.D. in education in 1989.
4. After graduation, I moved to Empireville, where I became a social studies and physical education teacher at Excelsior High School. I worked at Excelsior High as a teacher eventually becoming principal in 1997.
5. After about five years as Excelsior High's principal, I needed a break from the chaos and decided to work more within school administration and less with teenagers. In 2002, I moved over to the board of education to work as the supervisor of administration until I was named by the school board as superintendent in 2004. As the superintendent, I'm basically the chief executive officer of the school district and work at the pleasure of the school board. I serve as an educational advisor to the school board, which makes policies that affect the schools and students within the ECSD. I work to make sure students, staff, parents, and the community all work together and within our budget.
6. Even from the time I started as a teacher in the ECSD many years ago, the district has had a great relationship with the Village of Empireville. We work together to reach out to the community and help the students. For example, while I was principal at Excelsior High School, I initiated a joint program with the village that coordinates students with village volunteer opportunities like tutoring younger students and working at soup kitchens. In the past, the members of the village board of trustees have hired students as interns and given them summer jobs. Also, for about as long as I've worked within the district, we have had an arrangement with the village that allowed a limited number of students to park near the school. The parking situation was great for everyone; seniors had somewhere to park and the village earned \$100 per parking permit.
7. Things changed when Alex Allen became the Mayor of Empireville. Allen took office in January 2010 and immediately started trying to change things in Empireville on the district's dime. Allen wanted to start a Capital Improvement Program and to hire three new school resource officers (SROs) to patrol around Excelsior High School before and after school. These programs wouldn't have been so bad if not for the fact that Mayor Allen wanted ECSD to pay for part of Empireville's proposed public improvements and pay entirely for the SROs that

we didn't even ask for. Even worse, I had to find out that Mayor Allen wanted the district to pay for these initiatives by reading it in a news article.

8. When I saw the article, I was shocked to say the least. Because Mr./Ms. Allen felt the need to communicate with me through the press, I sent my own letter to the editor of the *Edition*. In that letter, I told the mayor that we simply could not pay for his/her initiatives. We have our own expenses we have to squeeze into the district's tiny budget, and we were facing the loss of state aid. I just can't fathom why Mayor Allen wants us to support Empireville initiatives like the Capital Improvement Program—our schools do enough for the community.
9. Then again, Mayor Allen has always been a bully. His/Her entire strategy when running for mayor was to run a smear campaign against the opposing candidate from the Vision Party. I heard the Vision Party candidate is never going to run for political office again after the stories Mayor Allen put all over the news. Maybe I shouldn't be surprised that s/he is so unreasonable. In fact, I should have probably expected this from Mayor Allen given his/her father's background. Mayor Allen's father was a deputy mayor in Vitiosus—until he got pulled from office because of a corruption scandal. Empireville doesn't need Allen's corrupt, Vitiosus-style politics in our community.
10. After my letter to the editor, Mayor Allen finally called me to set up a meeting on these two programs and who would have to fund them. On February 26, 2010, we spent an hour fighting back and forth. I tried to hear him/her out, but s/he was unwilling to compromise on anything. It was like s/he expected me to come up with the money out of thin air or cut back on crucial expenses like the school lunch program. When Mayor Allen realized the district did not have the money to spare, s/he yelled "I believe this conversation is over!" and stormed out of the meeting.
11. Apparently, Mayor Allen decided if s/he couldn't get me to agree to pay money for his/her programs, s/he'd bully the district into it. Mayor Allen manipulated the Empireville Village Board of Trustees into enacting a ban on student parking near the school. When students showed up on the first day of the parking ban, it was a disaster. No one knew that parking would be banned. Some students went home and missed school; some parked far away, causing them to be late for class; and others ignored the signs and received parking tickets.
12. Mayor Allen didn't even have the decency to let me know once this intimidation tactic of his/hers went into effect, let alone that s/he was planning to change the parking rules. I only found out about the parking ban when the phones at my office were ringing off the hooks on the morning of March 15, 2010. I got calls from angry students who couldn't park, angry parents who were late to work because they had to drive their children to school, angry teachers whose students were late to class, and angry neighbors of the school whose driveways and parking spots were blocked or taken by students. The next day, I even got calls from angry bus drivers whose routes were delayed and buses were overflowing with rambunctious students. No one was happy.

13. Now that student parking is banned, most students are taking the bus. I don't know how Mayor Allen can possibly think all this extra busing is going to help us come up with more money to support his/her programs—busing students is expensive. Now I worry that students will park illegally, or walk from homes or parking spots far away just to avoid taking the bus. Safety of the students in my district has to come first.
14. The timing of this ordinance is no coincidence. The village banned parking to coerce us into paying for their ideas and punish the district for not funding Mayor Allen's programs. I didn't even have an opportunity to stop this or voice my opinion because Mayor Allen kept the board meeting on this ordinance a secret. I had to read about it in the meeting minutes after the ban already went into effect. In the transcript, Ryan Ryder, the Public Works Commissioner, flat out admitted that the parking ordinance would "put pressure" on the district, and on me. I didn't see a single line in the whole transcript that talked about any studies or real justification for this ban. An ordinance that is so important that it must take effect immediately, with no facts, research, or public commentary to support it, sounds pretty suspicious to me.
15. Now that the lawsuit is filed, the village is coming up with belated excuses for the ban. If space was really needed for snowplows and street sweepers, then there could be no parking in the whole village. The school isn't the only area that needs to be swept and plowed. Empireville has managed with this system for nearly twenty years, and the district could have helped the city come up with a parking schedule if there were real concerns. The mayor's claims that the streets cannot handle the weight of the parked cars are even more absurd. If that was true, then this dictator, the mayor, would have banned parking for safety reasons on his/her first day in office.
16. The Village of Empireville also complains that loitering is a concern, but that's just another one of their hollow excuses. Like all teenagers, some students are rowdy before and after school, and loiter in the neighborhood, but kids will be kids. We never had any public safety complaints and no one was concerned about loitering until this parking ordinance. Conveniently for Mr./Ms. Mayor, his/her concerns about loitering came right as s/he began demanding that the district pay for three new SROs. If Mayor Allen is really concerned about student safety, s/he wouldn't want more of our students waiting at bus stops early in the morning or searching for parking far away from the school. Mayor Allen's motives are all about money and power. S/he is a megalomaniac.

Dated: Empire, New York  
June 15, 2010

  
Dr. Chris Crangle





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Affidavit of Cameron Curtis  
Village Trustee

1. My name is Cameron Curtis and I live at 398 Hutchinson Lane in Empireville, NY.
2. I grew up in Empireville and attended Excelsior High School, graduating in 1995. When it was time for college, I went away to Binghamton where I received my B.A. in English. From there, I went to New York University for my M.A. and Ph.D.
3. While I loved living in Greenwich Village, I missed my family and friends in Empireville. I missed living on a street where I knew everyone. Luckily, I found a teaching position at Empire County Community College while I was working on my Ph.D. I moved back to Empireville and commuted to Manhattan several days a week. I am now a full professor and have taught there for the past nine years.
4. Shortly after I got back, my best friend from high school, Bobby Barnes, asked me if I'd be interested in a book group s/he was starting up. Bobby runs our local library. Of course I was interested. It was a great way to meet people and I love books. There are eight members in our group, but it isn't always the same eight. People come and go. And we talk about a lot more than just books. Over the years, book group members have gotten me involved in the landfill mess, the proposed shutting down of our library and the controversy over the wind generators the electric company wants to put in.
5. You know, we really needed to fix our landfill. The State demanded it and I'm sure they had pressure from the federal government. After all, dangerous chemicals were leaching into our water supply. We were drinking poisons. But it cost a lot of money, so Empireville put it off for years. Finally, we were presented with three choices, all of them expensive. Of course, Alex Allen (s/he wasn't the mayor yet, just a "concerned citizen") opposed the whole idea. Not because it would cost money, mind you, but because our plans were not grand enough to provide for a doubling in the population of Empireville! S/he led a group of obnoxious students to the village meeting where they hooted and hollered so nothing could get done. Several of them were arrested. Not Allen though. S/he was the loudest one there at first, but s/he was out of the room when the police started making arrests.
6. I'm not really political, so it was out of character for me to run for a position as a village trustee. My friends laughed. If I wasn't political, why had I organized everyone to fight the closing of the library? In fact, I probably wouldn't have run if Alex Allen hadn't tried to close the library. S/he wasn't in office then, but s/he was the head of the Empireville First Party in our area. To hear him/her tell it, Allen switched on his/her computer one morning and saw the headline "Our Libraries Are Useless." S/he read on and discovered that in the age of the Internet people are not borrowing books, so libraries are a waste of the taxpayers' money. So s/he rounded up his/her usual group of "First Party" lackeys to push the village to close the library. They didn't entirely succeed, but the library's hours

were cut back and one of the full-time employees lost her job.

7. I was elected eight years ago as a trustee. At first, I loved the job. We were bringing Empireville into the twenty-first century. We brought our sanitation system up to state standards and we established an emergency notification plan. Our police department is small, but we were able to use Homeland Security funds to upgrade its equipment and hire a fine chief. Our budgets were in on time and our coffers were full. That was good, because the economy is cyclical and we are now in a tough stretch.
8. Our last election brought about a lot of changes. Not only was Alex Allen elected mayor, but several new trustees came on board as well, four of them Allen's Empireville First Party minions.
9. The new mayor and trustees had big plans. Mayor Allen wanted increased security at the high school, which meant hiring people to patrol before and after school and when there were games or special events at the school. They also wanted the school to put in shelters for the new resource officers and for the police who direct traffic in the village square.
10. On the night of March 11, 2010, the Board met as it usually does on the second Thursday of the month. We had an agenda faxed to us and made public seven days before as was proper. The agenda was posted on the bulletin board outside the village offices and on the village website. There was nothing on it about the high school or village parking.
11. Our rules of order dictate that the trustees consider the items in the order in which they appear on the agenda. When there is a choice among several items of expenditure, the highest dollar items must be voted on first. Sometimes there are a lot of items to get through and the meeting goes on forever. So we have a rule allowing adjournments to another time or place and the old board did that. This board is composed of a lot of talkers. No one is supposed to speak for more than ten minutes, but if the other members agree, time can be extended, or alternatively, the board can vote to limit debate.
12. On March 11, there was lengthy discussion about potholes. Not a surprising topic, given that it was March, although we were supposed to be discussing animal control. But I thought it was very odd that person after person used up a full ten minutes repeating what everyone else had already said. I was ready to run screaming from the room by the time we voted. And it was a unanimous vote.
13. Then we move on to other items and they were all pretty matter of fact, routine things. There was almost no disagreement on any of these items. I agreed with the majority on all of these items.
14. I most emphatically did not agree with the surprise item which was brought up for discussion at the end of the evening. It was almost eleven, when our meeting is supposed to conclude. We had worked our way through the entire agenda, and most of our audience of concerned citizens had gone home although I wouldn't be able to tell you whether they left because of boredom or fatigue. The only one left in the audience was

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Ole Jensen; he stays to the very end of every village board meeting. I thought the meeting was going to break up. I was reaching for my coat when I heard Mayor Allen announce, "I have another item for discussion."

15. Everyone else was just sitting there, looking down or shuffling papers. Clearly they all knew what was going on, but I was amazed. What new item? Once again I was blindsided. That's happened a lot since Allen took over as mayor. S/he just doesn't get it. There are rules to follow. You can change the rules if you don't like them, but you don't just ignore them like Mayor Allen does. Like the employment laws. Empireville doesn't have a lot of employees, but some of those who were here for ten, twenty years were fired on the spot because they didn't agree with the mayor. S/he replaced the police chief during his/her first week in office. The word is you'd better be prepared to move if you don't agree with Mayor Allen.
16. The new item brought up by Allen on March 11 was a parking restriction. The students at the high school would no longer be able to park near the school. I was livid. I may have talked to one of these agitators stirring up this controversy several months ago. I believe his/her name is I.M. Feddup. Now we were well into March, mind you, and these students would graduate in June. If a parking restriction was needed why not wait until the next school year? That way the villagers would have proper notice and there would be time for public comment. I reminded the board that we had no studies or factual findings about the need for the restriction or, for that matter, of the cost of school busing.
17. "School buses come out of the school district budget, not ours," Allen snapped. That shoe dropped a long time ago. To put it simply, our mayor wants the credit for making improvements to the village at a time when we are getting less from the state, and s/he plans to do it on the school district's dime.
18. I pointed out that the students at Excelsior High School had been parking on Eagle, Huron, Chippewa and Pearl Streets since the village first allowed school parking in 1990. I also reminded the board that they paid for the privilege. Mayor Allen just stared at me and said, "They don't pay enough. We pay to repair the potholes caused by school traffic. We pay for the fire department. Heck, we pay for the extra police when they have a basketball game and we have to deal with the fights and the noise during football season. And we pay for the schools. Our school tax went up again last year. And it doesn't matter how much we pay for, they want more. Well maybe that's good enough in boom times, but not now. We're in a downturn and everyone has to cut back. Maybe if we cut a few students out of parking, Crangle will see the light. The good people of Empireville are not going to keep carrying the Excelsior School District."
19. I don't think that our teens are so bad. Yes, they can be a rowdy at times and you'd have to be blind not to notice the drinking. Driving around town on a Friday night, you can see groups of teens standing around the back of a truck or SUV. But this is a small town and our young people are our future. We need an educated workforce, so we need to make high school graduation a priority. I said as much at the meeting, or I tried to, but

Ryan Ryder said the parking ban was needed to “put pressure on the school district.”

20. Then Ryder used a full ten minutes to rail against the teenage population in general. S/he told us s/he came to where s/he parked his/her truck on one of the side streets one lunch time, after to trying to locate Crangle at the high school, and found several boys sitting on the hood of his/her truck. S/he told them to be careful getting down because they'd scratch the paint and they just laughed at him/her. S/he didn't want to tell us what it cost to repair the damage they caused. And of course, there was the litter. How could you make your main street attractive to shoppers if there were arrogant children littering it with fast food wrappers and driving along it playing loud music? If you could call that music. It was just noise to him/her.
21. I wanted to ask Ryder just how much it had cost to repair the truck, but another of the mayor's pet trustees said it was getting late and he moved that we cut off debate. The motion carried and the board voted. Every one of them, except me, voted yes. I heard that Mayor Allen's father was a corrupt Vitiosus politician. This little episode proves that the apple does not fall too far from the tree.
22. I don't think that proper procedure was followed in the enactment of the parking restriction. Just because there are fanatics like Feddup coming to our meetings to complain about this or that is no reason to violate our rules. Our town rules provide that new agenda items may be discussed at a village meeting if circumstances render it “necessary to address a situation of imminent public concern to the village and when the lack of immediate response would likely result in serious harm to the community or its people.” I recited that provision at the meeting, but no one listened. Or if they did, they didn't speak, except for Allen who announced that Crangle and his/her extravagant spending were a danger to the community. You can hear that for yourself. We tape all the meetings. It must be on the tape.
23. To the best of my knowledge the above is true.

Dated: Empireville, New York  
June 18, 2010



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Cameron Curtis

Affidavit of Alex Allen  
Mayor of Empireville

1. My name is Alex Allen. I am the Mayor of Empireville, New York. I reside at 534 Knob Hill Road in Empireville, of course. I came to this area from Vitiosus, a large city in the Midwest, when I was eighteen to attend college at Empire County Community College. ECCC gave me a great educational foundation and besides, I went there practically free, considering the scholarships and the grants I received. After receiving my Associate's Degree in economics, I went on to SUNY at Albany in September 1985. I received my BA degree in political science in May 1987. The job market was pretty soft at that time, so I decided to pursue a Master's in government and history at Cornell. I graduated from Cornell in May 1989.
2. In June 1989, I heard about a job vacancy with the Empire County Legislature as a research assistant. Since I had many fond memories from my time living in Empireville while attending ECCC, I decided to apply for the job. I got the job and started working on August 7, 1989. I moved up the ranks pretty quickly because I was willing to do whatever it took to get the job done. I learned early on that sometimes you have to compromise and other times you have to "hit them in the face." I eventually served as clerk of the legislature for two years and was then selected as the chief of staff of the majority caucus. I truly enjoyed my position as chief of staff, not only because I was able to influence legislation, but because I was able assist the right businesses, the right institutions and right people who needed help.
3. In the spring of 2009, the then mayor of Empireville decided not to run for reelection. Because the mayoralship is part-time and the village trustee meetings are in the evenings, I could keep my job with the legislature. With the support of my spouse and many friends, I was elected in November 2009, with my four-year term starting on January 1, 2010.
4. This was an exciting time as I started my term as mayor. My father, who had served as a deputy mayor for the city of Vitiosus under Mayor Malum in the early-to mid-90s, was very proud of my accomplishment. He taught me so much about politics and governing and how to "get things done by any means necessary." My father would always say, "That is the way we do things in the Big City." You have to be tough and rough to survive in Vitiosus politics. He was forced to resign as deputy mayor because of some trumped-up charges having to do with road construction contracts and kickbacks. It was all political. The Feds were looking for a head to cut off and my father took the fall.
5. Like my father, I see political office as serving the people and trying to improve on the quality of life for all constituents. In fact, I campaigned primarily on two "quality of life" initiatives. One called for the implementation of a Capital Improvement Program ("CIP"). The other one called for the hiring of three new school resource officers ("SRO") who primarily would patrol around the high school during the early morning hours when students would arrive and during the afternoon hours when students would be

going home. The CIP involved the laying of new sewer pipes around the high school and the surrounding neighborhood. The existing lines are more than fifty years old and breaches are occurring more frequently. Moreover, the high school has experienced an increase in the student population and that has contributed to the sewer problem.

6. Now, my administration and I pride ourselves on being able to work with anybody and everybody. We believe the Excelsior Central School District should work with us to get these two initiatives implemented. The way we envisioned it, the sewer project would really just be repair work and would cost only two hundred and fifty to three hundred thousand dollars (\$250,000 to \$300,000). So, I don't see the need to secure bond financing for this project. We believe the school district should split the cost of the CIP project evenly with the village. Because the SROs will work exclusively with the high school, the school district should pick up the full cost of the SROs' salaries.
7. On February 1, 2010, I gave an interview to the *Empireville Edition*. I told the newspaper that the school district should pay one-half of the cost of the proposed CIP and pay the full cost of funding the proposed SRO program. I believe the village's position in this matter is more than fair and is good government.
8. It is unfortunate that Superintendent Chris Crangle is so short-sighted. Can you believe that instead of talking to me directly, s/he writes this silly little letter to the editor of the *Edition* objecting to my proposal? So, I called Dr. Crangle and invited him/her to dinner to discuss his/her concerns. On February 26, 2010, we had a dinner meeting on my tab at the Village Eatery, our finest restaurant in town, to try to come to terms on the two proposals. During dinner, Dr. Crangle was complaining incessantly about the school district's budgetary problems and the district's loss of state funding. After several hours of hearing this and seeing that I was making no headway with the superintendent, I left the meeting. Well, the village has budget problems too and is also facing a loss in some of its state assistance. Dr. Crangle fails to realize that we all must work together if this area is to survive.
9. Of course, I was not about to take Dr. Crangle's position lying down. At the monthly village board of trustees meeting on March 11, 2010, I made a motion in favor of an ordinance banning parking on all the streets (Eagle, Huron, Chippewa and Pearl) surrounding Excelsior High School. Parking on those streets, primarily by students, has become a nuisance for the homeowners. I hear complaints all the time about students revving their engines, about gangs of students loitering around their cars in the early morning hours and during the lunch hour and about the trash the students leave in the residents' yards. Clearly, this is a quality of life issue. If we had SROs patrolling the area, these problems could be abated.
10. Fortunately, my party, the Empireville First Party, is a controlling majority of the board, and the new parking ordinance passed easily, 4 to 1. The parking restriction went into effect on March 15, 2010 at 6:00 am. I directed the Commissioner of Public Works, Ryan Ryder, to start putting up the "NO PARKING" signs at 2:00 am on March 15.

11. The complaint of Cameron Curtis to the passage of the parking restriction is just plain ol' politics. Curtis, the sole board member voting against the ordinance, was able to ask questions about the parking ban before the vote and his/her questions were answered. Curtis inquired into the necessity of the parking restriction and Commissioner Ryder gave a flippant answer that the ordinance was necessary to "put pressure on the school district and the superintendent." The commissioner has a great sense of humor and can be very sarcastic at times. Everyone knew s/he was just trying to be funny. Moreover, Mr./Mrs. Curtis is well aware that I am able to place items on the board's agenda for action without giving prior notice to the board members or to the public. Besides, everyone is aware of the parking problem around the school and of the need for action. Any prior notice would have been superfluous. In fact, I.M. Feddup, a resident living in the targeted area and who regularly attends our board meetings, complains all of the time about the parking situation, including the student loitering, the poor road pavement and the narrow streets that do not allow effective snowplowing due to the parked cars. I don't believe Mr./Ms. Feddup was present at the March 11 meeting when we voted on the parking ban. No one should have been surprised by this ordinance. Any student that got a ticket should pay it and shut up, or better yet, send the ticket to Superintendent Crangle!
12. Too much is being made of the one hundred dollars (\$100) the students pay to park on the four streets during the school year. The board was willing to prorate a refund to any student who requested it. With only three and one-half (3½) months remaining in the school year, the refund would have been approximately thirty-five dollars (\$35). Heck, this would have paid the thirty dollar (\$30) parking ticket with five dollars (\$5) left over to buy a Big Mac!
13. Pat Parker saw the no parking signs before s/he parked his/her vehicle. S/he chose to ignore the signs and therefore was parking illegally. One would have to question the judgment of this "Student of the Year" recipient, an award presented to him/her by Dr. Crangle. One would wonder what Mr./Ms. Parker did, or promised to do, to earn this award! You can't put it past people like this to cook up phony lawsuits in an effort to embarrass public officials.
14. I met with Pat Parker on March 24, if my memory serves me correctly. Mr./Ms. Parker told my secretary that s/he wanted to interview me for an article s/he intended to write for the school newspaper. I thought the interview would be about my duties as mayor and about local government in general. The interview started out well; then s/he began to ask all these questions about the parking ban. S/he wanted to know about any studies that may have been undertaken before the ban went into place and how the parking ban got onto the board's agenda without prior notice to the other board members and to the public. I began to feel that the interview was getting out of hand, that Mr./Ms. Parker's motives were suspect, and I terminated the interview. I politely asked Mr./Ms. Parker to get out of my office, but I don't recall saying anything about "showing Dr. Crangle who is boss."

15. This notion that there was “Vitiosus-style” politics at play in the passing of this parking ordinance is complete nonsense. Every time I try to get something done for the village, I am accused of using strong-arm tactics. The board of trustees has a legitimate interest in protecting and enhancing the quality of life of the residents of this village. Quality of life issues have been part of my platform from the beginning and it is these concerns that I have been entrusted to protect. While I did not think it was necessary to discuss these quality of life issues and the reasons for the parking ban during the March 11 meeting, I believe everyone was fully informed on the need for the new parking restrictions. In addition, the fact that the parking ordinance passed during the time the village and the school district were involved in a dispute is purely coincidental. Measures like the parking ban are brought to the floor and passed when I deem the time for considering the measure is appropriate. On March 11, I felt the appropriate time for the parking ban had arrived. Second guessing at this point is partisan politics and pure folly. Besides, there has been plenty of discussion during prior board meetings about the parking problem around the school. Mr./Ms. Feddup complains often to our police chief about the parking situation. It is his/her major complaint when s/he speaks up at our board meetings. S/he writes letters to the editor of *Empireville Edition* alerting the public to problems with student parking. So, no one, and certainly no trustee, can say with a straight face that s/he was “surprised” about the parking ban measure. We waited long enough to pass this parking ban and there was no legitimate reason to delay implementation of the ban.
16. Now we have to spend taxpayers’ money defending this ordinance all because of the Superintendent Crangle’s opposition. Well, I am not going to back down. We are going all of the way to the United States Supreme Court, if necessary.

Dated: Empireville, New York  
June 28, 2010



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Alex Allen



Affidavit of Ryan Ryder  
Commissioner of Public Works

1. My name is Ryan Ryder. I am currently the Commissioner of Public Works for the Village of Empireville. I have held this position since 1991. I was first appointed to this position by the then-Mayor Bertrand Buchanan, a founding member of the Empireville First Party, a party committed to balancing budgets and quality-of-life issues for the people of Empireville. My parents, now deceased, were also members of the Empireville First Party.
2. I was born and raised in Empireville and have been a resident all my life. I graduated from Excelsior High School in 1983 and attended Empire County Community College (ECCC), graduating in 1985 with an associate's degree in public administration, emphasis on city management/budgeting.
3. While attending ECCC, I worked part-time in the office of the Commissioner of Public Works for the Village of Empireville, assisting primarily with budgetary issues.
4. After graduating in 1985, I was offered the job of Assistant Village Planner/Engineer with the Village of Empireville, Department of Public Works. Although not having an engineering degree, my internship with the department while attending college provided me with experience and insight into the village's planning initiatives and budgetary process.
5. Since 1985, I have weathered a succession of mayoral administrations. After Mayor Buchanan's defeat by the left-wing, liberal party in 1998, I can personally attest that the maintenance of Empireville's infrastructure has been hung out to dry. Since 1998, our streets, sewer systems, and public transportation systems (just to name a few) have deteriorated with perpetual flooding during the spring season, resulting in multiple complaints from city residents about damage done to their cars while motoring on our village streets and increased demands from our growing senior citizen population for a more efficient and expanded public transportation system. Our sanitation system is up to state standards only as established by the outdated emergency notification plan, a plan enacted in 2002. My department's budget cannot keep up with the demand for village services; in fact, my budget has been cut back in recent years.
6. Another indication of Empireville's budget woes has been the shrinking budget for adequate police services. We have upgraded equipment thanks to recent federal funding, but we still lack adequate manpower to address all the concerns and crisis situations that erupt on a daily basis.
7. One such concern has been the increased demand for police services around the Excelsior High School. Most of this demand is due to the student parking allowed on four streets—Eagle, Huron Chippewa and Pearl—composing the perimeter of the High School. I remember in 1990 when the village first allowed student parking on these streets. The school district pressured the village board for a limited number of parking spaces to

accommodate students, primarily seniors, who wanted access to their cars for after-school athletic events. Initially, this did not pose a problem for the village, and the village was able to charge the students a minimal parking fee. The current fee of \$100 per parking space, however, is a drop in the bucket compared to the costs involved in maintaining these village streets. The surrounding sewer system has also been adversely impacted. In addition, both my department and the police department have been stretched to the limit in trying to respond to citizen complaints of noisy, drunken, stoned high school students who hang around their cars, causing traffic congestion.

8. The school district, especially since Superintendent Crangle took over in 2004, has been unresponsive to these concerns. There has been a blatant lack of cooperation from the school district on Crangle's watch. Superintendent Crangle moved to Empireville about four years after I started working for the Department of Public Works. Two of my older children had him/her for social studies and physical education while in high school. Neither one of them had anything positive to say about Crangle. Crangle always seemed to have his/her eyes on the next level of promotion within the school district. This has proven to be the case, even more so, since s/he became superintendent. Superintendent Crangle is only interested in serving the interests of the children of the more affluent and influential parents living in the school district. It is well known that Crangle is only interested in expending school district funds for elitist programs like Mock Trial and the gifted musical programs; programs that Pat Parker and Cameron Curtis's niece and nephew participate in. Crangle could care less about the needs of the children of the majority of the school district's parents and citizens.
9. Fortunately, the village board has begun to address many of the village's growing problems since Alex Allen became mayor in January 2010. Allen's Capital Improvement Program (CIP) is just what the village needs. Allen is bold and unafraid of tackling laissez-faire politics as usual between the school district and the village board. It was unfortunate that Crangle had to take the dialogue about Mayor Allen's CIP public and go on the offensive by objecting to Allen's initiatives in the *Empireville Edition*. The more appropriate course of action would have been to attempt to communicate with Allen directly. But that is how Crangle works: always looking to solidify his/her support for his/her school district agenda by whatever means.
10. Cameron Curtis and Pat Parker have made much ado about nothing over the March 11, 2010 village board meeting. The village finally had the good sense to ban street parking on the high school's perimeter streets. In fact, two weeks before this board meeting, both the police chief and I had received an onslaught of complaints, many from I.M. Feddup, concerning the noise, congestion and clogged streets surrounding the high school. The recent spring rains had not helped the already backed-up sewer system. When I attempted to communicate some of these concerns to Crangle by driving over to the high school and talking with him/her directly, I had my own unfortunate experience. Having no luck in finding Crangle, I returned to where I had parked the village's new Department of Public Works truck on one of the perimeter street parking spaces to find three teenagers sitting on the hood of the truck smoking cigarettes. When I directed that they get off the truck, two of the students carelessly scratched the paint off the hood of the truck with their

boots and key chains. The situation with the parking spaces around the high school was definitely out of hand. There was little recourse left for the village board and Mayor Allen. Crangle was unresponsive to and uncooperative in discussing any initiatives to address these problems or even come up with any alternatives to the Mayor's CIP.

11. I do remember the March 11, 2010, village board meeting and was surprised that so much time was spent on debating what really were some mundane and routine matters. But that is what the democratic process is all about. The street parking situation around the high school had become a topic of community concern as witnessed by an onslaught of letters to the editor of Empireville's local newspaper, the *Empireville Edition*. The village board has discussed at length I.M. Feddup's letters to the editor and his/her daily complaints to the police chief during the monthly village board meetings. Thus, proposing the parking ban as an agenda item during the March 11th monthly meeting should not have come as a surprise to anyone. The Rules of Order for village board meetings allow the mayor to place urgent/emergency items on the board's monthly meeting agenda for action without prior notice to board members or the public. This talk about the mayor using Vitiosus-style politics to get his/her initiatives passes or to prevent the passing of initiatives proposed by the minority has got to stop. This rubbish does nothing to advance the political discourse and is harmful to the political process. All I see going on is good government by the majority and sour grapes from the minority.
12. I may have made some intemperate remarks to Trustee Curtis's inquiries about the ban during this meeting, but the evening was late, and Curtis, being a trustee for the past eight years, was fully aware of the difficulty the village had in dealing with the school board, particularly in getting Crangle on board to support Allen's CIP initiatives. I would have reminded Curtis of these issues, but someone made a motion on the proposed ban and a vote was taken, passing the motion before I could do so.
13. The village board drafted the ordinance to take effect "post haste." My department was assigned the task of posting the dozen or so "NO PARKING" signs on the designated perimeter streets. However, due to budgetary constraints, we were short of signs. This necessitated a rush order to the village's vendor and the signs arrived late in the day on March 14, 2010.
14. To avoid the cost of overtime pay, my midnight-to-7:00 a.m. crew was given the assignment of posting these signs in the early morning hours of March 15, 2010.
15. I was under no obligation to notify the school district prior to posting these signs. The ordinance banning the perimeter-road parking was enacted in a public forum, and any actions taken by the Village Board at its March 11, 2010, meeting were recorded and printed in the *Empireville Edition* for any and all to read.
16. As for Pat Parker's frivolous complaint, it is dubious that s/he was not aware of the proposed parking ban. I have known Pat's family for many years, and his/her parents have always given in to his/her wishes. A perfect example of this is the truck Pat's parents gave him/her for his/her 18th birthday. Only a few select students have been

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affected by this ban. It is understandable that Pat is frustrated having to ride the bus to school, but then again, many other Excelsior High students are required to ride the bus. Our youngest, also a senior at Excelsior High School, must ride the bus every day. The situation should not be any different for Pat Parker.

To the best of my knowledge the above is true.

Dated: Empireville, New York  
June 24, 2010

A handwritten signature in black ink, appearing to read "Ryan Ryder", is written above a horizontal line.

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Ryan Ryder

I.M. Feddup  
Village Resident

1. My name is I. M. Feddup, and I reside at 22 Pearl Street, Empireville, New York. I have resided at this address since February 29, 1980. I am 81 years old—no spring chicken but not ready to be put out to pasture yet.
2. When I first moved to my current residence, I worked full-time as a clerk at the U.S. Post Office in Empireville, but I retired from the postal service in 1995. I know we can have harsh winters here in New York, but I've never felt like I had to leave Empireville for a warm-weather spot like Florida. I've been a little lonesome since my husband/wife died in 2003, but my two kids come to visit me as often as they can.
3. Since I retired, I keep myself busy with a lot of hobbies, including gardening, reading and walking my two dogs Askem and Molly. I have a lot of time now to read the newspaper and keep up with current events. Mostly, I consider it my civic duty to keep a sharp eye on our local politicians. Having lived in Empireville my whole life, I want to make sure that all of our public officials, right up to Mayor Allen, are on the up-and-up and are working hard for the citizens of Empireville. I want to make sure that they are spending our hard-earned money frugally and wisely, and I do my best to keep them all honest!
4. I make sure to attend as many board of trustees meetings of the Village of Empireville as I can, and I speak up during the general public's opportunity to comment. The board meets monthly, and as a concerned citizen I review the agenda beforehand and try to make myself as informed as possible. I do this by reading as many articles as possible in the *Empireville Edition*. Nobody in this village knows more than I do about what's going on! I frequently write letters to the editor of the *Edition*, and I'm proud to say that everyone in town knows my name.
5. Since I moved to Pearl Street over 30 years ago, I've seen a lot of changes, many of them not for the better. I can't believe the way our high school students behave these days! I live on one of the four streets bordering the high school, and let me tell you, if we ever tried to get away with some of the things these kids do, our parents would have taken us straight to the woodshed. Smoking (and not just regular cigarettes, but those funny ones, too); drinking; swearing; pierced and tattooed with their pants hanging below their underwear; throwing garbage all over the streets; and, worst of all, parking their cars on both sides of my little street so that it's almost impossible for me to get out or for anyone to get in to visit me most days. When my great-grandchildren come to stay with me, I'm afraid to let them play outside in my yard, because those high school kids are so loud and obnoxious.
6. I remember the good old days when I first moved to Pearl Street, before this idiotic parking permit arrangement<sub>67</sub> began. Pearl Street then was quiet and

- beautiful. All of the neighbors took pride in keeping their properties and their lawns neat and clean. When they built the new high school in 1990, we were all concerned that our neighborhood would never be the same, and we were right! The traffic, the noise, the garbage and the riffraff have ruined everything. When I pass on, my kids are going to inherit a house that isn't worth what it should be, and all because of that high school and those snooty kids with their fancy cars...especially those huge SUVs that look like tanks and take up so much room.
7. I've been complaining about this situation to anyone who will listen for years. I've written to Mayor Allen, and before that to Mayor Buchanan. I've written to the *Edition* at least a dozen times about the horrible conditions in our neighborhood because of those kids. I've spoken at least four or five times at the board of trustees meetings during the general comment period about the need to ban parking on Pearl, Chippewa, Huron and Eagle streets. I even met with that Trustee Curtis, who did nothing. Let those kids take the bus or walk the way I did and my kids did when we went to Excelsior High. Why should I suffer because kids these days are too soft and have to drive everywhere?
  8. I was beginning to think that nothing would ever change, but I'm happy to say that I was wrong. I didn't get to the board of trustees meeting on March 11, 2010—the first time in three years that I had missed a meeting, but my church group had a fundraiser that night, and I couldn't miss that. Well, imagine my surprise to read in the *Edition* the next morning that the board had passed an immediate and absolute ban on parking around the high school! Not a moment too soon, I say. I've never belonged to any political party—they're all equally crooked, if you ask me—but when I read that Mayor Allen had pushed this through, I went right out and enrolled in the Empireville First Party. Anybody who fights for the citizens of Empireville like that deserves my support.
  9. It's been a pleasure to live on Pearl Street since March 15, 2010, the day the parking ban went into effect. No more honking horns; shouting and swearing; and picking my way through cigarette butts, beer cans and fast-food trash when I want to take a walk down to the corner; and I feel safe letting my great-grandchildren play outside now. It's just like some of these teenagers to feel so privileged that now they're suing the mayor and the entire village just for the right to park their gas-guzzlers and their jalopies in front of my house. I know they're saying that the board acted illegally because the parking ban wasn't on the agenda, but if any of these whippersnappers had bothered to attend trustees meetings or read the paper, they would have known that those of us who live around the high school couldn't wait to get rid of them. Good riddance, I say!

Dated: Empireville, New York  
June 30, 2010



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I.M. Feddup

## PART V

### NEW YORK STATE HIGH SCHOOL MOCK TRIAL

#### OFFICIAL EXHIBITS

Exhibit ...Bylaws of the Village of Empireville Board of Trustees  
2 pages

Exhibit ...Village Board of Trustees Minutes 03/11/2010  
4 pages

Exhibit ...*Empireville Edition* article dated February 1, 2010  
1 page

Exhibit ...*Empireville Edition* Opinion Page dated February 3, 2010  
1 page

Exhibit ...*Empireville Edition* article dated March 12, 2010  
1 page

Exhibit ...Empireville Parking Tag  
2 pages front and back of tag

Exhibit...No Parking Sign

Exhibit ...Empireville Map  
1 page





## **BYLAWS OF THE VILLAGE OF EMPIREVILLE BOARD OF TRUSTEES (cont.)**

### **ARTICLE V - Meetings**

#### **Section 1: Regular Meetings**

Meetings of the Village Board of Trustees shall take place monthly on the second Thursday of each month. Attendance shall be in person.

#### **Section 2: Quorum**

A majority of the Village Board of Trustees constitutes a quorum. Unless otherwise provided by law, affirmative votes by a majority of all the Trustees are required to approve any action under consideration.

#### **Section 3: Abstentions**

The Board believes that when no conflict of interest requires abstention, its members have a duty to vote on issues before them. When a Trustee abstains, his/her abstention shall be considered to concur with the action taken by the majority of those who vote, whether affirmatively or negatively. A Trustee who abstains from voting is deemed to have assented with the majority, in the event that one less than the necessary number of "aye" votes has been cast.

#### **Section 4: Conduct of Meetings**

All Board of Trustees' meetings shall begin on time and shall be guided by an agenda prepared and delivered in advance to all Board members and to other persons upon request.

The Mayor is a member of the Board of Trustees and shall conduct Board meetings. To enable the Board to efficiently and consistently consider issues, Robert's Rules of Order, Newly Revised, 10th Edition, shall generally guide the actions of the Board in conduct of its meetings if not covered by these Bylaws, County ordinance or State statutes.

The Board believes that late-night meetings deter public participation, can affect the Board's decision-making ability, and can be a burden to staff. Regular Board meetings shall be adjourned at 11:00 p.m. unless extended to a specific time determined by a majority of the Board. The meeting shall be extended no more than once and may be adjourned to a later date.

## **BYLAWS OF THE VILLAGE OF EMPIREVILLE BOARD OF TRUSTEES (cont.)**

### **Section 5: Order of Business**

Meeting shall be conducted as follows:

1. Adoption of agenda
2. Public comment (on matters on or off the agenda)
3. Department staff comments
4. Trustee member comments
5. Old business
6. New business
7. Executive session (to consider confidential personnel matters)
8. Mayor comment
9. Adjournment

### **Section 6: Agenda**

The Village Clerk shall prepare the agenda with input from the Mayor and distribute copies in advance of the meeting. Other items of the agenda shall include, but not be limited to, disposition of minutes of the previous meetings and of intervening special meetings, committee reports, department staff reports, as well as old and new business. (The minutes and agenda shall be delivered no later than 72 hours or three business days in advance of the meeting.) The Mayor may place an item on the agenda during his/her comment period if, in the opinion of the Mayor, circumstances render it necessary to address a situation of imminent public concern to the Village and when the lack of immediate response would likely result in serious harm to the community or its people.

### **Section 7: Open to the Public**

All meetings shall be open to the public, except for executive session as authorized in the New York State Open Meetings Law.

## **Village of Empireville, NY**

Village Board of Trustees Minutes 03/11/2010

PRESENT: Mayor Allen presiding; Trustees Curtis, Heffernan, Nicloy, Pelligrino; Village Clerk Barnes.

ABSENT: Trustees West and Greenfield

The meeting began with the Pledge to the Flag

### **I. ADOPTION OF THE AGENDA.**

Trustee Pelligrino moved; seconded by Trustee Nicloy; and unanimously carried.

### **II. PUBLIC COMMENTS**

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD, SPEAKERS HAVE FIVE (5) MINUTES BEFORE YIELDING TO THE NEXT SPEAKER; THEN THREE (3) MINUTES FOR ADDITIONAL COMMENTS

Mary Figg stated that the village has become overrun with stray dogs and that she is afraid to walk down Chippewa Street in the middle of the day. She gave several examples of the problem.

Ole Jenson answered that he lives on Chippewa and has no problem at all with dogs. He came tonight because of the potholes.

Agatha Mack spoke about her fear that an unleashed dog might eat one of her cats.

Mayor Allen noted that the board would review the problem of stray animals and unleashed dogs and would request a report by the animal control officer at the next meeting.

Lee Chopper of 173 Pearl Street asked the board to address the issue of snow removal. He said that after the recent storm, he was unable to get his car out of the driveway for a week. He stated that snow removal was erratic at best.

George Kennedy, who lives on the edge of town, stated that the road to his farm is not only not plowed, it is full of ruts and that he lost a tire when the sidewall was ripped out by a pothole.

Ole Jenson stated that the plowing problem is likely to be worse as one gets farther from the center of town.

George Kennedy stated that Empireville is a farming community and that it needs to take better care of its farmers.

Agatha Mack said she saw the town's snowplow outside of the Ice Cream Princess just last week and the driver was changing a tire.

### **III. DEPARTMENT STAFF COMMENTS**

**Ryan Ryder, Commissioner of Public Works**, presented a report on the current state of the roads in Empireville, with a particular emphasis on traffic flow, potholes and the remaining supply of road salt. S/he also addressed the current problems with the sewer system.

**Mayor Allen** stated the following:

High school students may now submit applications for unpaid summer internships. The last date for submission is April 30.

### **IV. TRUSTEE MEMBER COMMENTS**

No comments.

### **V. OLD BUSINESS**

#### **APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF THE BOARD OF TRUSTEES HELD ON FEBRUARY 14, 2010.**

Trustee Nicloy moved, seconded by Trustee Heffernan, and unanimously carried. That the following resolution be approved:

Approved: 5-0

BE IT RESOLVED that the Board of Trustees of the Village of Empireville hereby approves the minutes of the regular meeting of the Board of Trustees held on February 14, 2010; as submitted by the Village Clerk.

### **VI. NEW BUSINESS**

#### **PRESENTATION—INFORMATION REGARDING DESIGN PLANS FOR THE CAPITAL IMPROVEMENT PROJECT**

Mayor Allen summarized the current status of his plans to upgrade the sewer system and rebuild the roads in the downtown area.

#### **APPROVAL FOR REPORT OF STRAY DOGS, UNLEASHED DOGS AND OTHER**

REVISED 1/18/11a

#### ANIMALS REPORTED OR FOUND IN THE VILLAGE

Trustee Curtis moved, seconded by Trustee Heffernan, and unanimously carried. That the following resolution be approved:

Approved: 5-0

BE IT RESOLVED that the Board of Trustees of the Village of Empireville hereby directs the animal control officer of the Empireville Police Department to prepare a report on the problem of stray dogs, unleashed dogs and other animals reported or found in the Village.

#### APPROVAL OF AUDITED VOUCHERS

Trustee Nicloy moved, seconded by Trustee Curtis, and unanimously carried. That the following resolution be approved:

Approved: 5-0

BE IT RESOLVED that the Board of Trustees of the Village of Empireville hereby approves the Audited Vouchers No. 003842 through 003971 as submitted.

#### **VII. EXECUTIVE SESSION**

None held.

#### **VIII. MAYOR COMMENTS**

##### AMENDMENT TO MUNICIPAL CODE SECTION 25-253

Mayor Allen moved, seconded by Trustee Heffernan, that the following amendment to Municipal Code Section 25-253 be approved:

WHEREAS snow removal is being impeded and traffic congestion has become a problem in the downtown area due to the presence of cars parked on Eagle, Huron, Chippewa and Pearl Streets

BE IT RESOLVED that the Board of Trustees of the Village of Empireville hereby amends Municipal Code Section 25-253 to prohibit all parking on Eagle, Huron, Chippewa and Pearl Streets and to revoke all permits allowing parking on these streets.

Trustee Curtis objected to the resolution, stating that there had been no notice that it would be on the agenda and that if there had been notice, s/he was sure the turnout would have been better. S/he also stated that proper procedure was not being followed. There had to be a period for public comment prior to any vote on the issue.

Mayor Allen stated that, under the Village bylaws, s/he had the authority to act without a period for public comment in emergency situations.

Trustee Curtis stated that, as the only people parking on the affected streets were high

REVISED 1/18/11a

school students, all of who would be done with classes in June, the problem could be avoided in the future by not issuing permits for the 2010–2011 school year. S/he proposed that the resolution be amended to provide for the parking ban to begin then. No one supported his/her suggestion.

Trustee Curtis asked Ryan Ryder, as Commissioner of Public Works, to clarify the need for a parking ban.

Ryan Ryder stated that the ordinance was needed to put pressure on the school district and the superintendant.

Trustee Curtis moved that the measure be tabled until a future meeting. No one seconded the motion.

The Motion was approved: 4-1

## **IX. ADJOURNMENT**

Trustee Heffernan moved, seconded by Trustee Pelligrino, and unanimously carried, that the meeting be adjourned at 10:43 p.m.

## ***EMPIREVILLE EDITION***

### **Mayor Allen Wants School District To Pay**

By Al Thenews

*Published: February 1, 2010*

If Empireville Mayor Alex Allen has his/her way, things will soon be different around Excelsior High School.

In an *Edition* exclusive, Allen has put forth his/her plans for changes in the village's budget and his/her belief that the Excelsior Central School District isn't pulling its weight. The Mayor is calling for new sewer pipes in the high school neighborhood as part of his/her "Capital Improvement Plan," or CIP. "The existing pipes are more than fifty years old," Allen told *Edition* reporters. "We're seeing breaches of the pipes much more frequently, and it's creating a real problem in the streets around the high school. The student body is really taxing the village's waste disposal systems, and they can't take much more without some upgrades."

Allen also called for the hiring of three new "school resource officers." The exact duties of these individuals remain somewhat unclear, but Allen told the *Edition* that a primary responsibility for the "SROs," as s/he called them, would be "patrolling the area around the high school when students arrive and depart, to keep order and make sure normal teenage high-jinks don't get out of hand."

When asked how the village could afford these new expenses—estimates for the sewer project alone range from \$250,000 to \$300,000—Allen proposed that the Excelsior Central School District cover half the cost of the new pipes and all of the cost of the school resource officers. "It's time for the district to do its part," the Mayor explained. "The citizens of Empireville, especially those who live in the area immediately surrounding the high school, need some relief. The village's position on this is more than fair—it's good government."





## ***EMPIREVILLE EDITION***

### **Opinion Page**

LETTER

### **School District Responds To Mayor Allen's Proposal**

*Published: February 3, 2010*

To the Editor:

Mayor Alex Allen's so-called "Capital Improvement Program" is nothing more than a bald-faced attempt to force the Excelsior Central School District to cover the Village of Empireville's needs on the school district's dime. Excelsior High School, its faculty, its students, and its administration, have been on solid terms with the residents of the surrounding neighborhood for decades. Now, in his/her attempt to foist Vitiosus-style politics on this community, Allen is coming perilously close to extortion by demanding that the Excelsior Central School District bear responsibility for a new sewer system. If such an upgrade is needed—and if so, it is because the village has ignored its duties until this point—that is and always will be a function of the village government. To imply that the defects in Empireville's waste disposal system are caused by our high school students is irresponsible and patently false.

The Mayor also calls for the school district to pay for three "school resource officers" to cut down on "teenage high-jinks" in and around Excelsior High School. What a complete disservice to our outstanding young men and women! Allen as much as admits that s/he is padding the village budget by raiding the school district's extremely limited coffers. It's one thing for Allen to play budgetary hide-and-seek, but to do so at the expense of the reputations of our teens is more than politics as usual—it's completely sleazy, and worthy of a Mayor Malum, but not our community. We know better. For the mayor then to hide behind the cloak of "good government" is laughable, and I trust that the citizens of Empireville will see through this shabby plan to redistribute money on the backs of the Excelsior Central School District.

Chris Crangle  
Superintendent, Excelsior Central School District



## ***EMPIREVILLE EDITION***

### **New Parking Ban Adopted**

By Al Thenews

*Published: March 12, 2010*

Excelsior High School seniors will be looking for a new place to park their cars soon, as the long-running and bitter feud between Mayor Alex Allen and Excelsior Superintendent of Schools Chris Crangle came to a climax last night at the monthly meeting of the Empireville Board of Trustees. Led by Mayor Allen, the Empireville Board adopted an emergency resolution which will ban all parking on the streets surrounding the high school, effective immediately.

At least one member of the board appeared to be taken off guard by the resolution, which Mayor Allen claimed was necessary to allow emergency vehicles to clear snow and to relieve traffic congestion on Eagle, Huron, Chippewa and Pearl streets. The ban reverses a long standing policy which allows Excelsior High seniors to park on those streets and has riled feelings among villagers, village officials and students.

Trustee Cameron Curtis strongly objected to the resolution and later told the *Edition* that s/he felt that proper procedure was not followed in its adoption. "Alex Allen is hiding behind his/her emergency powers to push through a resolution that everyone knows is his/her way of taking revenge on Chris Crangle," said Curtis. "There is no emergency around the high school; the only emergency is Alex Allen's need to control and dominate everything and everyone in the Village of Empireville."

At last month's meeting of the board, Allen proposed that the Excelsior Central School District pay half the cost of the Mayor's "Capital Improvement Program," or CIP, which would install new sewer pipes around the high school, and that the district also pay for three "school resource officers" to patrol the school grounds. When Crangle marshaled an effort to defeat that proposal, the two officials went public with their disagreement, trading insults here in the pages of the *Edition*.

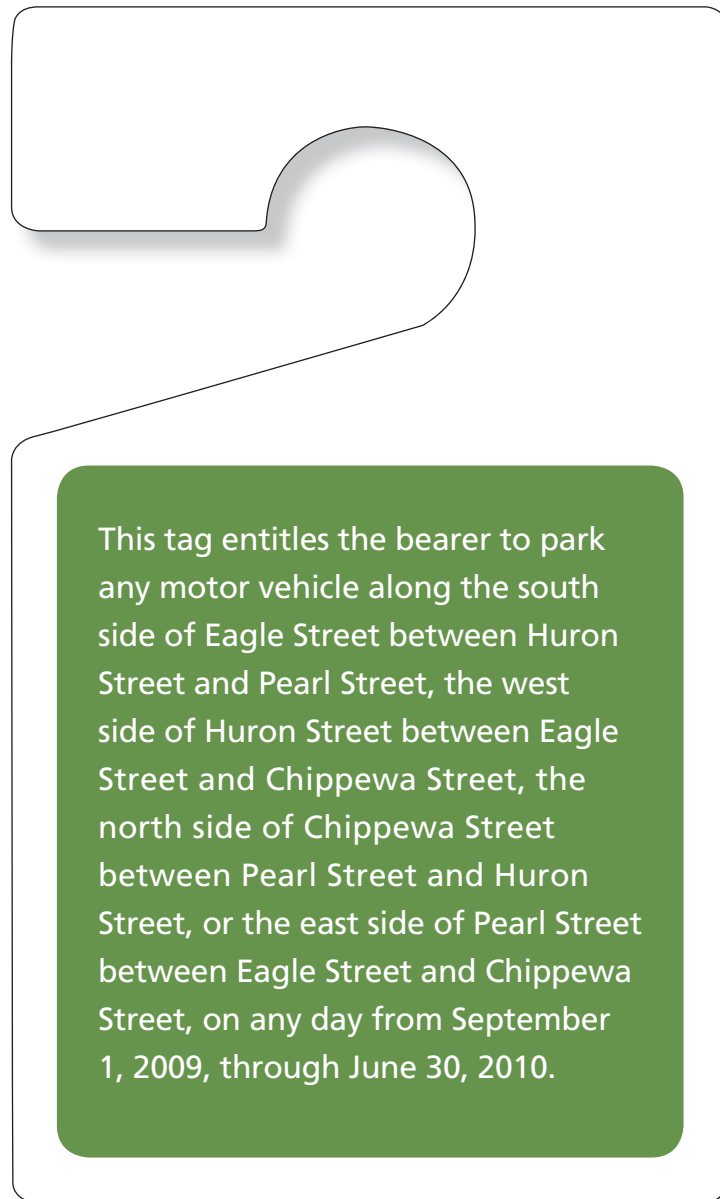
Last night's fireworks are sure to cause further bad feelings among citizens of Empireville, who have been riveted by the spectacle of two high-standing public officials firing barbed comments at one another. Citizens who live on the affected streets are bemused by all the attention focused on their neighborhood, but at least one, I.M. Feddup, has complained about student parking on his/her street for years, frequently speaking out at Trustees meetings and consistently publishing letters to the *Edition* calling for the village to address what s/he sees as a "neighborhood nuisance."











This tag entitles the bearer to park any motor vehicle along the south side of Eagle Street between Huron Street and Pearl Street, the west side of Huron Street between Eagle Street and Chippewa Street, the north side of Chippewa Street between Pearl Street and Huron Street, or the east side of Pearl Street between Eagle Street and Chippewa Street, on any day from September 1, 2009, through June 30, 2010.







## PART VI

### NEW YORK STATE HIGH SCHOOL MOCK TRIAL RELATED LAW AND CASES



REVISED 1/18/11  
**RELATED LAW**

**CPLR §3001. Declaratory judgment**

The supreme court may render a declaratory judgment having the effect of a final judgment as to the rights and other legal relations of the parties to a justiciable controversy whether or not further relief is or could be claimed. If the court declines to render such a judgment it shall state its grounds. A party who has brought a claim for personal injury or wrongful death against another party may maintain a declaratory judgment action directly against the insurer of such other party, as provided in paragraph six of subsection (a) of section three thousand four hundred twenty of the insurance law.

**Vehicle and Traffic Law, §1640. Traffic regulations in all cities and villages**

(a) The legislative body of any city or village, with respect to highways (which term for the purposes of this section shall include private roads open to public motor vehicle traffic) in such city or village; subject to the limitations imposed by section sixteen hundred eighty-four may by local law, ordinance, order, rule or regulation:

...

6. Prohibit, restrict or limit the stopping, standing or parking of vehicles; provided, however, that a vehicle may not be found to be in violation of a parking regulation if it is parked at a broken parking meter at a time when metered parking is authorized.

**New York State Constitution, ARTICLE I (Bill of Rights)**

**§6. [Grand jury; waiver of indictment; right to counsel; informing accused; double jeopardy; self-incrimination; waiver of immunity by public officers; due process of law]**

No person shall be held to answer for a capital or otherwise infamous crime (except in cases of impeachment, and in cases of militia when in actual service, and the land, air and naval forces in time of war, or which this state may keep with the consent of congress in time of peace, and in cases of petit larceny under the regulation of the legislature), unless on indictment of a grand jury, except that a person held for the action of a grand jury upon a charge for such an offense, other than one punishable by death or life imprisonment, with the consent of the district attorney, may waive indictment by a grand jury and consent to be prosecuted on an information filed by the district attorney; such waiver shall be evidenced by written instrument signed by the defendant in open court in the presence of his or her counsel. In any trial in any court whatever the party accused shall be allowed to appear and defend in person and with counsel as in civil actions and shall be informed of the nature and cause of the accusation and be confronted with the witnesses against him or her. No person shall be subject to be twice put in jeopardy for the same offense; nor shall he or she be compelled in any criminal case to be a witness against himself or herself, providing, that any public officer who, upon being called before a grand jury to testify concerning the conduct of his or her present office or of any public office held by him or her within five years prior to such grand jury call to testify, or the performance of his or her official duties in any such present or prior offices, refuses to sign a waiver of immunity against subsequent criminal prosecution, or to answer any relevant question concerning such matters

before such grand jury, shall by virtue of such refusal, be disqualified from holding any other public office or public employment for a period of five years from the date of such refusal to sign a waiver of immunity against subsequent prosecution, or to answer any relevant question concerning such matters before such grand jury, and shall be removed from his or her present office by the appropriate authority or shall forfeit his or her present office at the suit of the attorney-general. The power of grand juries to inquire into the wilful misconduct in office of public officers, and to find indictments or to direct the filing of informations in connection with such inquiries, shall never be suspended or impaired by law. No person shall be deprived of life, liberty or property without due process of law. (Amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938; further amended by vote of the people November 8, 1949; November 3, 1959; November 6, 1973; November 6, 2001.)

## RELATED CASE LAW

### ***Bakery Salvage Corp. v. City of Lackawanna***

30 AD2d 207 (1968)

Plaintiff challenged city ordinance prohibiting trucks over 5 tons from traveling on a residential street because of safety concerns for children, the damaging effect on the roadway and the negative effect on home prices in the area. The appellate court held that the ordinance is a reasonable and valid exercise of the State's power (delegated to the city pursuant to paragraph 6 of subdivision (a) of V&T Law, §1640) to protect from injury and to insure to residents the safe and economical use of streets. Moreover, the plaintiff has not been deprived of its property without due process of law merely because of the unfavorable economic effect on it.

### ***Peconic Ave. Businessmens' Ass'n v. Town of Brookhaven***

98 AD2d 772 (1983)

Ordinance prohibited 5000 pound trucks from using a .2-mile portion of Peconic Avenue that contains 20 single-family homes. The ordinance was enacted because of traffic safety observations along with requests from residents in and around the area. No other safety studies were offered by the Town and no other evidence of safety deficiencies were presented. Use of the alternate route increased the distance trucks had to travel by about 3.3 miles. Special Term declared the ordinance to be constitutional, reasoning that the high volume of trucks in the residential area, together with an increased incidence of traffic accidents, constituted a reasonable basis for adoption of the ordinance. The appellate court reversed, concluding that, on this record, the ordinance bears no real or substantial relationship to the public welfare. The town failed to offer proof relative to the dangers potentially associated with truck traffic passing through residential neighborhoods. Private and public convenience must be balanced in determining the reasonableness of the exercise of police power.

### ***Bower Associates v. Town of Pleasant Valley***

2 NY3d 617 (2004)

The plaintiff, a housing developer, sued the defendant, seeking \$2 million in damages as a result of the Planning Board's denial of request to subdivide a parcel of land for the construction of homes. Although the Planning Board's decision had been reversed by the Appellate Division in an earlier Article 78 action, the plaintiff alleges in this 42 USC §1983 action a denial of procedural and substantive due process, equal protection and just compensation. The Court of Appeals affirmed the Appellate Division's dismissal of the §1983 action, holding that in order to prove a substantive due process violation, the plaintiff must establish a cognizable property interest (i.e., a vested property interest) and must show that the government action was wholly without legal justification.

***Younker v. Village of Ossining***  
41 AD3d 470 (2007)

Ordinance prohibited parking of vehicle on village streets between the hours of 3:00am and 6:00am unless the owner or operator of the vehicle paid an application fee and applied for and obtained hard parking exemption. Appellate court held that the ordinance was a valid exercise of the village's power to restrict parking pursuant to V&T Law §1640(a)(6). Moreover, the ordinance did not on its face discriminate against nonresidents of the village, contained no requirement that applicant for hardship parking exemption be a resident and provided for temporary hardship parking exemption.

***Town of Orangetown v. Magee***  
88 NY2d 41 (1996)

The town revoked a building permit after the defendant had invested significant resources in clearing the land and constructing the building. Heavy resistance to the project had come from town residents. The Court of Appeals affirmed an award of damages since the defendant was able to establish (1) that there was a deprivation of a protectable property interest (2) by one acting under the authority of law. Having acquired a cognizable property interest, due process assures the defendant the right to be free from arbitrary or irrational municipal actions destructive of this interest.

***Salomon Bro., Inc. v. West Virginia State Board of Investments***  
152 Misc 2d 289 (1990)

The principal purpose of the declaratory judgment is to provide a means by which the parties to a legal relationship may obtain a resolution of uncertainties about current, continuing or prospective obligations between them.

***Jiggetts v. Grinker***  
75 NY2d 411 (1990)

Plaintiffs allege that the defendants (NYS Commissioner of Social Services and NYS Department of Social Services) had failed to produce a schedule of shelter allowance adequate to pay their rent and that as a result families were threatened with eviction. The plaintiffs sought declaratory judgment relief. The Court of Appeals noted that broad policy choices, which involve the ordering of priorities and the allocation of finite resources, are matters for the executive and legislative branches of government and the place to question their wisdom lies not in the courts but elsewhere.



***Teperman v. Amron***  
7 AD2d 857 (1959)

The existence of questions of fact is no bar to declaratory judgment relief. (See also, ***Rockland Power & Light Co. v. City of New York***, 289 NY 45 [1942]).

***Apfelbaum v. Town of Clarkstown***  
104 Misc 2d 371 (1980)

Plaintiff sought an order declaring unconstitutional the provisions of the town's zoning code as they relate to restrictions on senior citizen housing. The town contends that the restrictions are part of a comprehensive scheme which seeks to provide for the special needs of senior citizens and their integration into the community as a whole. The restrictions provide for "small scale" projects throughout the town which would harmonize with the surrounding residential areas. Holding for the town, the court determined that the ordinance seeking to control the population density of senior citizens' housing would appear to have a rational basis in the context of the town's over-all plan for zoning. The test to be applied is whether the classification has a rational relationship to a legitimate governmental objective. (See also, ***Epstein v. Board of Appeals of Village of Kensington***, 222 AD2d 396 [1995]).

***Streb v. City of Rochester***  
32 Misc 2d 29 (1961)

Ordinance prohibited the use of rope-gear hydraulic elevators for passenger service. According to the court, ordinances are not rendered unconstitutional solely by reason of the fact that they impose burdens upon property owners, and proper exercise of police powers has often been held to prevail over property and pecuniary rights of individuals. Such hardships so imposed upon an individual are of secondary concern only when the public need, reflected in the ordinance, is apparent and the ordinance is necessary and reasonable in application. However, the question as to whether an ordinance enacted under such power complies with the rule of reasonableness depends upon the facts and circumstances of the case (i.e., is the questioned ordinance, under the given circumstances, reasonable or arbitrary, and is it designed to accomplish a legitimate public purpose). The court found that the ordinance was unreasonable.

***Glass v. City of New York***  
2002 WL 1461895 (2002)

A portion of the city's Health Code that prohibited certain wild animals from being kept in the city. The plaintiff wanted to keep his pet ferret and challenged that provision of the code. The court held that it is an appropriate exercise of the city's police powers to control the harboring of animals, especially wild or dangerous animals. Finding for the city, the court concluded that any objective reading of the record indicates without question that the city acted legally and had a rational, factual basis for its determination based on a substantial body of evidence.

***Rose Towers Realty v. Aviv***

121 Misc 2d 1016 (1983)

Plaintiff-landlord sought to evict a tenant for harboring an animal, a dog, in violation of the lease agreement. A New York City ordinance provides that if a tenant harbors a domestic pet openly and notoriously for a period of three months and the landlord fails to start eviction proceeding within the 3-month period, the landlord is deemed to have waived that provision of the lease agreement. Finding for the tenant, the court held the presumption is always in favor of constitutionality of the legislation and the law presumes that the legislative body has investigated for and found facts necessary to support the legislation. Unless the action taken by the legislative body is clearly arbitrary, unreasonable or capricious, it must be upheld by the courts. Moreover, it is the burden of the party challenging a legislative enactment to prove beyond a reasonable doubt that the enactment is unconstitutional. (See also, ***Galaxy Rental Service, Inc. v. State***, 108 Misc 2d 237 [1981], reversed on other grounds, 88 AD2d 99 - [It is presumed that the legislative body has investigated the subject and has acted with reason rather than from whim or caprice]; ***Town of Gardiner v. Stanley Orchards, Inc.***, 105 Misc 2d 460 (1980) - [While local legislation would have to be sustained if it could be said to be 'reasonably related to some manifest evil, which, however, need only be reasonably apprehended,' the defendants in this case has sustained their heavy burden of showing that the ordinance prohibiting the placement of a mobile home on property unless the adjoining property owners unanimously consented is unconstitutional]).

## **APPENDICES**

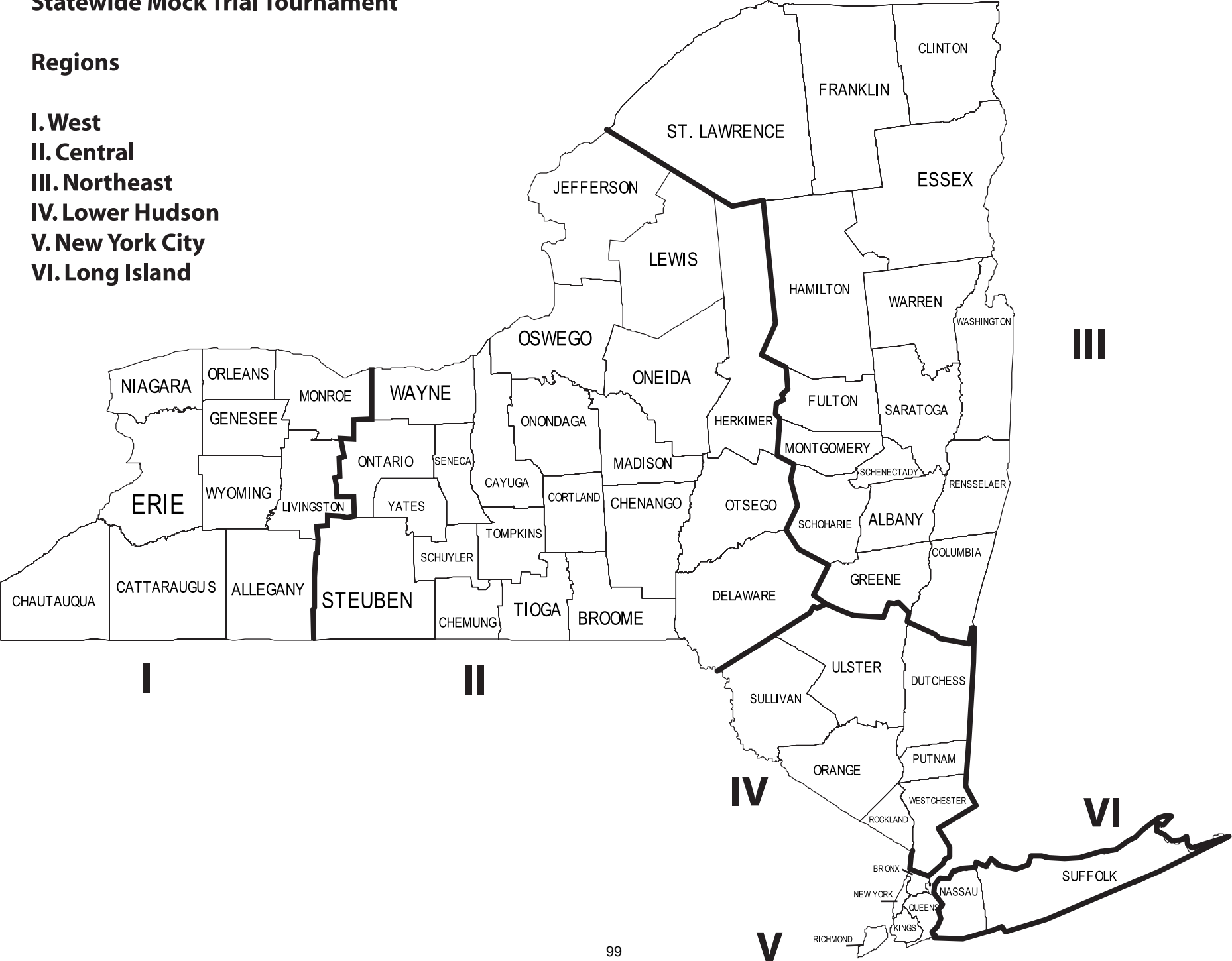
- A. STATEWIDE MOCK TRIAL REGIONS (MAP)
- B. MOCK TRIAL TOURNAMENT  
PERFORMANCE RATING GUIDELINES
- C. MOCK TRIAL TOURNAMENT  
PERFORMANCE RATING SHEET
- D. MOCK TRIAL SUMMER INSTITUTE INFORMATION



Statewide Mock Trial Tournament

Regions

- I. West
- II. Central
- III. Northeast
- IV. Lower Hudson
- V. New York City
- VI. Long Island





## MOCK TRIAL TOURNAMENT PERFORMANCE RATING GUIDELINES

POINTS	
1 Ineffective	<ul style="list-style-type: none"> <li>• Not prepared/disorganized/illogical/uninformed</li> <li>• Major points not covered</li> <li>• Difficult to hear/speech is too soft or too fast to be easily understood</li> <li>• Speaks in monotone</li> <li>• Persistently invents (or elicits invented) facts</li> <li>• Denies facts witness should know</li> <li>• Ineffective in communications</li> </ul>
2 Fair	<ul style="list-style-type: none"> <li>• Minimal performance and preparation</li> <li>• Performance lacks depth in terms of knowledge of task and materials</li> <li>• Hesitates or stumbles</li> <li>• Sounds flat/memorized rather than natural and spontaneous</li> <li>• Voice not projected</li> <li>• Communication lack clarity and conviction</li> <li>• Occasionally invents facts or denies facts that should be known</li> </ul>
3 Good	<ul style="list-style-type: none"> <li>• Good performance but unable to apply facts creatively</li> <li>• Can perform outside the script but with less confidence than when using the script</li> <li>• Doesn't demonstrate a mastery of the case but grasps major aspects of it</li> <li>• Covers essential points/well prepared</li> <li>• Few, if any mistakes</li> <li>• Speaks clearly and at good pace but could be more persuasive</li> <li>• Responsive to questions and/or objections</li> <li>• Acceptable but uninspired performance</li> </ul>
4 Very Good	<ul style="list-style-type: none"> <li>• Presentation is fluent, persuasive, clear and understandable</li> <li>• Student is confident</li> <li>• Extremely well prepared—organizes materials and thoughts well and exhibits a mastery of the case and materials</li> <li>• Handles questions and objections well</li> <li>• Extremely responsive to questions and/or objections</li> <li>• Quickly recovers from minor mistakes</li> <li>• Presentation was both believable and skillful</li> </ul>
5 Excellent	<ul style="list-style-type: none"> <li>• Able to apply case law and statutes appropriately</li> <li>• Able to apply facts creatively</li> <li>• Able to present analogies that make case easy for judge to understand</li> <li>• Outstandingly well prepared and professional</li> <li>• Supremely self-confident, keeps poise under duress</li> <li>• Thinks well on feet</li> <li>• Presentation was resourceful, original and innovative</li> <li>• Can sort out the essential from non-essential and uses time effectively</li> <li>• Outstandingly responsive to questions and/or objections</li> <li>• Handles questions from judges and attorneys (in the case of a witness) extremely well</li> <li>• Knows how to emphasize vital points of the trial and does so</li> </ul>
Professionalism of Team  Between 1 to 1 points per team	<ul style="list-style-type: none"> <li>• Team's overall confidence, preparedness and demeanor</li> <li>• Compliance with the rules of civility</li> <li>• Zealous but courteous advocacy</li> <li>• Honest and ethical conduct</li> <li>• Knowledge of the rules of the competition</li> <li>• Absence of unfair tactics, such as repetitive baseless objections and signals</li> </ul>

## NEW YORK STATE MOCK TRIAL TOURNAMENT PERFORMANCE RATING SHEET





In deciding which team has made the best presentation in the case you are judging, use the following criteria to evaluate each team's performance. For each of the performance categories listed below, rate each team on a scale of 1 to 5 as follows (use whole numbers only).

**1=Ineffective      2=Fair      3=Good      4=Very Good      5=Excellent**

**Time Limits**

Opening Statements	Direct Examination	Cross Examination	Closing Arguments
5 minutes for each side	7 minutes for each side	5 minutes for each side	5 minutes for each side

		Plaintiff/ Prosecution	Defense
Opening Statements			
Plaintiff/ Prosecution First Witness	Direct and Re-Direct Examination by Attorney		
	Cross and Re-Cross Examination by Attorney		
	Witness Performance		
Plaintiff/ Prosecution Second Witness	Direct and Re-Direct Examination by Attorney		
	Cross and Re-Cross Examination by Attorney		
	Witness Performance		
Plaintiff/ Prosecution Third Witness	Direct and Re-Direct Examination by Attorney		
	Cross and Re-Cross Examination by Attorney		
	Witness Performance		

		Plaintiff/ Prosecution	Defense
Defense-First Witness	Direct and Re-Direct Examination by Attorney		
	Cross and Re-Cross Examination by Attorney		
	Witness Performance		
Defense-Second Witness	Direct and Re-Direct Examination by Attorney		
	Cross and Re-Cross Examination by Attorney		
	Witness Performance		
Defense-Third Witness	Direct and Re-Direct Examination by Attorney		
	Cross and Re-Cross Examination by Attorney		
	Witness Performance		
Closing Statements			
Professionalism (1-10 points PER team) • Team's overall confidence, preparedness and demeanor • Compliance with the rules of civility • Zealous but courteous advocacy • Honest and ethical conduct • Knowledge of the rules of the competition • Absence of unfair tactics, such as repetitive baseless objections and signals			
	Total		

Judge's Name: \_\_\_\_\_ **Please Print**  
In the event of a tie, please award one point to the team you feel won this round  
(circle your choice below):  


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Plaintiff/Prosecution                      Defense



**Sign up for the email list for information about the 2011 Mock Trial Summer Institute which will take place July 10-15, 2011 at Silver Bay YMCA in Lake George, NY.**

**Send an email to Stacey Whiteley at [swhiteley@nysba.org](mailto:swhiteley@nysba.org) to be included on future email notifications!**



**1996**

Canisius High School  
Fayetteville-Manlius High School  
Waterford-Halfmoon High School  
Port Jervis High School  
Townsend Harris High School  
Port Washington Senior High School

**1995**

Clarence High School  
New Berlin Central School  
Scotia-Glenville High School  
Spring Valley Senior High School  
Sheepshead Bay High School  
Hebrew Academy of the Five Towns  
and Rockaway

**1994**

Buffalo Seminary High School Seton  
Catholic Central School Waterford-  
Halfmoon High School Kingston High  
School  
York Preparatory School  
Hebrew Academy of the Five Towns  
and Rockaway

**1993**

Pittsford Mendon High School Seton  
Catholic Central School Waterford-  
Halfmoon High School Kingston High  
School  
Martin Van Buren High School  
Syosset High School

**1992**

Pittsford Mendon High School Fayetteville-  
Manlius High School Ballston Spa High  
School  
Byram Hills High School  
Edward R. Murrow High School  
Half Hollow Hills High School—West

**1991**

Brighton High School  
Fayetteville-Manlius High School  
Academy of the Holy Names  
Kingston High School  
Andrew Jackson High School  
Port Washington Senior High School

**1990**

Canisius High School  
Seton Catholic Central High School  
Ballston Spa High School  
Kingston High School  
Edward R. Murrow High School  
Roslyn High School

**1989**

Canisius High School Binghamton High  
School Waterford-Halfmoon High School  
Kingston High School  
Riverdale Country School  
Roslyn High School

**1988**

St. Francis High School  
Chittenango Central School  
Christian Brothers Academy  
Spring Valley High School  
Packer Collegiate Institute  
Half Hollow Hills High School—East

**1987**

Greece-Athena High School  
Binghamton High School  
Shenendehowa High School  
Ossining High School  
Packer Collegiate Institute  
Roslyn High School

**1986**

Clarence Central High School  
Binghamton High School  
Albany High School  
Mount Vernon High School  
Jamaica High School  
George W. Hewlett High School

**1985**

Pittsford Mendon High School  
Union-Endicott High School South  
Colonie High School Harrison  
High School  
Martin Van Buren High School  
Brentwood High School

**1984**

R. L. Thomas  
Fayetteville-Manlius High School  
Colonie High School  
Harrison High School  
The Ramaz School  
Bay Shore High School

**1983**

Pittsford Mendon High School  
Union-Endicott High School  
Keveny Memorial Academy  
Ossining High School  
The Ramaz School  
Half Hollow Hills High School—West

**1982**

Fairport High School  
Maine-Endwell High School  
Cohoes High School  
North Rockland High School  
Jamaica High School  
Hewlett High School

