

MEMORANDUM

TO: 2L/3L Mock Trial Competitors; Judges
FROM: MCHB VP of In-House Problem Development
RE: Revised Stipulations for 2L/3L Mock Trial

Purpose

This Memorandum clarifies the section titled “Procedural Matters” on pages two through four of the *Lone Star v. Sloan* problem materials. **As such, the below stipulations supersede the items on those pages, and you should no longer refer to the original procedural stipulations. The substantive stipulations starting on page four remain in place.** Nothing in this document changes or clarifies the fact pattern of the case. After all, ambiguities and conflicting statements are part of the fun.

Procedural Matters

1. Federal Rules of Criminal Procedure and Federal Rules of Evidence apply.
2. All witnesses called to testify who have identified the parties, other individuals, or tangible evidence in deposition can, if asked, identify the same at trial.
3. Each witness who gave a deposition agreed under oath at the outset of his or her deposition to give a full and complete description of all material events and occurrences and to correct the deposition for inaccuracies and completeness before signing the deposition.
4. All depositions were signed under oath.
5. No team is permitted to attempt to or impeach a witness by arguing that a signature on their deposition is not the same as their signature or initials located on an exhibit. Teams may, of course, impeach a witness based on inconsistencies in their testimony.
6. Other than information in the problem and in witness depositions, there is nothing exceptional or unusual about their background information to bolster or detract from their credibility. Accordingly, witnesses may not “invent” individuals not mentioned in the problem and offer testimony to the court from that invented individual.

Consider the following example. A defendant is on trial for murder. Nothing in the fact pattern or witness testimony suggest or confirm that the police found a murder weapon in the Defendant's home or indeed, found a murder weapon at all. All the police detective found was a locked gun safe, without a key. During direct examination, however, the police detective states that another detective told her he found a key, unlocked the safe, and found a gun. The offer of the second, invented detective's testimony through the witness is prohibited by this stipulation.

7. "Beyond the record" shall not be entertained as an objection. Rather, teams shall use cross-examination as to inferences from material facts.
8. The State and the defendant must call the two witnesses listed as that party's witnesses on the witness list.
9. All exhibits are originals unless otherwise noted or established by the evidence. The parties may stipulate that all exhibits are authentic, but absent such a stipulation the parties must authenticate each exhibit. The parties still need to go through the steps of entering (or objecting to the entry of) exhibits into evidence.
10. This case comes to trial in the year 2005, but parties may cite recent case law to argue their motions in limine and other evidentiary issues.
11. While the parties may cite caselaw and other relevant authority to support their arguments on motions and evidentiary issues, no additions or deletions to the provided jury instructions are permitted.