

Meeting Preparation

Handouts needed but not in this packet are found at the listed website

Meeting 1

Registration Materials - Coordinator's Packet

Lesson Plans - AOC website www.courts.wa.gov

What is a Court?

http://www.courts.wa.gov/education/lessons/?fa=education_lessons.display&displayid=spjele1

Washington State Constitution - <http://www.leg.wa.gov/LawsAndAgencyRules/constitution.htm>

Lesson Plans - AOC website www.courts.wa.gov

Claim Your Jurisdiction Game

http://www.courts.wa.gov/education/lessons/?fa=education_lessons.display&displayid=spjths1

A Citizen's Guide to Washington Courts – AOC website www.courts.wa.gov or

http://www.courts.wa.gov/newsinfo/resources/?fa=newsinfo_jury.brochure_guide&altMenu=Citi, local courthouse, AOC office at 1206 Quince St SE, PO Box 41170, Olympia, WA 98504-1170

State of Washington v Eckblad: No. 74109-3 - end of packet

Meeting 2

The Trial Process

http://www.courts.wa.gov/education/lessons/?fa=education_lessons.display&displayid=Triapro

Preparation for a Jury Trial Overview - end of packet

The Juror's Guide - AOC website www.courts.wa.gov or

http://www.courts.wa.gov/newsinfo/resources/?fa=newsinfo_jury.jury_guide, local courthouse, AOC office at 1206 Quince St SE, PO Box 41170, Olympia, WA 98504-1170

Putting on Mock Trials – ABA website www.abanet.org/publiced/mocktrialguide.pdf

Meeting 3

Rules of Evidence – referenced by “Putting on Mock Trials”

<http://www.azflse.org/download.cfm?filename=2007SimplifiedRulesofEvidence&type=pdf&loc=mocktrial>

Sample Objections - end of packet

Rules of Evidence Exercise (and answers) - end of packet

Meeting 4

Materials for chosen mock trial

Meeting 5

Tentative Conference Agenda - end of packet

Job Qualifications - end of packet

Application - Coordinator's Packet

In the interest of saving trees, we are relying on the coordinators to access the above material not included in the packet via the Internet or contacting the Administrative Office of the Courts. We recognize that some people are not as proficient at using the computer/Internet as others or do not have Internet access. If so, here are suggestions to get your materials:

- Contact your County Program Assistant for help with accessing links
- Assign the job of downloading material to a delegate or parent
- Go to the KYG page on the 4-H website and click on the links via the curriculum file

State of Washington v Eckblad: No. 74109-3

Legislature In 2002, the Legislature passed the primary seat belt law, meaning law enforcement could ticket a driver for not wearing a seat belt. Prior to this law change, law enforcement could only cite a driver for not wearing a seat belt if they had also been violating another law, such as, speeding. Because not all vehicles have seat belts (vehicles built before 1968 were not required to have safety belts), the law referred to a federal motor vehicle safety standard to tell citizens whether they were required to wear a seat belt. According to this safety standard, any vehicle built before 1968 was not required to have a safety belt so anyone driving a car built before 1968 did not have to wear a seat belt. There were other exceptions to this rule but it only affected a small population.

Executive Beginning July 2002, law enforcement began issuing tickets to non-seat belt wearing drivers and passengers. On February 5, 2003, Trevor Eckblad, 31, of Everett, WA, was arrested by a Washington State Patrol trooper on Highway 20 at the west edge of Concrete. He was one of three passengers in a 1982 pickup truck stopped because another passenger (not Mr. Eckblad) was not wearing a seat belt. According to court documents, during this traffic stop, the smell of marijuana and alcohol led the trooper and a Concrete police officer to search the truck. The officers found drugs and a handgun allegedly belonging to Eckblad, who as a convicted felon, is not permitted to have a gun.

Judicial Mr. Eckblad's case came up in Skagit County Superior Court. While he was not given a seat belt ticket, his attorney argued that the law permitting the seat belt stop was unconstitutional. Under RCW 46.61.688, the determination of whether a person is required to wear a seat belt is solely conditioned on the type of vehicle in which he or she is riding. However, when reading RCW 46.61.688, one cannot figure out whether one's vehicle is one in which passengers are required to be belted because the standard the law adopts (Federal Motor Vehicle Safety Standard 208) cannot be readily located and, if found, cannot be understood by the public.

Without the probable cause the primary seat belt law afforded them, troopers would not have stopped the truck and therefore, would not have had probable cause to search the vehicle and would not have found the gun. Eckblad filed a motion to suppress evidence with the trial court, alleging that the stop was unconstitutional. The trial court granted the motion and held that RCW 46.61.688 was unconstitutional and void because the law as written was vague. The state appealed this decision to the Washington State Supreme Court and presented oral arguments on May 18, 2004 and court presented their decision October 2004. They disagreed with the trial judge and decided the law was not vague.

Preparation for a Jury Trial Overview

Step 1 Legal Conflict

There is a conflict that can be decided by taking it to court. (Not all conflicts can be decided by courts of law.) In criminal cases, the conflict is between the government and the person accused of committing the crime.

Step 2 Attempted Settlement

In civil cases, the lawyers try to settle the conflict without having to go to court. If this doesn't work, the person with the complaint can decide to take it to court.

Step 3 Filing Papers

In civil cases, a paper called a complaint is filed in court that describes the plaintiff's claim against the defendant. The defendant's lawyer can then file an answer that denies the complaint in some way. In criminal cases, the pleading is called the indictment. It states the government's charge or complaint against the defendant.

Step 4 Lawyers Get Facts

Lawyers get all the facts by interviewing witnesses and examining evidence (such as x-rays or medical bills). They may go to the scene of the crime or accident. Sworn written statements witnesses make before a trial in response to lawyers questions are called depositions. There are certain rules lawyers must follow when taking depositions.

Step 5 Lawyers Prepare for Trial

Lawyers decide which facts are important to bring out at the trial and prepare questions that will get witnesses to testify about those facts. The lawyers usually go over the questions with their witnesses before the trial.

Step 6 Trial Begins

Criminal trials must occur within a short time (30-60 days) after indictment, because of the constitutional right to a speedy trial (Sixth Amendment). It usually takes several months to a year for a civil case requiring a jury trial to come to court. To open the court, the bailiff calls the court to order. The judge comes in and the name of the case is announced.

Step 7 The Voir Dire

More than 12 jury members are chosen for every case. During voir dire, the lawyers and judge ask the prospective jurors questions and the lawyers decide which jury candidates they want as jurors on that case. A panel of up to 36 is sworn in and selection of the jury (12 general in superior court, 6 in district court) plus two alternates is made from the panel.

Step 8 Opening Statements

The plaintiff's lawyer (or the prosecutor) gives the opening statement first. The defense lawyer can make his/her opening statement at that time or just before questioning his/her witnesses. In the opening statement, the lawyer greets the jury, summarizes the case from the perspective of the plaintiff or defense, summarizes the evidence to support their side and requests a verdict in favor of their side.

Step 9 Prosecution/Plaintiff Case-in-Chief

Plaintiff's lawyer (or prosecutor) calls his/her witness(es) to the stand first. The lawyer asks the witnesses questions to bring out facts that are favorable to the plaintiff's (or prosecution's) case. The lawyer also presents physical evidence and asks the witness who know about it to identify it. After direct examination of each witness for the plaintiff (or prosecution), the lawyer for the defendant cross-examines by asking the witness more questions to bring out facts which are favorable to the defendant or which show that the witness is unsure, confused, or not telling the truth in his/her testimony.

Step 11 Motion to Dismiss

After all the plaintiff's (or prosecution's) witnesses have testified and all the evidence has been presented, the defendant's lawyer may ask the court to dismiss the case, or throw it out of court. If the judge thinks that all of the plaintiff's evidence was not enough to prove his/her case, the judge will dismiss the case. That would be the end of the trial. However, few cases are dismissed. Usually judges go ahead with the trial and ask the defendant to try to support his/her side of the case.

Step 12 Defense Case-in-Chief

The defendant's lawyer calls the defense witnesses to the stand and asks questions to bring out facts that are favorable to the defendant. The lawyer also presents physical evidence favorable to the defendant and asks a witness who knows about it to identify it. The plaintiff's lawyer (or prosecutor) may cross examine each of these witnesses for the defense by asking them specific questions which might bring out facts favorable to the plaintiff (or prosecution) or which might show they are unsure, confused, or not telling the truth in their testimony.

Step 14 Closing Arguments

After all the testimony has been heard, each lawyer makes a short speech to the jury. First, the plaintiff's lawyer (or prosecuting attorney) speaks. Then, the defendant's lawyer gets a turn. Both lawyers thank the jury, review the evidence that has been admitted that support their case, argue how the evidence establishes legal responsibility (using the law), discuss the other side's weaknesses, and ask for a verdict.

Step 15 Judge Instructs the Jury

After the closing statements, the judge reads instructions to the jury about the law applicable to the case.

Step 16 Jury Deliberates

The jury leaves the courtroom and is taken by the bailiff to a private room where they will make their decision. Their decision is called the verdict.

Step 17 Reading of the Verdict

The jury returns to the courtroom. The jury foreperson reads the verdict to the judge. The trial is then over. (In criminal cases, the bailiff takes charge of the defendant if he/she is found guilty.)

Sample Objections

Following are some examples of often used objections:

Irrelevant Evidence: "I object, Your Honor. This testimony is irrelevant to the facts (issues) of this case."

Leading Questions: "Objection. Counsel is leading the witness." (Remember this is only objectionable when done on direct examination)

Narrative Question and/or Response: "Objection, Counsel's question calls for a narrative" or "Objection, witness is giving a narrative response."

Improper Character Testimony:

a) "Objection. The witness's character or reputation has not been put in issue."

b) "Objection. Only the witness's reputation/character for truthfulness is at issue."

Hearsay: "Objection. Counsel's question calls for a hearsay response." Or "Objection. The witness's answer is based on hearsay." (If the witness makes a hearsay statement, the attorney should also say, "and I ask that the statement be stricken from the record.")

Opinion: "Objection. Counsel's question calls for an opinion."

Lack of Personal Knowledge: "Objection. The witness has not personal knowledge that would enable him/her to answer this question." Or, "Objection. Lack of foundation." (This latter objection presupposes that the subject matter of the testimony could be admissible if the examiner first establishes through proper questioning that the witness has the requisite personal knowledge.)

Badgering/Argumentative: "Objection. Counsel is badgering the witness." Or, "Objection. Counsel is arguing with the witness."

Motion to Strike: If inadmissible evidence has been introduced before an objection can be timely made and the court sustains the objection, a follow-up motion should always be made to purge the record of the tainted evidence. "Your Honor, I move to strike the (nonresponsive)(inadmissible) portion of the witness's testimony from the record."

Speculation: "Objection. Speculation" Attorneys cannot have witnesses assume or guess answers.

Rules of Evidence Exercise

Instructions: For each situation described below, explain whether you would object to admission of the evidence. If so, on what grounds would you make your objection? If you were offering the evidence, can you think of a way to get it in despite objection? How would the judge rule?

1. Doug is on trial for auto theft. As an alibi, Doug testifies, "Cindy told me that Jim had stolen that car for a joy ride. She never touched it."
2. Trial for arson. A witness for the defense testifies that the defendant was with her on the night of the crime. The prosecutor asks, "Isn't it true that you used cocaine when you were in college three years ago?"
3. Mr. Wirtz, an English teacher who knew the defendant since high school, testifies for the prosecution that Joe has deep psychological problems.
4. On direct examination, the defense attorney asks, "You could hear the noise from the next apartment very clearly, couldn't you?"
5. The witness, a waitress, testifies that the bartender had mentioned to her that the defendant had ordered five shots of whiskey the night of the crime.
6. Police officer Jones testifies that when he entered the victim's apartment he saw the defendant trying to climb out the window.
7. The prosecutor asks the witness, "Didn't you tell the defendant's attorney that you had seen the defendant take the money?"
8. Sally has never seen Amy with her son. Can Sally testify that Amy is a horrible mother?
9. In a trial for embezzlement, the defense introduces a diploma to show that the defendant graduated from high school.
10. The prosecution calls a witness to testify that the defendant had shoplifted for years before being arrested for grand theft.

Material obtained from "People vs. Ballard," Constitutional Rights Foundation, 1984, pages 33-36

Rules of Evidence Exercise Answers

1. Hearsay, Cindy's out of court statement that Jim took the car is being offered to prove that he, and not the defendant, took the car. Cindy should testify to this herself.
2. Relevance. The use of cocaine three years ago has nothing to do with the facts of the case or the witness' credibility. This question was probably intended to harass or embarrass the witness and is entirely improper.
3. Opinion. An English teacher is not an expert in psychological matters. The witness perhaps could testify to bizarre things that Joe had done or other indicators of psychological problems.
4. Leading Question. On direct examination, an attorney must allow the witness to tell his or her own story. The attorney could ask, "How well could you hear the noise from the apartment next door?" The original question would be proper on cross-examination.
5. Hearsay. The bartender's out of court statement is being offered to prove that the defendant had been drinking heavily. Introduce the bartender as a witness or ask the waitress if she had noticed how much the defendant had been drinking.
6. This is a proper bit of testimony, the more the better.
7. Privilege. The lawyer-client privilege protects from disclosure statements about the case made to a client's lawyer. Ask the witness whether she had seen the defendant take the money.
8. Personal Knowledge. Sally doesn't appear to have any basis for claiming that Amy is a terrible mother. Try to establish that Sally knows of Amy's poor parenting, perhaps by having seen scars on the child and having seen the child lightly clothed on cool winter day.
9. Relevance. Graduation from high school has nothing to do with stealing money that the defendant had been trusted with. If the defense is trying to show good character, something more convincing than a high school diploma is needed.
10. Character Evidence. Unless the defense has already produced evidence of good character, the prosecution cannot offer this testimony.

Note: For almost any offer of evidence taken out of context, relevance may not be clear.

Job Qualifications

These are guidelines to assist the delegates in selecting a role for the conference. A delegate may be assigned a role they did not apply for if the number of applications are more than the number of roles available. It is important delegates are prepared to serve in any of these four roles.

Attorney

- Possesses good verbal communication skills
- Able to work cooperatively as a member of a group
- Able to work with people who are different from him or her

Juror

- Possesses good listening skills
- Able to distinguish between fact, opinion and reasoned argument
- Analyzes credibility and authenticity
- Able to clearly state thoughts, feelings, and ideas to others
- Seeks agreement and solutions through discussion
- Can do what is right when with a group

Reporter

- Possesses good writing skills
- Able to determine main message and identify target audience
- Check for understanding by asking questions and paraphrasing

Witness

- Possesses good memorization skills
- Appreciates dramatic arts (some acting may be required)
- Able to work with people who are different from him or her

