



Hello Summit Cup Coaches & Advocates!

Attached are the **Summit Cup Tournament Rules**. Our goal is to make this tournament as close as possible to **real-life advocacy** while at the same time creating a great educational atmosphere with lots of camaraderie.

This first page highlights some of the important rules.

1. **TIME.** Each team gets **seventy-five (75) minutes per round** to present their case and rebut the other side's case. Additionally, teams will have **4+4 minutes for Motions in Limine (MIL)**. Clock **stops** on objections.
2. **WOODSHED WITNESSES.** The Center for Advocacy will **provide each team with two (2) Woodshed Witnesses**. Advocates will receive the contact information for their their witnesses the day before the tournament begins. Those two Woodshed Witnesses will stay with the same team throughout the tournament.
3. **REAL JURORS.** Our scoring panels are **a mixture of attorneys and laypeople**. You may be asking, *"How will a lay juror know how to score the technicalities of a trial, like refreshing recollection?"* They won't. They will be evaluating your Advocates just as real world jurors, on **credibility, persuasiveness, and professionalism**. ...and yes, the jurors will be oriented NOT to evaluate on the case merits and NOT on the Woodshed Witnesses.
4. **"ADVOCACY SCORING"**. On a related point, the Scoring Jurors (both the attorneys and laypeople) will be assigning **only ONE SCORE** to each Advocate for the entire round. That's it. It will be on a range of 6 through 10 with half-points available as well (e.g. 6.0, 6.5, 7.0, etc.). But! Since this is an educational exercise, each juror will complete an **Insights Questionnaire** for each Advocate to provide deeper insights about their advocacy.
5. **REAL DELIBERATIONS FOR FINALS.** For the Championship Round we will have a fully empaneled jury of attorneys and laypeople. After all ballots are submitted, the attorney jurors will provide feedback while **the lay jurors will deliberate** (30 minutes). They will deliberate as real jurors would. (Since all ballots will have already been submitted, these deliberations obviously will NOT affect the outcome of the trial.) The **deliberations will be videotaped and uploaded** for all to review so our Advocates can get a glimpse of how jurors actually think.
6. **SOLVING PROBLEMS.** It is our hope we can have a **fun and educational tournament** where camaraderie is at a high and contentiousness is at a low. To that end, we will have **numerous Coaches Meetings** during the tournament in an effort to keep all of us communicating about issues as they arise. Secondly, we are **encouraging coaches to talk** to one another during the round if a coach believes a violation has occurred. Thirdly, if a coach requests for a formal protest committee to be empaneled, and the panel determines the **complaint was frivolous**, then the complaining team can be penalized.
7. **AWARDS.** We have a great **Final Celebration** planned, so we hope all coaches and Advocates will come. We will be awarding a variety of awards including, **the top four (4) teams, the Best Advocate, the Outstanding Advocate (runner-up), the Juror's Choice Award, and the Professionalism Award**.

Please let me know if you have questions

DAVID C. SCHOTT, Director - The Center for Advocacy



2018 SUMMIT CUP TOURNAMENT RULES

GENERAL INFORMATION

1. **HOST.** The Center for Advocacy (CFA) at The University of Denver Sturm College of Law is the official host of The Summit Cup. (Note: The Denver National Trial Team, as the host school, will never compete in The Summit Cup.)
2. **HONORED INVITEES.** The teams invited to The Summit Cup are selected based on their performances in some of the most prestigious national tournaments in the country during the prior academic year. In the past, champions from these tournaments have earned an invite to The Summit Cup: **The Mockingbird Challenge (Faulkner hosts); The Ethics Tournament (Pacific McGeorge hosts); the Capitol City Challenge (American hosts); Top Gun (Baylor hosts); Buffalo-Niagara (Buffalo); NCTC (Loyola-LA hosts); Lone Star Classic (St. Mary's, TX); South Texas Challenge (Houston); the Kelly Competition (Fordham); Tournament of Champions; National Criminal Trial Advocacy Competition (Florida); the ABA Criminal Justice Tournament (Loyola Chicago); In Vino Veritas (Golden Gate); NTAC (Michigan State); TYLA's NTC; AAJ; and the prior year Summit Cup champion.**
3. **GOAL.** The Summit Cup is a law school educational exercise taking place in the form of a trial advocacy tournament. Its primary purpose is to help prepare the Student-Advocates for entry and success into the legal profession – “The Profession That Takes The Oath.” This is not a moot court (appellate) tournament. The Summit Cup is designed to further develop law school students’ prowess and knowledge in areas including but not limited to:
 - Case Analysis
 - Applied Evidence
 - Courtroom Procedure
 - Professional Writing
 - Teamwork & Camaraderie
 - Engaging the Adversarial Process Professionally & Respectfully
 - Understanding that the Law & Rules are Paramount
 - For Advocates to make friends from other schools, whom they may encounter in their career ...and much more.
 - Issue Identification
 - Objection Identification & Timeliness
 - Verbal Persuasion
 - Storytelling
 - Legal Research & Writing
4. **QUESTIONS REGARDING THE CASE.** Questions arising before The Summit Cup are to be emailed to the **Director of The Center for Advocacy, David C. Schott** (DSchott@law.du.edu). Questions and answers are provided to all teams. The final day that questions will be entertained is 14 days prior to the first day of the tournament.
5. **OPEN DOOR.**
 - a. As mentioned, the primary purpose of The Summit Cup is for it to be an educational experience. Thus Student-Advocates may, and are encouraged to, receive outside advice and assistance from coaches, attorneys, clerks, judges, friends, family and professors. It goes without saying, in the spirit of education, and to be consistent with our Honor Code, Student-Advocates should not obtain support in the form of any non-competing student or third party actually drafting work product.
 - b. No assistance/communication may occur with any non-competing student once a round begins. A round “begins” once the case is called to order, OR once opposing teams discuss any substantive or procedural matters with opposing counsel (eg Motions in Limine), whichever occurs first.

6. **WITHDRAWING.** Should a team withdraw after accepting the invitation, the withdrawing team will be disqualified from invitation for two years after the withdrawal regardless of national tournament record.
7. **ALL-ADVOCATES MEETING.**
- a. In an effort to provide greater transparency and to allow Advocates to make friends from other schools, there will be an All-Advocates Meeting on the first day of the tournament starting at 4:00.
 - b. The following activities will occur at this meeting:
 - 1) Warmly welcome all Advocates and coaches to The Summit Cup;
 - 2) Preview the Orientation that Ruling Judges and Scoring Jurors will receive;
 - 3) Provide Advocates an opportunity to ask questions about The Cup;
 - 4) Address other general questions and last-minute points.
8. **COACHES MEETINGS.** In the experience of the Tournament Committee, increasing the amount of camaraderie and “face time” between coaches helps to increase communication, increase accountability, and reduce the potential for misunderstandings and thus reduce potential protests. To that end, there will be short (15 minute) Coaches Meetings, to discuss issues that arise during the operation of the Cup, at the following times:
- Day 1 4:00 p.m.**
Day 2 11:45 a.m.
4:45 p.m.
Day 3 8:30 a.m.
9. **NOT JUDGED ON THE CASE MERITS.**
- a. Scoring Jurors (collectively “The Jurors”) will each be given an ***Official Summit Cup Scoring Sheet***, as well as a structured Insights Questionnaire (1 for each advocate).
 - b. Ruling Judges may or may not complete scoring sheets for a particular round. It depends on how many Scoring Jurors there are in the courtroom (minimum of 3 are needed).
 - c. The Scoring Jurors’ Scoring Sheets will be taken by the bailiff to the Scoring Room after the round.
 - d. The Scoring Jurors will give their **Insights Questionnaires** to the Advocates so the Advocates can gain greater insight in their respective trial presentations.
 - e. The Scoring Jurors are instructed **not to evaluate the Advocates on the merits of the case**, but rather to evaluate the Advocates on their persuasiveness, professionalism, and overall advocacy.
10. **THIS YEAR’S CASE.** A few notes about this year’s case are follows:
- a. At the All-Team Meeting (described above) each team will meet the two Denver Law students who will play their Woodshed Witnesses on each side for the whole tournament.
 - b. **The Plaintiff must call Detective Brochee and Parker Ferrar. The Defense must call Teddy Rowland and Scott Sanderson.**
 - c. Teams may call their respective witnesses in any order during their case-in-chief.
 - d. **Defendant Scott Sanderson will be a male.** All other witnesses are gender neutral.
 - e. There are other statements and/or transcripts of unavailable witnesses.
 - i. Their testimony may be read into the record “live” via counsel reading it line-by-line, or by having co-counsel read in the answer/response portions of the testimony.
 - ii. The content of both witnesses may be used by both of teams.
 - iii. The time spent reading such testimony into the record will be deducted from the time of the team reading the testimony.
 - iv. If counsel desires to read in a portion(s) of an unavailable witness’s testimony, the opposing counsel may also read in remaining portions as though it was Cross Examination.
 - f. The audio files may be used during the trial by any Advocate, however Advocates are responsible for bringing their own audio or amplification equipment. The time spent playing the audio file will be deducted from the Advocate’s time who plays the audio file.

COMPETITOR ROLES & RESPONSIBILITIES

11. **STUDENTS WHO MAY COMPETE.** Only currently-enrolled J.D. candidates from a participating school may compete as an Advocate.
12. **FOUR “TOURNAMENT” ROUNDS / BOTH SIDES OF CASE.** The Summit Cup consists of **four (4) Tournament Rounds** in which all teams compete. The Championship Round follows the four Tournament Rounds. Each team must be prepared to present and advocate issues on both sides of the case in any given round.
13. **TEAM SIZE & COMPOSITION.**
 - a. Teams may be comprised of 2, 3, or 4 members at their school’s discretion.
 - b. In each round two (2) team members will compete as Advocates while the other team members, if any, will not participate in that round.
 - c. As described, The Summit Cup will provide all witnesses (Woodshed Witnesses) for the Cup.
 - d. Each team member who is acting as an Advocate in a given round must conduct at least one Direct Examination (DX) and one Cross Examination (CX) of a live witness, and either an Opening Statement (OS) or a Closing Argument (CA).
 - e. Either or both Advocates may address the other parts of the trial.
14. **OBJECTING.**
 - a. Only the Advocate conducting a given Direct Examination shall make objections to the Cross-Examination of that same witness.
 - b. Concomitantly, only the Advocate who is Cross Examining a witness shall make objections to the Direct Examination of that same witness.
 - c. Only the Advocate presenting the Opening Statement may object to the opposing Opening Statement, and only the Advocate presenting the Closing may object to the opposing Closing.
15. **PUNCTUALITY.** Team members must be present at counsel table and ready to begin at the scheduled trial time or face possible forfeiture of that round or penalty.
16. **NO COMMUNICATION DURING ROUND.** **A round officially begins when two Advocates from opposing sides discuss substantive matters with each other or the judge calls the case to order, whichever occurs first.** As soon as a round begins, no coach, spectator, or team member who is not competing in the round, shall have any contact or communication with the Advocates competing in the round. This prohibition includes any communication in recesses and breaks given by the Ruling Judge during the round. This prohibition shall last until the round has concluded.
17. **NO PERSONAL BACKGROUND INFORMATION.** At no point in The Summit Cup shall an Advocate share any information with a Ruling Judge or Scoring Juror which may bias the Judge or Juror. Such information may include, but is not limited to, the area from where the Advocates hail, the school they attend, their year in law school, the Advocate’s current or prior legal jobs, or personal relationships or mutual friends that the Ruling Judge and/or Scoring Juror may share with the Advocate.
18. **NO SCOUTING.** All trials will be open for observation, however scouting is strictly prohibited. Coaches and non-competing team members shall not watch any round not involving their team. Teams also may not direct friends or family to watch other rounds in order to “scout” opposing teams. Scouting is considered to be “misconduct” under the Summit Cup Rules and Honor Code, and any team in violation of this rule will be subject, at the discretion of the CFA, to disqualification from The Summit Cup and future Summit Cups. This prohibition does not apply after a team has been eliminated from The Summit Cup.

- 19. TEAMS CANNOT DECLARE CONFLICTS OF INTEREST.** Advocates and coaches do not have the right to declare a “conflict of interest” with a Ruling Judge or Scoring Juror. Only the Ruling Judge or Scoring Jurors have the right to declare a conflict of interest in judging a student in a round.
- 20. JUDGE’S DECISIONS ARE FINAL.** All decisions made by the Ruling Judge and Scoring Jurors are final.
- 21. PHOTOGRAPHY.** Photography during a trial is permitted if it does not interfere with or delay the trial and all participants of the round consent. All photography is subject to the local courthouse policy and discretion.

THE SUMMIT CUP FORMAT

22. TIME.

- a. Each team will have **seventy (75) minutes** to complete their respective case presentations.
- b. **Timekeepers will be provided by the tournament organizers.**
- c. The clock WILL STOP on objections.
- d. Time limits will be strictly enforced, although it is not necessary that all time allotted be used.

23. SIDES OF THE CASE.

- a. Each team will be assigned to represent one side of the case for Round 1.
- b. No team is guaranteed that it will automatically represent the other side in the Round 2.
- c. Teams are guaranteed that they will represent each side of the case at least one (1) time during the four Tournament Rounds. Realizing that this is an educational exercise, the Summit Cup will make its best efforts to have teams present each side of the case twice. (With teams of 3 or 4 Advocates, we understand the educational importance of a team presenting each side twice.)

24. ROUND PAIRINGS

- a. Round 1 pairings will be determined at the Coaches Meeting using “**Advocacy Pairing**”. All coaches will draw a number 1-12. The team drawing #1 will get to choose its opponent or its side for Round 1. This process will continue until all 12 teams know their Round 1 opponent and case side.
- b. Subsequent round pairings will be based on Power Matching (versus Power Protecting or Power Bracketing). Power Matching (aka Power Ranking) will pair #1 v #2, #3 v #4, etc.
- c. There will be three (3) ballots available in each round for each trial.

25. RANKING TEAMS. After each round, teams will be ranked based on the following criteria, in this order:

- (1) **Win/Loss Record** (e.g. 2-1);
- (2) **Number of Ballots Won** (e.g. 7 ballots);
- (3) **Differential Points** (e.g. +9 pts). *Note: Differential Points are cumulative. e.g. – 5 points in Round 1 and +11 points in Round 2 totals to Differential Points of +6 going into Round 3;*
- (4) **Gross Points** (e.g. 54 points).
- (5) **Ties.** If any two teams are tied after the four ranking bases listed above, the final tiebreaker will be the number of “10” point scores (i.e. “perfect scores”) the combined team has earned.

26. CHAMPIONSHIP ROUND. The two teams with the highest ranking after the four Tournament Rounds will compete against each other in the Championship Round.

27. TRANSPARENCY - SCORE SHEET VIEWING. Fifteen minutes after the start of the 2nd, 3rd and 4th Tournament Rounds, coaches will have the opportunity to view their team’s Score Sheets from the prior round(s).

- 28. NO TOURNAMENT ROUND REPEATS.** The Summit Cup Committee will do its best to prevent two teams from competing against each other more than once in the Tournament Rounds. In the event such a situation arises, the teams will at least switch sides. When pairings are announced, if a team is announced to compete against a team which they have already faced AND on that same side, immediately contact the CFA Director directly.
- 29. TITLE.** The team winning the most ballots during the Championship Round will be announced as “The Summit Cup Champion” at the Final Celebration. The opposing team will be announced as “The Summit Cup Championship Finalist.”
- 30. BYE ROUNDS.** It is the intent of The Summit Cup Committee to avoid “byes.” However, it is realized that there is always the chance that a competing team may withdraw from the tournament at a late date, not leaving time to find a replacement team to compete. If that situation arises, to continue to maximize the educational value of the tournament for all competing teams, the University of Denver law school will provide a “Bye Buster” team to assure that each competing team gets to present both sides of their case two times. The Bye Buster rounds will proceed as follows:
- a. The team competing against the Bye Buster team CANNOT LOSE to the Bye Buster team. The competing team gets an automatic “win.”
 - b. The Bye Buster team cannot “win” the round, and the Bye Buster team cannot “advance” to the Championships (they will be 0-4).
 - c. In Round 1, any team can select to compete against the Bye Buster team if the Bye Buster team is still available in the Challenge Ceremony when it is the competing team’s time to select its opponent.
 - d. Bye Round Ballots – For the Bye Buster round, the competing team will be awarded the ballots equal to the average number of ballots that it earns in the other three (3) rounds during the tournament.
 - e. Bye Round Points – For the Bye Buster round, the competing team will be awarded points equal to the average number of points that it earns in the other three (3) rounds during the tournament.
 - Note: For the Round 1 team competing against the Bye Buster team, for Power-matching purposes and temporary ranking and matching purposes for Round 2, the competing team will be temporarily assigned the average number of points from **all** teams competing in Round 1 (thus the competing team will be ranked in the middle of the rankings for Round 2 matchings). These “temporary points” assigned for Round 1 will later be readjusted once the team has completed future rounds to reflect the actual average points earned by the team in those subsequent rounds, as described above.

ROUND LOGISTICS

31. ADVOCATES WRITE NAMES ON SCORESHEET.

- a. **At the first Coaches Meeting, teams will be given enough copies of The Summit Cup “Official Scoresheet” for each Ruling Judge and each Scoring Juror.**
- b. Each Advocate is required to write in their team identification (e.g. team number) and each individual Advocate’s name.
- c. The Plaintiff/Prosecution/Plaintiff is responsible for giving these Scoresheets to the Ruling Judge and Scoring Jurors at the start of the round.

32. RULES OF EVIDENCE - FRE.

- a. The Federal Rules of Evidence and the Federal Rules of Criminal Procedure/Federal Rules of Civil Procedure shall be controlling.
- b. Only those rules and the law provided in the fact pattern shall be used in argument.
- c. Other than case law, statutory law, or regulatory law provided in the case file, no statutory, regulatory, or case law may be cited except during Motions in Limine.
- d. Advocates may reference the committee notes or advisory notes to the Federal Rules of Evidence.
- e. Advocates may make objections based on the Confrontation Clause.

33. ORAL MOTIONS ONLY.

- a. No written briefs, motions, trial notebooks, or other written material shall be presented to the court other than entries of appearance and/or a listing of the division of labor of the Advocates in the trial.
- b. Each team is limited to presenting three (3) motions in limine (MILs);
- c. Pretrial *Motions in Limine (MILs)*, Motions for Judgment of Acquittal (JOA) or Motions for a Directed Verdict (MDV) will be made and argued orally. The Ruling Judge **shall** deny any halftime motion (e.g. Judgment of Acquittal).
- d. To encourage teams to be concise with their MILs, teams are only **allowed four (4) minutes to present and four (4) minutes** to respond to motions;
- e. The time used to present/defend such motions will NOT be deducted from a team's 75 minutes.

34. TRIAL STRUCTURE.

The trial will consist of the following phases in this order:

- a. Introductions & General Preliminary Matters of the Prosecution/Plaintiff, followed by the Defense
- b. Pre-Trial Motions (MILs) presented by the Prosecution/Plaintiff followed by the Defense
- c. Opening Statement presented by the Prosecution/Plaintiff followed by the Defense
- d. Prosecution/Plaintiff Case-In-Chief
 - i. Prosecution/Plaintiff's DX of Prosecution/Plaintiff Witness 1
 - ii. Defendant's CX of Prosecution/Plaintiff Witness 1
 - iii. Prosecution/Plaintiff's RE-DX of Prosecution/Plaintiff Witness 1, if any
 - iv. Same procedure for Prosecution/Plaintiff Witness 2
 - At any time during their case in chief, the Prosecution/Plaintiff may request permission from the court to present evidence of an unavailable witness, an audio recording, or other non-live witness evidence.
- e. Halftime Motions (if any)
- f. Defense Case-In-Chief
 - i. Defendant's DX of Defense Witness 1
 - ii. Prosecution/Plaintiff's CX of Defense Witness 1
 - iii. Defendant's RE-DX of Defense Witness 1, if any
 - iv. Same procedure for Defense Witness 2
 - At any time during their case in chief, the Prosecution/Plaintiff may request permission from the court to present evidence of an unavailable witness, an audio recording, or other non-live witness evidence.
- g. Closing Argument
 - i. Prosecution/Plaintiff's Closing
 - ii. Defendant's Closing
 - iii. Prosecution/Plaintiff's Rebuttal Closing

35. RE-CROSSES ARE DISCRETIONARY. While Re-Direct Examinations are permitted, Re-Cross Examinations are permitted only by approval of the Ruling Judge. Re-Cross Examinations will only occur if requested by the Re-Cross Examining counsel and the request is granted by the Ruling Judge.

36. REBUTTAL CLOSING. The Prosecution/Plaintiff may choose to reserve a portion of their time allotted for summation to rebut Defendant's Closing Argument. Proper notice must be given to the Court and timekeeper prior to the start of Defense Counsel's Closing Argument.

37. ADVERSE & UNAVAILABLE WITNESSES.

- a. Subject to objections under the Federal Rules of Evidence (FRE), a team may read the testimony of an unavailable witness at any time during their Case-In-Chief. The time spent presenting such testimony will be deducted from the reading team's overall allotted time.
- b. Teams may not call the opposing side's witnesses, nor call any witness as an adverse witness.

SCORING

Very Important Note. *The Summit Cup understands that the Advocates participating in The Summit Cup will likely one day, very soon, be presenting cases to actual juries – comprised of laypeople, not attorneys. It is for this reason, from the inception of The Summit Cup, it has been the Tournament Committee’s deeply-held commitment to have the Advocates evaluated by actual laypeople. The Committee understands that lay people will not likely be evaluating the Advocates on the technical improprieties of a trial presentation (e.g. refreshing recollection or impeaching-by-omission, etc.). Rather laypeople will be oriented to evaluate the Advocates on their level of advocacy...their level of persuasion (which may or may not include tasks such as the technical proficiency of refreshing recollection and/or impeaching-by-omission), just as a real jury would. For this reason The Summit Cup scoring panels will be a mix of laypeople and attorneys. An actual judge or attorney will serve as the Ruling Judge.*

38. TRI-FURCATED PANELS. Presentation at trial will be evaluated by a panel of real-life sitting judges, attorneys and laypeople. Every effort will be made to provide three-person panels for scoring purposes.

39. BASIS OF EVALUATION & SCORING. Scoring Jurors will be oriented to evaluate and assign scores to the Summit Cup Advocates based upon the Advocates’ trial advocacy and persuasion skills, and **not** the facts of the case.

40. POINTS / BALLOTS

- a. A copy of the Official Summit Cup Score Sheet is appended to the end of these Tournament Rules.
- b. Each Scoring Juror will **assign each Advocate ONLY ONE NUMERICAL SCORE** for the round.
- c. That score will be **between 6.0 and 10.0 points** (6.0 being the lowest and 10.0 being the highest).
- d. The two Advocates’ scores from the same team will be combined (added together) and the team with a higher combined score will WIN that Scoring Juror’s ballot.
- e. The team winning the most Scoring Jurors’ ballots will receive the “WIN” for that round.

41. NEUTERING JUDGES & “GHOST BALLOTS” *(don’t be frightened, they’re not really ghosts...as far as you know)*

- a. If there are more than 3 “judges” in a courtroom, one of the ballots will be “neutered” (not counted). The ballot to be neutered will be determined before the round begins (the neutered ballot may or may not be the Ruling Judge’s ballot), but only the Summit Cup committee members in the Scoring Room will know which ballot has been neutered.
- b. While we have never had fewer than 3 judges in a courtroom for a round, if there are only two judges in a courtroom, then a third “ghost ballot” will be generated based upon the average scores from the other two ballots.
- c. In the event that there are only two (2) Scoring Jurors in a courtroom in a round, and a split decision occurs (each Scoring Juror has the other team winning the round), the scores from both Jurors will be averaged to create a “Ghost Ballot.” So, in short, every round will have 3 ballots for tabulation.
- d. The team that has the higher number of points on that Ghost Ballot will thus then have two (2) ballots from the round and will win the round.

42. SCORING CRITERIA. As referenced within these Rules, with laypeople serving as Scoring Jurors, the scoring criteria will be as subjective as it is in the actual practice of law. The Scoring Jurors will be oriented to evaluate the Advocates’ on criteria, including but not limited to:

- a. The **COHESIVENESS** of an Advocate’s presentation of their case evidence and argument;
- b. The **CLARITY** of an Advocate’s presentation of their case evidence and argument;
- c. The **CREDIBILITY** of an Advocate in their presentation of their case evidence and argument;
- d. The **LOGICAL COMPOSITION** of an Advocate’s case presentation, theory and argument;
- e. The **PROFESSIONALISM** and **DEMEANOR** of an Advocate during their case presentation.

...and all the other subjective dynamics upon which real-life jurors base their opinions of an attorney’s level of persuasion (all EXCEPT the merits of the case).

***Importantly. Scoring Jurors will be oriented NOT TO EVALUATE AN ADVOCATE based upon the conduct of the Advocate's witness. In short, all Scoring Jurors will be informed that the witnesses are DU Law School students who are NOT participating as Advocates in The Summit Cup.**

EXHIBITS / DEMONSTRATIVES / JURY INSTRUCTIONS / ELECTRONIC ASSISTANCE

43. EXHIBITS; ENLARGEMENTS.

- a. All exhibits are authentic and original documents under the meaning of Article IX and X of the Federal Rules of Evidence.
- b. No exhibits, other than the exhibits provided with the case materials, may be entered into evidence.
- c. **Exhibits will be numbered and lettered as they are entered into evidence. Prosecution/Plaintiff shall number their exhibits (e.g. "Exhibit 1"). Defense shall letter their exhibits (e.g. "Exhibit A"). Teams are encourage to bring exhibit stickers to use during the Summit Cup.**
- d. Prior to the trial, teams may not alter, modify, change, redact, or mark on an exhibit in any way.
- e. Subject to rulings from the Ruling Judge, Advocates and witnesses may mark on exhibits during the course of their Direct Examination, Cross Examination, and Closing Argument presentation.
- f. Exhibits may also be redacted as ordered by the Ruling Judge during a round. All markings on exhibits during a round are subject to the necessary inference rule.
- g. Copies of any material contained in the fact pattern are permitted, and **may be enlarged** for demonstrative purposes.
- h. Any team may enlarge any exhibit, Jury Instruction(s), or other component of the problem to use as a demonstrative exhibit.

44. DEMONSTRATIVES.

- a. Subject to rulings from the Ruling Judge, Advocates and witnesses may create charts and drawings or present physical demonstrations in the courtroom for the purpose of explaining the content of their Direct Examination, Cross Examination or argument.
- b. **Written demonstratives cannot be prepared prior to the start of the round.**
- c. An exception to "Subsection b" of this rule is, as a courtesy to the Ruling Judge and Scoring Jurors, a team may elect to create their written demonstratives during any breaks or recesses in the trial, but the time spent in preparing these written demonstratives must be deducted from the creating team's overall allotted time. **If a team elects to prepare a demonstrative when the Ruling Judge/Scoring Jurors are recessed, notice must be given to opposing counsel prior to doing it.**

45. ELECTRONIC ASSISTANCE / NO WI-FI, CELLULAR OR BLUE TEETH

- a. The use of tablets, computers, or the like, is permitted during the trial. Additionally, the use of ELMO, PowerPoint, and other electronic aids are also permitted.
- b. HOWEVER, please keep in mind that technology, such as Elmo and projectors, may be available for rounds at the law school but will **not** be available at the courthouse. Plan accordingly.
- c. Technology problems are the team's responsibility alone. Time spent during a round getting electronic devices to properly operate will be counted against a team's time limit. Teams are encouraged to test technological devices before trial to avoid such errors.
- d. **Use of a cell phone or other electronic device for communication with anyone during the round will result in automatic expulsion from The Summit Cup.**
- e. Advocates are prohibited from communicating with anyone during the round via electronic means.

46. JURY INSTRUCTIONS. The Jury Instructions provided in the fact pattern are the only instructions to be given and are not subject to motion or modification. They will not be read to the Scoring Jurors during the trial, but will only be "constructively" read to the Scoring Jurors. They are the only statements of the applicable substantive law. No additional instructions may be tendered.

WITNESSES / NECESSARY INFERENCE RULE

47. WITNESSES. “Woodshed Witnesses” will be provided to all teams by The Center for Advocacy at the University of Denver Sturm College of Law. Teams will be assigned two (2) DU Law students to play the two witnesses on each side of the case. The same two witnesses will stay with the same team throughout The Summit Cup.

48. WITNESS SIGNATURES. All witnesses must acknowledge their signatures on their statements, notes, etc.

49. SEQUESTRATION. Teams may ask for witnesses to be “constructively” sequestered pursuant to FRCP 615. If granted, for educational purposes, no witness will actually be required to leave the courtroom.

50. WITNESS NOTES NOT PERMITTED AT THE STAND.

- a. Teams may provide Woodshed Witnesses with materials prior to the trial.
- b. These materials may include, but are not limited to, notes to review, anticipated DX and/or CX questions and answers, and more.
- c. Woodshed Witnesses are prohibited from taking any materials to the witness stand.

51. PARTICIPATION OF WITNESSES.

- a. At the team’s election, the parties may sit at the counsel table during the round.
- b. Either party may ask the Ruling Judge for a witness to sit at counsel table as an advisory witness during the round pursuant to the applicable Federal Rules.
- c. However, none of the witnesses will provide any actual assistance or advice to the Advocates at counsel table. Woodshed Witnesses will be instructed not to give any advice even if asked. Woodshed Witnesses sitting at counsel table are for demonstrative purposes only.
- d. This rule does not prevent Advocates from advising their Woodshed Witnesses during the round. For example, if the Ruling Judge excludes evidence during motions in limine, an Advocate may advise their witness not to talk about that evidence. However, no extra time will be given to teams to accomplish this and it must be done during the confines of the round.

52. WITNESS RANGE OF KNOWLEDGE

- a. Each Woodshed Witness has been provided with a written basis from which their anticipated trial testimony will be formed (e.g. deposition transcript, a written letter, a report, a written statement) – hereinafter collectively referred to as their “statement.”
- b. An Advocate can be confident that each witness “knows” the facts contained in that particular witness’s individual statement.
- c. It may be reasonable to assume that certain witnesses are aware of the information contained in another witness’s statements (e.g. a detective may be aware of a witness’s statement to the police). However, an Advocate wades into those waters at their own risk.

53. THE BIG FIVE RULES OF WITNESS TESTIMONY

Note: Every Advocate ever to compete in a trial advocacy tournament knows the “challenges” of a witness who provides answers, either by negligence or intent, that are not quite consistent with the rules. There is obviously much opportunity for a witness to engage in such gamesmanship because the confines of any mock trial are indeed limiting (i.e. there is only so much information that a case author can insert into a case). One of the best ways to prevent such gamesmanship is through the use of Woodshed Witnesses. That is one of the reasons The Summit Cup uses Woodshed Witnesses.

In an effort to provide consistency in the witnesses, these are “The Big 5” rules of witnesses:

Witness Rule 1 – Witnesses May Not Materially Extrapolate

- a. Advocates and Woodshed Witnesses are **strictly prohibited** from engaging in “**Material Extrapolation.**”
- b. “Material Extrapolation” is considered to be any material fact that is not contained in a witness’s statement, or a fact that the witness should not reasonably know from the case materials.

Example: If a detective’s statement is silent on the issue of fingerprints, yet on the stand the detective-witness attempts to claim that fingerprint analysis led the detective to suspect the defendant, this would be a material fact that does not appear in the case materials and thus the witness should not testify to any facts about fingerprints.

- c. Woodshed Witness testimony is strictly limited to the facts within the case materials AND those reasonably inferred from the case materials.

Witness Rule 2 – Witnesses May Reasonably Infer

- a. Teams must confine their presentations to the facts given in the fact pattern, any matters judicially noticeable under Federal Rule of Evidence 201, or any testimony that is “**reasonably inferred.**”
- b. A “reasonably inferred” fact is one that is reasonable to infer based upon the witness’s statement (or information which is reasonable for the witness to know from the other case materials).

Example: If the fact pattern establishes that a witness is a police officer, it is a reasonable inference that the witness had training in a police academy, even if not explicitly stated in the packet.

- c. A “reasonable inference” is **NOT** any fact that an Advocate might **wish** to be true, NOR is it any factual inference that is merely possible or consistent with the facts in the pattern.

(Continued Example) Using the fact pattern above, it would NOT be a reasonable inference for the officer to testify to his Academy grades (e.g. “I was the #1 candidate in the academy”), ranking or specific subjects taught, unless otherwise stated in the fact pattern.

- d. Additionally, Woodshed Witnesses are instructed in advance that they are not required to, and should lean away from, admitting to content that is not contained in their individual statement. (i.e. they should steer away from making even reasonable inferences).

Example 2: If the case materials do not indicate that law enforcement conducted a standard and reasonable test (e.g. nobody dusted for fingerprints at the crime scene). If the lead detective is on the stand and the CX’ing Advocate inquires about law enforcement’s failure to perform such a test, the witness must answer that the test has not been conducted.

Witness Rule 3 – Advocates May NOT Object On The Basis of “Material Extrapolation”

No objection on the basis of “*Objection, Unfair extrapolation!*” will be tolerated. (Attorneys cannot make such objections in real life, so we are not going to encourage law students to make such “fake objections” in The Summit Cup.) Rather, any material extrapolation that occurs should be addressed through impeachment and then possibly addressed in Closing Argument.

Witness Rule 4 – Witnesses Are Required to Report Material Extrapolations

If an Advocate instructs or encourages a Woodshed Witness to answer a question with testimony that would constitute a material extrapolation (as defined within these rules) the Woodshed Witness is required to report such conduct to The Summit Cup Director. The Advocate may be vulnerable to penalties per this rule.

Witness Rule 5 – Scoring Jurors Are Oriented For Material Extrapolations

- a. Ruling Judges and Scoring Jurors will be oriented to listen for questions that indicate a witness may be creating material facts outside of the case materials (e.g. On CX: *“Today was the first time you’ve ever said _____.”*)
- b. Using their best judgment, if a Scoring Juror determines that a Woodshed Witness has engaged in material extrapolation, that Scoring Juror can account for (i.e. give a lower score) such material extrapolation in the score of the Advocate who is DX’ing that Woodshed Witness.
- c. **HOWEVER!** We assume such unfair extrapolations will be rare, since the witnesses are Woodshed Witnesses (and they are ordered NOT to engage in material extrapolation). Thus the Scoring Jurors are also oriented that a DX’ing attorney’s score should only be affected if it appears that a Woodshed Witness’s material extrapolation was planned and orchestrated by the DX’ing attorney. (Because, as we all know, witnesses sometimes say things on the stand out of confusion or simply panic.)

PROTESTS & FRIVOLOUS CLAIMS

54. TIMING OF PROTESTS.

- a. If a team believes a substantial rule violation has occurred, **we first encourage the coaches of the two teams to talk to one another.** (e.g. *“Hey coach, on DX your Advocates’ witness testified that the defendant confessed to him, were you aware that testimony was going to be elicited.”*) As coaches, we all know we are often as horrified as anyone when one of our Advocates does this on the stand.
- b. If no insight or resolution is obtained, the complaining coach may then promptly notify the Summit Cup Director following the conclusion of that round and state the team’s desire to file a protest.
- c. A team only has ten (10) minutes after the end of Closing Arguments to notify the Tournament Director that the team desires to file a protest.
- d. If a team believes a substantial rule violation has occurred outside of a round, the team’s coach shall notify the Summit Cup Director promptly that they desire to file a protest.

55. PROTEST PROCEDURE.

- a. The complaining team’s coach will first describe the rule violation to the Tournament Director (or a proxy appointe by the Director, hereinafter collectively referred to as “Tournament Director”).
- b. Based on the complaining coach’s description, the Tournament Director will decide if there is *“reasonable suspicion”* of a rule violation occurring. If the Tournament Director finds reasonable suspicion, the complaining team’s coach may ask to have a Protest Committee formally empaneled.
- c. **IMPORTANT! Once a team’s coach requests to have the Protest Committee formally empaneled, the complaining team is then vulnerable to the same potential penalties of the team against which they are complaining (see below).**

56. PROTEST COMMITTEE.

- a. The Protest Committee will be made up of three (3) members -- two coaches not involved in the protest and a Presiding Protest Judge.
- b. The Presiding Protest Judge will be either the Tournament Director or a Tournament Committee Member whom the Tournament Director appoints to be the Presiding Protest Judge.

- c. The Presiding Protest Judge will preside over the committee and allow evidence and argument as deemed necessary.
- d. After hearing evidence and argument, the Protest Committee will decide if the rule violation should be sustained or overruled.

57. SUSTAINED RULE VIOLATION.

- a. If the Protest Committee makes a finding of a rule violation, the Committee will then decide on appropriate curative action for the violation.
- b. Curative actions available to the Protest Committee, from least severe to most severe are:
 - (1) Issuing a Formal Warning;
 - (2) Deducting points from a team's score for the given round;
 - (3) Forfeiture of the round, or;
 - (4) Disqualifying a team from The Summit Cup.

58. FRIVOLOUS CLAIMS.

- a. It is a violation of The Summit Cup Rules to bring a frivolous protest (i.e. levy a frivolous claim against another team).
- b. **If a Protest Committee is empaneled based on the request of a coach and the Protest Committee finds no rule violation has occurred, the Protest Committee will also determine if the claim brought was frivolous.**
- c. If a team is found to have brought a frivolous claim, the Protest Committee may impose appropriate curative action against the complaining team.
- d. Curative actions available to the Protest Committee are as described within this section.

59. CONSIDERATIONS. In deciding on a rule violation, frivolous claims and appropriate curative action, the Protest Committee should consider the materiality of the violation, the intent of the team violating the rule, and the spirit of the rule.

CHAMPIONSHIP ROUND

60. CHAMPIONSHIP ROUND. As described above, the two teams with the highest ranking after the four Tournament Rounds will compete against each other in the Championship Round. Teams will be ranked based on the following criteria, in this order:

- (1) **Win/Loss Record** (e.g. 2-1);
- (2) **Number of Ballots Won** (e.g. 7 ballots);
- (3) **Differential Points** (e.g. +9 pts). *Note: Differential Points are cumulative. e.g. – 5 points in Round 1 and +11 points in Round 2 totals to Differential Points of +6 going into Round 3;*
- (4) **Gross Points** (e.g. 54 points).
- (5) **Ties.** If any two teams are tied after the four ranking bases listed above, the final tiebreaker will be the number of “10” point scores (i.e. “perfect scores”) the combined team has earned.

61. COIN TOSS.

- a. In the event the Championship Round teams have been previously matched against each other in an earlier round, each team will represent the opposite side that they represented in the previous round against each other. This is to make each side's case strategy unfamiliar to opposing counsel and thus ensuring that the Championship Round is true.
- b. If the teams have not been previously matched each other, and if the parties both desire to present the same side in the Championship Round, a COIN TOSS will take place prior to the Final Round.
- c. The higher ranked team will serve as the Prosecution/Plaintiff/Plaintiff in the Championship Round if the coin lands “Heads.”

62. THE ROUND – Jurors, Videotaping, Actual Deliberation (*we are very excited about this!*)

- a. The Scoring Jurors in The Championship Round will be comprised of at least 6 Scoring Jurors (with a maximum of 12).
- b. Half of the Scoring Jurors will be attorneys and half will be laypeople.
- c. The Championship Round will be videotaped and uploaded to The Center for Advocacy webpage in the days following The Summit Cup, and available for viewing by anyone.
- d. At the conclusion of The Championship Round, all Scoring Jurors will complete their Official Scoring Ballot and submit it to the Summit Cup Director.
- e. The Ruling Judge, and the attorneys who serve as Scoring Jurors, will provide brief feedback to the Advocates after The Championship Round.
- f. **The laypeople who served on the jury will enter into deliberations – from 30 minutes to no more than 1 hour. Their deliberations will be videotaped and later uploaded onto the Center for Advocacy webpage, and be available to any interested viewer to see how actual laypeople evaluated and responded to the advocacy and persuasion skills of the Advocates who participated in The Championship Round.**

NOTE: If the rare situation should arise that a “tie” occurs, the Ruling Judge will break the tie and determine the Championship Team.

63. TITLES. The team winning the most ballots will be announced at the Final Celebration as **“The Summit Cup Champion.”** The 2nd Place team will carry the title of **“Summit Cup Championship Finalist.”**

64. AWARDS. The following achievements will be recognized at The Summit Cup Final Celebration.

- a. **Summit Cup Champion** (1st Place Team);
- b. **Summit Cup Championship Finalist** (2nd Place Team);
- c. **Summit Cup Semi-Finalists** (the 3rd & 4th place teams based upon the rankings after the 4 Tournament Rounds);
- d. **The Summit Cup “Best Advocate”** - The Advocate who has the highest differential points, from the attorney and layperson scores, after the 4 Tournament Rounds, will win **The Best Advocate** award. **The Summit Cup “Outstanding Advocate”** – The Advocate with the second-highest differential points, from the attorney and layperson scores, after the 4 Tournament Rounds will win **The Outstanding Advocate** award.
- e. **The Summit Cup “Juror’s Choice Best Advocate”** - The Advocate with the highest differential points, from only layperson juror scores, after the 4 Tournament Rounds, wins the **Juror’s Choice Best Advocate** award.
- f. **The Professionalism Award** – The team that has the highest differential points from the Professionalism Ballot (attached hereto), at the end of the 4 Tournament Rounds, will win **The Professionalism Award**.

TIEBREAKERS - For all awards, ties will first be broken by the gross score of the tied Advocates. The second tie-breaker will be the number of perfect scores that each Advocate (or team) receives.

On behalf of The Center for Advocacy

**LEARN
HAVE FUN
MAKE FRIENDS
AND GOOD LUCK!**



SUMMIT CUP SCORESHEET

DAY _____ DATE _____ ROOM _____ ROUND I II III IV Finals

YOU ARE EVALUATING THE STUDENTS ON THEIR ADVOCACY & PERSUASION

AT THE END OF THE TRIAL (not before), circle **JUST ONE** score for each individual Advocate.

Scoring Standards: **9.0 to 10.0** Highest quality presentation expected from a law student Advocate
7.0 to 8.5 Above average presentation expected from a law student Advocate
6.0 to 6.5 Adequate presentation expected from a law student Advocate

PROSECUTION/PLAINTIFF TEAM Code _____		DEFENSE TEAM Code _____	
Advocate 1 Last Name _____	Advocate 2 Last Name _____	Advocate 3 Last Name _____	Advocate 4 Last Name _____
10.0	10.0	10.0	10.0
9.5	9.5	9.5	9.5
9.0	9.0	9.0	9.0
8.5	8.5	8.5	8.5
8.0	8.0	8.0	8.0
7.5	7.5	7.5	7.5
7.0	7.0	7.0	7.0
6.5	6.5	6.5	6.5
6.0	6.0	6.0	6.0
Add the Points of the 2 Advocates = _____ TOTAL TEAM POINTS (No ties!)		Add the Points of the 2 Advocates = _____ TOTAL TEAM POINTS (No ties!)	
PROSECUTION/PLAINTIFF/PLAINTIFF		<i>circle the winning team</i>	DEFENSE

Your Printed Name _____ Signature _____

Give this sheet to your **Chief Judge** at the end of the round.



SUMMIT CUP PROFESSIONALISM BALLOT

Assign Each Team 1 to 100 points

To Scoring Jurors: At the end of the trial...

- a. Assign one number to each team based upon their professionalism.
- b. The scale is 1 – 100.
- c. You cannot assign both teams the same score.

Professionalism is considered to be the display of:

- ◆ Respect for courtroom rules and procedures
- ◆ Respect for the judge
- ◆ Respect for opposing counsel
- ◆ Respect for witnesses
- ◆ Overall attention to proper decorum

PROSECUTION/PLAINTIFF TEAM NAME _____

DEFENSE TEAM NUMBER

PROSECUTION/PLAINTIFF SCORE (1-100) _____

DEFENSE SCORE (1-100) _____

ROUND (circle one) I II III IV ROOM NUMBER _____

YOUR PRINTED NAME _____

YOUR SIGNATURE _____

THE SUMMIT CUP. INSIGHTS QUESTIONNAIRE – 1 FOR EACH TEAM (both sides) THIS IS NOT THE OFFICIAL SCORE SHEET. **Give to the Ruling Judge with your Ballot at Round's end.**

ROUND _____ **TEAM** _____ **ADVOCATE NAME** _____

OPENING STATEMENT OR CLOSING ARGUMENT (circle one) Weak Fair Good Very Good Excellent

What is something the Advocate did WELL? _____

How could the Advocate IMPROVE their Opening/Closing? _____

II. DIRECT EXAMINATION (circle one) Weak Fair Good Very Good Excellent

What is something the Advocate did WELL? _____

How could the Advocate IMPROVE their Direct Examination? _____

III. CROSS EXAMINATION (circle one) Weak Fair Good Very Good Excellent

What is something the Advocate did WELL on Cross? _____

How could the Advocate IMPROVE their Cross Examination? _____

IV. OBJECTIONS (circle one) Weak Fair Good Very Good Excellent

V. OVERALL STYLE (circle one) Weak Fair Good Very Good Excellent

SPECIAL COMMENTS FOR THE ADVOCATE

Printed Name of Juror

Please give this form to the Advocates at the end of the trial.

With Our Thanks.