



Constitutional
Rights
Foundation
Educate. Participate.

People v. Awbrey

Human Trafficking and False Imprisonment

Featuring a pretrial argument on
the Fourth and Fifth Amendments



**OFFICIAL MATERIALS FOR
THE CALIFORNIA MOCK TRIAL COMPETITION
A Program of Constitutional Rights Foundation**

**Co-Sponsored by:
American Board of Trial Advocates
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Cover Drawing: Sophie Fu, Alameda County, California Mock Trial Courtroom Art Contest Winner

IN MEMORIAM



The 2016-2017 California Mock Trial case is dedicated to the memory of longtime Constitutional Rights Foundation supporter, Marvin Awbrey from Fresno County. We will always remember Marvin as an exceptional social studies educator and leader who was dedicated to teachers, students, and making learning meaningful and fun.

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PROGRAM OBJECTIVES

For the students, the Mock Trial program will:

1. Increase proficiency in basic skills (reading and speaking), critical-thinking skills (analyzing and reasoning), and interpersonal skills (listening and cooperating).
2. Develop an understanding of the link between our Constitution, our courts, and our legal system.
3. Provide the opportunity for interaction with positive adult role models in the legal community.

For the school, the program will:

1. Provide an opportunity for students to study key legal concepts and issues.
2. Promote cooperation and healthy academic competition among students of varying abilities and interests.
3. Demonstrate the achievements of young people to the community.
4. Provide a hands-on experience outside the classroom from which students can learn about law, society, and themselves.
5. Provide a challenging and rewarding experience for teachers.

CODE OF ETHICAL CONDUCT

All participants (including observers) are bound by all sections of this Code and agree to abide by the provisions.

1. All competitors, coaches and other participants, including observers will show courtesy and respect for all team members and participants, including their opponents and all courthouse staff, judges, attorney coaches, teacher coaches and mock trial staff and volunteer personnel.
2. All competitors, coaches and participants, including observers, will show dignity and restraint, irrespective of the outcome of any trial. Trials, contests and activities will be conducted honestly, fairly, and with civility.
3. Team members and all student participants will conform to the highest standards of deportment. Team members and participants not employ tactics they believe to be wrong or in violation of the Rules. Members and participants will not willfully violate the Rules of the competition in spirit or in practice. All teams and participants are responsible for insuring that all observers are aware of the Code.
4. Teacher Coaches agree to focus on the educational value of the Mock Trial Competition. They shall discourage willful violations of the Rules and/or this Code. Teachers will instruct students as to proper procedure and decorum and will assist their students in understanding and abiding by the letter and the spirit of the competition's Rules and this Code of Ethical Conduct.
5. Attorney Coaches agree to uphold the highest standards of the legal profession and will zealously encourage fair play. Attorney Coaches are reminded that they must serve as positive role models for the students. They will promote conduct and decorum among

their team members and fellow coaches in accordance with the letter and the spirit of the competition's Rules and this Code of Ethical Conduct and will demonstrate the same through their own behavior. They will emphasize the educational value of the experience by requiring that all courtroom presentations (e.g. pretrial, questions, objections, etc.) be substantially the work product of the student team members.

By participating in the program, students, teacher coaches and attorney coaches are presumed to have read and agreed to the provisions of the Code. Violations of this Code of Ethical Conduct may be grounds for reductions in scores, disqualification from a contest and/or suspension or expulsion from the program.

2016-2017 CALIFORNIA MOCK TRIAL PROGRAM

Each year, Constitutional Rights Foundation creates the Mock Trial for students across the state of California. The case provides students an opportunity to wrestle with large societal problems within a structured forum and strives to provide a powerful and timely educational experience. It is our goal that students will conduct a cooperative, vigorous, and comprehensive analysis of these materials with the careful guidance of teachers and coaches.

The lesson and resources included in this packet offer schools and teachers additional methods to expand and deepen the educational value of the Mock Trial experience. We encourage all participants to share these resources with their colleagues for implementation in the classroom. We hope that by participating in the lesson and the Mock Trial program, students will develop a greater capacity to deal with the many important issues identified in *People v. Awbrey*.

The following lesson concerns the debate around guest-worker programs. In the lesson, students examine past and present guest-worker programs and the reasons behind their creation. In the activity, students role play members of the President's Guest Worker Advisory Council and analyze different guest-worker proposals. Then they select one plan to recommend the President introduce to Congress, using evidence to explain why they selected that particular plan. This lesson is for information purposes only and cannot be used in the competitions' pretrial argument.

CLASSROOM DISCUSSION MATERIALS

The Debates Around Guest-Worker Programs

Elected officials in the American government have recommended creating a guest-worker program or expanding our current H-2B visa program for guest-workers to address issues of illegal immigration. Should a guest-worker program be expanded? Should a guest-worker program include unauthorized immigrants already living in the United States?

Many people who work in the United States today come from foreign countries. To stay in the United States to work, a person needs a work visa. A work visa permits the cardholder to work for a limited period in a certain industry. For example, an H-2A visa is for seasonal or temporary agricultural work. An H-2B visa is for seasonal non-agricultural work, such as the tourism industry. Other visas are for workers from specific areas of the globe, such as an E3 visa for citizens of Australia.

Temporary or seasonal workers are often referred to as “guest workers,” or “temporary workers.” The federal government considers guest workers to be “non-immigrants” because it is assumed that they will return to their home countries. The federal Immigration and Nationality Act provides a minimum of 140,000 employment-based visas each year, both for immigrants and non-immigrants. Of these, the government has allotted 66,000 of them to the H-2B (seasonal) program.

In 2004, President George W. Bush officially proposed expanding the number of guest workers to include people already living in the United States without a visa. He suggested creating a guest-worker program that would “offer legal status, as temporary workers, to the millions of undocumented men and women now employed in the United States” Under his plan, employers would have to offer the job to American workers first.

A majority in Congress did not support Bush’s proposal, and neither did President Barack Obama. But Congress passed a bill that Obama signed in 2015 that included a way to work around the 66,000 annual cap on H-2B visas. The bill allowed foreign workers who re-apply for the visa within three years of first receiving the visa not to count toward the annual cap. This expanded the use of H-2B guest workers in the seafood industry, landscaping, housekeeping, and other fields of work.

The Pros and Cons

Critics of expanding guest-worker programs believe they simply do not work. They cite the Bracero program, a previous guest-worker program, as proof. When the United States entered World War II, there was a shortage of agricultural workers. Many had been sent overseas to fight in the military or worked in factories to make war materials, like ammunition, ships, and airplanes. On August 4, 1942, the United States and Mexico created the Bracero program to keep American agriculture productive.

The word “bracero” comes from the Spanish word *brazo*, meaning “arm,” because the guest farm workers would be performing physical labor. The program was specifically directed at rural workers from Mexico, many of them experienced farm workers. They would perform the necessary task of harvesting crops in the United States.

The program continued after the war and recruited many people from Mexico for over 20 years. In 1959, a record number of 430,000 braceros were employed within the United States. An estimated 80,000 braceros arrived in the United States each year through El Paso, Texas, alone. Across the border from El Paso, the Mexican city of Ciudad Juarez served as a major recruiting center for braceros. Before entering the United States, each worker reported to a recruiting center and signed a contract with a U.S. employer.

By 1964, however, there had been numerous reports that the braceros were underpaid, overworked, harassed, and housed in poor living conditions. The U.S. Department of Labor officer in charge of the program called it “legalized slavery.” Congress ended the program in 1964.

Despite the history of the Bracero program, proposals to create a new or expanded guest-worker program with better federal oversight have many supporters. They want to address the unauthorized immigration issue by bringing undocumented immigrants “out of the shadows.” President Bush’s proposal, for example, would have offered each guest worker temporary legal status for three years. This status could be renewed as long as the worker obeyed the program’s rules and the laws of the United States.

Supporters also claim that such an expanded program would benefit both guest workers and American workers. The U.S. Chamber of Commerce, a national organization of business owners, has cited a shortage of American workers in hospitals, restaurants, hotels, and construction. They also argue that guest-worker programs curb unauthorized immigration by giving would-be unauthorized immigrants a legal means of staying and working in the United States.

Senators Barbara Mikulski (D-MD) and Thom Tillis (R-NC) were instrumental in passing the law that worked around the 66,000 cap on H-2B visas in 2015. The industries in their respective states benefitted, but they also received national support from the H-2B Workforce Coalition, a consortium of over 1,000 business organizations. The coalition argues that employers in the U.S. use H-2B visas for skilled and nonprofessional workers to fill jobs they cannot find qualified U.S. workers for.

Some opponents argue that guest-worker programs only encourage illegal immigration. “In every instance,” says Mark Krikorian of the Center for Immigration Studies, “[guest-worker programs] lead to large-scale permanent settlement, they spur parallel flows of illegal immigration, and they distort the development of the industries in which the foreign workers are concentrated.”

Other opponents argue guest-worker programs, like the H-2B visa program, exploit workers—both Americans and the undocumented. Ross Eisenbrey of the Economic Policy Institute has stated, “There isn’t a shortage of workers willing to do these jobs. There’s a shortage of employers willing to pay a decent wage.” The AFL-CIO, the largest labor union organization in the United States, has alleged further that recruiters and employers typically “threaten, coerce, and defraud” workers, often altering contracts with workers that they force the workers to accept. The Southern Poverty Law Center argues that H-2B workers are even subject to human trafficking.

Both political parties are poised to debate an expansion of the H-2B visa program. That debate will occur somewhat between the two parties, but perhaps even more within the two parties. As immigration issues loom large in elections, the guest-worker issue will likely be subject to continued debate.

Writing & Discussion

1. What were the terms of George W. Bush’s proposal to create a guest-worker program?
2. How did the Bracero program work? Why was it ended?
3. Explain the main reasons for and against a guest-worker program. Which side do you support? Use evidence from the article in your answer.

ACTIVITY

The President's Guest Worker Advisory Council

Imagine that the president is considering introducing one of the following bills to Congress in order to change the U.S. guest worker program:

- A. The government increases the number of agricultural temporary worker visas by 50,000 per year. A guest worker could work in the U.S. for two years.
- B. The government increases the number of guest worker visas for work in hotels, restaurants, and hospitals by 50,000 per year. A guest worker could work in the U.S. for three years.
- C. The government increases the number of guest worker visas for all “seasonal” work by 100,000 per year, including agriculture and tourism. A guest worker could work in the U.S. for three years.
- D. The government stops issuing all guest worker visas each year. Instead, the government increases the minimum wage and requires that employers offer jobs to U.S. citizens only.

In small groups, discuss each of the above proposals to the U.S. guest worker program. Each group should rank the proposals from 1 through 4, with “1” being the best proposal (your group would recommend this one to the president) and “4” being the worst.

Be prepared to have one person from your group report to the class the following:

- 1. Which of the proposals would your small group recommend that the president introduce in Congress? What made this proposal better than the others?
- 2. Which of the proposals did your group rank as the worst? Why?
- 3. Is there any proposal that could be changed to make your group recommend it to the president? What changes would your group suggest?

INTRODUCTION TO 2016-2017 MOCK TRIAL COMPETITION

This packet contains the official materials required by student teams to prepare for the 36th Annual California Mock Trial Competition. In preparation for their trials, participants will use information included in the *People v. Awbrey* case packet (except for the classroom discussion materials). The competition is sponsored and administered by Constitutional Rights Foundation. The program is co-sponsored by the Daily Journal Corporation and American Board of Trial Advocates.

Each participating county will sponsor a local competition and declare a winning team from the competing high schools. The winning team from each county will be invited to compete in the state finals in Riverside, March 24–26, 2017. In May, the winning team from the state competition will be eligible to represent California at the National High School Mock Trial Championship in Hartford, Connecticut, May 11–13, 2017.

The Mock Trial is designed to clarify the workings of our legal institutions for young people. As student teams study a hypothetical case, conduct legal research, and receive guidance from volunteer attorneys in courtroom procedure and trial preparation, they learn about our judicial system. During Mock Trials, students portray each of the principals in the cast of courtroom characters, including counsel, witnesses, court clerks, and bailiffs. Students also argue a pretrial motion. The motion has a direct bearing on the evidence that can be used at trial.

During all Mock Trials, students present their cases in courtrooms before actual judges and attorneys. As teams represent the prosecution and defense arguments over the course of the competition, the students must prepare a case for both sides, thereby gaining a comprehensive understanding of the pertinent legal and factual issues.

Because of the differences that exist in human perception, a subjective quality is present in the scoring of the Mock Trial, as with all legal proceedings. Even with rules and evaluation criteria for guidance, no judge or attorney scorer will evaluate the same performance in the same way. While we do everything possible to maintain consistency in scoring, every trial will be conducted differently, and we encourage all participants to be prepared to adjust their presentations accordingly. Remember that the judging and scoring results in each trial are final.

IMPORTANT

Visit our Facebook page (CRF California Mock Trial) and Twitter (@camocktrial) for all program and case updates
www.crf-usa.org

CALIFORNIA MOCK TRIAL FACT SITUATION

1 In August 2015, former security guard Cameron Awbrey decided to open a
2 restaurant in Cameron’s hometown of Santa Bella, California. Cameron
3 planned on serving the cuisine of Tanterra, a developing country with a
4 struggling economy. Tanterra’s schools teach English as a mandatory
5 second language. Cameron was new to the food service industry and hired
6 Julian Blake, a friend who had worked as a restaurant consultant, to assist
7 with the process.
8

9 In early September, after researching many locations, Cameron and Julian
10 settled on a two-story building located near downtown Santa Bella. The
11 building had previously been a diner. The main dining area had seven
12 tables and a counter that looked into the kitchen through an open service
13 window. On the ground floor of the building there was an office, pantry,
14 and freezer, as well as restrooms for customers and employees. A door led
15 to a parking lot adjacent to the back of the building. Another door located in
16 the area behind the kitchen led to a stairwell to the second floor. The door
17 at the bottom of this stairwell contained a self-locking double-cylinder
18 deadbolt that required a key on either side to open. The door at the top of
19 the stairwell had no lock at all and led into a small studio apartment.
20

21 Julian worked on remodeling the building, and Cameron looked for
22 someone to cook authentic Tanterran cuisine. Cameron’s cousin, Devin
23 Tyler, suggested that Cameron place an advertisement in the newspapers
24 that circulated in Little Tanterra, a small Tanterran community two hours’
25 drive from Santa Bella. In October, Devin helped Cameron place the
26 advertisement, which read:
27

28 *Restaurant owner seeking to hire cook for full-time position. Housing*
29 *provided. Must cook Tanterran cuisine. Must speak English. Must be willing*
30 *and able to work hard in a fast-paced environment.*
31

32 Lin Stark saw the advertisement. Although Lin had no professional training
33 as a cook, Lin was born and raised in Tanterra and had learned to cook
34 Tanterran cuisine at home. Lin responded to the advertisement. Lin had
35 been struggling to find work in Tanterra. Without a job, Lin was unable to
36 support Lin’s family. In need of money, Lin came to the United States in
37 June 2015 on a TBD-2 temporary work visa for non-agricultural workers,
38 sponsored by a hotel chain for whom Lin worked in housekeeping.
39

40 After an interview and a cooking simulation, Cameron offered Lin the
41 position. Cameron informed Lin that the restaurant would be open six days
42 a week. Cameron told Lin that Cameron had furnished the studio apartment
43 on the second floor where Lin would live. When Lin asked Cameron to
44 discuss Lin’s pay, Cameron told Lin that Cameron was not yet sure what
45 Cameron could afford to pay. Lin then accepted the position. On November
46 2, 2015, Lin moved into the apartment and started work at the restaurant in
47 preparation for opening on December 1. Cameron gave Lin employment
48 paperwork to complete. Cameron also asked Lin for Lin’s visa and passport,
49 which Lin provided. Cameron told Lin it was necessary to complete

1 additional paperwork. At the end of November, Cameron paid Lin \$500 in
2 cash for that first month's work.

3
4 Taste of Tanterra opened on December 1, 2015. The restaurant was open
5 Monday through Saturday for lunch and dinner. Lin worked long hours
6 with no breaks, and on Lin's day off, Lin would work additional hours. The
7 restaurant had several other employees, all part-time, working both in the
8 kitchen and dining area. At the end of December, Cameron paid Lin \$400 in
9 cash for the second month's work.

10
11 During Lin's employment, Julian observed many interactions between
12 Cameron and Lin. Julian had a disagreement with Cameron in late-
13 December over how the restaurant was being managed. Julian resigned.

14
15 In early March 2016, Lin received news that Lin's sister was gravely ill. On
16 March 9, 2016, after the restaurant closed for the night, Lin approached
17 Cameron about taking time off. Lin and Cameron argued about Lin's
18 request. At the end of the argument, Lin walked through the stairwell door.
19 Cameron closed it behind Lin. Cameron left shortly after the argument
20 without unlocking the door. The next morning, Lin went downstairs and
21 attempted to open the door but found that it was locked. Lin intermittently
22 banged on the door until Cameron opened it.

23
24 Since the restaurant opened in December, a uniformed police officer named
25 Hayden West, would occasionally come in to eat lunch. On March 7, 2016,
26 Officer West was eating lunch at Taste of Tanterra when Officer West saw
27 Cameron yelling at Lin in the kitchen. [Outside the restaurant, Cameron
28 approached Officer West and they had a discussion. The discussion
29 escalated, and Officer West ran a warrants check, discovering an
30 outstanding bench warrant for petty theft for one "Cameron Awbrey." West
31 arrested Cameron. While in West's patrol car, West found out the bench
32 warrant was for a different Cameron Awbrey, one with a tattoo. West
33 turned the patrol car back toward the restaurant. West told Cameron it was
34 Cameron's lucky day and that West thought Cameron was "abusive" to Lin.
35 Cameron responded by saying *"I don't know who you think you are, but you
36 need to understand something: Everything under that roof is mine."*

37
38 On March 10, Officer West had lunch again at Taste of Tanterra. Officer
39 West sat at the counter, in Lin's line of sight. Lin brought Officer West's
40 food to the counter where Officer West was sitting. With the food Lin
41 delivered a note that read, "PLEASE HELP ME. I'M TREATED LIKE A
42 SLAVE." Cameron came over to the counter and told Lin to go back to
43 work.

44
45 After this interaction, Officer West obtained a search warrant and conducted
46 a lawful search of the restaurant, Lin's apartment, and Cameron's residence.
47 After the investigation, Officer West arrested Cameron on a charge of
48 human trafficking and a charge of false imprisonment for the incident on
49 the evening of March 9 and the morning of March 10.

1 **SOURCES FOR THE TRIAL**

2 The sources for the mock trial are a “closed library,” which means that
3 Mock Trial participants may only use the materials provided in this case
4 packet. The materials for the trial itself include Statement of Charges,
5 Physical Evidence, Stipulations, excerpts from the California Penal Code,
6 CALCRIM Jury Instructions, Fact Situation, Witness Statements, and the
7 Mock Trial Simplified Rules of Evidence.

8
9 **STATEMENT OF CHARGES**

10
11 **Count One**

12 The defendant is charged with human trafficking, a felony, which is the
13 deprivation or violation of the personal liberty of another with the intent to
14 obtain forced labor or services.

15
16 **Count Two**

17 The defendant is charged with false imprisonment, a misdemeanor, which
18 is the unlawful violation of the personal liberty of another.

19
20 **PHYSICAL EVIDENCE**

21 Only the following physical evidence may be introduced at trial. The
22 prosecution is responsible for bringing:

- 23 1. Exhibit A, Diagram of the floor plan of Taste of Tanterra.
24 2. Exhibit B, The note given by Lin to Officer West.

25 *ALL reproductions can be as small as the original found in this document
26 but no larger than 22x28 inches.

27
28 **STIPULATIONS**

29 Stipulations shall be considered part of the record. Prosecution and defense
30 stipulate to the following:

- 31 1. Officer West search warrant was properly obtained.
32 2. On March 10, there was sufficient probable cause to arrest Cameron
33 Awbrey.
34 3. All physical evidence and witnesses found in this case, but not made
35 physically available for trial, are unavailable and their availability may
36 not be questioned.
37 4. Exhibit A is a correct and accurate depiction of the floor plan of Taste of
38 Tanterra that was created by the Santa Bella Police Department. Exhibit
39 B is the note written by Lin Stark and given to Officer West on March
40 10.
41 5. Beyond what's stated in the fact situation and witness statements, no
42 other evidence was found in this case.
43 6. All witness statements were taken in a timely manner.
44 7. Dana Greyjoy and Addison Frey are qualified expert witnesses and can
45 testify to each other's statements and relevant information they would
46 have reasonable knowledge of from the fact situation, witness
47 statements and stipulations.
48 8. TBD-2 is a valid visa and its validity may not be questioned.
49 9. Tanterra is a fictional country created for purposes of the Mock Trial
50 with no specific geographical location. Any similarity to a real country is
51 coincidental.

- 1 10. Lin was a salaried employee (not hourly), who received compensation
2 between \$800-\$900 a month which includes room, board, utilities, and
3 cash payment. Minimum wage during Lin’s employment was \$9.00
4 hour.
5 11. All exterior doors in the restaurant can be locked and unlocked from
6 inside the building without the need of a key. Lin did not have a key to
7 the exterior doors of the restaurant.
8
9

10 **PRETRIAL FACTS, LEGAL AUTHORITIES, AND ARGUMENTS**
11 (Middle school students do not argue the pretrial motion and therefore the
12 bracketed information in the fact situation and witness statements may be
13 used at trial.)
14

15 This section of the mock trial contains materials and procedures for the
16 preparation of a pretrial motion on an important legal issue. The judge’s
17 ruling on the pretrial motion will have a direct bearing on the admissibility
18 of certain pieces of evidence and the possible outcome of the trial. The
19 pretrial motion is designed to help students learn about the legal process
20 and legal reasoning. Students will learn how to draw analogies, distinguish
21 a variety of factual situations, and analyze and debate constitutional issues.
22 These materials can be used as a classroom activity or incorporated into a
23 local mock trial competition. The pretrial motion is the only allowable
24 motion for the purposes of this competition.
25

26 In the area of criminal due process, the Fourth Amendment protects
27 individuals from federal government intrusions on their privacy by
28 prohibiting unreasonable searches and seizures. These rights are extended
29 to the states by the due process clause of the 14th Amendment. Law
30 enforcement officers often must search or seize persons or their property
31 when investigating crimes or apprehending suspects. The tension between
32 personal freedom and governmental power has created numerous debates
33 and court decisions over the years. The key issues for both the defense and
34 prosecution are (1) whether there was a search or seizure; and (2) whether
35 the particular search or seizure was lawful.
36

37 The Fifth Amendment provides that “no persons shall be compelled to be a
38 witness against themselves.” In *Miranda v. Arizona*, the court held that
39 before police may question people in custody, they must inform them of
40 their rights. Suspects that are in custody must be put on notice about their
41 rights against self-incrimination before they are interrogated.
42

43 The **exclusionary rule** is a special remedy created by the courts to compel
44 police to respect the constitutional rights of suspects. Under this rule,
45 illegally obtained evidence—whether papers, objects, or testimony—may
46 not be presented in court to convict a defendant whose Fourth and/or Fifth
47 Amendment rights have been violated. The exclusionary rule is based on
48 two theories: the theory of judicial integrity and the theory of deterrence.
49 Under the theory of judicial integrity, courts are supposed to uphold the
50 law. If they allow illegally obtained evidence to be used at trial, they fail to
51 uphold the law. They condone, even encourage, illegality. How can citizens

1 respect our judicial system if the system accepts illegal practices? Under the
2 theory of deterrence, excluding tainted evidence is the only effective way to
3 prevent police from abuse constitutional rights. If illegally obtained evidence
4 may not be introduced in court, police will not resort to illegal searches and
5 seizures.

6
7 If the police find evidence in an illegal search that leads to the discovery of
8 new evidence, the court has held that the new evidence must be excluded
9 because of the doctrine of “fruit of the poisonous tree.” Under this doctrine,
10 if an illegal search or seizure (the poisonous tree) leads police to new
11 evidence (the fruit), this evidence may not be used in court because it stems
12 from evidence collected in a manner that violated the defendant’s
13 constitutional rights. Courts have recognized several exceptions to this
14 doctrine, including the attenuation doctrine. Under this doctrine, if the
15 connection between the illegal action and the new evidence is weak, then
16 the new evidence will be allowed at trial.

17
18 The pretrial motion challenges the admissibility of the statement Cameron
19 Awbrey made:

20
21 *“I don’t know who you think you are, but you need to understand*
22 *something: Everything under that roof is mine.”*

23
24 The outcome of the pretrial motion will have a direct bearing on the
25 admissibility of Cameron’s statement. If the presider excludes the statement,
26 then attorneys and witnesses may not refer to or discuss it during the
27 subsequent trial.

28
29 **The text affected by this motion can be found in the witness statements**
30 **of Officer West and Cameron Awbrey, as well as in the Fact Situation,**
31 **within brackets, e.g., [text].**

32
33 **IMPORTANT: The only facts from the Pretrial Facts section above that**
34 **are potentially admissible at trial following the pretrial hearing are those**
35 **within brackets. All other facts from the Pretrial Facts section are**
36 **inadmissible at trial and are provided solely for use in the pretrial**
37 **hearing.**

38 39 **PRETRIAL FACTS**

40 On March 7, 2016, Officer West, in uniform, went to the Taste of Tanterra.
41 While eating lunch, West observed Cameron Awbrey yelling at Lin Stark.
42 West then received a phone call. West stepped outside to answer the call.
43 As West was finishing up the phone call, Cameron exited the restaurant.
44 Cameron approached West, and asked how the food was. West told
45 Cameron, “I like the food, all right, but I hate how you treat your
46 employees.” Taken aback, Cameron started yelling at West.

47
48 West argued with Cameron, told Cameron to calm down, and even told
49 Cameron to “shut up.” Cameron ignored West and kept yelling at West.
50 West got very close to Cameron’s face and said “You won’t yell at me that
51 way. Do you know who I am?” West demanded Cameron’s ID and told
52 Cameron to “wait here.” West walked to West’s patrol car and made a radio

1 call to the clerk at the station to do a name check for Cameron Awbrey in
2 the police database. West discovered Cameron had an outstanding bench
3 warrant for petty theft, a misdemeanor. In addition to Cameron's name,
4 dispatch provided the height and weight of the suspect. Cameron was the
5 approximate height as described in the warrant but appeared about 20
6 pounds less than the weight provided.

7
8 West arrested Cameron and put Cameron in West's patrol car. There were
9 no door handles on the inside rear doors of the vehicle where Cameron sat.
10 Cameron could not physically leave the vehicle without the officer opening
11 the door. West began driving to the police station. While in the car,
12 Cameron insisted that there was no warrant for Cameron's arrest.

13
14 On the way to the station, about 10 minutes after West's demand for
15 Cameron's ID, West received a call over the police radio. Dispatch provided
16 an additional detail about the suspect identified in the warrant. Dispatch
17 said, audibly for both West and Cameron to hear, "Warrant for someone
18 with American flag tattooed on left forearm. Does your suspect have
19 tattoo?" West responded, "Copy." West pulled the car over and asked
20 Cameron to show Cameron's left forearm. Cameron complied, and West
21 could see Cameron did not have any tattoos on Cameron's arms.

22 West then made a U-turn to head back to the restaurant. [*West said to*
23 *Cameron, "Your lucky day. But I still think you're abusive to your cook."*
24 *Cameron blurted out, "I don't know who you think you are, but you need to*
25 *understand something: Everything under that roof is mine."*] When they
26 arrived at the restaurant, West then clearly stated, "Lucky you didn't have
27 that tattoo" before opening the back door of the police car, letting Cameron
28 go.

30 PRETRIAL ARGUMENTS

31 Prosecution will argue that the statement made by Cameron Awbrey is
32 admissible primarily because the connection between the illegal investigatory
33 stop and Cameron's statement was attenuated. A significant amount of time
34 passed between the stop and the statement. The outstanding warrant was an
35 intervening circumstance between the unlawful stop and the statement.
36 Although it was later discovered that the warrant was invalid, Officer West
37 was acting in good faith and not committing any misconduct so that excluding
38 the evidence doesn't serve the deterrence purpose of the exclusionary rule.
39 Cameron's statement was voluntary because Cameron was no longer under
40 arrest and not in custody when Cameron made the statement, and the officer
41 was not interrogating Cameron at the time. When the statement was made,
42 Cameron had heard the radio call and knew that Cameron was no longer in
43 custody. Furthermore, when the statement was made, Cameron knew Officer
44 West made a U-turn and headed back in the direction of the restaurant. This
45 means Cameron was free to leave at Cameron's request and no longer under
46 arrest.

47
48 Defense will argue that the statement made by Cameron must be excluded
49 because it is the fruit of the poisonous tree. Officer West clearly unlawfully
50 detained Cameron, and Cameron's statement was sufficiently linked to that
51 unlawful stop. The defense will argue that the erroneous warrant does not
52 attenuate the connection between the unlawful stop and Cameron's

1 statement. The officer’s actions in detaining Cameron are the kind of
 2 conduct that the Fourth Amendment was designed to prevent (officers
 3 acting in bad faith). This is the reason why the exclusionary rule was
 4 developed (to deter officer misconduct and maintain judicial integrity). Officer
 5 West’s conduct was retaliatory for Cameron’s yelling. Cameron cooperated by
 6 waiting, but the officer was merely trying to punish Cameron for Cameron’s
 7 behavior without good cause. Furthermore, the description of the suspect did
 8 not completely match Cameron’s appearance, so the officer acted in bad faith
 9 when the officer arrested Cameron. Lastly, the defense will argue that after
 10 Officer West discovered the warrant was invalid, Officer West continued to
 11 hold Cameron in custody and interrogate Cameron, which led to Cameron’s
 12 statement. Cameron had no understanding that the warrant was erroneous
 13 until the two arrived back at the restaurant, so Cameron’s response to West’s
 14 continued questioning about treatment of Lin was involuntary.

15 16 **SOURCES FOR PRETRIAL HEARING**

17 The sources for the pretrial motion arguments are a “closed library,” which
 18 means that Mock Trial participants may only use the materials provided in
 19 this case packet. These materials include: excerpts from the U.S.
 20 Constitution, the California Constitution, the California Penal Code, edited
 21 court opinions, and Pretrial Facts. Witness statements found in Pretrial
 22 Facts are admissible in the pretrial hearing without corroborative testimony
 23 for the purposes of the pretrial motion only.

24
 25 The U.S. Constitution, U.S. Supreme Court holdings, and California
 26 Supreme Court and California Appellate Court holdings are all binding and
 27 must be followed by California trial courts. All other cases are not binding
 28 but are persuasive authority. In developing arguments for this Mock Trial,
 29 both sides should compare or distinguish the facts in the cited cases from
 30 one another and from the facts in *People v. Awbrey*.

31 32 **LEGAL AUTHORITIES**

33 34 **U.S. Constitution**

35 36 *Amendment IV*

37 The right of the people to be secure in their persons, houses, papers, and
 38 effects, against unreasonable searches and seizures, shall not be violated,
 39 and no Warrants shall issue, but upon probable cause, supported by Oath or
 40 affirmation, and particularly describing the place to be searched, and the
 41 persons or things to be seized.

42 43 *Amendment V*

44 No person . . . shall be compelled in any criminal case to be a witness
 45 against himself, nor be deprived of life, liberty, or property, without due
 46 process of law

47 48 *Amendment XIV*

49 Section 1. All persons born or naturalized in the United States, and subject
 50 to the jurisdiction thereof, are citizens of the United States and of the States
 51 wherein they reside. No State shall make or enforce any law which shall
 52 abridge the privileges or immunities of citizens of the United States; nor

1 shall any State deprive any person of life, liberty, or property, without due
2 process of law; nor deny to any person within its jurisdiction the equal
3 protection of the laws.

4 **California Constitution**

5 *Article I, Section 13*

6 The right of the people to be secure in their persons, houses, papers, and
7 effects against unreasonable seizures and searches may not be violated; and
8 a warrant may not issue except on probable cause, supported by oath or
9 affirmation, particularly describing the place to be searched and the persons
10 and things to be seized.

11 **Statutory**

12 **Human Trafficking (Pen. Code, § 236.1(a))**

13 Any person who deprives or violates the personal liberty of another with the
14 intent to obtain forced labor or services, is guilty of human trafficking

15 **False Imprisonment (Pen. Code, §§ 236)**

16 False imprisonment is the unlawful violation of the personal liberty of another.

17 **JURY INSTRUCTIONS**

18 **CALCRIM 223 (Direct and Circumstantial Evidence)**

19 Facts may be proved by direct or circumstantial evidence or by a
20 combination of both. Direct evidence can prove a fact by itself. For
21 example, if a witness testifies he saw it raining outside before he came into
22 the courthouse, that testimony is direct evidence that it was raining.

23 Circumstantial evidence also may be called indirect evidence.

24 Circumstantial evidence does not directly prove the fact to be decided, but
25 is evidence of another fact or group of facts from which you may logically
26 and reasonably conclude the truth of the fact in question. For example, if a
27 witness testifies that he saw someone come inside wearing a raincoat
28 covered with drops of water, that testimony is circumstantial evidence
29 because it may support a conclusion that it was raining outside.

30 Both direct and circumstantial evidence are acceptable types of evidence to
31 prove or disprove the elements of a charge, including intent and mental state
32 and acts necessary to a conviction, and neither is necessarily more reliable than
33 the other. Neither is entitled to any greater weight than the other. You must
34 decide whether a fact in issue has been proved based on all the evidence.

35 **CALCRIM 224 (Circumstantial Evidence: Sufficiency of Evidence)**

36 Before you may rely on circumstantial evidence to conclude that a fact
37 necessary to find the defendant guilty has been proved, you must be
38 convinced that the People have proved each fact essential to that conclusion
39 beyond a reasonable doubt.

40 Also, before you may rely on circumstantial evidence to find the defendant
41 guilty, you must be convinced that the only reasonable conclusion
42 supported by the circumstantial evidence is that the defendant is guilty. If
43 you can draw two or more reasonable conclusions from the circumstantial
44 evidence and one of those reasonable conclusions points to innocence and
45 another to guilt, you must accept the one that points to innocence.

1 However, when considering circumstantial evidence, you must accept only
2 reasonable conclusions and reject any that are unreasonable.

3
4 **CALCRIM 1243 Human Trafficking**

5 The defendant is charged in Count One with human trafficking in violation
6 of Penal Code section 236.1(a), a felony.

7
8 To prove that the defendant is guilty of this crime, the People must prove
9 that:

10
11 1. The defendant either deprived another person of personal liberty or
12 violated that other person's personal liberty;

13
14 AND

15
16 2. When the defendant acted, he or she intended to obtain forced labor or
17 services.

18
19 Depriving or violating another person's personal liberty, as used here,
20 includes substantial and sustained restriction of another person's liberty
21 accomplished through fear, fraud, deceit, coercion, or duress to the victim
22 or to another person under circumstances in which the person receiving or
23 perceiving the threat reasonably believes that it is likely that the person
24 making the threat would carry it out.

25
26 Forced labor or services, as used here, means labor or services that are
27 performed or provided by a person and are obtained or maintained through
28 force, fraud, duress, or coercion, or equivalent conduct that would
29 reasonably overbear the will of the person.

30
31 Duress means a direct or implied threat of force, violence, danger, hardship,
32 or retribution that is enough to cause a reasonable person to do something
33 that he or she would not otherwise do.

34
35 Duress includes a direct or implied threat to destroy, conceal, remove,
36 confiscate, or possess any actual or purported passport or immigration
37 document of the other person or knowingly destroying, concealing,
38 removing, confiscating, or possessing any actual or purported passport or
39 immigration document of the other person.

40
41 Coercion includes any scheme, plan, or pattern intended to cause a person
42 to believe that failing to perform an act would result in the abuse or
43 threatened abuse of the legal process or debt bondage.

44
45 When you decide whether the defendant deprived another person of personal
46 liberty or violated that other person's personal liberty, consider all of the
47 circumstances, including the age of the other person, his or her relationship to
48 the defendant, and the other person's handicap or disability, if any.

1 **CALCRIM 1242 False Imprisonment**

2
3 The defendant is charged in Count Two with false imprisonment in
4 violation of Penal Code section 236, a misdemeanor.

5
6 To prove that the defendant is guilty of this crime, the People must prove that:

7
8 1. The defendant intentionally and unlawfully restrained, detained, or
9 confined a person;

10
11 AND

12
13 2. The defendant’s act made that person stay or go somewhere against that
14 person’s will.

15
16 An act is done *against a person’s will* if that person does not consent to the
17 act. In order to *consent*, a person must act freely and voluntarily and know
18 the nature of the act.

19
20 False imprisonment does not require that the person restrained or detained
21 be confined in jail or prison.

22
23 **CASE LAW**

24
25 ***Utah v. Strieff*, 579 U.S. ___ (2016)**

26 **Facts:** A detective received an anonymous tip that drug sales were occurring
27 in a particular house, so he surveilled the house over a short period of time
28 and speculated that drug activity was taking place. The detective saw
29 Defendant leaving this house. The detective stopped Defendant and
30 questioned him, during which time the detective discovered an outstanding
31 arrest warrant for Defendant for a traffic violation. The detective lawfully
32 searched Defendant incident to the lawful arrest “only minutes after the
33 illegal stop” and discovered illegal drugs and an illegal pipe.

34 **Issue:** Should evidence seized incident to a lawful arrest on an outstanding
35 warrant be suppressed because the warrant was discovered during an
36 unlawful detainment?

37 **Holding:** No. The “fruit of the poisonous tree” rule applies where its
38 deterrence benefits (deterring unlawful police behavior) outweigh the
39 substantial social costs (guilty people going unpunished). Evidence from the
40 search is admissible when the link between the unlawful stop and the
41 lawful search or seizure is attenuated. To determine attenuation, the court
42 must look at three factors. First, the court must look to the amount of time
43 between the unlawful stop and the discovery of the evidence; the closer the
44 events are together, the stronger the link between them. Second, the court
45 must look to the presence of intervening circumstances between the
46 unlawful stop and the lawful arrest. The valid warrant in this case,
47 unconnected to the illegal stop, qualifies as an intervening circumstance.
48 Third, the court must analyze the degree of police misconduct in the
49 unlawful stop, analyzing the purpose and flagrancy of the misconduct. The
50 misconduct must be more severe than mere absence of proper cause for the
51 stop. In a dissent, Justice Sotomayor wrote that “unlawful ‘stops’ have

1 severe consequences” and allow police to “target pedestrians in an arbitrary
2 manner.”

3
4 ***Brown v. Illinois*, 422 U.S. (1975)**

5 **Facts:** While investigating a murder, police broke into and searched
6 Defendant’s apartment without a warrant, then arrested Defendant at
7 gunpoint. Defendant was given a *Miranda* warning and taken to the police
8 station. Defendant made incriminating statements during an interrogation.
9 Defendant was then indicted for murder. Defendant moved to suppress the
10 incriminating statement made during the investigation, claiming that his
11 arrest was unlawful.

12 **Issue:** Are the Defendant’s incriminating statements made after an unlawful
13 arrest admissible if the defendant has been given a *Miranda* warning?

14 **Holding:** No. *Miranda* warnings do not guarantee that the statements are
15 admissible because they do not automatically protect a person’s Fourth and
16 Fifth Amendment rights. Under the Fifth Amendment, the statements must
17 be voluntary and not coerced. Under the Fourth Amendment, the statements
18 must be a “sufficient act of free will to purge the primary taint” of the illegal
19 arrest. Although the presence of *Miranda* warnings is an important factor to
20 determining the admissibility of the statements, the court must determine
21 whether the *Miranda* warnings attenuated the connection between the
22 unlawful arrest and the Defendant’s statements. The court makes this
23 determination on a case-by-case basis, looking to the facts of each case.
24 Factors the court uses include, but are not limited to, (1) the time between
25 the arrest and the statement, (2) the presence of intervening circumstances,
26 and (3) the purpose and flagrancy of the police misconduct.

27
28 ***Wong Sun v. U.S.*, 371 U.S. 471 (1963)**

29 **Facts:** Police arrested a suspect for drug possession. The suspect set police
30 on a trail to find the drug supplier. Police found Defendant A in his home
31 and arrested him and others. The police did not have a warrant or probable
32 cause for the arrests. The police conducted a search where they discovered
33 evidence that led to Defendant A’s conviction on federal narcotics charges.
34 Defendant A also made verbal statements that led to the arrest of Defendant
35 B. The police prepared written statements for Defendants A and B to sign,
36 but they refused. The trial court admitted evidence of Defendant A’s verbal
37 statements at the time of arrest and the unsigned statements.

38 **Issue:** Are the statements gathered through police misconduct admissible at
39 trial?

40 **Holding:** No, as to Defendant A. The verbal statements Defendant A made
41 at the time of arrest were fruits of the poisonous tree and inadmissible, as
42 was Defendant A’s unsigned statement, which lacked corroboration.
43 Defendant B’s unsigned statement, however, was admissible because the
44 court determined that the connection between Defendant B’s unlawful
45 arrest and his unsigned statement was attenuated. Defendant B made the
46 statement voluntarily, days after his arrest and release from jail on his own
47 recognizance (release without bail), and Defendant B made no allegation of
48 police misconduct in the interrogation leading to the drafting of the
49 unsigned statement.

1 ***Terry v. Ohio*, 392 U.S. 1 (1968)**

2 **Facts:** A plain-clothes police officer observed Defendant and two others
 3 acting suspiciously in a manner that resembled “casing” a store (watching it
 4 in preparation to rob it). The officer stopped the three men and searched
 5 them (“stop and frisk”), finding weapons on two of them. Defendant was
 6 convicted of carrying a concealed weapon.

7 **Issue:** Was the police officer’s investigatory stop-and-frisk search of the
 8 three men a violation of their Fourth Amendment rights?

9 **Holding:** No. The officer did “seize” the persons of the Defendants and
 10 “searched” their outer clothing for weapons. The search and seizure did not
 11 violate Defendants’ Fourth Amendment rights because a reasonable officer
 12 in this case would have believed his safety or the safety of others was
 13 endangered, and that belief warrants a reasonable search for weapons. A
 14 reasonable officer must act on more than an inarticulate “hunch” and must
 15 be able to point to specific and articulable facts that warrant the brief
 16 intrusion on the Defendants’ constitutional rights.

17

18 ***Taylor v. Alabama*, 457 U.S. 687 (1982)**

19 **Facts:** Police arrested Defendant for robbing a grocery store based on an
 20 uncorroborated tip. The police had no warrant or probable cause for the
 21 arrest. They did give the Defendant *Miranda* warnings. During Defendant’s
 22 interrogation, police told the Defendant that his fingerprints were found on
 23 grocery items handled by the robber. Six hours after the arrest, Defendant
 24 signed a written confession.

25 **Issue:** Is the Defendant’s confession obtained after an unlawful arrest
 26 admissible at trial?

27 **Holding:** No. Defendant’s confession must be excluded because it is the
 28 fruit of an unlawful arrest. A confession obtained after an unlawful arrest
 29 must be excluded unless intervening circumstances break the causal
 30 connection between the arrest and the confession so that the confession
 31 occurs apart from the unlawful arrest. In this case, there were no
 32 meaningful intervening circumstances between the initial arrest and the
 33 Defendant signing the confession.

34

35 ***Segura v. United States*, 468 U.S. 796 (1984)**

36 **Facts:** Police began surveilling Defendants after receiving information that
 37 they were probably trafficking cocaine from their apartment. After arresting
 38 one of the defendants in the lobby of the apartment building, police
 39 conducted a limited search of the apartment 19 hours before they secured
 40 the search warrant. While waiting for the warrant to issue, they saw various
 41 drugs in plain view. After the police secured a search warrant, they
 42 searched the entire apartment and found cocaine and records of narcotics
 43 transactions.

44 **Issue:** Was the evidence found in the second search the fruit of the
 45 poisonous tree?

46 **Holding:** No. Evidence will not be excluded as fruit of the poisonous tree
 47 unless the illegality is *at least* the “but for” cause of the discovery of the
 48 evidence (i.e., *but for* the initial illegal search, the discovery of evidence in
 49 the second search would not have occurred). Here, the threshold (initial)
 50 “but for” requirement was not even met. There was an independent source
 51 for the challenged evidence from the second search in the fact that it was

1 discovered after the police secured a valid warrant. The connection,
2 however, between the illegal search and the discovery of the evidence in the
3 second search was attenuated so that the evidence from the second search
4 is not fruit of the poisonous tree.

5
6 ***Herring v. United States*, 555 U.S. 135 (2009)**

7 **Facts:** A police officer learned that Defendant had come to the police station
8 to retrieve something from his impounded vehicle. The police officer asked
9 the clerk to check if Defendant had any outstanding warrants. The clerk
10 found one, and the police officer arrested Defendant. The officer conducted
11 a search incident to arrest, where he found drugs and a gun. Since
12 Defendant was an ex-felon, it was illegal for him to carry a gun. It was later
13 discovered that there was no outstanding warrant for Defendant's arrest.

14 **Issue:** Is evidence gathered due to an invalid arrest admissible at trial if the
15 police officer is acting on the reasonable belief that an arrest warrant exists?

16 **Holding:** Yes. Evidence gathered due an unlawful arrest is admissible if the
17 police officer is acting in good faith. The exclusionary rule was created to
18 serve as a deterrent for police misconduct. In this case, the officer's reliance
19 on the erroneous warrant was isolated negligence and "not systemic error or
20 reckless disregard of constitutional requirements." The officer is acting in
21 good faith and there is no police misconduct that needs to be deterred if the
22 officer has "objectively reasonable reliance" on the erroneous warrant.

23
24 ***Thompson v. Keohane*, 516 U.S. 99 (1995)**

25 **Facts:** Defendant was convicted of murdering his former wife and sought to
26 suppress a confession he made to officers when he voluntarily came into
27 the police station after identifying the wife's body. He was not read his
28 *Miranda* rights.

29 **Issue:** Was the Defendant's confession admissible?

30 **Holding:** It depends on whether Defendant was in custody and thus entitled
31 to *Miranda* warnings. The Court remanded (sent back) the case to state
32 court to determine whether Defendant was in custody. The court ruled that
33 there are two essential inquiries needed to determine whether a person is in
34 custody: "First, what were the circumstances surrounding the interrogation;
35 and second, given those circumstances, would a reasonable person have felt
36 he or she was not at liberty to terminate the interrogation and leave."

37
38 ***Rhode Island v. Innis*, 446 U.S. 291 (1980)**

39 **Facts:** Defendant was arrested for the robbery and murder of a taxi driver.
40 The driver was killed by a shotgun, but the shotgun was not found by the
41 time Defendant was arrested. Defendant was arrested with *Miranda*
42 warnings and then put into the backseat of the police car. Defendant
43 invoked his right to speak with a lawyer. The police discussed amongst
44 themselves that the shotgun used to kill the taxi driver might be found by a
45 child. Defendant was moved by the discussion enough to tell the officers the
46 location of the shotgun.

47 **Issue:** Did the conversation between the police officers in front of Defendant
48 constitute an interrogation under *Miranda*?

49 **Holding:** No. The conversation was not considered an interrogation and
50 therefore did not violate Defendant's Fifth Amendment rights. Interrogation,
51 for *Miranda* purposes, refers to "any words or actions on the part of the

1 police, other than those normally attendant on arrest and custody, that the
2 police should know are reasonably likely to elicit an incriminating response
3 from the suspect.” The court stated that defendant was not subjected to
4 interrogation or its functional equivalent of questioning because “it could
5 not be said that the officers should have known that their brief conversation
6 [that consisted of a few off-handed remarks] in [Defendant’s] presence was
7 reasonably likely to elicit an incriminating response and there was nothing
8 in the record to suggest that the officers knew that [Defendant] would be
9 susceptible to an appeal to his conscience concerning the safety of children
10 and would respond by offering to show the officers where a shotgun was
11 buried.”

1 **WITNESS STATEMENTS**

2
3 **Prosecution Witness: Lin Stark (Victim)**

4
5 My name is Lin Stark. I am 25 years old. I am an immigrant from Tanterra. I
6 had to drop out of college where I was studying accounting in order to
7 support my aging mom, sick sister, and young niece. The economy is so bad
8 in Tanterra, I knew there were no real job opportunities for me there, so in
9 June 2015, I came to the United States. I worked on a TBD-2 temporary
10 work visa as a housekeeper in a hotel near Little Tanterra. The visa came
11 with several other documents, but I did not read them because I was just
12 happy to have the visa. My goal was to make enough money to support my
13 family and maybe one day bring them to the United States.

14
15 Sadly, the hotel became overstaffed, and in October I was laid off. Luckily, I
16 saw an advertisement for a full-time position as a cook at a new Tanterran
17 restaurant. I do not have professional training as a chef, but I learned to
18 cook from my mother while growing up. So I decided to apply in order to
19 stay in the United States because going back to Tanterra was not an option.

20
21 I received a call from the restaurant owner, Cameron Awbrey. We arranged
22 an interview and a cooking simulation at the restaurant. During the
23 interview, I answered many questions about my background and reasons
24 for coming to the U.S. Cameron also asked me personal questions about my
25 family and my finances. I told Cameron about my family's poverty and my
26 desperate financial situation caring for them. I said I would do almost
27 anything to stay in the United States. Cameron also asked me, "Would
28 anyone in Little Tanterra miss you if you were gone?" I responded, "Not
29 really, I don't have family or close friends here."

30
31 Cameron offered me the job and told me that I had to live in an apartment
32 on the property rent-free. I could make and eat all my meals at the
33 restaurant for free. Cameron even told me that Cameron would help bring
34 my family to the U.S. I immediately accepted.

35
36 On November 2, I started my new job. Cameron asked me to fill out
37 paperwork and took my visa and passport. Cameron told me Cameron
38 needed the documents to complete employment paperwork. I trusted
39 Cameron with the documents. I never got them back.

40
41 That same day, I moved into the studio apartment above the restaurant. It
42 had two windows with security bars on the outside. There was a fold-up
43 single bed in the corner, a small table with a table lamp and chair, a tiny
44 bathroom with a small shower, a dresser, and a closet. The bathroom door
45 was missing. The apartment smelled slightly of mildew and the walls had
46 peeling paint. The carpet was dirty. Cameron said it was my "new humble
47 home." Cameron also showed me a key attached to a red lanyard under the
48 dresser to open the downstairs door. Cameron said something about an
49 "automatic lock," and the door had a sign on it to always stay open. After I
50 put my things away, I took the key and closed the door at the bottom of the
51 stairwell. I went to a nearby store to buy personal supplies with fifty dollars
52 that Cameron gave me. I didn't have much and I was grateful that Cameron

1 helped me out. When I returned, I used my key to unlock the stairwell door.
2 Cameron saw me and told me the door was to remain open always. After
3 that, I never closed the door and it was always open. I remember putting
4 the key back under the dresser, and I never used it again.

5
6 During November, Cameron put me to work getting the kitchen and menu
7 ready. Cameron had bought used kitchen equipment in decent shape.
8 Initially, my working conditions were bearable. I would come downstairs to
9 work around 8:00 a.m. and go back upstairs around 7:00 p.m. Cameron
10 would often work on the menu with me. As a boss, Cameron seemed kind. I
11 thought at first that Cameron liked working with me. Cameron even let me
12 use the phone on occasion in Cameron's office to call my family back in
13 Tanterra.

14
15 On the day I started, I met Julian Blake and Devin Tyler. I learned that
16 Devin was Cameron's cousin who managed a hotel, and Julian was helping
17 Cameron remodel the restaurant. During my time at the restaurant, I would
18 occasionally see Devin. Julian was there more often, usually 4-5 times a
19 week. I didn't speak to either Julian or Devin very often because I knew
20 they were busy.

21
22 My work conditions worsened once the restaurant opened. Lunch started at
23 11 a.m., Monday through Saturday; I had to start working at around 7:30
24 a.m. doing all the food preparation for lunch and dinner myself. We closed
25 at 10:00 p.m. and I would do all of the clean-up by myself. I normally
26 finished around 11:30 p.m. or midnight. Sundays were also busy days.
27 Although I was supposed to be off, Cameron would make me do inventory
28 and other tasks.

29
30 Cameron's attitude toward me also drastically changed. Cameron became
31 harsh and merciless, berating me for every mistake I made. Cameron would
32 often come into the kitchen during the lunch rush and yell at me to work
33 faster. If I took a break for even five minutes, Cameron would yell at me for
34 being lazy and threaten to fire me and then I would lose my visa. I am not
35 lazy. I am a hard worker. During my time at the restaurant, I rarely took
36 breaks. I was working roughly 90 hours per week from Monday to Saturday.
37 I had assumed that working "full time" meant 40 hours a week, but clearly I
38 had been misled.

39
40 I needed to get away, even if it was only for a short time. So one day in
41 mid-December, I walked to a nearby vegetable wholesale market to buy
42 fresh vegetables for some new recipes I wanted to test. I returned five
43 minutes later than expected, and Cameron had a tantrum. Cameron said
44 that other employees would go buy vegetables from then on. Up until that
45 point, at least I felt like I could take a walk from time to time. But after that,
46 Cameron would yell at me whenever I stepped into the parking lot behind
47 the restaurant to get some fresh air. Cameron would say the kitchen "never
48 closed during working hours." I even had a fever once, but Cameron forced
49 me to work anyway, which I thought was unsanitary. Cameron
50 overwhelmed me with so much work that it became almost impossible for
51 me to leave. After hours, I had not much time to even get a good night's

1 sleep, and there was nowhere for me to go in that isolated neighborhood,
2 anyway. I was basically trapped there. I felt like a slave.

3
4 Luckily I became friends with employee Frankie Lyman, a community
5 college student. I don't think Cameron liked my friendship with Frankie.
6 Often when I spoke to Frankie, Cameron would interrupt and tell us to get
7 back to work. Cameron told me I was to keep my "head down" and "cook
8 the food." But I liked how Frankie cared about my family and asked how
9 they were doing.

10
11 Frankie even helped me send money to my family. At the end of each
12 month when I was paid, Frankie and I would walk to the store to wire \$350
13 to my mother in Tanterra using Frankie's ID. These were the few times after
14 the vegetable incident that I left the restaurant.

15
16 My pay was another issue. At the end of November, I received my first
17 payment of \$500 in cash. I did not have a bank account so I was okay with
18 being paid in cash. However, I don't think \$500 is a fair wage. I worked so
19 many hours and I think I deserved more money. But Cameron said that was
20 all Cameron could afford and promised to pay me more later. Overall,
21 Cameron did pay me \$400 for December and another \$400 each for January
22 and February. I thought that was still low. When I asked Cameron about it
23 at the end of December, Cameron told me I had no choice in the matter.
24 This was my pay "until further notice." Cameron asked me if I preferred
25 being back in Tanterra with no job. I became frightened, thinking Cameron
26 might fire me, which would mean I would lose my visa and be deported. So
27 I accepted my pay as it was.

28
29 My living conditions were terrible. My bathroom had a leaking faucet and
30 the hot water was lukewarm at best. I told Cameron about the plumbing
31 problems in December, but Cameron never fixed them. I also washed all my
32 clothes in my bathroom sink. I offered to pay rent to solve this problem to
33 which Cameron laughed and said, "With what money?"

34
35 In January, I began to suffer mentally and physically. I had endless back,
36 neck, and foot pain from standing all day, which were magnified by my
37 sleeping on a folding bed. I also began to suffer from anxiety and
38 depression. I was afraid to ask for any time off. I knew I couldn't continue
39 to live like this.

40
41 In early March, I remember talking to Frankie about how upset I was, that I
42 wasn't sure when my visa might expire and I might be forced to leave the
43 United States. I really needed Cameron to sponsor my visa so I could stay.
44 Frankie reassured me, but I still felt like Cameron was going to jeopardize
45 my visa. It was around this time that I also spoke with my mother on the
46 phone, and she told me my sister was dying. I wanted to go home to see my
47 sister, even if only for a couple of days.

48
49 On March 9, 2016, as we were closing up for the night, I told Cameron
50 about my sister's condition and asked to take a couple of days off to see
51 her. I suggested Cameron might finally hire an assistant cook who could sub
52 for me while I was gone. I also asked Cameron to give me my visa and

1 passport so I could travel to Tanterra. Cameron became very angry and told
2 me I was not allowed to leave under any circumstances. In the heat of the
3 moment, I furiously walked away from Cameron to my apartment. After I
4 walked through the stairwell door, Cameron slammed it behind me. I heard
5 Cameron say through the door, “You better get comfortable here. It’s going
6 to be a while before you go anywhere!”
7

8 The next morning, on March 10, I came downstairs at 6:30 a.m. and found
9 the stairwell door was still closed and locked. When I realized there was no
10 way out, I went to look for the key under the dresser, but it was gone. I was
11 shocked because the key had been there yesterday morning. I saw it when I
12 went to pick up a pen that had rolled off the dresser. Cameron had trapped
13 me inside my apartment to punish me. Sobbing and desperate, I banged on
14 the door and called for help. Finally, around 7:00 a.m., Cameron came to
15 open the door. Cameron said, “Missing your key?” Then, Cameron laughed
16 at me and walked away.
17

18 As the day went on, I felt emotionally overwhelmed. I could not believe
19 Cameron had locked me in my apartment overnight. At one point, Frankie
20 told me of seeing Cameron the previous day coming out of my apartment
21 and that Cameron had mentioned my leaking faucet. I thought that was odd
22 because my faucet was still leaky and I had told Cameron about the faucet
23 way back in December. I think Cameron took the key from under the
24 dresser.
25

26 Around 12:30 p.m., I saw through the window Officer West sitting at the
27 counter in full uniform. Officer West would occasionally come to the
28 restaurant during lunch and we’ve had a few polite conversations. I
29 remember sharing a little bit about my family back home and how I was
30 supporting them. I also told the officer that I lived on the second floor of the
31 restaurant. I was afraid to go to the police before because I was desperate to
32 keep my job, but I knew it was now or never. I couldn’t go on like this. As I
33 was preparing Officer West’s order, I found a piece of paper and wrote a
34 note that read, “PLEASE HELP ME. I’M TREATED LIKE A SLAVE.” I
35 personally gave the note to Officer West with West’s lunch. Immediately,
36 Cameron came over and told me, “Stop bothering this person and go back
37 to the kitchen.”
38

39 Later in the day, Officer West returned to interview me and search both the
40 restaurant and my apartment. That same day, Cameron was arrested, and I
41 was finally free. I was taken to a shelter and the next day, March 11, a
42 social worker by the name of Dana Greyjoy interviewed me. Dana asked me
43 questions about my working conditions and my relationship with Cameron.
44 A month later I also spoke with another social worker, Addison Frey.

1 **Prosecution Witness: Julian Blake (Consultant)**

2
3 My name is Julian Blake. I am 45 years old. I graduated from culinary
4 school in Pasadena, California. I have owned or co-owned several diners
5 and small restaurants in Arizona, Nevada, and California. I also work
6 occasionally as a restaurant development consultant. I have been an
7 acquaintance of Cameron Awbrey since we were in high school together.
8

9 In early August 2015, Cameron called me about an idea to open a Tanterran
10 restaurant. Cameron had been working as a security guard but had inherited
11 some money and wanted to open a restaurant. Cameron did not have a
12 background in the restaurant business, so Cameron wanted to hire me as a
13 consultant. I doubted Cameron’s inheritance would cover all the expenses
14 of opening a restaurant, especially paying for the necessary staff. Cameron
15 was confident that Cameron could find just the right type of hardworking
16 employees. Cameron explained that in Cameron’s previous position as a
17 guard at a garment factory, the boss there had a lot of foreign workers.
18 Cameron said, “He got a lot out of them for very little cost.” I thought
19 nothing of that comment at the time, but later I realized it meant something
20 ominous. I agreed to help Cameron with the restaurant in exchange for
21 reduced fees and a five percent share in the profits.
22

23 At first, things were going great. We began by scouting locations and, in
24 September 2015, we found an excellent property located in a business park
25 near Downtown Santa Bella.
26

27 I noticed the lock on the stairway door because double-cylinder deadbolts
28 are known to be major fire hazards. Anyone on the second floor without a
29 key to the deadbolt may become trapped behind this door. I told Cameron I
30 thought we should remove the deadbolt, but Cameron told me having a
31 double-cylinder deadbolt on this door could be very useful if Cameron ever
32 wanted to “lock something away.” I thought this comment was strange.
33 Nonetheless, Cameron posted a sign on the door that said, “FIRE HAZARD
34 – KEEP DOOR OPEN AT ALL TIMES.”
35

36 We settled on a December grand opening. While I worked on remodeling
37 the restaurant, Cameron looked for employees. I offered to help Cameron
38 look for a chef, but Cameron refused. Cameron told me Cameron was
39 looking for a very particular kind of person. On November 2, Cameron
40 introduced me to Lin Stark. Cameron told me that Lin was from Tanterra
41 and that Lin was an excellent chef. I asked Lin about Lin’s culinary
42 background, and Lin told me that Lin had no restaurant experience. I was
43 concerned that I had not been consulted about the chef, who is the single
44 most important employee in a restaurant. I just hoped that Lin’s cooking
45 was good.
46

47 Later that day, I brought one of Lin’s suitcases to the apartment. When I
48 walked into the apartment, I noticed it needed a cleaning and was pretty
49 bare. There was a fold-up cot and a small table with a chair in the corner
50 and a small bathroom. I asked Cameron if Cameron was going to give Lin
51 more furniture or help clean the apartment, but Cameron shrugged and said
52 no. Cameron did not seem to care.

1 When Lin first started working, Lin and Cameron seemed to get along very
2 well. Lin spent most of Lin’s time developing the menu and testing dishes. I
3 tried Lin’s cooking and it was excellent. After the restaurant opened, I saw a
4 drastic change in Cameron’s attitude and behavior. Cameron became
5 extremely harsh toward Lin, often yelling, even threatening to get Lin
6 deported if Lin did not work faster. I never saw Lin speak up. Lin seemed
7 intimidated by Cameron.

8
9 Cameron expected Lin to work unreasonable hours without a proper
10 kitchen staff. After the restaurant had been open for one week, I
11 approached Cameron about hiring some additional staff to help Lin, but
12 Cameron refused. Cameron told me the restaurant’s staff was Cameron’s
13 “proprietary interest” and none of my concern. I was only at the restaurant
14 at this point for a few hours a day, about three days a week. In those small
15 windows of time, I saw Cameron speak harshly to Lin and ignore whatever
16 Lin would say. I can only imagine what happened when I was not there.

17
18 In late December, I also overheard Lin and Cameron having a conversation
19 about Lin’s wages. Lin asked why Cameron had only paid Lin \$400 for an
20 entire month’s work. Cameron angrily responded that was all Cameron had.
21 Lin walked away silently, looking at the floor.

22
23 I was concerned about Cameron’s treatment of Lin, which I did not know
24 resulted from either a lack of restaurant experience or from a desire to
25 exploit Lin. After Cameron’s conversation with Lin, I told Cameron about
26 the normal hours, salaries, and benefits of full-time chefs in small
27 restaurants. I warned Cameron to be careful about burning out Lin or, even
28 worse, violating labor laws. Cameron yelled at me for “overstepping my
29 bounds as a consultant.” I resigned immediately. I did not want to associate
30 myself with someone who treated employees like property.

31
32 On March 7, I stopped by the restaurant around lunch time to get the last of
33 my files from Cameron’s office. As I was waiting to talk with Cameron, I
34 saw Cameron get in Lin’s face and yell “What’s wrong with you? Work
35 faster!” Lin looked at the floor and didn’t respond. Lin looked broken down.
36 I left without getting my files. I felt like this was not a healthy place for Lin
37 to be but I didn’t know what to do about it. On March 9, I decided to go to
38 the police and tell them everything I knew about the working conditions at
39 Taste of Tanterra. At the station I spoke to Officer Hayden West, whom I
40 had seen at the restaurant in December. I described for West Cameron’s
41 treatment of Lin and asked if that was potentially illegal. I also mentioned
42 Cameron’s strange comment about the “boss” at the garment factory.
43 Officer West thanked me for the information and told me to keep in touch.

44
45 When I heard Cameron was arrested for human trafficking, I was sad but
46 not surprised. I only witnessed the first two months of Cameron’s
47 relationship with Lin. I can imagine the other months were just as bad, if
48 not worse.

1 **Prosecution Witness: Officer Hayden West (Police)**

2
3 My name is Hayden West. I am 28 years old and work as a police officer for
4 the Santa Bella Police Department. I have been employed with the Santa
5 Bella Police Department for seven years. On March 10, 2016, I arrested
6 Cameron Awbrey for human trafficking and false imprisonment, after
7 conducting an investigation which included a search of Awbrey’s restaurant
8 and residence, as well as Lin Stark’s residence.
9

10 As a police officer, I have attended a daylong training course on human
11 trafficking, which is a serious problem in California because of the state’s
12 high immigrant population and its large port cities. In the course, I learned
13 victims of human trafficking often exhibit evidence of poor care, including
14 signs of trauma and fatigue. I also learned victims are often afraid to
15 communicate with the outside world. They generally live and work in one
16 place and do not have freedom of movement. Additionally, trafficking
17 victims generally do not have control over their immigration documents or
18 government-issued identification. These are some of the factors we were
19 trained to identify as trafficking indicators.
20

21 I have been an occasional customer at Taste of Tanterra since it opened in
22 December 2015. Over time, I became acquainted with Lin Stark. The
23 restaurant has a big counter where customers can sit and see into the kitchen.
24 I usually sat at the counter. Lin was the only cook I ever saw at the restaurant.
25

26 On a couple of occasions, Lin and I chatted while Lin cooked the food. Lin
27 always seemed hesitant. Still, I learned that Lin was an immigrant from
28 Tanterra and was supporting family members back home. I also learned that
29 Lin lived on the second floor of the restaurant.
30

31 A few times, I did witness Cameron’s interactions with Lin. Cameron would
32 often yell at Lin for the smallest things and would even threaten to dock
33 Lin’s pay. Cameron would go into the kitchen to yell at Lin to work faster or
34 harder, even though Lin appeared very busy. I wondered why Lin stayed
35 working for Cameron. I don’t recall if Cameron yelled at other employees,
36 but it wouldn’t surprise me if Cameron did.
37

38 On March 7, 2016, I went to Taste of Tanterra for lunch. At the end of my
39 meal, I saw Cameron saying “What’s wrong with you? Work faster!” to Lin.
40 Cameron was within inches of Lin’s face. Just then, I received a personal
41 phone call on my cell. I stepped out into the parking lot to take the call.
42 [While outside, Cameron approached me and we had a discussion. The
43 discussion escalated, and I discovered Cameron had an outstanding bench
44 warrant for petty theft. I arrested Cameron. While in my patrol car, I found
45 out the bench warrant was for a different Cameron Awbrey, a Cameron
46 Awbrey with a tattoo. I turned the patrol car back toward the restaurant, I
47 told Cameron that it was Cameron’s lucky day but that I thought Cameron
48 was abusive to Cameron’s cook. Cameron responded by saying “*I don’t
49 know who you think you are, but you need to understand something:
50 Everything under that roof is mine.*”]

1 On March 9, Julian Blake came to the police station and asked to speak with
2 me. Julian told me that Julian worked as a consultant for the restaurant and
3 had known the owner, Cameron Awbrey, for many years. Julian said that
4 Julian had witnessed Cameron “mistreating Chef Lin Stark” (Julian’s
5 words). Julian described Cameron constantly yelling at or criticizing Lin
6 Stark. Julian worried the long hours demanded of Lin might be illegal.
7 Julian said Cameron had made a comment about seeing firsthand how
8 overworked garment workers were productive. I did not offer an opinion,
9 but thanked Julian for the information and gave Julian my card. That was
10 the only conversation I had with Julian.

11
12 Based on Julian Blake’s statements and my prior observations of Cameron
13 Awbrey and Lin Stark, [as well as Cameron’s statement “*I don’t know who*
14 *you think you are, but you need to understand something: Everything under*
15 *that roof is mine.*”], I went to Taste of Tanterra on March 10, 2016, at 12:30
16 p.m. to speak to Lin Stark. As usual, I was in uniform. I waited in my car a
17 short while until I saw Cameron Awbrey leave the restaurant and drive
18 away. I then entered and sat at the counter. When I looked into the kitchen
19 to get Lin’s attention, I noticed that Lin looked extremely haggard. A waiter
20 took my order, and I waited for my food.

21
22 Lin brought me my food personally, which was unusual. Tucked under the
23 plate was a note that read, “PLEASE HELP ME. I’M TREATED LIKE A
24 SLAVE.” Immediately, it all began to make sense. Lin was an immigrant
25 who lived on the property. Lin worked all the time. Lin had a terrifying boss
26 [who referred to employees as things]. Lin looked extremely haggard and
27 tired. Before I could say anything, Cameron reappeared and coldly told Lin,
28 “Stop bothering this person and go back to the kitchen.”

29
30 I left the restaurant and obtained a warrant that same day to search
31 Cameron’s restaurant and house, as well as Lin’s apartment. In the
32 restaurant office, I found a file folder lying on top of Cameron’s desk. The
33 folder only contained Lin’s TBD-2 visa and passport. Later, I asked Lin
34 about the visa, and Lin said Cameron had held onto the visa since Lin
35 started working at the restaurant.

36
37 At the restaurant, I examined the stairwell door leading to the stairs to Lin’s
38 apartment. The door contained a double-cylinder deadbolt that needed a
39 key on either side. I learned this door was the only entrance to Lin’s
40 apartment. When I examined Lin’s apartment, it was clear this apartment
41 was in very poor condition. It was dark and dingy with almost no furniture.
42 The bathroom had plumbing problems. Lin told me Cameron had refused to
43 fix any of the apartment’s issues.

44
45 Furthermore, Lin told me Cameron had locked Lin in the apartment the
46 previous night. Lin told me that the day before, Lin had seen a key with a
47 red lanyard under Lin’s dresser, but today the key was missing. Lin
48 explained that this key could unlock the door at the bottom of the stairwell.
49 I searched the entire premises but found no key with a red lanyard. I did
50 find a key on Cameron’s key ring that fit the lock. I interviewed Frankie
51 Lyman and Frankie told me that Frankie had seen Cameron coming out of
52 Lin’s apartment the previous day, hours before Lin had been locked in.

- 1 Frankie did not see Cameron holding anything. I arrested Cameron Awbrey
- 2 for human trafficking and false imprisonment.

1 **Prosecution Witness: Dana Greyjoy (Human Trafficking Expert)**

2
3 My name is Dana Greyjoy. I am 46 years old. I received a bachelor's degree
4 in sociology and a master's degree in social work from Central Coast
5 University. I have been working with victims of human trafficking for 20
6 years. I have served on the boards of national anti-trafficking non-profits. I
7 have taught seminars on identifying and combatting instances of human
8 trafficking for government agencies. I have testified as an expert witness in
9 27 human trafficking cases, 15 times for prosecution and 12 times for the
10 defense. I interviewed Lin Stark on March 11, 2016, the day after Cameron
11 Awbrey was arrested. I also inspected Lin's apartment that day to help form
12 my opinion.

13
14 A modern-day form of slavery, human trafficking is the use of various forms
15 of force, duress, or deception to make victims do acts or work against their
16 will. The two most common types of human trafficking are sex trafficking
17 and labor trafficking. Labor trafficking can take place in many fields,
18 including domestic service, agriculture, and food service. Anyone can be a
19 human trafficker.

20
21 In choosing their victims, traffickers often look for vulnerable people who
22 have emotional issues, financial issues, unstable living situations, or all of
23 the above. Immigrants are often targets of human trafficking. Traffickers
24 also often target people who have lower levels of education, who may not
25 be able to understand an employment agreement. Conversely, some victims
26 may be aware that they are being taken advantage of but accept their jobs
27 anyway because of the promises made by the traffickers. Traffickers may
28 promise their victims better lives, stability, education, a high-paying job, or
29 a loving relationship. For example, a trafficker may target someone who
30 needs money to get out of debt or support a family. While certain people are
31 more vulnerable than others, anyone can potentially be a victim of human
32 trafficking.

33
34 Victims of human trafficking are controlled by their traffickers, often
35 through money, threats of violence, or physical force. Traffickers may also
36 threaten victims with deportation, deny victims their wages, or take away
37 their government identification documents.

38
39 There are many signs that point to instances of human trafficking. Victims
40 often communicate in a manner that sounds rehearsed. They often live with
41 their traffickers or on the site of their employment. They are psychologically
42 manipulated or controlled by their traffickers. They have no access to their
43 government documents. They have little communication with the outside
44 world. They have poor living conditions. They work extremely long work
45 hours with little to no pay.

46
47 In my professional opinion, Lin Stark exhibits many factors consistent with
48 those of a human trafficking victim. Lin was vulnerable: Lin was young,
49 unemployed, and desperate for money to support a family. Lin was
50 promised a stable income, a place to live and an opportunity to bring family
51 members to the United States. Although Lin was moderately educated, Lin
52 was new to the culture and customs of the United States, not aware of its

1 laws, and in desperate need of full-time work, making Lin susceptible to
2 exploitation. In my March 11 interview with Lin, Lin told me that Lin was
3 afraid of being deported.
4

5 Lin told me Lin's story about working at Taste of Tanterra. Cameron had
6 withheld Lin's immigration documents, making it virtually impossible for
7 Lin to find other work. Cameron overwhelmed Lin with work and
8 prohibited Lin from taking breaks, preventing Lin from being able to come
9 and go as Lin pleased.
10

11 Cameron also paid Lin a total of \$1,700 over a four-month period, which
12 breaks down to approximately \$425 per month. Even adding room and
13 board, the total would be about \$2.29 per hour for 90-hour work weeks,
14 which Lin told me was normal for Lin. This number may be high compared
15 to many other trafficking cases where victims may make less than \$1.00 per
16 hour if they are paid at all. But Lin's wages are still extremely low compared
17 to the minimum wage. And the hours Lin worked are grossly out of line
18 with state labor and wage laws establishing 40-hour weeks, overtime, and a
19 minimum wage.
20

21 The apartment that Cameron provided to Lin was somewhat unusual in that
22 Lin had Lin's own room. Traffickers often provide housing for their victims
23 typically in a dormitory-like setting with limited access to adequate showers
24 or toilets. Lin's furnished apartment does not fall into this typical category.
25 But Lin's apartment was dark and isolated with only one means of entry
26 and exit into the restaurant itself. The camp-style bed was inadequate for
27 comfortable long-term living. Lin appeared to have tried to clean the place
28 and to keep it livable. But because of Lin's restricted access to the outside
29 world, the room seemed not very different from a well-furnished prison cell.
30

31 The fact that Lin was a talented cook does not mean that Lin could not be a
32 victim of human trafficking. Victims of human trafficking can be skilled or
33 unskilled workers in any industry, and are commonly found in the food
34 service industry, whether in large-scale or small-scale businesses. Lin's case
35 is consistent with several of the human trafficking cases I have seen over
36 the years.
37

1 **Defense Witness: Cameron Awbrey (Defendant)**

2
3 My name is Cameron Awbrey. I am 43 years old. I recently left my job as a
4 security guard in a garment factory in Southern California because I
5 inherited a hundred thousand dollars from an aunt who passed away. I
6 always wanted to open a restaurant back home in Santa Bella. I feel a deep
7 connection to Tanterran culture since my cousin Devin Tyler and I spent
8 several summers there doing humanitarian relief work as teenagers with the
9 Santa Bella Community Church youth group. Tanterran food is also my
10 favorite cuisine. There were no Tanterran restaurants in Santa Bella, so I
11 knew I had a niche.

12
13 I had no idea how to start a restaurant. My cousin Devin has a background
14 in hotel management, so I asked Devin for help. Devin told me Devin could
15 provide me some tips with handling the employment paperwork and
16 suggested I hire Julian Blake, an old friend with restaurant experience to be
17 a consultant. Devin said Julian would help me get things running. Julian
18 and I discussed plans. Julian was concerned about my ability to finance the
19 business. I said money would be tight for a while, but I was confident I
20 could make it work. I told Julian in my previous job, I saw people working
21 hard with a lot of motivation to reach the American Dream.

22
23 Julian and I found a great property in an industrial area of Santa Bella that
24 had already been a diner. The rent seemed high to me, but Julian assured
25 me it was reasonable. I used my inheritance and also took out huge loans to
26 remodel the restaurant and furnish the kitchen and cover the overhead costs
27 for a whole year.

28
29 I also used the loans to pay for Julian's services. If the restaurant made as
30 much money as Julian thought it would, then it would take me about five
31 years to make all my money back and pay off the loans. In the meantime,
32 Julian estimated there would be a small margin of profit to live on. I would
33 turn a larger profit later on. I needed to be very careful about my own
34 expenses, including the mortgage on my house. It was a lot for me to juggle.

35
36 Julian oversaw the remodeling of the restaurant, and I worked on hiring a
37 staff. At first, Julian insisted on helping me find people. Julian was quite
38 pushy about being involved in every part of the development process. I
39 wanted Julian to focus on remodeling so that we could meet our goal of
40 opening on December 1. I strongly felt the key to the success of the
41 restaurant was hiring a chef who knew Tanterran cuisine. Devin suggested I
42 put an advertisement in all the local newspapers that circulated in Little
43 Tanterra.

44
45 I received a few responses from the ad and interviewed all the candidates.
46 Among them was Lin Stark, who came to the restaurant for an interview
47 and cooking simulation.

48
49 During the interview, I learned that Lin had no professional cooking
50 experience. However, Lin's food was delicious and authentic and Lin spoke
51 English well, so I offered Lin the job. I was up front with Lin about the fact
52 that I did not yet know how much I could afford to pay Lin. It depended on

1 sales, I said. I also offered to do what I could to help bring Lin’s family to
2 the U.S. sometime in the future, but I didn’t make any promises.

3
4 Lin moved in on November 2, 2015. To make Lin feel welcome, I gave Lin
5 money to buy toiletries. I also showed Lin the apartment and told Lin to do
6 whatever Lin wanted to make it feel like home. I told Lin that Lin could use
7 my office phone to call Lin’s family every other week, as long as the calls
8 were not too long. Later that day I saw that Lin had closed the door to the
9 staircase. I reminded Lin about the key and told Lin that the door always
10 needed to remain open and Lin looked like Lin understood.

11
12 During our first month working together, everything was going smoothly.
13 Lin and I worked every day on the menu. I knew when we opened, we
14 would have very little time off. I warned Lin that the first few months
15 would be rough, but that I hoped to eventually hire an assistant cook to
16 make it easier.

17
18 Once the restaurant opened, Lin worked very slowly. I always had to go
19 into the kitchen to remind Lin to work quickly, especially during the lunch
20 rush. I could tell Lin was struggling to keep up. I was also stressed about
21 the restaurant’s part-time staff. I had hired several part-time workers,
22 mostly college students, to work in the dining area. Julian thought I needed
23 more employees, but I could not afford to hire more. The restaurant had so
24 many expenses already.

25
26 Either Frankie Lyman or I always went to buy wholesale supplies. Soon
27 after the restaurant opened, Lin insisted on going out to buy the vegetables
28 from the wholesaler. I had no objection to Lin doing that, but Lin stayed
29 away too long — taking more than the hour Lin had promised. I realized I
30 could not afford to have Lin take time doing errands. Lin and I had a brief
31 argument about it, and I told Lin how important it was for Lin to leave the
32 errands to Frankie and me. But I never forbade Lin from leaving the
33 premises for any reason.

34
35 Come to think of it, I thought it odd that Lin seemed to rarely take a break
36 or even step outside. I admit I was stressed out, heavily in debt to keep the
37 restaurant going, and snapped at Lin sometimes. I demanded a lot from Lin,
38 but I had warned Lin that the first few months would be rough. I was right.
39 I felt overwhelmed. Even so, I would often check on Lin in the kitchen to
40 see if Lin had enough supplies and was feeling all right.

41
42 Julian and I began to have problems. Julian had always been extremely
43 opinionated and always criticized my decisions. Julian told me I
44 “micromanaged” employees. Julian also said I worked Lin too hard and if I
45 wasn’t careful, everyone would quit. I was furious. At the end of December,
46 Julian confronted me about Lin’s pay. I made it clear that if Julian had a
47 problem with the way I ran my business, Julian was free to leave. I had no
48 desire to work with someone who criticized my every move. Julian
49 immediately resigned.

50
51 Lin often came to complain to me about different things, like pay and hours.
52 Other than a leaky faucet, I don’t recall Lin ever complaining to me about

1 the apartment. As for pay, I paid Lin \$500 for Lin’s work in November and
2 \$400 each month for work in December, January and February. I figured
3 this was a fair amount. If you took the value of room, board and utilities,
4 Lin was making between \$800-900 a month. It was all I could afford. I
5 always paid Lin in cash so Lin would not have to pay high check-cashing
6 fees. I also set aside money to pay the appropriate tax withholdings and was
7 planning to forward them once I figured out the employment paperwork. I
8 wanted to do all I could to remove Lin’s financial burdens so Lin could send
9 money to Lin’s family.

10
11 When Lin complained to me about the number of hours Lin worked, I told
12 Lin that I worked even more hours than Lin did. I don’t know how many
13 hours Lin worked, but I know Lin was very busy when the restaurant was
14 open to customers. I worked about 15 hours a day. We didn’t keep time
15 sheets; Lin was a salaried employee. Working long hours is part of working
16 at a restaurant, especially in its first year of business. At the time, there was
17 nothing more I could do to help Lin. I was afraid Lin would quit. I never
18 threatened to have Lin deported.

19
20 As time went on, Lin continued to struggle in the kitchen. I had taken a risk
21 hiring a chef who had no professional cooking experience. The restaurant
22 was not doing as well as I hoped. I was barely making enough money to
23 cover my personal expenses. At this rate, it was going to take me many
24 years to make back my initial investments. I needed to cut costs as much as
25 possible.

26
27 On March 7, Lin was having an especially slow day in the kitchen. Many
28 people were waiting to receive their food. I came into the kitchen and saw
29 Lin not working. Lin told me that it was too stressful. After hearing that, I
30 got very close to Lin, looked Lin square in the eye, and told Lin this was no
31 time to give up. We were going to make it through the day and be
32 successful.

33
34 [That same day, I stopped Officer West outside the restaurant. We had a
35 discussion and the next thing I knew, I was arrested on a bench warrant
36 that I knew was a mistake. The officer started to drive me to the station and
37 then pulled over and asked to see my forearms. The officer was looking for
38 a tattoo. I don’t have any tattoos. As the officer turned the patrol car back
39 toward the restaurant, the officer said to me *“Your lucky day. But I still
40 think you’re abusive to your cook.”* I blurted out, *“I don’t know who you
41 think you are, but you need to understand something: Everything under that
42 roof is mine.”* I meant the restaurant is my business, not West’s. I was
43 offended that West would say such a thing and outraged West arrested me
44 for nothing.]

45
46 On March 9, I went to Lin’s apartment to check on the leaking faucet that
47 Lin had told me about back in December. I realized I ought to do something
48 to make Lin’s life a little better. I intended to fix the faucet myself either
49 that day or the next. Other than that day, I don’t recall ever going into Lin’s
50 apartment.

51

1 Later that night, Lin and I were closing up the restaurant when Lin
2 approached me about taking a vacation. I was frustrated by the events of
3 recent days and knew there was no way the restaurant could afford to go
4 without its chef, even for a couple of days. When Lin suggested I hire a new
5 assistant chef immediately, I feared that business would only get worse. Lin
6 didn't tell me any special reason for the vacation and did not ask for Lin's
7 visa or passport. I refused Lin's request. After hearing this, Lin became
8 extremely upset and started yelling at me. It was startling.
9

10 Lin then turned and went upstairs. I was so upset and exhausted that I
11 angrily slammed the door behind Lin. I never thought that Lin was stuck
12 behind the self-locking door because there was that key with a red lanyard
13 under the dresser I had mentioned to Lin when Lin moved into the
14 apartment. Just before I left, I yelled to Lin that we both needed to get
15 comfortable here and neither of us could take a vacation.
16

17 The next day, I arrived at the restaurant at 6:45 a.m. I walked to the cash
18 register to reconcile receipts from the previous day, and I did not see Lin. I
19 didn't even think to look at the stairwell door. About 7:00 a.m., I heard a
20 banging coming from the rear of the restaurant. I went back and saw the
21 stairwell door was closed. I opened it and found an angry Lin standing
22 there. I asked Lin if Lin was missing Lin's key. I couldn't imagine why Lin
23 wouldn't use it. Lin did not answer me and walked away. Lin never told me
24 the key was missing, and the last time I saw the key was when I showed it
25 to Lin when Lin moved in. I had the only other key to that particular door,
26 which I kept on my keychain.
27

28 In the early afternoon, I saw Lin talking to a customer while many people
29 were waiting for their food. I rushed over to remind Lin about the
30 customers who were waiting, and I told Lin to get back to the kitchen. I did
31 not notice that the person Lin had been speaking to was Officer West.
32 When Officer West came with a search warrant later in the afternoon, I was
33 completely confused. I thought maybe one of my employees had done
34 something wrong. When Officer West searched my office, Officer West
35 asked me why I had Lin's visa and passport. I told Officer West that I was
36 holding onto the papers because I was in the process of finding out how to
37 sponsor Lin for Lin's visa, and to bring Lin's family here. Of course, I would
38 have given it back to Lin if Lin had asked for it, but Lin never did. Officer
39 West then arrested me for human trafficking. I was shocked and felt
40 betrayed by Lin who I treated like a member of my own family. Lin is not a
41 victim of human trafficking.

1 **Defense Witness: Devin Tyler (Defendant's Cousin)**

2
3 My name is Devin Tyler. I am 41 years old. I am Cameron Awbrey's cousin
4 I graduated from Santa Bella College with a bachelor's degree in hotel
5 management, and I now manage a boutique hotel. I am also a volunteer
6 youth counselor at Santa Bella Community Church.
7

8 When Cameron told me about Cameron's inheritance and Cameron's plan
9 to move back home and open a Tanterran restaurant, I wanted to do all I
10 could to help. I fondly remember our summer trips to Tanterra with the
11 church youth group.
12

13 Because of some similarities between hotel management and restaurant
14 management, I offered Cameron advice. I told Cameron that it is extremely
15 difficult for someone with no experience to open a new restaurant. It is also
16 extremely costly. I recommended that Cameron hire a consultant to teach
17 Cameron the basics of restaurant management and help Cameron get the
18 restaurant off the ground. I suggested that Cameron talk to our old friend,
19 Julian Blake, who was a successful restaurant developer.
20

21 At first, Cameron and Julian seemed to work well together. Before the
22 restaurant opened I would visit several times a week to see how Cameron
23 was doing. I could see that Julian was doing a great job remodeling the
24 property, while Cameron began searching for employees.
25

26 Cameron asked me about the best way to find a Tanterran cook. I suggested
27 Cameron place an advertisement in the local newspapers that circulated in
28 Little Tanterra. I hoped the advertisement would attract people who had
29 experience with Tanterran cuisine. A few weeks after the advertisement was
30 posted, Cameron told me about Lin Stark, the person Cameron had hired for
31 the job. From what Cameron said, it seemed like Cameron and Lin really
32 connected during Lin's interview. Cameron told me that Cameron loved
33 hearing about Lin's life in Tanterra, and that Cameron desired to help Lin's
34 family. I was not surprised at all when Cameron told me how well they
35 connected because I know how much Cameron has always loved Tanterra.
36

37 I was concerned after Cameron informed me that Lin had never worked in a
38 restaurant before. I was worried Lin would not be able to keep up with the
39 number of customers, especially during the lunch rush. I have seen many
40 good cooks lose their jobs simply because they could not manage the
41 pressure of working in a restaurant. Cameron told me that Cameron wanted
42 to give Lin a chance despite Lin's lack of experience because Cameron really
43 wanted to help support Lin. Cameron planned to cover almost all of Lin's
44 expenses so Lin could send as much money as possible back to Lin's family.
45 Cameron wanted Lin to save enough money to eventually bring Lin's family
46 to the United States. Cameron truly cared about Lin not only because Lin
47 was Cameron's employee but also because Lin was a person in need.

48 In the month before the restaurant opened, I was impressed by how well
49 Cameron and Lin worked together. I would watch them spend hours
50 working on the menu, laughing and dreaming about the future success of
51 the restaurant.

1 But once the restaurant was open, Cameron’s relationship with Lin became
2 strained. I often dined at the restaurant and witnessed Lin working very
3 slowly. I also saw Cameron’s interactions with Lin. Lin seemed to have a
4 hard time accepting Cameron’s constructive feedback and argued with
5 Cameron. I wondered if there was a cultural barrier between Lin and
6 Cameron, where Lin could not understand what Cameron wanted.

7
8 Cameron often told me how frustrated Cameron was with Lin, especially
9 because Cameron had given Lin so much. Cameron gave Lin a job that
10 helped Lin stay in the United States, as well as free room and board. Lin
11 was adding to Cameron’s stress when Cameron already had so much to
12 worry about, especially considering Cameron had loans and invested
13 Cameron’s life savings in the restaurant.

14
15 During December, Cameron also started having problems with Julian. One
16 day, I was at the restaurant and I overheard Julian ranting to Cameron
17 about all the things Cameron was doing wrong. I heard Julian tell Cameron
18 that Julian’s way of doing things was the best way, and if Cameron wanted
19 to succeed, Cameron needed to follow all of Julian’s directions. Julian also
20 criticized how Cameron treated Lin. I have no idea what Julian meant by
21 this.

22
23 I thought Julian was too aggressive and opinionated. It seemed like Julian
24 was trying to bully Cameron into doing things that Cameron did not want to
25 do. Maybe Julian was trying to earn more fees. When Julian resigned, I was
26 relieved for Cameron. I also thought without Julian’s fees, some of
27 Cameron’s financial pressure would be gone. Unfortunately that was not the
28 case. About two months after the restaurant opened, Cameron confided in
29 me that things were not good. Between the loans, payroll, and Cameron’s
30 personal expenses, I’m not sure how much longer Cameron could keep the
31 restaurant open. All the revenue Cameron made was barely enough to keep
32 the restaurant going.

33
34 Although Cameron is inexperienced in the restaurant business, Cameron
35 wants to be the best possible restaurant owner and will do whatever it takes
36 to do so. Cameron asked me for advice on how to properly handle Lin’s
37 work-visa a couple of times, as well as how to file taxes for all Cameron’s
38 employees. Visas are very complicated and each visa has unique rules
39 employers must follow. I told Cameron to contact an immigration attorney
40 for more details, but I don’t think Cameron ever did.

41
42 For what it is worth, Cameron is the hardest working person I know. More
43 importantly, Cameron has a good heart. Cameron would never intentionally
44 hurt an employee, especially not one that comes from a country that
45 Cameron so deeply loves.

1 **Defense Witness: Frankie Lyman (Restaurant Employee)**

2
3 My name is Frankie Lyman. I am 19 years old and currently attend Santa
4 Bella Community College. In October 2015, I was hired by Cameron Awbrey
5 to work at Taste of Tanterra. I saw a posting on campus that there were job
6 openings at Taste of Tanterra. I started part-time work on November 2,
7 2015, the same day Lin began working there.

8
9 I did a little bit of everything at the restaurant. For example, I ran errands,
10 like buying meat and vegetables, as well as restaurant supplies. That is
11 much of what I did during November. After the restaurant opened, I washed
12 dishes, waited tables, and sometimes did a little food prep, like chopping
13 vegetables.

14
15 Shortly after the restaurant opened, Lin approached Cameron and insisted
16 that Lin go buy the “right vegetables.” Cameron agreed. Lin walked to the
17 wholesale market and when Lin didn’t come back for a while, Cameron
18 appeared nervous. When Lin finally arrived, I could hear Cameron ask,
19 “Where were you? We’re on a tight schedule! You know better than that.” I
20 heard Lin reply, “None of your business.” After that, all I know is Lin didn’t
21 go out on errands again.

22
23 I liked working at the restaurant when it opened. The customers were
24 friendly and seemed to really enjoy the food. We had a lot of regular
25 customers like Devin, Cameron’s cousin. Often I would see Devin, Julian
26 and Cameron talking at the restaurant. I knew Julian was responsible for
27 setting up and designing the restaurant’s interior. In late December,
28 Cameron told the staff that Julian no longer worked at Taste of Tanterra.

29
30 As a boss, I would say that Cameron was strict but fair. If I did something
31 slightly different from what Cameron wanted, Cameron would immediately
32 give me constructive feedback. Cameron was always extremely direct when
33 speaking to me. Cameron never sugar-coated anything.

34
35 I could tell that Cameron cared about all the employees. From when I was
36 first hired, Cameron made an effort to get to know me. Cameron knew
37 about my family, school, friends, and hobbies. I would say that Cameron
38 made an effort to have a personal connection with every employee.

39
40 Cameron especially cared about Lin Stark. Everyone that worked at the
41 restaurant knew that Cameron really wanted to help Lin. Cameron treated
42 Lin more like a family member and less like an employee. For example,
43 Cameron tried to cover many of Lin’s expenses by letting Lin live rent-free
44 and eat as much food as Lin wanted. The rest of the employees were only
45 allowed one meal per shift. Cameron also always seemed to pay close
46 attention to Lin during the day to make sure Lin was okay and doing well.
47 Lin was a hard worker. I would always see Lin there, whether I worked the
48 morning or evening shift.

49
50 Lin and I got to know each other pretty well. When business was slow, Lin
51 and I spent a lot of time talking about our lives. Lin told me about Lin’s
52 family back in Tanterra and how Lin really wanted to bring them to the

1 United States. One day soon after we started working together in November,
2 I went up to Lin's apartment where Lin showed me pictures of Lin's family.
3 The apartment was not luxurious, but seemed comfortable. Lin often told
4 me about Lin's plans to one day become a U.S. citizen. Two or three times I
5 helped Lin wire money to Lin's mother in Tanterra. I think it was \$300 or
6 \$350 each time. Lin explained that Cameron had Lin's ID for employment
7 purposes, which made sense to me.
8

9 When the restaurant became more popular, I saw that Lin was always
10 swamped with orders and obviously had a hard time keeping up. Whenever
11 the restaurant got really busy, Lin would become really flustered. Lin's
12 anxiety often prevented Lin from working quickly in high pressure
13 situations. Whenever Cameron came into the kitchen to give Lin
14 constructive feedback, Lin seemed to ignore Cameron. It was obvious that
15 Lin was having a hard time adjusting to such a fast-paced work
16 environment.
17

18 However, as the restaurant gained more customers, Cameron became more
19 and more stressed. Cameron sometimes snapped at employees, yelled, or
20 slammed doors. I have been yelled at by Cameron sometimes for improperly
21 prepping food or not completing my responsibilities. Cameron was often in
22 the kitchen making sure orders were timely. Cameron did not like to keep
23 customers waiting. I have seen Cameron get frustrated with Lin and yell a
24 few times when Lin couldn't keep up with the orders. I never felt scared or
25 offended by the yelling. I knew Cameron was just blowing off steam.
26 Cameron had a lot to manage from the restaurant. All the employees needed
27 to pull their weight.
28

29 One especially busy day in early March, Lin confided in me that Lin was
30 afraid that Lin would lose Lin's job and that Lin's visa might be expiring.
31 Tears were running down Lin's face. I told Lin that Cameron would never
32 fire Lin and that Lin was the best cook in Santa Bella. Lin then told me that
33 Lin would do anything to stay longer in the United States. Lin seemed
34 desperate.
35

36 On March 9, in the early evening while Lin was dumping trash out back, I
37 noticed Cameron coming out of the stairwell to Lin's apartment. Cameron
38 told me Cameron was going to fix Lin's leaking faucet. I did not see
39 anything in Cameron's hands. I made a mental note to tell Lin about this
40 good deed.
41

42 The only time I ever witnessed something really unusual between Cameron
43 and Lin was the next day, on March 10, 2016. I came in to the restaurant in
44 the morning to prep for lunch. As I started my shift and walked toward the
45 employee restroom, I saw Cameron open the stairwell door with a key. I
46 knew that the stairwell door was never supposed to be closed, so I
47 wondered what had happened. In fact I don't recall ever seeing the door
48 closed before. I know the door leads to Lin's apartment. When Cameron
49 opened the door, Lin came out. I heard Cameron tell Lin something about a
50 key. Lin just stood there, looking angry. Cameron stepped away. That's
51 when I told Lin that Cameron had checked on the leaking faucet and would
52 probably fix it soon. I left before the restaurant opened for the day.

1 Later I learned from other employees that Cameron was arrested, I was
2 completely shocked. In all my time working at the restaurant, I never
3 suspected that Cameron was treating Lin unfairly. Cameron was trying hard
4 to encourage us to make the restaurant successful. I never imagined that
5 Cameron could be accused of human trafficking. I always pictured a human
6 trafficker as someone who forced people to do things while sitting back and
7 doing nothing. That was not Cameron. Cameron worked harder than
8 anyone at the restaurant. Cameron never took a break or a day off.
9 Cameron was not always the best boss, but Cameron always gave 100
10 percent effort and expected everyone else to do the same. It's too bad the
11 restaurant's now closed. I now work at the bookstore at my college.

1 **Defense Witness: Addison Frey (Human Trafficking Expert)**
2

3 My name is Addison Frey. I am 49 years old. I received a bachelor’s degree
4 in Psychology from California University and a master’s in social work from
5 Northern California University. I completed my residency hours at the
6 California University Medical Center, where I often counseled victims of
7 violent crime as well as trafficking victims. I then worked in private practice
8 as a therapist and consultant, often being contracted by the Santa Bella
9 Police Department for work in interviewing victims and witnesses of violent
10 crime. During the last 15 years of practice, I have testified in about ten trials
11 as an expert witness in human trafficking cases, six trials on behalf of the
12 defense and four trials on behalf of the prosecution. I have also testified in
13 many more sentencing and post-conviction hearings.
14

15 I was hired by the defense to reevaluate Dana Greyjoy’s findings from the
16 case files. I interviewed Cameron Awbrey about two weeks after Cameron’s
17 arrest. I was also given an opportunity to interview Lin Stark about a month
18 after the arrest of Cameron Awbrey to determine whether Lin exhibited
19 indicators of a victim of human trafficking. I agree with Greyjoy’s definition
20 of human trafficking, however, not all trafficking situations are the same.
21 Hence, my analysis of the case differs.
22

23 Typically, labor traffickers target unskilled workers to do menial jobs in
24 industries like domestic service and food service. Traffickers often target
25 multiple workers at one time. These victims are generally subjected to
26 inhumane working and living conditions due to deception or threats of
27 physical violence. Less frequently, traffickers will target a single worker,
28 and when they do, it is almost always in domestic labor, or maid services.
29 Labor trafficking victims are often paid pennies per hour. Some are not paid
30 at all. It is also common for victims of labor trafficking to be financially
31 indebted to their traffickers; traffickers will exploit their victims with the
32 excuse that the victims need to “pay their debt.”
33

34 Cameron’s behavior and interactions with Lin do not reflect the actions and
35 attitudes of a human trafficker. Cameron was looking for a skilled laborer to
36 work in a business into which Cameron had invested significant amounts of
37 money. Cameron did choose to hire an immigrant from Tanterra, but this
38 immigrant had some education.
39

40 Additionally, Cameron and Lin had a legitimate employment relationship,
41 where Cameron paid Lin every month. Cameron and Lin also worked
42 together on a daily basis, sharing the same workload. Cameron never
43 directly restricted Lin’s movements or coerced Lin to perform an action.
44 Cameron also paid Lin significantly higher than the typical human trafficker,
45 which is usually about \$1.00 per hour or even less, as Dana Greyjoy also
46 states.
47

48 Based on my interview with Lin, I do not think that Lin exhibits the signs of
49 human trafficking victims that I have seen over the years. In our interview,
50 Lin told me that Lin had experienced a number of negative symptoms that
51 affected Lin’s physical and emotional health. It was clear to me that Lin
52 suffered from anxiety and depression as well as chronic physical pain from

1 Lin's work at the restaurant. However, I believe that Lin's symptoms have
2 more to do with the type of work and less to do with Lin's working
3 conditions. As a young, inexperienced employee with no professional
4 training in food service, Lin was bound to suffer from enormous amounts of
5 stress brought on by the fast-paced nature of the restaurant. Lin's lack of
6 experience as a professional cook would have clearly exacerbated Lin's
7 stress and would have pushed Lin toward bouts of anxiety and depression.
8

9 Lin's lack of familiarity with American culture and the American workplace
10 may also be contributing factors to Lin's struggle in the workplace. It is
11 plausible that Lin merely misinterpreted Cameron's feedback as yelling and
12 threats to Lin's job. Such a communication barrier may have been highly
13 detrimental to Lin's and Cameron's working relationship, giving Lin the
14 mistaken belief that Cameron was acting as a slave-driver rather than
15 merely a demanding and perhaps unrealistic employer.
16

17 Lin had Lin's own apartment, which I was able to inspect. It was spartan
18 but habitable. Lin told me Lin was not expressly forbidden from cleaning it
19 or decorating it. I have never seen a human trafficking case in my
20 experience in which a victim had such adequate living quarters with
21 unrestricted access to the outside world.
22

23 Lin's inability to readily adjust to the pace and pressure of the U.S. food-
24 service workplace led Lin to suffer many symptoms caused by stress. Lin's
25 mental and physical ailments were magnified by the negative interactions
26 that Lin had with Cameron, leading Lin to believe that Cameron was
27 threatening Lin. Lin's ailments were consistent with overworked employees
28 that I've seen in private practice, none of whom were victims of human
29 trafficking.

EXHIBIT A

Taste of Tanterra Floor Plan

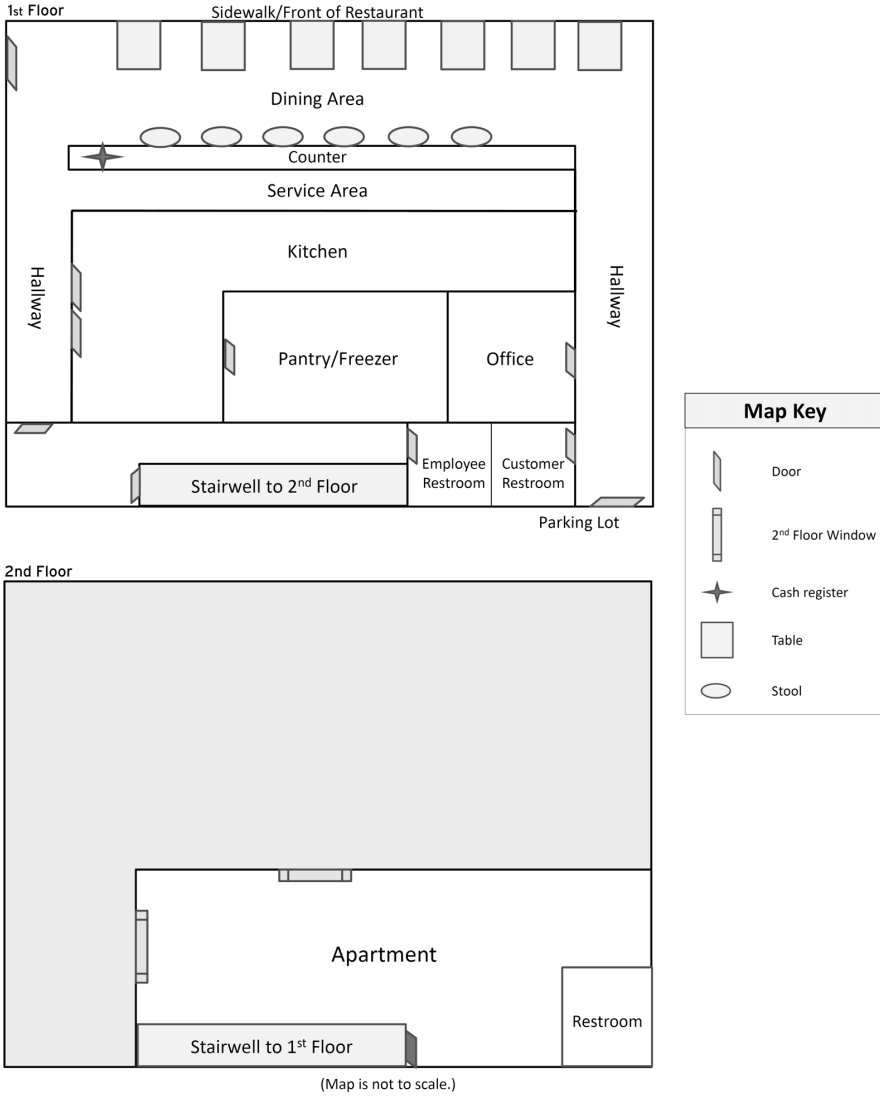
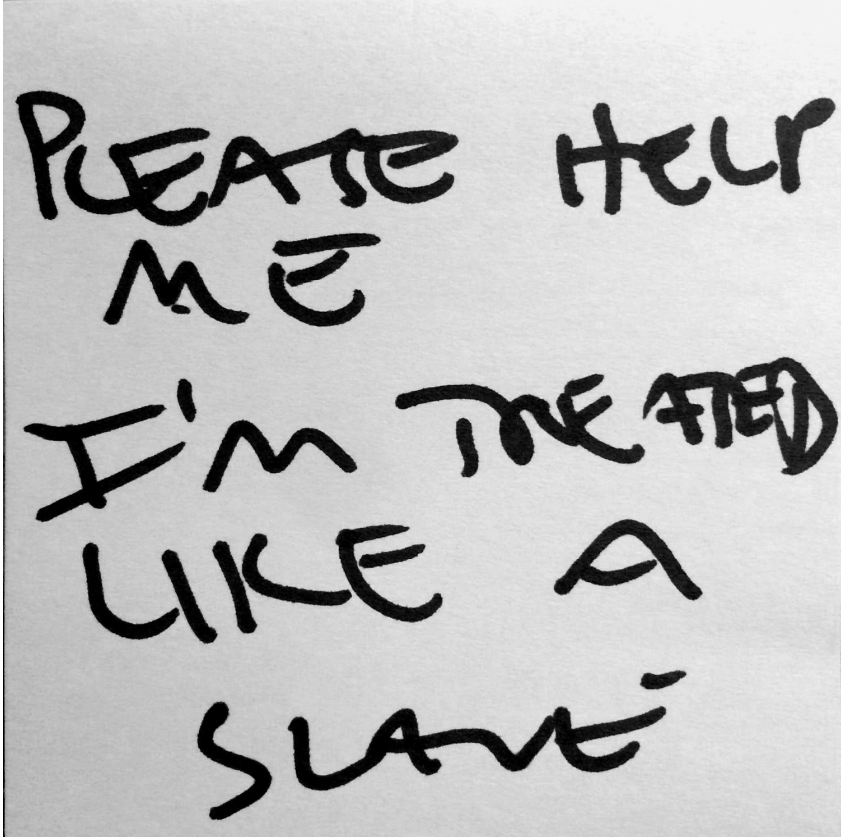


EXHIBIT B

Note From Lin to Officer West



PLEASE HELP
ME
I'M TREATED
LIKE A
SLAVE

THE FORM AND SUBSTANCE OF A TRIAL

The Elements of a Criminal Offense

The penal (or criminal) code generally defines two aspects of every crime: the physical aspect and the mental aspect. Most crimes specify some physical act, such as firing a gun in a crowded room, and a guilty, or **culpable**, mental state. The intent to commit a crime and a reckless disregard for the consequences of one's actions are examples of a culpable mental state. Bad thoughts alone, though, are not enough. A crime requires the union of thought and action.

The mental state requirement prevents the conviction of an insane person. Such a person cannot form **criminal intent** and should receive psychological treatment rather than punishment. Also, a defendant may justify his or her actions by showing a lack of criminal intent. For instance, the crime of burglary has two elements: (1) entering a dwelling or structure (2) with the intent to steal or commit a felony. A person breaking into a burning house to rescue a baby has not committed a burglary.

The Presumption of Innocence

Our criminal justice system is based on the premise that allowing a guilty person to go free is better than putting an innocent person behind bars. For this reason, defendants are presumed innocent. This means that the prosecution bears a heavy burden of proof; the prosecution must convince the judge or jury of guilt beyond a **reasonable doubt**.

The Concept of Reasonable Doubt

Despite its use in every criminal trial, the term "reasonable doubt" is hard to define. The concept of reasonable doubt lies somewhere between probability of guilt and a lingering possible doubt of guilt. A defendant may be found guilty "beyond a reasonable doubt" even though a possible doubt remains in the mind of the judge or juror. Conversely, triers of fact might return a verdict of not guilty while still believing that the defendant probably committed the crime. Reasonable doubt exists unless the triers of fact can say that they have a firm conviction of the truth of the charge.

Jurors must often reach verdicts despite contradictory evidence. Two witnesses might give different accounts of the same event. Sometimes a single witness will give a different account of the same event at different times. Such inconsistencies often result from human fallibility rather than intentional lying. The trier of fact (in the Mock Trial competition, the judge) must apply his or her own best judgment when evaluating inconsistent testimony.

A guilty verdict may be based upon circumstantial (indirect) evidence. However, if there are two reasonable interpretations of a piece of circumstantial evidence, one pointing toward guilt of the defendant and another pointing toward innocence of the defendant, the trier of fact is required to accept the interpretation that points toward the defendant's innocence. On the other hand, if a piece of circumstantial evidence is subject to two interpretations, one reasonable and one unreasonable, the

trier of fact must accept the reasonable interpretation even if it points toward the defendant's guilt. It is up to the trier of fact to decide whether an interpretation is reasonable or unreasonable.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt.

TEAM ROLE DESCRIPTIONS

ATTORNEYS

The **pretrial-motion attorney** presents the oral argument for (or against) the motion brought by the defense. You will present your position, answer questions by the judge, and try to refute the opposing attorney's arguments in your rebuttal.

Trial attorneys control the presentation of evidence at trial and argue the merits of their side of the case. They do not themselves supply information about the alleged criminal activity. Instead, they introduce evidence and question witnesses to bring out the full story.

The **prosecutor** presents the case for the state against the defendant(s). By questioning witnesses, you will try to convince the judge or jury (juries are **not** used at state finals) that the defendant(s) is guilty beyond a reasonable doubt. You will want to suggest a motive for the crime and try to refute any defense alibis.

The **defense attorney** presents the case for the defendant(s). You will offer your own witnesses to present your client's version of the facts. You may undermine the prosecution's case by showing that the prosecution's witnesses are not dependable or that their testimony makes no sense or is seriously inconsistent.

Trial attorneys will:

- Conduct direct examination.
- Conduct cross-examination.
- Conduct re-direct examination, if necessary.
- Make appropriate objections: Only the direct and cross-examination attorneys for a particular witness may make objections during that testimony.
- Conduct the necessary research and be prepared to act as a substitute for any other attorneys.
- Make opening statements and closing arguments.

Each student attorney should take an active role in some part of the trial.

WITNESSES

You will supply the facts in the case. As a witness, the official source of your testimony, or record, is composed of your witness statement, and any portion of the fact situation, stipulations and exhibits, of which you reasonably would have knowledge. The fact situation is a set of indisputable facts that witnesses and attorneys may refer to and draw reasonable

inferences from. The witness statements contained in the packet should be viewed as signed statements made to the police by the witnesses.

You may testify to facts stated in or reasonably inferred from your record. If an attorney asks you a question, and there is no answer to it in your official testimony, you can choose how to answer it. You can either reply, “I don’t know” or “I can’t remember,” or you can infer an answer from the facts you do officially know. Inferences are only allowed if they are *reasonable*. Your inference cannot contradict your official testimony, or else **you can be impeached** using the procedures outlined in this packet. Practicing your testimony with your attorney coach and your team will help you to fill in any gaps in the official materials. (See "Unfair Extrapolation" on p. 60.)

It is the responsibility of the attorneys to make the appropriate objections when witnesses are asked to testify about something that is not generally known or that cannot be reasonably inferred from the Fact Situation or a Witness Statement.

COURT CLERK, COURT BAILIFF, UNOFFICIAL TIMER

We recommend that you provide two separate people for the roles of clerk and bailiff, but if you assign only one, then that person **must** be prepared to perform as clerk or bailiff in any given trial.

The unofficial timer may be any member of the team presenting the defense. However, it is advised the unofficial timer not have a substantial role, if any during the trial so they may concentrate on timing. The ideal unofficial timer would be the defense team’s clerk.

The clerk and bailiff have individual scores to reflect their contributions to the trial proceedings. This does NOT mean that clerks and bailiffs should try to attract attention to themselves; rather, scoring will be based on how professionally and responsibly they perform their respective duties as officers of the court.

In a real trial, the court clerk and the bailiff aid the judge in conducting the trial. The court clerk calls the court to order and swears in the witnesses to tell the truth. The bailiff watches over the defendant to protect the security of the courtroom.

In the mock trial, the clerk and bailiff have different duties. For the purpose of the competition, the duties described below are assigned to the roles of clerk and bailiff. **(Prosecution teams will be expected to provide the clerk for the trial; defense teams are to provide the bailiff.)**

Duties of the Court Clerk

When the judge and scoring attorneys arrive in the courtroom, introduce yourself, explain that you will assist as the court clerk and distribute team roster forms to the opposing team, each scoring attorney and the judge.

In the Mock Trial competition, the court clerk's major duty is to time the trial. You are responsible for bringing a stopwatch to the trial. Please be sure to practice with it and know how to use it when you come to the trials.

An experienced timer (clerk) is critical to the success of a trial.

Interruptions in the presentations do not count as time. For direct, cross, and re-direct examination, record only time spent by attorneys asking questions and witnesses answering them.

Do not include time when:

- **witnesses are called to the stand.**
- **attorneys are making objections.**
- **judges are questioning attorneys or witnesses or offering their observations.**

When a team has two minutes remaining in a category, hold up the two-minute sign; when one minute remains, hold up the one minute sign; when 30 seconds remains, hold up the 30 second sign; and when time for a category has run out, hold up the stop sign and announce "Stop!" The only verbal warning during the trial should be "Stop!" Remember to speak loud enough for everyone to hear you.

Time Allocations: Two Minutes, One Minute, 30 Seconds, Stop

There is to be no allowance for overtime under any circumstance. This will be the procedure adhered to at the state finals. After each witness has completed his or her testimony, mark down the exact time on the time sheet. Do not round off the time.

Duties of the Bailiff

When the judge arrives in the courtroom, introduce yourself, explain that you will assist as the court bailiff and distribute team roster forms to the opposing team, each scoring attorney and the judge.

In the Mock Trial competition, the bailiff's major duties are to call the court to order and to swear in witnesses. Please use the language below. When the judge has announced that the trial is beginning, say:

"All rise, Superior Court of the State of California, County of ____, Department ____, is now in session. Judge ____ presiding, please be seated and come to order." Please turn off all cell phones and refrain from talking.

When a witness is called to testify, you must swear in the witness as follows:

"Do you solemnly affirm that the testimony you are about to give will faithfully and truthfully conform to the facts and rules of the Mock Trial competition?"

In addition, the bailiff is responsible for bringing to trial a copy of the "Rules of Competition." In the event that a question arises and the judge needs further clarification, the bailiff is to provide this copy to the judge.

Duties of the Unofficial Timer

Any official member of the team presenting defense may serve as an unofficial timer. This unofficial timer must be identified before the trial begins and sit next to the official timer (clerk).

If timing variations occur 15 seconds or more at the completion of any task during the trial, the timers will notify the judge immediately that a time discrepancy has occurred. Any time discrepancies less than 15 seconds are not considered a violation. NO time discrepancies will be entertained after the trial concludes.

Any objections to the clerk's official time must be made by this unofficial timer during the trial, before the verdict is rendered. The judge shall determine whether to accept the clerk's time or make a time adjustment.

If the times differ significantly, notify the judge and ask for a ruling as to the time remaining. You may use the following sample questions and statements:

“Your honor, before bringing the next witness, may I bring to the courts attention there is a time discrepancy.

“Your honor, there is a discrepancy between my records and those of the official timekeeper.”

Be prepared to show your records and defend your requests.

TEAM MANAGER

Your team may also select a member to serve as **team manager**. Any team member, regardless of his or her official Mock Trial role, may serve as team manager. The manager is responsible for keeping a list of phone numbers of all team members and ensuring that everyone is informed of the schedule of meetings. In case of illness or absence, the manager should also keep a record of all witness testimony and a copy of all attorney notes so that another team member may fill in if necessary.

PROCEDURES FOR PRESENTING A MOCK TRIAL CASE

Introduction of Physical Evidence

Attorneys may introduce physical exhibits, if any are listed under the heading “Evidence,” provided that the objects correspond to the description given in the case materials. Below are the steps to follow when introducing physical evidence (maps, diagrams, etc.). All items are presented prior to trial.

1. Present the item to an attorney for the opposing team prior to trial. If that attorney objects to use of the item, the judge will rule whether the evidence is appropriate or not.
2. Before beginning the trial, mark all exhibits for identification. Address the judge as follows: “Your honor, I ask that this item be marked for identification as Exhibit #___.”
3. When a witness is on the stand testifying about the exhibit, show the item to the witness and ask the witness if he/she recognizes the item. If the witness does, ask him or her to explain it or answer questions about it. This shows how the exhibit is relevant to the trial.

Moving the Item Into Evidence

Exhibits must be introduced into evidence if attorneys wish the court to consider the items themselves as evidence, not just the testimony about the exhibits. Attorneys must ask to move the item into evidence at the end of the witness examination or before they finish presenting their case.

1. “Your honor, I ask that this item (describe) be moved into evidence as People’s (or Defendant’s) Exhibit #_and request that the court so admit it.”
2. At this point, opposing counsel may make any proper objections.
3. The judge will then rule on whether the item may be admitted into evidence.

The Opening Statement

The opening statement outlines the case as you intend to present it. The prosecution delivers the first opening statement. A defense attorney may follow immediately or delay the opening statement until the prosecution has finished presenting its witnesses. A good opening statement should:

- Explain what you plan to prove and how you will prove it.
- Present the events of the case in an orderly sequence that is easy to understand.
- Suggest a motive or emphasize a lack of motive for the crime.

Begin your statement with a formal address to the judge:

“Your honor, my name is (full name), the prosecutor representing the people of the state of California in this action,” or

“Your honor, my name is (full name), counsel for _____, the defendant in this action.”

Proper phrasing includes:

“The evidence will indicate that . . .”

“The facts will show. . .”

“Witness (full name) will be called to tell . . .”

“The defendant will testify that . . .”

Direct Examination

Attorneys conduct direct examination of their own witnesses to bring out the facts of the case. Direct examination should:

- Call for answers based on information provided in the case materials.
- Reveal all of the facts favorable to your position.
- Ask the witness to tell the story rather than using leading questions, which call for “yes” or “no” answers. (An opposing attorney may object to the use of leading questions on direct examination)
- Make the witness seem believable.
- Keep the witness from rambling about unimportant matters.

Call for the witness with a formal request:

“Your honor, I would like to call (name of witness) to the stand.”

The witness will then be sworn in before testifying.

After the witness swears to tell the truth, you may wish to ask some introductory questions to make the witness feel comfortable. Appropriate inquiries include:

- The witness’s name.
- Length of residence or present employment, if this information helps to establish the witness’s credibility.
- Further questions about professional qualifications, if you wish to qualify the witness as an expert.

Examples of proper questions on direct examination:

“Could you please tell the court what occurred on ___(date)?”

“What happened after the defendant slapped you?”

“How long did you see . . .?”

“Did anyone do anything while you waited?”

“How long did you remain in that spot?”

Conclude your direct examination with:

“Thank you, Mr./Ms. (name of witness). That will be all, your honor.”
(The witness remains on the stand for cross-examination.)

Cross-Examination

Cross-examination follows the opposing attorney's direct examination of the witness. Attorneys conduct cross-examination to explore weaknesses in the opponent's case, test the witness's credibility, and establish some of the facts of the cross-examiner's case whenever possible. Cross-examination should:

- Call for answers based on information given in Witness Statements or the Fact Situation.
- Use leading questions, which are designed to get "yes" and "no" answers.
- Never give the witness a chance to unpleasantly surprise the attorney.

In an actual trial, cross-examination is restricted to the scope of issues raised on direct examination. Because Mock Trial attorneys are not permitted to call opposing witnesses as their own, the scope of cross-examination in a Mock Trial is not limited in this way.

Examples of proper questions on cross-examinations:

"Isn't it a fact that . . .?"

"Wouldn't you agree that . . .?"

"Don't you think that . . .?"

"When you spoke with your neighbor on the night of the murder, weren't you wearing a red shirt?"

Cross-examination should conclude with:

"Thank you, Mr./Ms. (name of witness). That will be all, your honor."

Impeachment During Cross-Examination

During cross-examination, the attorney may want to show the court that the witness on the stand should not be believed. This is called impeaching the witness. It maybe done by asking questions about prior conduct that makes the witness's credibility (believability) doubtful. Other times, it may be done by asking about evidence of criminal convictions.

A witness also may be impeached by introducing the witness's statement and asking the witness whether he or she has contradicted something in the statement (i.e., identifying the specific contradiction between the witness's statement and oral testimony).

The attorney does not need to tell the court that he or she is impeaching the witness, unless in response to an objection from the opposing side. The attorney needs only to point out during closing argument that the witness was impeached, and therefore should not be believed.

Example: (Using signed witness statement to impeach)

In the witness statement, Mr. Jones stated the suspect was wearing a pink shirt. In answering a question on direct examination, however, Mr. Jones stated that the suspect wore a red shirt.

On cross-examination ask, "Mr. Jones, you testified that the suspect was wearing a red shirt, correct?"

Mr. Jones responds “Yes.”

Show Mr. Jones the case packet opened up to Mr. Jones’s statement. Ask Mr. Jones, “Is this your witness statement, Mr. Jones?” (Mr. Jones has no choice but to answer “Yes.”)

Then ask Mr. Jones, “Do you recognize the statement on page ____, line ____ of the case packet?”

Read the statement aloud to the court and ask the witness: “Does this not directly contradict what you said on direct examination?”

After you receive your answer (no matter what that answer is) move on with the remainder of your argument and remember to bring up the inconsistency in closing arguments.

Re-Direct Examination

Following cross-examination, the counsel who called the witness may conduct re-direct examination. Attorneys conduct re-direct examination to clarify new (unexpected) issues or facts brought out in the immediately preceding cross-examination **only**. They may not bring up any issue brought out during direct examination. Attorneys may or may not want to conduct re-direct examination. If an attorney asks questions beyond the issues raised on cross, they may be objected to as “outside the scope of cross-examination.” It is sometimes more beneficial not to conduct re-direct for a particular witness. To properly decide whether it is necessary to conduct re-direct examination, the attorneys must pay close attention to what is said during the cross-examination of their witnesses.

If the credibility or reputation for truthfulness of a witness has been attacked on cross-examination, the attorney whose witness has been damaged may wish to “save” the witness through re-direct. These questions should be limited to the damage the attorney thinks has been done and should enhance the witness’s truth-telling image in the eyes of the court.

Work closely with your attorney coach on re-direct strategies.

Closing Arguments

A good closing argument summarizes the case in the light most favorable to your position. The prosecution delivers the first closing argument. The closing argument of the defense attorney concludes the presentations. A good closing argument should:

- Be spontaneous, synthesizing what actually happened in court rather than being “pre-packaged.” **NOTE: Points will be deducted from the closing argument score if concluding remarks do not actually reflect statements and evidence presented during the trial.**
- Be emotionally charged and strongly appealing (unlike the calm opening statement).
- Emphasize the facts that support the claims of your side, but not raise any new facts.
- Summarize the favorable testimony.
- Attempt to reconcile inconsistencies that might hurt your side.

- Be well-organized. (Starting and ending with your strongest point helps to structure the presentation and gives you a good introduction and conclusion.)
- The prosecution should emphasize that the state has proven guilt beyond a reasonable doubt.
- The defense should raise questions that suggest the continued existence of a reasonable doubt.

Proper phrasing includes:

“The evidence has clearly shown that . . . ”

“Based on this testimony, there can be no doubt that . . . ”

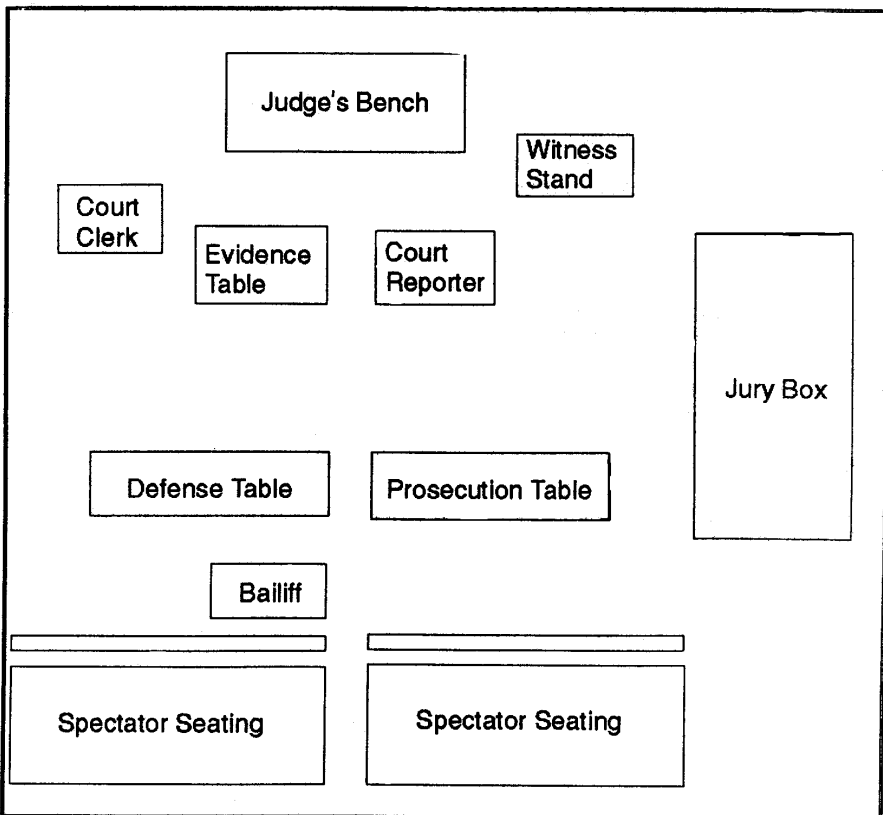
“The prosecution has failed to prove that . . . ”

“The defense would have you believe that . . . ”

Conclude the closing argument with an appeal to convict or acquit the defendant.

An attorney has one minute for rebuttal. Only issues that were addressed in an opponent’s closing argument may be raised during rebuttal.

DIAGRAM OF A TYPICAL COURTROOM



MOCK TRIAL SIMPLIFIED RULES OF EVIDENCE

Criminal trials are conducted using strict rules of evidence to promote fairness. To participate in a Mock Trial, you need to know its rules of evidence. The California Mock Trial program bases its Mock Trial Simplified Rules of Evidence on the California Evidence Code. Studying the rules will prepare you to make timely objections, avoid pitfalls in your own presentations, and understand some of the difficulties that arise in actual court trials. The purpose of using rules of evidence in the competition is to structure the presentation of testimony to resemble a real trial.

Almost every fact stated in the materials will be admissible under the rules of evidence. All evidence will be admitted unless an attorney objects. To promote the educational objectives of this program, students are restricted to the use of a select number of evidentiary rules in conducting the trial.

Objections

It is the responsibility of the party opposing the evidence to prevent its admission by a timely and specific objection. Objections not raised in a timely manner are waived, or given up. An effective objection is designed to keep inadmissible testimony, or testimony harmful to your case, from being admitted. A *single* objection may be more effective than several objections. Attorneys can, and should, pay attention to objections that need to be made to questions and those that need to be made to answers. Remember, the quality of an attorney's objections is always more important than the quantity of the objections.

For the purposes of this competition, teams will be permitted to use only certain types of objections. The allowable objections are found in this case packet. **Other objections may not be raised at trial.** As with all objections, the judge will decide whether to allow the testimony, strike it, or simply note the objection for later consideration. **The rulings of the trial judge are final.** You must continue the presentation even if you disagree. A proper objection includes the following elements. The attorney:

- (1) addresses the judge,
- (2) indicates that he or she is raising an objection,
- (3) specifies what he or she is objecting to, i.e., the particular word, phrase, or question, and
- (4) specifies the legal grounds for the objection.

Example: “(1) Your honor, (2) I object (3) to that question (4) because it is a compound question.”

Throughout this packet, you will find sections titled “Usage Comments.” These comments further explain the rule and often provide examples of how to use the rule at trial.

ALLOWABLE EVIDENTIARY OBJECTIONS

1. Unfair Extrapolation (UE)

This objection is specific to California Mock Trial and is not an ordinary rule of evidence.

Each witness is bound by the facts contained in his or her own official record, which, unless otherwise noted, includes his or her own witness statement, the Fact Situation (those facts of which the witness would reasonably have knowledge), and/or any exhibit relevant to his or her testimony. The **unfair extrapolation** (UE) objection applies if a witness creates a material fact not included in his or her official record. A **material fact** is one that would likely impact the outcome of the case.

Witnesses may, however, make **fair extrapolations** from the materials. A fair extrapolation is one in which a witness makes a reasonable inference based on his or her official record. A fair extrapolation does not alter the material facts of the case.

If a witness is asked information not contained in the witness’s statement, the answer must be consistent with the statement and may not materially affect the witness’s testimony or any substantive issue of the case.

Unfair extrapolations are best attacked through impeachment and closing argument. They should be dealt with by attorneys during the course of the trial. (See page 56 on how to impeach a witness)

When making a UE objection, students should be able to explain to the court what facts are being unfairly extrapolated and why the extrapolation is material to the case. Possible rulings by a presiding judge include:

- a) No extrapolation has occurred;
- b) An unfair extrapolation has occurred;
- c) The extrapolation was fair.

The decision of the presiding judge regarding extrapolations or evidentiary matters is final.

Usage Comments

The most common example of an unfair extrapolation would be if an expert witness or police officer is questioned about research and procedures that require them to have specialized knowledge outside what is contained in their official records. This type of unfair extrapolation is illustrated in Example #1 below. Example #2 provides a set of facts and an example of fair and unfair extrapolation based on a same sample fact scenario.

Example #1:

A defense expert witness testifies about using fluorescent light when collecting fingerprints, which is described in her witness statement. On cross-examination, the prosecutor asks, “Did you use also use a superglue processing technique to collect fingerprints?” While a superglue processing technique is an actual way to collect fingerprints, the procedure was not mentioned anywhere in the case materials. The defense could object that the question calls for an unfair extrapolation.

Example #2:

Sample Fact Scenario

John Doe, who is being charged with buying stolen goods on a particular night, states the following in his witness statement: “On the night in question, I pulled into the parking lot of the Acme Grocery Store and parked my car. I walked into the store with the other customers, picked up some items, went to the checkout stand, and left the store with my shopping bag.”

Fair Extrapolation: At trial, John Doe testifies to the following: “On the night in question, around 9:00 p.m., I went to the Acme Grocery Store, parked my car, went into the store and purchased milk and a box of cereal.”

The fact that John Doe said he “purchased milk and a box of cereal” is a fair extrapolation. Even though there is no mention of what John purchased in his witness statement, it can be reasonably inferred from the context of his witness statement that he entered the store and purchased groceries. Furthermore, the items he purchased (milk and cereal) do not impact any substantive issue in the case.

Unfair Extrapolation: At trial, John Doe testifies to the following: “I pulled into the parking lot of the Acme Grocery Store and parked my car. I walked into the store, purchased some groceries, and withdrew \$200 from the ATM.”

The fact that John Doe withdrew cash is an unfair extrapolation because the fact John withdrew \$200 on the night of the crime is material to the charge of buying stolen goods since because it impacts the substantive issues of his motive and means to later buy stolen goods.

Form of Objection: **“Objection, your honor. This is an unfair extrapolation,”** or **“That question calls for information beyond the scope of Mr. Doe’s witness statement.”**

NOTE: The Unfair Extrapolation objection replaces the Creation of a Material Fact objection used in previous years in California Mock Trial.

2. Relevance

Unless prohibited by a pretrial motion ruling or by some other rule of evidence listed in these Simplified Rules of Evidence, all relevant evidence is admissible.

Evidence is relevant if it has any tendency to make a fact that is important to the case more or less probable than the fact would be without the evidence. Both direct and circumstantial evidence may be relevant and admissible in court.

Examples:

Eyewitness testimony that the defendant shot the victim is **direct** evidence of the defendant’s assault.

The testimony of a witness establishing that the witness saw the defendant leaving the victim’s apartment with a smoking gun, is **circumstantial** evidence of the defendant’s assault.

Usage Comments

When an opposing attorney objects on the ground of relevance, the judge may ask you to explain how the proposed evidence relates to the case. You can then make an “offer of proof” (explain what the witness will testify to and how it is relevant). The judge will then decide whether or not to let you question the witness on the subject.

Form of Objection: **“Objection, your honor. This testimony is not relevant,”** or **“Objection, your honor. Counsel’s question calls for irrelevant testimony.”**

3. More Prejudicial Than Probative

The court in its discretion may exclude relevant evidence if its probative value (its value as proof of some fact) is substantially outweighed by the probability that its admission creates substantial danger of undue prejudice, confuses the issues, wastes time, or misleads the trier of fact (judge).

Usage Comments

This objection should be used sparingly in trial. It applies *only* in rare instances. Undue prejudice does not mean “damaging.” Indeed, the best trial evidence is always to some degree damaging to the opposing side’s case. *Undue prejudice* instead is prejudice that would affect the impartiality of the judge, usually through provoking emotional reactions. To warrant exclusion on that ground, the weighing process requires a finding of clear lopsidedness such that relevance is minimal and prejudice to the opposing side is maximal.

Example:

A criminal defendant is charged with embezzling money from his employer. At trial, the prosecutor elicits testimony that, several years earlier, the defendant suffered an animal cruelty conviction for harming a family pet.

The prosecution could potentially argue that the animal cruelty conviction has some probative value as to defendant’s credibility as a witness. However, the defense would counter that the circumstances of the conviction have very little probative value. By contrast, this fact creates a significant danger of affecting the judge’s impartiality by provoking a strong emotional dislike for the defendant (undue prejudice).

Form of Objection: **“Objection, your honor. The probative value of this evidence is substantially outweighed by the danger of undue prejudice (or confusing the issues, or misleading the trier of fact).”**

4. Laying a Proper Foundation

To establish the relevance of direct or circumstantial evidence, you may need to lay a proper foundation. Laying a proper foundation means that before a witness can testify about his or her personal knowledge or opinion of certain facts, it must be shown that the witness was in a position to know those facts in order to have personal knowledge of those facts or to form an admissible opinion. (See “Opinion Testimony” below.)

Usage Comments

Example:

A prosecution attorney calls a witness to the stand and begins questioning with “Did you see the defendant leave the scene of the crime?” The defense attorney may object based upon a lack of foundation. If the judge sustains the objection, then the prosecution attorney should lay a foundation by first asking the witness if he was in the area at the approximate time the crime occurred. This lays the foundation that the witness was at the scene of the crime at the time that the defendant was allegedly there in order to answer the prosecution attorney’s question.

Form of Objection: **“Objection, your honor. There is a lack of foundation.”**

5. Personal Knowledge/Speculation

A witness may not testify about any matter of which the witness has no personal knowledge. Only if the witness has directly observed an event may the witness testify about it. Personal knowledge must be shown before a witness may testify concerning a matter.

Usage Comments

Witnesses will sometimes make inferences from what they actually did observe. An attorney may properly object to this type of testimony because the witness has no personal knowledge of the inferred fact.

Example:

From around a corner, the witness heard a commotion. The witness immediately walked towards the sound of the commotion, found the victim at the foot of the stairs, and saw the defendant on the landing, smirking. The witness then testifies that the defendant pushed the victim down the stairs. Even though this inference may seem obvious to the witness, the witness did not personally observe the defendant push the victim. So the defense attorney can object based upon the witness’s lack of personal knowledge that the defendant pushed the victim.

Form of Objection: **“Objection, your honor. The witness has no personal knowledge to answer that question.” Or “Objection, your honor, speculation.”**

6. Opinion Testimony (Testimony from Non-Experts)

Opinion testimony includes inferences and other subjective statements of a witness. In general, opinion testimony is inadmissible because the witness is not testifying to facts. Opinion testimony is admissible only when it is (a) rationally based upon the perception of the witness (five senses) and (b) helpful to a clear understanding of his or her testimony. Opinions based on a common experience are admissible. Some examples of admissible witness opinions are speed of a moving object, source of an odor, appearance of a person, state of emotion, or identity of a voice or handwriting.

Usage Comments

Example:

As long as there is personal knowledge and a proper foundation, a witness could testify, “I saw the defendant who was crying, looked tired, and smelled of alcohol.” All of this is proper lay witness (non-expert) opinion.

Form of Objection: **“Objection, your honor. Improper lay witness opinion,”** or **“Objection, your honor. The question calls for speculation on the part of the witness.”**

7. Expert Witness

A person may be qualified as an expert witness if he or she has special knowledge, skill, experience, training, or education in a subject sufficiently beyond common experience. An expert witness may give an opinion based on professional experience if the expert’s opinion would assist the trier of fact (judge) in resolving an issue relevant to the case. Experts must be qualified before testifying to a professional opinion. Qualified experts may give an opinion based upon their personal observations as well as facts made known to them at, or before, the trial. The facts need not be admissible evidence if they are the type reasonably relied upon by experts in the field. Experts may give opinions on ultimate issues in controversy at trial. In a criminal case, an expert may not state an opinion as to whether the defendant did or did not have the mental state in issue.

Usage Comments

Examples:

1. A handwriting comparison expert testifies that police investigators presented her with a sample of the defendant’s handwriting and a threatening letter prepared by an anonymous author. She personally conducted an examination of both documents. Based on her training, her professional experience, and her careful examination of the documents, she concluded that, in her opinion, the handwriting in the

anonymous letter matches the handwriting in the sample of the defendant's handwriting. This would be an admissible expert opinion.

2. A doctor testifies that she based her opinion upon (1) an examination of the patient and (2) medically relevant statements of the patient's relatives. Personal examination is admissible because it is relevant and based on personal knowledge. The statements of the relatives are inadmissible hearsay (hearsay is defined in section 9 below) but are proper basis for opinion testimony because they are reasonably relevant to a doctor's diagnosis. A judge could, in her discretion, allow the expert to describe what the relatives told her and explain how that information supports her opinion. Although those statements would not be admissible to prove the statements are true, they can be used to explain how the statements support the doctor's opinion.

Form of Objection: **“Objection, your honor. There is a lack of foundation for this opinion testimony,”** or **“Objection, your honor. Improper opinion.”**

8. Character Evidence

“Character evidence” is evidence of a person's personal traits or personality tendencies (e.g., honest, violent, greedy, dependable, etc.). As a general rule, character evidence is **inadmissible** when offered to prove that a person acted in accordance with his or her character trait(s) on a specific occasion. The Simplified Rules of Evidence recognize three exceptions to this rule:

1. Defendant's own character

The defense may offer evidence of the defendant's own character (in the form of opinion or evidence of reputation) to prove that the defendant acted in accordance with his or her character on a specific occasion (where the defendant's character is inconsistent with the acts of which he or she is accused). The prosecution can rebut the evidence. (See Usage Comments below.)

2. Victim's character

The defense may offer evidence of the victim's character (in the form of opinion, evidence of reputation, or specific instances of conduct) to prove the victim acted in accordance with his or her character on a specific occasion (where the victim's character would tend to prove the innocence of the defendant). The prosecution can rebut the evidence. (See usage comments below.)

3. Witness's character

Evidence of a witness's character for dishonesty (in the form of opinion, evidence of reputation, or specific instances of conduct) is admissible to attack the witness's credibility. If a witness's character for honesty has been attacked by the admission of bad character evidence, then the opposing party may rebut by presenting good character evidence (in the form of opinion, evidence of reputation, or specific instances of conduct) of the witness's truthfulness.

Admission of Prior Acts for Limited Non-Character Evidence Purposes

Habit or Custom to Prove Specific Behavior

Evidence of the habit or routine practice of a person or an organization is admissible to prove conduct on a specific occasion in conformity with the habit or routine practice. Habit or custom evidence is not character evidence.

Prior Act to Prove Motive, Intent, Knowledge, Identity, or Absence of Mistake

Nothing in this section prohibits the admission of evidence that the defendant committed a crime, civil wrong, or other act when relevant to prove some fact (such as motive, intent, knowledge, identity, or absence of mistake or accident) other than his or her disposition to commit such an act.

Usage Comments

If any prosecution witness testifies to the defendant's or victim's character, the defense may object. But the prosecution may then request to make an offer of proof, or an explanation to the judge, that the prosecution (a) anticipates the defense will introduce evidence of defendant's or victim's character, and (b) Mock Trial rules do not allow for rebuttal witnesses or recalling witnesses. If the judge allows, the prosecution may present evidence in the form of opinion, evidence of reputation, or specific instances of conduct to rebut the defense's anticipated use of character evidence. If this evidence does not come in during the defense, the defense attorney can move to strike the previous character evidence.

Examples:

Admissible character evidence

1. The defendant is charged with embezzlement (a theft offense). The defendant's pastor testifies that the defendant attends

church every week and has a reputation in the community as an honest and trustworthy person. This would be admissible character evidence.

Inadmissible character evidence

2. The defendant is charged with assault. The prosecutor calls the owner of the defendant's apartment to testify in the prosecution's case-in-chief. She testifies that the defendant often paid his rent late and was very unreliable. This would likely not be admissible character evidence for two reasons: (1) This character evidence violates the general rule that character evidence is inadmissible (and it does not qualify under one of the three recognized exceptions above), and (2) the character trait of "reliability" is not relevant to an assault charge (by contrast, propensity for violence or non-violence would be relevant character traits in an assault case).

Form of Objection: **"Objection, your honor. Inadmissible character evidence," or "Objection, your honor. The question calls for inadmissible character evidence."**

9. Hearsay

Hearsay evidence is evidence of a statement that was made other than by a witness while testifying at trial and that is offered to prove the truth of the matter stated. (This means the person who is testifying to another person's statement is offering the statement to prove it is true.) Hearsay is considered untrustworthy because the declarant (aka speaker) of the out-of-court statement did not make the statement under oath and is not present in court to be cross-examined. Because these statements are unreliable, they ordinarily are not admissible.

Usage Comments

Testimony not offered to prove the truth of the matter stated is, by definition, *not* hearsay. For example, testimony to show that a statement was said and heard, or to show that a declarant could speak in a certain language, or to show the subsequent actions of a listener, is admissible.

Examples:

1. Joe is being tried for murdering Henry. The witness testifies, "Ellen told me that Joe killed Henry." If offered to prove that Joe killed Henry, this statement is hearsay and would likely not be admitted over an objection.

2. A witness testifies, “I went looking for Eric because Sally told me that Eric did not come home last night.” Sally’s comment is an out-of-court statement. However, the statement could be admissible if it is not offered for the truth of its contents (that Eric did not come home) but instead is offered to show why the witness went looking for Eric.

Form of Objection: “**Objection, your honor. Counsel’s question calls for hearsay.**” Or “**Objection, your honor. This testimony is hearsay. I move that it be stricken from the record.**”

Hearsay Exceptions

Out of practical necessity, the law recognizes certain types of hearsay that may be admissible. Exceptions have been allowed for out-of-court statements made under circumstances that promote greater reliability, provided that a proper foundation has been laid for the statements. The Simplified Rules of Evidence recognize only the following exceptions to the hearsay rule:

- a. **Declaration against interest** is a statement which, when made, was contrary to the declarant's own economic interest, or subjected the declarant to the risk of civil or criminal liability, or created a risk of making the declarant an object of hatred, ridicule, or social disgrace in the community. A reasonable person in the declarant’s position would not have made the statement unless the person believed it to be true.
- b. **Excited utterance** is a statement that describes or explains an event perceived by the declarant, made during or shortly after a startling event, while the declarant is still under the stress of excitement caused by the event.
- c. **State of mind** refers to a statement that shows the declarant’s then-existing state of mind, emotion, or physical condition (including a statement of intent, plan, motive, mental state, pain, or bodily health).
- d. **Records made in the regular course of business (including medical records)** are writings made as a record of an act or event by a business or governmental agency (Mock Trial does not require the custodian of the records to testify). To qualify as a business record , the following conditions must be established:
 - (1) The writing was made in the regular course of a business;
 - (2) The writing was made at or near the time of the act or event; and
 - (3) The sources of information and method of preparation are trustworthy.
- e. **Official records by public employees** are writing made by a public employee as a record of an act or event. The writing

- must be made within the scope of duty of a public employee.
- f. **Prior inconsistent statement** is a prior statement made by a witness that is inconsistent with the witness's trial testimony.
 - g. **Prior consistent statement** is a prior statement made by a witness that is consistent with the witness's trial testimony. Evidence of a prior consistent statement can only be offered after evidence of a prior inconsistent statement has been admitted for the purpose of attacking the witness's credibility. To be admissible, the consistent statement must have been made before the alleged inconsistent statement.
 - h. **Statements for the purpose of medical diagnosis or treatment** are **statements** made for purposes of medical diagnosis or treatment and describing medical history, past or present symptoms, pain, or sensations.
 - i. **Reputation of a person's character in the community** is evidence of a person's general reputation with reference to his or her character or a trait of his or her character at a relevant time in the community in which the person then resided or in a group with which the person habitually associated.
 - j. **Dying declaration** is a statement made by a dying person about the cause and circumstances of his or her death, if the statement was made on that person's personal knowledge and under a sense of immediately impending death.
 - k. **Co-conspirator's statements** are statements made by the declarant while participating in a conspiracy to commit a crime or civil wrong. To be admissible the following must be established: (a) The statement was made in furtherance of the objective of that conspiracy; (b) the statement was made prior to or during the time that the declarant was participating in that conspiracy; and (c) the evidence is offered either after admission of evidence sufficient to sustain a finding of the facts specified in (a) and (b) or, in the court's discretion as to the order of proof, subject to the admission of this evidence.
 - l. **Adoptive admission** is a statement offered against a party, that the party, with knowledge of the content of that statement, has by words or other conduct adopted as true.
 - m. **Admission by a party opponent** is any statement by a party in an action when it is offered against that party by an opposing party. The statement does not have to be against the declarant's interest at the time the statement was made.

Objections for inappropriately phrased questions:

10. Leading Questions

Attorneys may not ask witnesses leading questions during direct examination or re-direct examination. A leading question is one that

suggests the answer desired. Leading questions are permitted on cross-examination.

Usage Comments

Example: During direct examination, the prosecutor asks the witness, “During the conversation on March 8, didn’t the defendant make a threatening gesture?” Counsel could rephrase the question, “What, if anything, did the defendant do during your conversation on March 8?”

Form of Objection: **“Objection, your honor. Counsel is leading the witness.”**

11. Compound Question

A compound question joins two alternatives with “and” or “or,” preventing the interrogation of a witness from being as rapid, distinct, or effective for finding the truth as is reasonably possible.

Usage Comments

Example:

“Did you determine the point of impact from conversations with witnesses and from

physical marks, such as debris in the road?” If an objection to the compound question is sustained, the attorney may state “Your honor, I will rephrase the question,” and then break down the question into two separate questions:

Q1: “Did you determine the point of impact from conversations with witnesses?”

Q2: “Did you also determine the point of impact from physical marks in the road?”

Remember that there may be another way to make your point.

Form of Objection: **“Objection, your honor, on the ground that this is a compound question.”**

12. Narrative

A narrative question is too general and calls for the witness in essence to “tell a story” or give a broad and unspecific response. The objection is based on the belief that the question seriously inhibits the successful operation of a trial and the ultimate search for the truth.

Usage Comments

Example:

The attorney asks A, “Please describe all of the conversations you had with X before X started the job.” This question calls for the witness to give a long narrative answer. It is therefore, objectionable.

Form of Objection: **“Objection, your honor. Counsel’s question calls for a narrative.” Or, “Objection, your honor. The witness is providing a narrative answer.”**

13. Argumentative Question

An argumentative question challenges the witness about an inference from the facts in the case. The cross-examiner may not harass a witness, become accusatory toward a witness, unnecessarily interrupt the witness’s answer, or make unnecessary comments on the witness’s responses. These behaviors are also known as “badgering the witness.” (If a witness is non-responsive to a question, see the non-responsive objection (#16) below.)

Usage Comments

Example:

Questions such as “How can you expect the judge to believe that?” are argumentative and objectionable. The attorney may argue the inferences during summation or closing argument, but the attorney must ordinarily restrict his or her questions to those calculated to elicit relevant facts.

Form of Objection: **“Objection, your honor. Counsel is being argumentative.” Or “Objection, your honor. Counsel is badgering the witness.”**

14. Asked and Answered

Witnesses should not be asked a question that has previously been asked and answered. This can seriously inhibit the effectiveness of a trial.

Usage Comments

Examples:

On direct examination, the prosecution attorney asks, “Did the defendant stop at the stop sign?” Witness answers, “No, he did not.” Then, because it is a helpful fact, the direct examining

attorney asks again, "So the defendant didn't stop at the stop sign?"

Defense counsel could object on asked-and-answered grounds.

On cross-examination, the defense attorney asks, "Didn't you tell a police officer after the accident that you weren't sure whether X failed to stop for the stop sign?" Witness answers, "I don't remember." Defense attorney then asks, "Do you deny telling the officer that?" If the prosecution attorney makes an asked-and-answered objection, it should be overruled. Why? In this example, defense counsel rephrased the question based upon the witness's answer.

Form of Objection: **"Objection, your honor. This question has been asked and answered."**

15. Vague and Ambiguous Questions

Questions should be clear, understandable, and as concise as possible. The objection is based on the notion that witnesses cannot answer questions properly if they do not understand the questions.

Usage Comments

Example:

"Does it all happen at once?"

Form of Objection: **"Objection, your honor. This question is vague and ambiguous as to "what happened at once."**

16. Non-Responsive Witness

A witness has a responsibility to answer the attorney's questions. Sometimes a witness's reply is vague or the witness purposely does not answer the attorney's question. Counsel may object to the witness's non-responsive answer.

Usage Comments

Examples:

The attorney asks "Did you see the defendant's car in the driveway last night? The witness answers, "Well when I got home from work I hurried inside to make dinner. Then I decided to watch TV and then I went to bed. This answer is non-responsive as the question is specifically asking if the witness saw the defendant's car on the night in question.

Form of Objection: **“Objection, your honor. The witness is being non-responsive.”**

17. Outside the Scope of Cross-Examination

Re-direct examination is limited to issues raised by the opposing attorney on cross-examination. If an attorney asks questions beyond the issues raised on cross-examination, opposing counsel may object to them.

Form of objection: **“Objection, your honor. Counsel is asking the witness about matters beyond the scope of cross-examination.”**

Summary of Allowable Evidentiary Objections for the California Mock Trial

1. **Unfair Extrapolation:** “Objection your honor. This question is an “unfair extrapolation,” or “This information is beyond the scope of the statement of facts.”
2. **Relevance:** “Objection, your honor. This testimony is not relevant,” or “Objection, your honor. Counsel’s question calls for irrelevant testimony.”
3. **More Prejudicial Than Probative:** “Objection, your honor. The probative value of this evidence is substantially outweighed by the danger of undue prejudice (or confusing the issues, wasting time, or misleading the trier of fact).”
4. **Foundation:** Objection, your honor. There is a lack of foundation.”
5. **Personal Knowledge/Speculation:** “Objection, your honor. The witness has no personal knowledge to answer that question.”
Or “Objection, your honor, speculation.”
6. **Opinion Testimony (Testimony from Non-Experts):**
“Objection, your honor. Improper lay witness opinion,” or
“Objection, your honor. The question calls for speculation on the part of the witness.”
7. **Expert Opinion:** “Objection, your honor. There is a lack of foundation for this opinion testimony,” or “Objection, your honor. Improper Opinion.”
8. **Character Evidence:** “Objection, your honor. Inadmissible character evidence,” or “Objection, your honor. The question calls for inadmissible character evidence.”
9. **Hearsay:** “Objection, your honor. Counsel’s question calls for hearsay,” or “Objection, your honor. This testimony is hearsay. I move that it be stricken from the record.”
10. **Leading Question:** “Objection, your honor. Counsel is leading the witness.”
11. **Compound Question:** “Objection, your honor. This is a compound question.”

12. **Narrative:** “Objection, your honor. Counsel’s question calls for a narrative.” Or, “Objection, your honor. The witness has lapsed into a narrative answer.”
13. **Argumentative Question:** “Objection, your honor. Counsel is being argumentative,” or “Objection, your honor. Counsel is badgering the witness.”
14. **Asked and Answered:** “Objection, your honor. This question has been asked and answered.”
15. **Vague and Ambiguous:** “Objection, your honor. This question is vague and ambiguous as to _____.”
16. **Non-Responsive:** “Objection, your honor. The witness is being non-responsive.”
17. **Outside Scope of Cross-examination:** “Objection, your honor. Counsel is asking the witness about matters beyond the scope of cross-examination.”

- NOTES -

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