



TRIAL COURT

RULES OF PROCEDURE



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I. PARTICIPANTS

Judge

1. The judge has final authority over courtroom decisions not affected by these rules, including: objections, evidence, courtroom seating, and decorum. Seating is provided for observers behind the bar only.
2. Judges must keep control of their courtroom by not allowing excessive and improper objections.
3. Presiding judges for mock trials may include Youth and Government Student Judges or Youth and Government Judicial Alumni.
4. Presiding judges are asked to conduct the trial according to mock trial procedures. The judge may also comment on the factual and legal merits of the case at the conclusion of the trial.
5. A judge may not interrupt an attorney's opening statement or closing argument to ask questions. The judge may not question any witnesses.
6. The decisions of the judge with regard to rules, challenges and all other matters are final.
7. After deliberating, but before releasing the contestants from the trial, the trial judge shall render the decision as to who won the case. Time permitting the trial judge shall explain the basis for the decision.
8. The Judge is responsible to:
 - a. Thoroughly know all of the "Simplified Rules of Evidence" and Trial Procedure Rules and make sure they are strictly enforced.
 - b. Thoroughly know all objections: make sure you know definitions and know if any given question is objectionable.
 - c. Strictly enforce and maintain the rules of decorum.
 - d. Be early to your courtroom.
 - e. Be the trier of law and trier of fact.
 - f. Rule on objections and admissibility of evidence.



- g. Determine whether or not the Prosecution met the burden of proof, and then give the verdict (if time permits, can explain the basis for the decision – you have up to 4 minutes for this process).
- h. Bring the courtroom to order, call the case, and begin the trial.
- i. Swear in the witnesses.

Attorney

1. Attorneys may use notes in presenting their cases. However, their scores may be lowered if they rely heavily on notes during their presentation.
2. Teams may prepare trial notes and trial notebooks, but submission of trial briefs/written motions/etc. will not be permitted. Teams may not cite statutes or case law unless provided as part of the case materials.
3. Electronic devices can only be used if they are in 'Airplane/Flight Mode' for notes or time keeping only. Teams will have points deducted if electronic devices are used for other reasons as described above.
4. Each lawyer must do either the entire opening or the entire closing in each trial. Each lawyer must do at least one direct examination on witnesses for their team. Each lawyer must do at least one cross examination of witnesses for the other team.
5. The same lawyer who does the direct examination of a witness must respond to any objections made to the direct or redirect examination and make all objections to the cross and re-cross examination.
6. The same lawyer who makes the first objection to the direct examination must make all objections for that witness and must perform the cross and re-cross examination of that same witness.
7. Attorneys may request bench conferences with the judge to clear up or protest a significant procedural, mock trial rule violation or factual questions. It is the responsibility of the attorney to state the page and rule number in question. One representative from each team should be present for all bench conferences. All disputes must be given to the judge before the end of the trial. The decision of the judge is final. Students are advised not to overuse this procedure.



8. Objections during opening statements and closing arguments are not permitted. Attorneys may not make “offers of proof,” stating objections that would have been made, after opening statements and closing arguments.

Witness

1. A student portraying a witness may dress in appropriate court attire consistent with the character being portrayed.
2. During the trial, witnesses will not be permitted to use notes or read from any writing unless questioned or cross-examined about an affidavit or trial exhibit.
3. Each team must call three different witnesses (must be three different students) For some cases, teams will decide which three out of four possible witnesses they will choose to call. Other cases only have three witnesses per side.
4. Each witness is bound by the facts as contained in that witness' statement(s) and any related documentation. A witness is not bound by the facts as contained in the statements of other witnesses.
5. Witnesses may not embellish the facts of the case. On direct examination, a witness may testify to limited additional facts provided the new information is merely incidental and is supported by reasonable inference from the witness' statement.
 - a. For example, if the case fact says: “I went to an ivy league school in Massachusetts and was top of my class” a reasonable inference would be “I went to Harvard and was valedictorian.”
 - b. However, if the case fact says: “I went to college,” it is not a reasonable inference to say “I was the valedictorian at Harvard University with a degree in astrophysics.”
6. If a witness in the case is described in the affidavits as having certain physical characteristics such as height or weight, you are not permitted to put someone of different physical characteristics on the stand as this witness and call into question the characteristics described in the affidavit. The affidavit governs those characteristics of the defendant no matter who you put on the stand to play this part.



7. If a witness testifies to facts contrary to those contained in his or her statement, the sole remedy is for the cross-examiner to impeach that witness' credibility by questioning the witness regarding the contradiction. The result of the impeachment is simply pointing out the contradiction.
**There is no formal acknowledgment of being "impeached" and the witness does not get forced to leave the stand.
8. Witnesses are not to be excluded during the mock trial. No team may invoke the rule of sequestration.
9. No witness will be automatically considered to be an expert witness. Attorneys should ask questions designed to demonstrate the training and experience that qualifies the witness to give expert opinions and may then ask that the witness be qualified as an expert in certain specified fields. Opposing counsel may object that particular opinions are outside the scope of the expertise of a witness, or make other objections allowed by the case materials and the Mock Trial Rules of Evidence.

Bailiff

1. At the state conference, the prosecution team is responsible for providing a bailiff for a round.
 - a. Teams with more than 5 members should use a team member not participating in a round as a bailiff.
 - b. Teams with only 5 members should provide a parent, coach or advisor to serve as a bailiff.
 - c. Any student, parent, coach or advisor that is expected to serve as a bailiff must attend a brief training on the Thursday night of the state conference. The time of the training will be noted in the conference schedule. District Directors will provide information for District Conference training.
2. The bailiff should study the entire Rules of Procedure paying close attention to the time lines for each section of the trial and the sample trial script.
3. The bailiff should make sure they have all the necessary items to serve as Bailiff prior to the beginning of trial (these items will be provided to you):



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- a. Stopwatch or phone (used only on airplane mode for time keeping)
 - b. Time-keeping worksheet
 - c. Time cards
 - d. Something to write with
 - e. Judge/Bailiff sample script
4. Bailiff's are not permitted to provide critiques or advice during or after the trial. The Bailiff's only job is to keep time. Bailiffs should not keep teams after the round is over.
5. The bailiff should:
- a. Be early to your courtroom.
 - b. Serve as the bailiff for the entire round (plaintiff/prosecution and defense).
 - c. Ensure that accurate time is kept for both teams.
 - d. Sit at the front of the room, beside the judge in a spot where you can easily be seen by both attorney teams, the evaluator and the judge.
 - e. Announce "all rise" as the judge enters and leaves the courtroom.
 - f. Effectively keep time during the trial and signal the attorneys as to how much time they have remaining. Hold up the time cards for a sufficient amount of time so that the attorneys and judges can see them.
 - g. Once a team has used all of their allotted time for a given section, immediately say "time" in a quiet yet audible voice so the judge knows that the time has expired. The judge will move the trial on to whatever is next. For example, if "time" is call during a direct examination, then the judge will ask for cross examination.
 - h. Use the timing worksheet to accurately keep track of time. Use your timekeeping worksheet to mark down how much time was used in each section and keep track of how much time each team has left.
6. The bailiff will START timing only when each attorney starts to speak for that section of the trial. For example, opening statements start with "may it please the court" or "Your honor, today will prove..." Also, examination normally starts with "please stat your name for the court." DO NOT count time from the time the witness is called until he or she takes the witness stand (including the administration of the oath).



7. **DO NOT STOP timing during objections.** Also, time DOES NOT STOP for the introduction of evidence.
8. Reset the stop watch to zero after each section (ie: after each opening, after each direct 1 and each cross, and after each closing).
9. After the trial:
 - a. Add up the time used for each team and sign the timekeeping sheet.
 - b. Turn in the completed and signed timing sheet to the presiding judge or to the courtroom monitor collecting the trial forms.
 - c. Leave the time cards, stopwatch and blank timekeeping forms in the room for next trial round.
 - d. Help straighten up the courtroom for the next round.

Evaluator

1. The person evaluating the case may penalize a team for making excessive objections if he or she feels that the purpose of the objections is to prevent opposing counsel from having a fair opportunity to present their case, as opposed to making legitimate objections to the evidence being offered.
2. The evaluator will be given a critique worksheet and asked to write their comments on the sheet rather than give oral critiques. The critique sheet will not reflect scores nor should you ask the evaluator for your score sheet.

Observers

1. In order to minimize disruption, observers should plan to attend the entire trial.
2. Visitors in the courtroom may not communicate with teams during the trial. It is unacceptable to nod at witnesses to prompt their answers, to make noises indicating answers are right or wrong, or communicate in any other way with any trial participant while the trial is ongoing. Reports of this type of behavior should be made to the judicial office immediately following a trial round where they will be investigated.



Reports that are confirmed will subject the violating team to a five point deduction from that round's scores. An announcement to this effect will be made at the beginning of every trial.

3. Instructors and observers shall not talk to, signal, communicate with, or coach their teams during trial. Additional team members and coaches must remain with their team members presently competing and may not observe other trials. This rule applies from the time the teams enter the courtroom until the time they exit the courtroom.
4. Visitors in the courtroom must stay behind the bar. Visitors are not permitted to communicate with the evaluator. Visitors are not permitted to communicate with a team once the team enters the courtroom. Visitors should save their congratulations and corrections for a team until after the round is completely over and the evaluator has left the room.

II. TRIAL PREPARATION

Materials

1. Each witness statement in the case must be considered a sworn affidavit or declaration of that witness, appropriately signed, dated, notarized and timely filed with the court prior to trial. To the extent any statements conflict, that may be brought out in closing argument or on cross-examination.
2. Students may read other cases, materials, articles, etc., in preparation for the mock trial. They may, however, only cite the materials given as part of the official case materials.

Exhibits

1. The only exhibits which may be introduced into evidence during the trial are the original exhibits provided in the official case materials. No other exhibits or visual aids may be brought to court unless otherwise specifically set forth in these rules.
2. Please review the training video on Texas YG website for the proper way to authenticate and offer exhibits into evidence.



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3. The exhibits provided with the case, or portions of an exhibit, may be enlarged up to 23" by 29", and displayed on standard black or white poster board or foam core. The enlargements may only be in black and white, even if the original exhibit is in color. Exhibits may be enlarged either by direct copying or, if the exhibit is a written document, by retyping the enlarged section of the exhibit in a similar black font.
4. While testifying, witnesses are allowed to make sketches or diagrams, consistent with their statements, to illustrate their testimony. These materials are not to be marked and do not become exhibits and do not become evidence.
5. Simple charts outlining a timeline, evidence or law may be used for closing arguments and may be prepared in advance of the competition. However, these items may be used as demonstrative exhibits only.
6. The use of any electronic devices during any portion of the trial is prohibited. This includes videotaping or audio taping any rounds or taking photographs during any round without the express consent of all participants.
7. Unless otherwise provided for in the case materials, stipulations may be presented through the testimony of any witness.

III. SCHEDULE AND ORDER OF TRIAL

Courtroom Decorum

1. All participants and visitors (coaches, teachers, family members) are expected to display proper courtroom decorum, good sportsmanlike conduct and appearance appropriate for the part they are to play during the trial.
2. Any concerns about potential dress code violations by any student may not be addressed in the courtroom in front of other students or the evaluator. All concerns should be addressed directly with the Judicial Section leaders in the Judicial Office.
3. Remember: Impressions matter and sometimes they can be reflected in your overall score. Your evaluator may be in the hallway, bathroom or outside. When the judge is out of the room for his/her deliberations, your evaluator is still in the room with you.



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Just because the round is over does not mean the evaluator has finished filling out their evaluation sheet and they can sometimes hear your discussion with your team and others around you.

4. Before and in between rounds, please be courteous of the facilities and those who may be present in the hallways and nearby offices.
5. Teams are expected to be present in their assigned courtroom ten minutes before the scheduled starting time of their trial. Whenever possible, the starting time of any trial should not be delayed for longer than 5 minutes. Incomplete teams will have to begin without their other members or with alternates. Teams without a sufficient number of participants to start the trial will forfeit the match. Teams coming from a prior trial that went overtime will not be penalized.
6. Team members may briefly introduce themselves to the judge and evaluators, indicating a member's name and the witness part he or she will play, without further description of the character. An attorney team member should not describe the specific parts of the trial they will present. Introductions and clarifying questions and comments should be kept short, are not part of the trial, and should not be considered in scoring decisions.
7. Unless otherwise directed by the judge, the teams should adhere to the following courtroom layout: the plaintiff's (prosecuting) attorneys sit at the table closest to the jury (evaluator's) box.
8. If the courtroom facility allows for water, participants may have water bottles at the counsel table. Otherwise no eating or drinking will be permitted in the courtroom. NOTE: DRINKS INCLUDING WATER ARE NOT ALLOWED IN THE LEGISLATIVE HEARING ROOMS.
9. Remain seated at the counsel table during questioning, except when granted permission to approach the witness or bench; rise when addressing the judge; direct all remarks to the judge, jury or witness (never to opposing counsel). Unless excused by the judge, attorneys will stand while giving opening and closing statements.
10. When the Judge ascends the bench, complete order should be observed.



11. In addressing the Judge, attorneys should at all times stand and address the Judge from his/her position at counsel table, and should not approach the bench except with permission of or at the request of the Judge. While interrogating witnesses, the attorney shall remain seated at the counsel table except when permitted by judge to handle or display exhibits or to make objections or to approach the witness.
12. The Judge should be respectfully and properly addressed at all times, and all objections and legal arguments by counsel shall be directed to the Judge and not to opposing counsel.
13. When the Judge addresses counsel, it should be done impersonally, as by "Counsel", rather than by first name. Counsel should also behave impersonally toward the Judge.
14. Lawyers shall never lean on the bench or engage the Judge in a confidential manner, except at the request of the Judge.

Timelines

1. Teams are responsible for keeping track of the time, and staying within the total time limit. The time limits on each phase of the trial are listed below. The designated bailiff will keep the official time.
2. Each trial shall take no more than 90 minutes and shall be limited in time as follows:
 - a. Opening statements are limited to two (2) minutes for each team.
 - b. Closing statements are limited to three (3) minutes for each team. The party with the burden of proof may reserve a portion of their time for rebuttal after the defense closing. When this attorney concludes their first closing statement, they must inform the judge, "I wish to reserve the remainder of my time for rebuttal." The maximum amount of time that is allowed for rebuttal is one (1) minute. The one minute for rebuttal is part of the three minutes allotted for closing, not in addition to.
 - c. Each team has 18 minutes to present its side (direct and re-direct examination).



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- The team may divide the time among the witnesses however they choose, but each team must call three (3) witnesses to testify for their team.
- d. Each team has 15 minutes for cross and re-cross examination. The team may divide the time among the witnesses however they choose, but the team must cross-examine all of the opposing side's witnesses.
 - e. The minimum time for direct or cross examination of any witness is 30 seconds.
 - f. Time will not stop during objections.
 - g. Each team has 2.5 "free minutes" that they can use at any place in the trial. These "free minutes" are to make up for time used for objections. It is up to each team to notify the bailiff at the beginning of each round how and where they want their "free minutes" allotted. **"Free minutes may not be used during opening or closing."**
 - h. Judge's rulings on any issue, including the final verdict should not take more than 4 minutes total (this includes the time that the judge exits the room to deliberate and the time it takes to make a ruling).
 - i. Judge and Evaluator's Critique should be not more than 5 minutes.

Order of Trial

PRETRIAL

1. The prosecution always sits on the side of the witness stand.
2. The bailiff will announce the all rise and that the court is in session as the judge enters
3. The judge will sit and announce to the courtroom "you may be seated"
4. The judge should ask:
 - a. (for criminal charge) "is the prosecution ready" and then ask "is the defense ready"
 - b. (for civil charge) "is the plaintiff ready" and then ask "is the defense ready."
5. The judge MUST announce these rules of court:
 - a. No food or drink in the courtroom



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- b. Instructors and observers shall not talk to, signal, communicate with, or coach their teams during trial. It is unacceptable to nod at witnesses to prompt their answers, to make noises indicating answers are right or wrong, or communicate in any other way with any trial participant while the trial is ongoing.
 - c. Any concerns about how the trial is conducted, sidebar coaching from the audience, evaluator critiques, dress code, etc. **MUST** be addressed with the designated judicial official immediately after the trial. These matters should not be discussed in the courtroom.
 - d. Photographing and recording of trial is only allowed by designated/identified Media Delegates or State Office volunteers to minimize distractions in court room.
6. The judge should next ask for any questions before starting.
 7. The judge should swear in all witnesses.

OPENING STATEMENTS:

The judge should tell the plaintiff/prosecution they may proceed with their opening statement. When the plaintiff/prosecution finishes their opening, the judge should ask the defense attorney if they want to give their opening now or at the beginning of their case-in-chief.

- a. NOTE: THE PLAINTIFF/PROSECUTION ALWAYS GOES FIRST.
- b. PURPOSE of OPENING STATEMENTS: Introduction and acquaint the judge with the nature of the case and what is expected to be proven, i.e. - what the evidence will show.
- c. "Your Honor, my name is _____ together with my co-counsel _____ we represent the State of Texas in today's case. The State has charged the defendant with the offense of Theft. The evidence will show that the defendant ... We will call three witnesses who will tell you..."
- d. You can spice up openings by telling it as a story or providing a theme for your trial case. (i.e. "If the glove doesn't fit, you must acquit.")



EXAMINATIONS:

1. Once opening statements are made, the judge should tell the plaintiff/prosecution that they can call their first witness. Once the plaintiff/prosecution has concluded their direct examination, one defense attorney will cross examine the witness. Afterward, the plaintiff/prosecution will conduct a re-direct examination and ask additional questions. Finally, the defendant may conduct a re-cross examination.
2. Both the plaintiff/prosecution and defense have three witnesses each and each team must call all three witnesses and cross examine all three witnesses. (re-direct and re-cross are optional to each team but the questions in re-direct must relate to the questions that the opposing team asked in cross examination and the questions asked in re-cross must relate to the questions asked on re-direct examination).
3. **DIRECT EXAMINATION:** The plaintiff/prosecution is attempting to prove the elements of the offense/violation of law. The defense is attempting to challenge one or more of the elements of the offense/violation of law.
 - a. You call the witness to the stand. "Your honor the State calls Officer Heinz to the stand."
 - b. Always start with their full name and any relevant professional qualifications.
 - c. Call for answers based on information provided in the case materials relevant to the witness you have called to the stand.
 - d. Bring forth sufficient facts to prove your team's position or argument.
 - e. Ask the witness to tell a story instead of just agreeing with your question.
 - f. Strengthen the witness's credibility and keep them on track.
 - g. Examples:
 - i. Tell the court what happened when you entered the room.
 - ii. What did you see after the defendant broke the vase?
 - iii. How long were you at the restaurant?
 - h. Conclude with: "Your honor, we pass the witness."



4. CROSS EXAMINATION:

- a. You are questioning the opposing party's witness to explore weaknesses in their testimony by pointing to a bias, a contradiction or to secure facts favorable to your side of the case.
- b. You are the storyteller in cross. Stick to leading questions and avoid asking "why?"
- c. Examples:
 - i. Isn't it true that..
 - ii. Wouldn't you agree that..
 - iii. On the night of the robbery, you were in the alleyway, correct?
- d. Conclude with: "Your honor, we pass the witness."

5. REDIRECT: To reestablish the credibility of the witness and their testimony.

6. RECROSS: To challenge the points made during the redirect examination.

7. EXHIBITS: During the trial, an attorney may introduce physical exhibits that have been provided in the case materials (photos, maps, diagrams, etc.). Although the process for introducing evidence may change depending on the preferences of your trial court judge, here is a sample outline to follow:

- a. Request permission: "Your honor, may I approach the witness for the purpose of laying a foundation for the introduction of evidence?"
- b. On the way, show evidence to opposing counsel: "Tendering copy to opposing counsel."
- c. Lay Foundation: "Mr. Smith, I am showing you what has been pre-marked as State's Exhibit 1. Do you recognize this exhibit? What is it? Is it a fair and accurate depiction of ...? Has it been tampered with in any way? Etc."
- d. Offer Evidence: "May I approach the bench? Your honor, State Offers Exhibit 1 into evidence."
- e. Objections: (Judge) "Any objections." (Opp. Attorney) "None, your honor."
- f. Entry into Evidence: (Judge) "States Exhibit 1 is now entered into evidence."



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- g. Use Exhibit: Never enter evidence without using it. "May I approach the witness? Mr. Smith can you describe the color of the vehicle in this picture."
 - h. Return entered exhibits at the Judge's bench until after trial.
8. Once the plaintiff/prosecution has called all of their witnesses, then the judge should tell the defense that they can either give their opening statement (if they have not already) or call their first witness.

CLOSING ARGUMENTS:

1. Once the defense rests, the judge should ask the plaintiff/prosecution to give their closing statement. After the plaintiff/prosecution finishes their closing, the judge will give the defense an opportunity to make a closing statement. When the defense finishes their closing, the plaintiff/prosecution will be given an opportunity to give a rebuttal of up to 1 minute (if they have reserved time)
 - a. PURPOSE OF CLOSING: To summarize the important facts of the case in the light most favorable their side. Should forcefully and dynamically urge their position in a clear and logical, persuasive argument. Highlight weakness of opponent's case.
 - b. Unlike opening, closing can be more dramatic and emotional. It should not simply be a prepared speech but should reflect what happened during that trial round.
 - c. Always conclude with what you want. "Find the defendant guilty."
 - d. Examples:
 - i. The prosecution has failed to prove beyond a reasonable doubt that...
 - ii. The evidence has shown ...
2. Once both sides have given their closing, the Judge will state: "the court will now stand in recess while I deliberate." The bailiff will say "all rise" and the Judge will leave the room to briefly deliberate. You have 4 minutes allotted to deliberate and return to give your decision.



IV. SAMPLE TRIAL SCRIPT

Update this script with your name, your co-counsel's name, the judge's name, the case type, the defendant's name, etc.

Call to Order/House Keeping Matters:

BAILIFF: "All rise, for the honorable Judge Judy. This court is now in session."

JUDGE: "You may be seated. The Court calls "18-012345, The State of Texas v. Cameron Shepard." Then for criminal case asks, "is the prosecution ready to proceed" or for a civil case ask "is the plaintiff ready to proceed?"

PROSECUTION: "Yes, your honor. I, John Smith, along with my co-counsel, Jane Smith, represent the State of Texas."

JUDGE: "Is the Defense ready?"

DEFENSE: "Yes, your honor. I, John Doe, along with my co-counsel, Jane Doe, represent the defendant Cameron Shepard."

JUDGE: "Would all witnesses who are planning to testify please rise, raise your right hand and repeat after me?. Do you swear to tell the truth, the whole truth and nothing but the truth so help you God?"

Opening Statements:

JUDGE: "The Court will hear opening statements on behalf of the State."

PROSECUTION: (Makes the opening statement.)



JUDGE: "Does the Defense wish to make an opening statement at this time, or wait until the conclusion of the State's case?"

DEFENSE: Defense can make a statement now (or wait after the plaintiff/prosecution call all of their witnesses).

Plaintiff/Prosecution Case-in-chief

JUDGE: "The Court will hear evidence on behalf of the Prosecution. You may call your first witness."

PROSECUTION: The State calls it's first witness and conducts direct examination. "Your Honor, the State calls Officer Heinz to the stand."

JUDGE: "Defense, you may now conduct cross examination"

DEFENSE: Defense conducts cross examination.

JUDGE: Judge allows for re-direct and then re-cross. This process is repeated for remaining plaintiff/prosecution witnesses.

PROSECUTION: When all evidence has been presented by the plaintiff/prosecution, the attorney will say, "The prosecution rests."

Defense Case-in-chief

JUDGE: If the defendant has not given an opening statement yet – "The defense may not give an opening statement" or if defense has already opened - "The Court will hear evidence on behalf of the Defense. You may call your first witness."



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DEFENSE: Same procedure as before except the defense conducts direct examination and the plaintiff/prosecution will conduct cross examination. After all witnesses are call the defense will say "the defense rests."

Closing Arguments

JUDGE: "The Court will hear closing arguments for the State."

PROSECUTION: State's closing arguments and then end with, "We would like to reserve the remainder of our time for rebuttal."

JUDGE: "The Court will hear closing arguments on behalf of the Defendant."

DEFENSE: Defense closing arguments.

PROSECUTION: (Rebuttal if requested and time permits)

JUDGE: "The Court will be in recess while I deliberate."

BAILIFF: (As Judge leaves courtroom) "All rise" and again as judge enters.

JUDGE (for criminal case): "Would the defendant please rise. After hearing all the witnesses and reviewing the evidence, I find that the prosecution has/has not met its burden of proof in this case. As such the defendant is guilty/not guilty of the offense as charged." (for civil case): "I find that the plaintiff has/has not met their burden of proof. As such the plaintiff is liable to the defendant for damages."

JUDGE: This court is now in recess and you are excused.

BAILIFF: (If judge is leaving courtroom) "All rise."