



TRIAL COURT

TIPS FOR EVALUATORS

CASE INFORMATION

1. Domenico DeSole, plaintiff, brings a civil lawsuit against Anne Freedman, defendant, alleging Freedman engaged in an illegal racketeering enterprise to sell fraudulent, highend abstract impressionists artworks.
2. Anne Freedman claims to have had no knowledge that the artwork was fake. She obtained opinions from experts that the sold paintings were legitmate.
3. The case is adapted from a real civil case which was featured on the Netflix Documentary "Made You Look." The students are trying the case in the year 2016, although that reality might not come up in the trial. This case is the most complex case that has ever been presented to Texas YAG High School competitors. In total the case is 80 pages in length, when historically cases have been 40 pages in length. There is a lot of information for each witness and the attornies to distill into a 90 minute trial.
4. Due to the fraud charge, the plaintiff's burden of proof is clear and convincing evidence.
5. Each team must call three witnesses.

WITNESSES FOR THE PLAINTIFF:

1. Domenico DeSole, the plaintiff. Will "tell the story" and establish the basic elements of the civil case.
2. James Martin, forensic analyst. Will explain the science behind how he discovered the paintings were fake.
3. David Anfam, art historican. Will describe how Freedman manipulated the art world experts to providing a statement about the works and how Freedman construed those statements to be "opinions by experts."

WITNESSES FOR THE DEFENDANT:

1. Anne Freedman, defendant. Freedman will explain how everyone was fooled by the fake paintings. Everyone thought the paintings were genuine.
2. Stephen Polcari, art historian. Will explain how some of the initial doubts as the authenticity of the artwork weren't sufficient to call their authenticity into question. Polcari will explain how absurd it was to suggest that one forger could create the entire collection – looking back, how truly talented the forger is.
3. Laili Nasr, National Gallery of Art – Told Freedman that the Rothko would be included in the official publication of the artist's full history of works – a publication of the National Gallery of Art.



THE PHYSICAL EVIDENCE THAT MAY BE ENTERED:

- Exhibit 1: Summary of Artwork sold by Glafira Rosales (1994-2008).
- Exhibit 2: The Painting sold to Domenico DeSole (titled *Untitled*, dated 1956)
- Exhibit 3: Invoice from Knoedler to James Kelly, agent for Domenico DeSole.
- Exhibit 4: Fax, Warranty of Authenticity and Attachments.
- Exhibit 5: Orion Analytical Report of *Untitled* 1956.
- Exhibit 6: Essay by Dr. Stephen Polcari
- Exhibit 7: Letter from Laili Nasr
- Exhibit 8: Indictment Glafira Rosales

EVALUATORS AND SCORING

1. The decision for team and judge scores will be made by one or more evaluators who are Youth and Government judicial alumni, law students, sitting or retired trial and appellate judges, or any licensed attorneys.
2. Evaluators score the team performances and the judge's performance. Each evaluator fills out a ballot for each team and the judge. If there is more than one evaluator, the evaluators should not consult with one another during this process.
3. The criteria for scoring is provided on the ballots and replicated below:

Judge Scoring Criteria	Attorney Team Scoring Criteria
Calling the Court to Order (communicating any courtroom rules, swearing in the witnesses, announce that Court is in session, state the charges against the Defendant)	Opening Statement Provided case overview and teams side of the case; Mentioned key witnesses, Discussed burden of proof; Stated the relief requested; Did not use/rely on notes
Knowledge of Trial Procedure (:stick to schedule of trial, rules and proper procedures. Does not need guidance, does not hesitate during trial proceedings)	Attorney #1 and Attorney #2 Direct Exam (Developed case theme, avoided leading questions, questions short and to the point, handled objections appropriately.
Knowledge of Evidence Rules (Knows how to handle entering evidence, the order of who presents, etc.)	Attorney #1 and Attorney #2 Cross Exam (Asked only leading questions, questions short and to the point, properly impeached/discredited witness, handled objections appropriately, used various techniques, vocal tempo, volume, tone and pitch on cross exam.
Knowledge of Objections (Knows how to handle entering evidence, the order of who presents, etc.)	Use of Exhibits and Evidence (Exhibits marked, offered & entered into evidence, Effective use of exhibits)
Knowledge of the Law (Knows how to handle entering evidence, the order of who presents, etc.)	Knowledge of Trial Procedure (Knowledge of schedule of the trial, rules, and proper procedures)
Demeanor and Professionalism (Demands	Objections



respect, engaged, good posture, pleasant disposition)	(Relevant, Effective, Ability to Respond to Objections, Not Unfairly Excessive)
Interaction with Trial Participants (does not let attorneys go over time, politely directs attorneys and witnesses to proceed, etc.)	Overall Demeanor (Interaction with Judge and Opposing Counsel, Rapport with Witnesses, Standing when addressing the Court, Posture)
Decision Making Ability (Handle objections and questions efficiently, does not get thrown off by unexpected events)	Witnesses: Performance (Credible portrayal of character, appropriate emotion, understanding of facts, sounded spontaneous, appropriate courtroom demeanor, well prepared for cross examination. Minimal notes
Maintains Control of Courtroom (Preside effectively, keep time, make a ruling and explain why that team won)	Preparation (Organization, Prepared Use of Facts, Utilization of Time, Teamwork)
	Closing Argument –organized, persuasive (Summarized evidence and points supporting their case, Discussed burden of proof, pointed out flaws of opponents case, Minimal Notes

4. NO COMPLETED BALLOTS ARE TO BE VIEWED BY ANY TEAM MEMBER OR ANY OTHER PERSON DURING THE COMPETITION, in compliance with the educational goals of the Judicial Program. These are to be returned to the tournament staff after the round has been concluded and the winning team recorded. Score and comment sheets for a team will be copied and distributed to that team’s coach after the competition is completed.
5. Conference staff will check evaluator ballots for complete scoring and for improper scores. Whenever possible, evaluators will be asked to make any necessary corrections. When an evaluator cannot be located, or other circumstances prevent timely consultation with the evaluator concerning the ballot, conference staff will correct improper entries before the ballot is totaled, or take other appropriate action.
6. General Scoring Guidelines
 - a. Please be sure to completely fill in your name and all the participants’ names on the evaluation forms. The Bailiff in your room can help you with this task
 - b. In scoring, start at 3 and work your way up or down from there based on performance
 - c. **Remember these are high school students and not college or law school students therefore please provide constructive but kindly worded critiques. The YMCA values education over competition. We want the students to have a positive experience while learning about the legal system.**
 - d. PLEASE FILL OUT THE COMMENT FORM FOR EACH TEAM AND JUDGE. We realize we are asking you to juggle a lot of forms but there is not always time for critiques following the trial and your comments are so helpful to the

attorneys teams and judges as they prepare for their next rounds. If there is time you may give oral feedback but we ask that you ALWAYS provide some written feedback on your comment form. **Please do not comment on the participants' clothing choices; the judicial staff handles all issues regarding appropriateness of dress.**

- e. Please return your evaluation packet to the judicial office promptly so the forms can be tabulated in a timely manner.
 - f. On the evaluation form of the winning team (ie: **the team the JUDGE picks to win**) please make some sort of notation identifying that particular team was the winner.
 - g. **IF YOU NOTICE ANYONE IN THE COURTROOM SIGNALING A WITNESS EITHER BY NODDING THEIR HEAD OR MAKING SOME INDICATION OF HOW THEY SHOULD ANSWER A QUESTION, PLEASE MAKE A NOTE ON THE EVALUATION FORM AND REPORT THIS TO THE JUDICIAL OFFICE AS SOON AS THE ROUND IS OVER.**
7. What we expect from the Attorney teams in each category of scoring:
- a. **Opening statements**-preferably are memorized, but attorney teams are not **required** to memorize them. They should tell the court what they intend to prove through the course of the trial.
 - b. **Direct Exam**-this should be based on how well the attorneys handle difficult situations with witnesses. For example, if a witness does not give the answer the attorney was looking for, the ability to create a new question to extract that information on the spot without getting flustered.
 - c. **Cross Exam**-Signs of a good attorney is the ability to handle hostile witnesses without badgering and extract information needed. Some attorney teams tend to be rude and badger the witness in cross-examination, but should not be confused with determination to get information or prove their point.
 - d. **Use of Exhibits and Evidence**-Attorneys should use the evidence throughout their presentation. The legal process for entering evidence is one of the skills that the attorneys must get right to get a good score. The documents are considered pre-marked. The judge should know the procedure. NOTE: Only the prosecution is required to enter evidence, though there is some evidence that would benefit the defense should they choose to enter it. If the defense does not enter evidence your score should be based on their response to the evidence and the handling of any exhibits.
 - e. **Knowledge of Trial Procedure**-Knowing the schedule of the trial (the order in which who presents), knowledge of the rules, and proper procedures should be known by the attorneys
 - f. **Objections**-Objections should be stated in a legal manner. The attorneys should know a legal objection, and not get up and give a long reason as to why the question or answer is not acceptable. The ability to respond to an objection is also vital for a high score (to respond with legal terms to the objections). Attorneys that do not respond to objections should be marked low.
 - g. **Overall Demeanor**-Attorneys must ALWAYS stand up COMPLETELY when addressing the judge, when the judge is addressing them, during opening

statements and closing arguments, and when objecting or responding to objections. It is the decision of the judge whether attorneys should sit or stand while questioning witnesses and each judge should make clear at the beginning of the trial which is his or her preference. Attorneys should show respect for the judge at all times, and are NEVER permitted to argue with the judge. Remember, the attorneys are in the judge's courtroom, and the judge is completely in control. Respect for the judge, both verbal and in body language is very important for an attorney team to score high.

- h. **Preparation**-Organization is extremely important if an attorney team plans on scoring high. Attorney teams that are always shuffling around with papers and talking to each other are not well prepared, and should be counted off accordingly. However, they are allowed to confer with each other as long as it does not become a distraction to the court. This also includes how strong or weak their cases are.
 - i. **Closing Arguments**-The closing argument is the sum of a team's case. If an attorney team reads what seems to be a pre-written speech and make statements that something was proven/disproved when it was not, the team should be scored low. The purpose of the closing argument is to state what was proven in that specific trial and the facts and evidence that were presented. Attorneys should ask the Court for a favorable verdict in their closing argument.
8. What we expect from the Judge in each category of scoring:
- a. Student judges are evaluated on: knowledge of trial procedure, knowledge of evidence rules, knowledge of objections, knowledge of the law, demeanor, and interaction with trial participants, decision making ability, and maintaining control of the courtroom.
 - b. The judge should open the case with the case number and the parties involved. They should ask if the defense wants the charges read.
 - c. During the trial, the role of the judge is to preside, keep order, make rulings, and oversee the different events in the course of the trial.
 - d. At the end of the trial, they should give a verdict and can explain why that team won the trial.
 - e. Just because the judge gives a verdict for a team does not necessarily mean the judge thought that team was better, and should not affect how they are scored by the evaluator(s)
 - f. They should demand respect, in the sense that if an attorney does not stand when addressed or is addressing the judge, or are referring to the judge by name or other names besides "your honor," "the court," "judge," the judge should instruct them otherwise.
 - g. It is the judge's courtroom, and he or she is in control to preside over the trial. A judge who allows a sloppy trial should be counted down. A judge



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who permits attorneys to argue with him, or the opposing counsel should be counted down.

- h. Judges are to keep the trial on schedule, as they are the time keepers. Judges who permit attorneys to run over time should be heavily counted down. Time does stop on objections unless they become excessive.
- i. If you have any question regarding the case, the judge should be able to help you. If the judge ever stops the trial and asks you a question, the judge is not well prepared. **Evaluators are not permitted to interrupt or stop the trial.**
- j. The only person who can stop and start the trial is the student judge, or the director of the competition
- k. Once the Judge makes a ruling, the attorneys should discontinue arguments as to that point. The Judge's ruling should be final.