

# INDIANA BAR FOUNDATION

## INDIANA HIGH SCHOOL MOCK TRIAL 2019 CASE MATERIALS Q&A

### QUESTIONS SUBMITTED (DECEMBER, 2018)

- Q1.** Will line numbers be added to the exhibits in future updates?
- Answer: No. Due to the nature of the exhibits (numerous charts, pictures, etc.) there will not be line numbers added to the exhibits.
- Q2.** The map key to Ex. 7 references a character named “Jones” that does not appear elsewhere in the case. The key additionally references Jones spotting Cowell. Is Jones meant to be Schmitt?
- Answer: “Jones” is a typo. The reference to “Jones” in Exhibit #7 should be a reference to Reed...not Schmitt.
- Q3.** On page 52 (Exhibit 7) In the bottom box it reads: “Where Cowell was found by Jones.” Who is Jones? Is this a Typo that was supposed to be Reed?
- Answer: Yes. See the Answer to Q2.
- Q4.** Exhibit 7 refers to “Jones.” Is that a typo? If not, who is “Jones”?
- Answer: See the Answer to Q2.
- Q5.** In the legend to exhibit 7 (the map), AC is labeled as the place where \*Jones\* found AC. Since you have changed Carl(y)’s last name from Jones to Reed, you should probably correct the map.
- Answer: The map will be updated, along with the rest of the Materials.
- Q6.** Exhibit 7: Where was Cowell when Reed spotted Cowell? We’re only showed where Reed found Cowell.
- Answer: The case materials stand as written. Reed doesn’t specify that fact in his/her statement.
- Q7.** I would like clarification regarding physical locations in the case. According to Ex. 7, the Band Room is in the main school building on the opposite side of the track/football field from the fieldhouse. Yet, Winthrop refers to seeing Reed & Schmitt running by the band room door carrying Cowell (p. 23, Lines 88-89). Miller also mentions seeing Schmitt & Reed with Cowell going by the door (p. 34 lines 52-53). Schmitt talks about driving (from the fieldhouse presumably) to the other end of the track w/ Reed and then back to the fieldhouse (p. 27, lines 100-102). How could anyone in the Band Room see Cowell being taken into the fieldhouse based on the map in Ex 7?
- Answer: The case, regarding the physical locations, stands as written. The witnesses’ statements regarding locations reflect their perceptions of the events that transpired.
- Q8.** The first email in Ex. 2 addresses Remington O’Dee as “Ms. O’Dee.” Elsewhere in the case, including another email in Ex. 2, O’Dee is referenced as male. What is O’Dee’s intended gender?
- Answer: The first reference to “Ms. O’Dee” in Exhibit #2 was inadvertent. Remington O’Dee’s intended gender is male. Since O’Dee is not a witness, this will not create any issues regarding the gender of witnesses during competitions.

- Q9.** In Addison Cowell’s deposition, he/she states that “[t]here should be a Rule No. 11 for that: Try feeling some empathy (p. 18, Lines 16-17). However, in Exhibit 1 and 10, there are only nine rules and adding one more rule would make it Rule No. 10, not Rule No. 11. Was this a typo, or was this written intentionally?
- Answer: This was an unintentional discrepancy. Cowell’s witness statement will be adjusted to reflect the correct number (a wish for a 10<sup>th</sup> Rule, seeing as how there are only 9).
- Q10.** In editing the GA case for IN, you converted a public high school into a private school (in Complaint/Allegation #3, Answer/Response #2, and in Stipulation #10). But Reed continues to refer to Marbury County Schools (p. 36 line 26 and p. 37 line 61). Exhibits 4 and 6 both formulate things in terms of the policies of Marbury County Schools, and the “Marbury County Board of Education.” Are these intentional?
- Answer: No, these were unintentional. All references to Marbury County Schools and or Marbury County Board of Education will be edited to read “Marbury Academy.”
- Q11.** Which witnesses are familiar with which exhibits? None of the exhibits are mentioned in any the witness statements. For instance, does Addison Cowell have knowledge of all ten exhibits?
- Answer: The Stipulations address some of the questions about particular witnesses’ knowledge of certain exhibits. However, exhibits are not exclusively linked to particular witnesses. Due to the nature of the Mock Trial competition, strategy is involved in choosing which witnesses to introduce which exhibits. So, in that regard, teams can attempt to admit any exhibit through any witness, but as always, personal knowledge must be established, and a proper foundation must be laid.
- Q12.** Stipulation 5 says “The proper evidentiary foundation has been laid for the admission of exhibits 2 and 3, except for relevance.” Does this mean that those exhibits can only be objected to on relevance?
- Answer: No, it does not. This stipulation is merely meant to cut off objections under Rule 602 (lack of personal knowledge or lack of foundation). That does not bar other objections, however.
- Q13.** The signature lines at the end of the witness statements are blank. Are these to be signed by ourselves or are they to be left blank?
- Answer: The signature lines were inadvertently left blank. They are not integral to the case, but we will add signatures to the update version of the case.
- Q14.** Since we have never had Jury Instructions before could you provide some guidance on their purpose or usage for the students?
- Answer: The Jury Instructions are meant as an educational tool for the students, so that they can see an example of what the Model Jury Instructions look like in Indiana. Additionally, the statements of law in the Jury Instructions should be taken together with the case law and statutes found in the Applicable Law section to help students grasp the legal concepts for this case.
- Q15.** Is Austin Miller a relative of Glenn’s? (Exhibit 1, p. 41) [Band Booster President]
- Answer: There is no evidence, other than Austin’s last name, to suggest this is true.
- Q16.** How many tardies did Cowell have before August 21?
- Answer: The case does not contain a specific number, although Cowell, Winthrop, Roberts, and Miller all reference Cowell’s tardies in their witness statements.
- Q17.** Did both Winthrop and Roberts call Cowell’s mother?
- Answer: No. Only Winthrop called Cowell’s mother.

**Q18.** Did Roberts call paramedics?

- Answer: Yes. Roberts called 9-1-1.

**Q19.** In Paragraph 7 of the Defendant's Answer to Complaint [p. 6], it states that Marbury Academy and Roberts deny the allegations in paragraphs 14 through 16 [of the Complaint]. Paragraph 16 [of the Complaint] reads: "Marbury Academy is vicariously liable for the negligent act of its employee, Roberts." Could the Defense therefore argue that even if Cowell's damage was the direct, reasonable, and proximate result of Roberts' actions, that Marbury Academy is not vicariously liable because Roberts acted beyond the purview of a school employee?

- Answer: No, the defendants deny that:
  - (1) Roberts breached a duty to Cowell;
  - (2) Roberts actions were the direct, reasonable, and proximate cause of Cowell's damages; and
  - (3) Marbury is vicariously liable for anything if Roberts is not liable.

Additionally, see Answer #2 on p. 6. Defendants admit to the allegations I Paragraphs 2-6 of the Complaint. Of particular importance is the admission of Paragraphs 5 (agency) and 6 (acting within the scope of employment). Finally, see Stipulation #9. Both parties stipulate that Roberts was acting within the scope or purview of a school employee.

**Q20.** Does band fall into regulations regarding cooling zones? If so, is there a cooling zone for the band?

- Answer: See the witness statement of Alex/Alexis Schmitt.

**Q21.** The athletic director (Schmitt) and the custodian (Reed) have differing statements about the discovery of Addison on the track – specifically when they discovered the identity of the student on the track. Was this difference intentional?

- Answer: Looking at the big picture, it's not really inconsistent, but rather a story explained across two sections. Reed was by the building painting and when s/he saw Cowell on the track and went inside to tell someone. Cowell hadn't fully collapsed yet (p. 37, line 67), so there was no need to rush down there. Now, according to the map, Reed was by the school building, across the field from the fieldhouse. S/he had to run all the way to the ticket entrance to enter the field area. As Reed says (p. 38-39, lines 100-108), s/he said that since s/he was passing the fieldhouse on the way in, it was better to get help than go to Cowell, then run back to the fieldhouse, then back to Cowell. S/he was closer to the athletic trainer, with medical experience, and to save time, ran to get Schmidt. When Reed and Schmidt came out, Cowell was down, and they raced down there with the cart to help.