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**2011-12**

**ALASKA HIGH SCHOOL**

**MOCK TRIAL COMPETITION**

Anchorage, March 1-3, 2012

Boney Courthouse

**State of Alaska v. Jamie Abbot**

Case No. 5AK-12-9999 CR

**OFFICIAL CASE MATERIALS & COMPETITION RULES**

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**TEAM MEMBER'S PACKET**

Including all evidence, applicable law, competition rules, and team registration forms.

**Sponsored by the Anchorage Bar Association,  
Young Lawyers Section**

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### Author's Note

Greg Mintner and Jamie Abbot, from Alaskopolis, Alaska, were lifelong friends. The pair shared many interests, including computers and computer programming. After high school, Jamie and Greg went to college together, where they both majored in computer science. After college, they returned to Alaska to run a small information technology company and to work on developing new programs. The two had their first success with Custom Eyes, a program that calibrated lasers for Lasik eye surgery. A medical technology company offered to buy the program for several hundred thousand dollars. However, the decision to sell or not created a rift between the two. Then Greg turned up dead in an alleyway, shot three times. Police have concluded that Jamie paid Casey Bale to murder Greg. Now Jamie faces trial for allegedly murdering Greg, and the promising future the two had built lies in tatters.

\* \* \* \* \*

As with other recent Alaska High School Mock Trial problems, our hope is that students will have the opportunity to derive their own theories based upon the plethora of factual information provided in the affidavits and exhibits. Hopefully, students will enjoy more freedom in crafting their arguments and theories of the case. This should encourage participating students to become independent thinkers and confident public speakers.

The most challenging exhibits that students will have to work with are the reports prepared by the accounting experts retained by each side. Students must decide how best to address the important information contained in these reports, as well as how to use the information contained in the witness affidavits.

Organizers attempted to ensure that the accounting analyses are accurate, though some details may have been glossed over. There are limits to what can be presented in the mock trial materials, and students will inevitably wonder why a certain line of inquiry was not pursued by one of the witnesses. The lack of this pursuit may be used to impeach the witness in question, but students of course cannot create the answers themselves. A witness who is asked why he or she did not pursue a particular line of inquiry can only answer that they did not.

Because of the heavy emphasis on introducing evidence, be it in the form of exhibits or witness testimony, students and teachers are encouraged to consult the Introduction to the Rules of Evidence found at the Alaska Mock Trial website –[www.alaskamocktrial.org](http://www.alaskamocktrial.org). Matt Block drafted this resource, along with the Introduction to Trial Practice document found on the same website. They are excellent tools for Mock Trial teachers and coaches, even for those who have prior experience with Mock Trial. There are many layers to the evidence in this year's problem, some of them quite subtle, which will require attention to detail by the students. Teams should be open to re-crafting their theories of the case as they become more familiar with the case materials.

As in the last two years, students will be allowed to bring demonstrative displays into the courtroom. These were previously excluded out of a fear that it might give some teams an unfair advantage. This rule has been relaxed in the belief that printing technology is widespread enough that every team can take advantage of it with minimal effort and expense. This change is

described in more detail in Competition Rule 21. While the rule has been relaxed, I would caution teams not to go overboard. Courtroom displays are often most persuasive when they are used sparingly.

The Young Lawyers Section of the Anchorage Bar Association sponsors and organizes the 2012 Alaska High School Mock Trial Competition. Its members' efforts are greatly appreciated in organizing and staffing the competition. Additionally, for their assistance in helping to develop this problem, I would like to thank several people. First, Ryan Fortson developed the idea for this problem, and helped write the problem and craft the exhibits. Kathleen Doherty also helped draft the problem. Their help was immense. Amy Doogan, Suzanne Brostrom, Andalyn Pace, and Kelly J. McHugh provided invaluable feedback on the case materials. Jeff Davis created exhibits and designed our t-shirts once again. The copyright to the characters and story contained in this problem is retained by Ryan Fortson, with unrestricted non-monetary use granted to the Young Lawyers Section of the Anchorage Bar Association for use in the 2011-12 Alaska High School Mock Trial Competition.

Finally, a huge thank you to all of those teachers, attorneys, and parents who volunteer their time to coach mock trial teams. The competition would not be possible without you. If you have any questions about the problem or about forming a team for the competition, please feel free to contact me at [lars.johnson1981@gmail.com](mailto:lars.johnson1981@gmail.com). As always, I have greatly enjoyed drafting the case materials and organizing the competition. I hope that students and teachers find the case and the competition enjoyable and educational.

Thank you,  
Lars Johnson

# **I. Legal Documents**

**IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
FIFTH JUDICIAL DISTRICT AT ALASKOPOLIS**

STATE OF ALASKA,

Plaintiff,

vs.

JAMIE ABBOT,  
DOB: 8/21/1986  
APSIN ID: 7654321  
SSN: 574-00-1234  
ATN: 107-907-000,

Defendant.

Case No. 5MV-11-9999 CR

**INDICTMENT**

I certify this document and its attachments do not contain the (1) name of a victim of a sexual offense listed in AS 12.61.140 or (2) residence or business address or telephone number of a victim of or witness to any offense unless it is an address identifying the place of a crime or an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

The following counts charge a crime involving DOMESTIC VIOLENCE as defined in AS 18.66.990: NONE.

**THE GRAND JURY CHARGES:**

**Count I**

**AS 11.41.100(a)(1); AS 11.16.110(2)(A), (B)**

**Murder in the First Degree**

That on or about September 21, 2011, in the city of Alaskopolis in the Fifth Judicial District, State of Alaska, JAMIE ABBOT did solicit Casey Bale to commit murder in the first degree by (1) intending to cause the death of Greg Mintner; and (2) on or about the morning of October 3, 2011 Casey Bale did cause the death of Greg Mintner based on this solicitation.

All of which is an unclassified felony being contrary to and in violation of Alaska Statutes 11.41.100(a)(1) and 11.16.110(2)(A) and/or (B) and against the peace and dignity of the State of Alaska.

DATED this 17<sup>th</sup> day of January, 2012 at Alaskopolis, Alaska.

A true bill

\_\_\_\_\_  
Grand Jury Foreperson

\_\_\_\_\_  
Assistant District Attorney  
Bar No. \_\_\_\_\_

WITNESSES EXAMINED BEFORE THE GRAND JURY:

Detective Reagan Buckler  
Charlie Culbieson  
Casey Bale

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APSIN ID: 7654321  
SSN: 574-00-1234  
ATN: 107-907-000,

Defendant.

Case No. 5MV-11-9999 CR

**STIPULATIONS**

It is stipulated for purposes of this Mock Trial that the following facts and statements have been agreed upon by the parties and may be relied upon at trial:

I.

Alaskopolis is a city of approximately 200,000 residents. Alaskopolis is located in the Fifth Judicial District of Alaska. Jurisdiction for this trial is properly located in the Fifth Judicial District in Alaskopolis.

II.

All pleadings have been properly filed and served to all other parties. All procedural matters have been properly conducted. Jamie Abbot has pled “Not Guilty” to the Indictment.

III.

All affidavits are considered part of the case materials and may be used during trial for impeachment purposes and to refresh the memory of that particular witness. The affidavits have been validly signed and notarized.

IV.

All exhibits included in these case materials are authentic and, where appropriate, validly signed. All photographs are accurate representations of the objects or scenes they are identified

as portraying. No objections to the authenticity of the exhibits will be entertained. Exhibits may otherwise be challenged for admissibility. There are no exhibits admissible at trial that are not contained in the case materials.

V.

An Evidence Rule 403 motion regarding the introduction of crime scene photographs has been filed and adjudicated by the Court. The Court has determined that the pictures at issue are so graphic that their prejudicial effect is outweighed by their probative value in their current form. Instead, police personnel created sketches of the photographs that will be substituted for the actual photographs. These sketches are stipulated to be accurate depictions of the representations in the photographs.

VI.

The parties stipulate that proper procedures were followed in collecting all evidence at the crime scene and that evidence cannot be challenged on the grounds that it was improperly collected or processed by any law enforcement officials, private investigators, or lab technicians. All searches and seizures related to this case were legal and properly conducted. Any witness can testify to any information contained in the exhibits as long as the witness has personal knowledge of the information.

VII.

The witnesses for the State are, in no particular order:

1. Charlie Culbieson
2. Detective Reagan Buckler
3. Casey Bale
4. Alex Gorton

VIII.

The witnesses for the Defendant are, in no particular order:

1. Ryan Rudde
2. A.J. Satter
3. Jamie Abbot
4. Shannon Armas

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

**FIFTH JUDICIAL DISTRICT AT ALASKOPOLIS**

STATE OF ALASKA,

Plaintiff,

vs.

Case No. 5MV-11-9999 CR

JAMIE ABBOT,

DOB: 8/21/1986

APSIN ID: 7654321

SSN: 574-00-1234

ATN: 107-907-000,

Defendant.

**JURY INSTRUCTIONS**

**General Instructions**

**1.06: Presumption of Innocence, Burden of Proof, Proof Beyond a Reasonable Doubt**

The distinguishing features of a criminal trial are what are known in the language of the law as the presumption of innocence and the burden of proof beyond a reasonable doubt. The law presumes a defendant to be innocent of crime. Thus, a defendant, although accused, begins the trial with a clean slate – with no evidence favoring conviction. The presumption of innocence alone is sufficient to acquit a defendant, unless you are satisfied beyond a reasonable doubt of the defendant’s guilt after careful and impartial consideration of all the evidence in the case.

This last-mentioned requirement, that you be satisfied beyond a reasonable doubt of the defendant’s guilt, is what is called the burden of proof. It is not required that the prosecution prove guilt beyond all possible doubt, for it is rarely possible to prove anything to an absolute certainty. Rather, the test is one of reasonable doubt. A reasonable doubt is a doubt based upon reason and common sense. Proof beyond a reasonable doubt must be proof of such a convincing character that, after consideration, you would be willing to rely and act upon it without hesitation in your important affairs. A defendant is never to be convicted on mere suspicion or conjecture.

The burden of proving the defendant guilty beyond a reasonable doubt always rests upon the prosecution. This burden never shifts throughout the trial, for the law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence. A defendant has the absolute right not to testify, and you must not draw any inference against the defendant for not testifying. Thus a reasonable doubt may arise not only from the evidence produced, but also from a lack of evidence. Since the burden is upon the prosecution to prove every essential element of the crime charged beyond a reasonable doubt, a defendant has the right to rely upon the failure of the prosecution to establish such proof. A defendant may also rely upon evidence brought out on cross-examination of witnesses for the prosecution.

### **1.07: Evaluation of Evidence**

You are about to hear the evidence in this case. The evidence consists of the sworn testimony of witnesses and any exhibits that may be admitted. While you may consider the evidence in light of your own observations and experience in life, you should not consider any other source of information not presented to you in this court. At the end of the trial, it will be your job to decide how much weight to give to the evidence and evaluate the evidence according to the instructions that the court will give you. These instructions contain the law that must be applied in this case. That law is based on State statutes and court decisions.

When you evaluate the evidence and determine the facts, it is important that you not be influenced by sentiment, prejudice, passion, or public opinion. You must base your verdict upon a fair consideration of the evidence.

### **1.09: Objections**

There are rules of law that control what evidence you can consider. When a lawyer asks a question or offers an exhibit into evidence, and the lawyer on the other side thinks that it is not permitted by the rules of evidence, that lawyer may object. If I overrule the objection, the question may be answered or the exhibit received. If I sustain the objection, the question cannot be answered or the exhibit cannot be received. Whenever I sustain an objection to a question addressed to a witness, you must disregard the question entirely, and must not draw any inference from the wording of it, nor speculate as to what the witness would have said if permitted to answer the question. If I sustain an objection to a question after an answer has been given, then you must disregard the question and the answer.

Sometimes I may order that evidence be stricken from the record and that you disregard or ignore the evidence. In that case, you must not consider the evidence which I told you to disregard.

You may wonder why some evidence must be excluded or disregarded when it appears to be of some interest to you. The rules that govern what evidence can be received are designed to do two things. First, they try to help you focus on important and reliable evidence by keeping out interesting but not very important or reliable information. Second, the rules help you decide the case objectively without being swayed by information that might cause you to respond emotionally.

Many of us have said to ourselves from time to time something like “I wish I never heard that about someone, because it makes it impossible for me to be unbiased now.” The law tries to protect jurors from this natural human reaction. It is because the law protects what jurors hear that we have such confidence in the impartiality and integrity of the jury.

You should not be influenced by the fact that objections are made or that requests are made that I take certain actions; nor should you be influenced by the number of objections or requests that are made. Objections or requests are not evidence. Please remember that my rulings that exclude evidence or that bar questions are designed to help you decide the case fairly.

When I allow testimony or other evidence to be introduced over the objection of a lawyer, I do not mean to suggest any opinion as to the weight or effect of such evidence.

### **1.10: Witness Credibility**

You may believe all, part, or none of the testimony of any witness. You need not believe a witness even though the witness' testimony is uncontradicted. You should act reasonably in deciding whether or not you believe a witness and how much weight to give to the witness' testimony.

In deciding whether to believe a witness or how much weight to give a witness' testimony, you should consider anything that reasonably helps you to judge the testimony. Among the things you should consider are the following:

- (1) the witness' attitude, behavior and appearance on the stand and the way the witness testifies;
- (2) the witness' intelligence;
- (3) the witness' opportunity and ability to see or hear the things about which the witness testifies;
- (4) the accuracy of the witness' memory;
- (5) any motive of the witness not to tell the truth;
- (6) any interest that the witness has in the outcome of the case;
- (7) any bias of the witness;
- (8) any opinion or reputation evidence about the witness' truthfulness;
- (9) any prior criminal convictions of the witness relating to honesty or veracity;
- (10) the reasonableness or unreasonableness of the witness' testimony; and
- (11) the consistency of the witness' testimony and whether it is supported or contradicted by other evidence.

### **1.11: Expert Witnesses**

A witness who has scientific, technical or other specialized knowledge or experience may be qualified as an expert and may express an opinion in addition to giving testimony as to facts.

In determining whether to believe an expert witness and the weight to be given to his or her opinion, you may consider the expert's qualifications and knowledge, the reasons given for the opinion, how the expert got the information he or she testified about, and the factors given you for evaluating the testimony of any other witness.

As with other witnesses, you must decide whether or not to believe an expert witness and how much weight to give his or her testimony. You may believe all, part or none of the testimony of an expert witness.

### **1.12: Opinion Testimony of Non-Experts**

A non-expert witness may testify to his or her opinion if it is rationally based on the witness' perceptions and helpful to a clear understanding of the testimony or the determination of a fact in issue.

In determining the weight to be given to an opinion expressed by a non-expert witness, you should consider the witness' credibility, the extent of the witness' opportunity to perceive the matters upon which the opinion is based and the reasons, if any, given for it. You are not required to accept such an opinion but should give it the weight, if any, to which you find it entitled.

You are not to decide any issue by the simple process of counting the number of witnesses who have testified on the opposing sides. The final test is not the number of witnesses, but whether, considering all the evidence, the State has proven every element of each charge beyond a reasonable doubt.

#### **1.14: Direct/Circumstantial Evidence**

A fact may be proven by direct evidence, by circumstantial evidence, or by both.

Direct evidence is given when a witness testifies about an event that the witness personally saw or heard. For example, a witness may testify to having seen it snow last night. If you believe the witness, this is evidence that it snowed last night.

Circumstantial evidence is given when a witness did not personally see or hear an event but saw or heard something which, standing alone or taken together with other evidence, may lead a juror to conclude that the event occurred. For example, a witness may testify that when s/he went to sleep last night, the ground was bare. When s/he woke up, it was covered in snow. From this, you may infer that it snowed last night.

Both types of evidence are admissible and you may consider both. Neither is entitled to any greater weight than the other.

#### **1.15: State of Mind**

State of mind may be shown by circumstantial evidence. It can rarely be established by any other means. While witnesses may see and hear and thus be able to give direct evidence of what another person does or fails to do, no one can see or hear the state of mind with which another person's acts were done or omitted. But what a person does or fails to do may indicate that person's state of mind.

In determining issues of state of mind, the jury is entitled to consider any statements made and acts done or omitted by the person, and all facts and circumstances in evidence which may aid in determining of state of mind.

#### **1.35A: Arriving at a Verdict**

If you find that the state has proven each element of this offense beyond a reasonable doubt, then you must find the defendant guilty. If, however, you find that the state has not proven

each element of this offense beyond a reasonable doubt, then you must find the defendant not guilty. To return a verdict of guilty or not guilty, each of you must agree with that verdict.

**Specific Instructions**

**Murder – First Degree (AS 11.41.100(a)(1) and AS 11.16.110(2)(A) and/or (B))**

Jamie Abbot, the defendant in this case, has been charged with the crime of murder in the first degree by solicitation.

To prove that the defendant committed this crime, the State must prove beyond a reasonable doubt each of the following elements:

- (1) the defendant intentionally solicited Casey Bale to cause the death of Greg Mintner; and
- (2) Casey Bale did cause Greg Mintner’s death.

In the alternative, the State must prove beyond a reasonable doubt each of the following elements:

- (1) the defendant intentionally aided or abetted Casey Bale to cause the death of Greg Mintner; and
- (2) Casey Bale did cause Greg Mintner’s death.

**Definitions (AS 11.81.900)**

The following definitions shall be used in this trial:

A person acts “intentionally” with respect to a result described by a provision of law defining an offense when the person’s conscious objective is to cause that result. When intentionally causing a particular result is an element of an offense, that intent need not be the person’s only objective.

## **II. Affidavits**

## AFFIDAVIT OF CHARLIE CULBIESON

1. My name is Charlie Culbieson. I am 30 years old, and I was an employee at Foraker Information Technologies from March 15, 2010 to September 2, 2011. In 2003, I got my degree in computer engineering from the University of Alaskopolis. When I graduated college, I got a job at one of the bigger and more established IT firms in Seattle. I missed my hometown though, so about two years ago I started looking for a new job in Alaska.

2. I started working at Foraker in early 2010. I chose Foraker because I saw that Jamie and Greg are really creative. I know they spent a lot of time working on outside programs – some exciting stuff from what I understood. There was talk that Jamie and Greg would start another company dedicated to program development, and I wanted in on the ground floor. I had some programming experience, more than other Foraker employees, so I figured I'd be great for that.

3. I also liked the laid-back atmosphere at Foraker. Jamie and Greg weren't your typical employers. They didn't care about stuff like strict hours or dress codes or paperwork. As long as I got the job done, they let me work with very little oversight. The one exception was the accounting. Jamie and Greg never let us put anything in the books. All of our billing always had to go through one of them – Greg in particular handled most of the billing. Jamie told me once that he and Greg "had a system." It didn't seem like their system was very organized – I know they would sometimes handle accounting weeks after we finished a project. Sometimes I thought it wasn't such a good idea to be so informal about money like that, but since I never really liked doing accounting, I never bothered too much about it.

4. When I first starting working at Foraker, Jamie and Greg would joke around a lot with the employees. I think some of them were friends outside of work. I enjoyed the conversations at work, but I didn't really hang out with anyone outside of work. Maybe because I'm a little older, the other employees didn't relate to me as much. Or maybe I like a bit more separation in my work and personal life than the other employees did.

5. Around the summer of 2010, Jamie and Greg started talking about how Custom Eyes could be their big break. They talked about how they were going to be rich, and how they would get fancy sports cars and gold-plated bathrooms. They were joking of course, but once Eye Corp. started coming around, it sometimes seemed like they started to believe it. All that winter, the Eye Corp. reps would take Jamie and Greg to fancy restaurants and expensive events. I remember several times when one or the both of them wouldn't come to work until late afternoon. Jamie especially seemed to love all of the attention. S/He was always bragging about all the fun s/he was having.

6. After a few months of wooing, Eye Corp. offered Jamie and Greg some money to buy Custom Eyes. Both of them seemed a little disappointed with the offer. They stopped making jokes about all the crazy things they were going to buy. Just a few weeks later though, Greg told me how maybe he got a little carried away before, that it was still a really good offer. He did mention that the offer would expire if he and Jamie didn't take it. I think he said Eye Corp. gave them until the end of October to make a decision. Greg had some ideas for new programs that he wanted my help on, but he said he didn't have time right then. Jamie would always say that Eye

Corp. was just playing “hard ball,” and that if s/he and Greg could hold out a little longer, they would get more money. Jamie told me that even if Eye Corp. wouldn’t offer more money, s/he could market Custom Eyes directly. S/He thought that after running an IT company, traditional business marketing would be easy for her/him. I’m not sure how realistic that was, but whatever.

7. At first, Jamie and Greg would just banter back and forth about whether to take Eye Corp.’s offer or not. But it didn’t take long for the banter to turn into arguments. The other employees and I couldn’t always tell what they were saying, but we could definitely hear yelling coming from their offices.

8. I remember one particular argument in the break room in August of 2011. It may have been shortly after Eye Corp. put a time limit on its offer. I think Greg said he and Jamie had until October to decide on the offer. It was while I was eating lunch with Greg. Jamie came in and told Greg that they should start working on an advertising plan for Custom Eyes. Greg answered that he didn’t study computer programming and start his own company just to be some run-of-the-mill salesman. He wanted to talk about some ideas he had for developing new programs. All of the sudden, Jamie got really angry. S/He ran up to our table and pounded her/his fist on it so hard that my fork jumped off the plate and some of my drink spilled. Jamie called Greg an idiot for falling for Eye Corp.’s “low-ball offer.” S/He said Greg was “irrational” for being so scared of trying to market Custom Eyes themselves. Greg said, “You’re the one being irrational! Custom Eyes is not *that* innovative. We need to take what money we can, right now, before someone else comes up with a better version!” Greg had told me that Jamie had originally come up with the idea, even though they developed the program together, and he thought that was part of why Jamie refused to sell it. Jamie said Greg was a coward for not believing in their work. Greg stood up then and told Jamie to “chill out” and suggested that s/he get anger management classes.

9. They were almost nose-to-nose by now, so I stood up to try and get Greg to leave the room with me. Before I could say anything though, Jamie said, “Get outta my face!” and shoved Greg with both her/his hands, right in the chest. I don’t think Greg was expecting it, because even though Greg is a pretty big guy, he kind of staggered backward and tripped a bit on his chair. Once Greg recovered his balance, he looked at Jamie like he wanted to hit her/him. I saw this was getting out of hand, so I kind of slid in between Jamie and Greg. I faced Greg and told him that Jamie needed some time to cool off and that we should go outside for a walk or something. I kept saying, “S/He’s not worth it.” I don’t know if it was my talking to him or if Greg just couldn’t get around me, but he turned around and left the break room. I heard him go to his office and shut the door. We didn’t hear anything from Greg’s office for a couple hours. When Greg finally came out, he seemed kind of dazed and out of it, like he couldn’t believe what had happened. He did come to me later and apologize for putting me in the middle of it. Jamie just left the office and didn’t come back to work until the next day.

10. After that fight in the break room, I probably should have left, but the economy being so bad, I needed the job. There was no more fun or joking at work. Things became really tense. Jamie and Greg would usually refuse to talk to each other directly and would ask me or another employee to deliver messages between them. Even simple stuff, like making appointments with clients, they couldn’t seem to consult each other about. Greg especially seemed to spend a lot of time in his office with the door closed. He’d have these mood swings where he would be

depressed, then suddenly be all chatty and excited with the employees. He told me was stressed out because he and Jamie weren't getting along and he missed his best friend. There wasn't any more yelling or fighting between Jamie and Greg though. Like the silence before the storm.

11. I worked a lot with Jamie, helping out with various clients. For the most part, Jamie was a good boss to work for. But, s/he did have a short temper. Jamie was also controlling at times. For example, I did a lot of work on the North Star Cargo project. My time was about equally split between network programming and software programming, along with a little bit of web design. But when it came to creating the final invoice, Jamie switched 136 hours of my time from software programming to the higher network programming rate. I know the difference between the two, and I know I recorded my time accurately. I guess Jamie just didn't trust me. Jamie really cheated North Star Cargo out of a lot of money by shifting my hours from software to network programming. I also don't know what the deal is with the "project management" rate. We had never billed that before to any other clients. Besides, Jamie didn't really do that much supervision. Sure we met as a group every once and a while to check on progress and make sure everything was coordinated, but most of the time we worked independently.

12. At the end of summer 2011, August 30<sup>th</sup> I think, I was working late one night. I was coming out of the bathroom and I saw Jamie march into Greg's office. I don't think either of them realized I was still there, because they didn't bother to close the door. Because of that, I could hear everything. I tried to keep working, but they were really going at it, screaming and yelling and making this pounding sound, like one or both of them were stomping their feet or hitting the desk. It must have gone on for two hours. Maybe I should have said something, but I thought at the time it was none of my business.

13. I don't remember all of what they said during that fight, but it was mainly the same old thing about whether they should sell Custom Eyes or not. This time, though, things got really personal. Jamie accused Greg of using drugs. I was surprised by that, because I never saw Greg use drugs. I have a brother who's an alcoholic, so I know what people act like when they're on drugs, and I'd never seen Greg look "wasted" or anything like that. Greg called Jamie greedy and paranoid. He said Jamie was just annoyed that s/he didn't get as much money as s/he wanted and would actually have to keep working hard and couldn't get rich quick off of one good idea. Jamie called Greg a hypocrite, saying that Greg just wanted to take the money and run, that he needed the money for drugs. Greg said, "You're just jealous that I have all the good ideas now!" At one point, Jamie said something about how much easier everything would be if Greg would just go away. I do remember one exchange in particular. Greg said, "Your ego is so big, you would destroy what we have and betray your friends before you'd admit that your idea isn't that great after all!" Jamie told Greg, "You're right about one thing – I'll kill you before I let you sell out on us and all that we've built!"

14. I quit Foraker the end of that week. I know it was sudden, but I just couldn't work under those conditions. That fight was one of the worst I'd ever heard in my life, let alone at work. Even though I didn't hear or see it get physical that night, the things that Jamie said to Greg were just awful. I can't believe how quickly our work environment went from relaxed and friendly to hostile and violent. When I heard that Greg was murdered and then Jamie was arrested for it, I was surprised but frankly not shocked. Jamie has quite a temper, so you never know.

## **AFFIDAVIT OF DETECTIVE REAGAN BUCKLER**

1. My name is Reagan Buckler. I am 47 years old. I am an Alaskopolis Police Detective. I have served with the police for 23 years.
2. I became involved in this case on October 3, 2011, when police received a report of a body found in an alleyway on the north side of town. I drove out to the scene early in the morning, around 3 a.m.
3. When I arrived at the scene I found the body of Greg Mintner. It was pretty clear he had been shot. He had three bullet wounds in his chest. Examining the scene, I discovered three shell casings. Testing later showed them to be .22 caliber bullets. I also discovered a plastic baggie on Greg containing a single pill that turned out to be oxycodone. Greg's wallet had also been emptied of cash. This made me think this was either a robbery or a drug deal gone bad.
4. Given my initial conclusion, I focused on connecting someone to Greg through drugs. I started by interviewing Greg's friends and family. Few knew anything about Greg's addiction. This is not surprising. Many addicts are able to hide their addiction from people they are close to.
5. Jamie Abbot, however, provided more information. I contacted Jamie later that morning at the technology company, Foraker Information Technologies, that Jamie and Greg founded. We talked in the company's conference room. Frankly it was more of an office that happened to have a table in it.
6. Honestly, Jamie's reaction surprised me. S/He was pretty quiet about the whole thing. Some people don't show a lot of reaction when they hear that news, but this surprised me. Jamie and Greg had known each other their whole lives, so I expected more emotion. I didn't think much of it at the time though.
7. Jamie told me that s/he had suspected Greg was addicted to drugs. S/He had actually confronted Greg, but Greg had refused to admit anything. Jamie said that s/he wasn't surprised things had turned out this way, but s/he had hoped Greg could overcome his addiction. Jamie also told me about her/his work with Greg, about the computer program they had developed – Custom Eyes – and about growing up together. I spoke with Jamie for a couple of hours. Jamie never told me that s/he knew Greg bought drugs from Casey Bale.
8. Given the indications that Greg had been using drugs, including the pills found on his person in a plastic baggie, a drug deal gone wrong occurred to me as a possible reason for Greg's murder. Looking over police reports from the day of Greg's murder, I realized that police had stopped Casey only a few miles from the scene of the crime later in the morning. It was a routine traffic stop – I think Casey's brake light was out. Because Casey was acting oddly, police had him/her step out of the car and performed a pat down. They discovered a bag of what appeared to be oxycodone on her/him. Police arrested Casey, but he posted bail after arraignment and was released later that day. Descriptions of a person people had seen Greg with early on October 3 matched Casey. I decided to bring Casey in for questioning. We had arrested Casey for assaults in the past when s/he had gotten physical with clients who fell behind in their payments. Casey

had some misdemeanor assault convictions starting maybe 10 years ago. S/He spent time in jail for another misdemeanor about 5 years ago. About 4 years ago, Casey served over a year on a felony assault. That was more serious – the victim spent almost a month in the hospital recovering. Casey only got out on that maybe 2 years ago actually. S/He had certainly never killed anyone though. Casey also has prior convictions for possession and sale of drugs – hardly surprising really.

9. I brought Casey in about two weeks after Greg’s murder. During our first interview, Casey admitted to knowing Greg. S/He even admitted having sold Greg drugs on a few occasions, but Casey denied having seen Greg lately. Casey claimed that Greg had begun having trouble paying his bill, so Casey had stopped selling to him. Casey assumed that something had gone wrong with a deal between Greg and another dealer. I confronted Casey with an eyewitness who saw him/her near the scene of the crime, but Casey stuck to his/her story.

10. I had my doubts about Casey’s story, but I let her/him go. I ran fingerprints that we had found on the plastic baggie at the scene of the crime against Casey’s from our records and got a match. With this, we got a search warrant for Casey’s apartment. This would have been about three weeks after Greg’s murder. We seized and tested several jackets that we found in Casey’s apartment for gunpowder residue. One of Casey’s jackets showed gunpowder residue. There was enough residue that our testers concluded the gunpowder had gotten on the jacket recently. We also discovered a large stash of cash, just over \$14,000, hidden under Casey’s bed.

11. I brought Casey back into the station about a week later and met with him/her a second time. This time, I confronted Casey with the evidence we now had. S/He tried to hold to her/his story, but I arrested him/her for Greg’s murder.

12. Nonetheless, something didn’t seem right to me about Greg’s murder, so I wanted to get more information out of Casey. I’ve seen drug deals go bad before, but I thought there might be more to this story. I guess you might call it a hunch. It appeared that Greg owed Casey some money, and Casey has a violent history, but killing Greg didn’t make sense. If Greg was going to come into money, it would make sense to keep him around to cash in on that.

13. Even after we arrested him/her, Casey continued to deny having anything to do with Greg’s murder. Our evidence was strong though, so I continued pressing Casey on it. Finally, Casey admitted that s/he had shot Greg. However, Casey insisted there was more to the story. Casey said that someone else had paid her/him to kill Greg. I tried to get Casey to tell me the whole story, but s/he insisted on getting a deal out of it. I finally agreed to speak to the prosecutor on Casey’s behalf. I figured it was better to get two birds than just one.

14. The prosecutor agreed to give Casey a deal if s/he could provide proof that someone else was involved in Greg’s death – the State would lower the homicide charge and dismiss the drug charges from when Casey was pulled over the morning of Greg’s murder. The State also agreed not to file any felony petitions to revoke probation based on this. Casey accepted and began to talk. Casey claimed that Jamie Abbot had paid her/him to kill Greg.

15. Casey said that s/he had first met Jamie many months ago, long before any of this happened. They met when Casey stopped by Greg's apartment to drop off drugs and Jamie just happened to be there. Casey wasn't sure if Jamie initially realized who Casey was. However, in September, Jamie actually contacted Casey. This surprised Casey. S/He figured Jamie might have discovered that Casey was selling drugs to Greg. This wouldn't be the first friend or family member to confront Casey over selling drugs to someone. Casey reluctantly agreed to meet. At that meeting, little happened. Jamie asked questions about how long Greg had been addicted, how much he was using, that sort of thing. According to Casey, near the end of the meeting Jamie said something like, "This would be so much easier if Greg wasn't around." Casey said s/he didn't respond to that.

16. This meeting didn't last long, but Casey said that Jamie contacted her/him again a couple of weeks later. At this meeting, Jamie apparently didn't waste much time. Casey related that very early in the conversation Jamie asked if Casey could do something for her/him. Jamie said s/he needed Greg out of the way and asked if Casey could help with that. Casey told me that s/he agreed to murder Greg in exchange for \$15,000.

17. This amount seemed low to me for a murder for hire contract. . We had found just over \$14,000 in Casey's apartment, but we hadn't necessarily considered it notable. Drug dealers often carry a lot of cash. But Casey insisted s/he didn't usually have that much money on hand. We didn't understand why. All Casey would say is that s/he had been spending pretty heavily lately.

18. Casey also said that s/he thought Jamie had gotten the money illegally. I knew if we could prove how Jamie obtained the money we would be able to connect Jamie to Greg's murder.

19. Casey also claimed that s/he used Jamie's .22 caliber pistol to kill Greg. This caught my attention because Jamie had mentioned that s/he and Greg used to go hunting. Casey could not recall what s/he had done with the weapon following the murder.

20. I decided to speak with Jamie again. I asked him/her to come into the police station. Jamie agreed. During the interview, I asked Jamie some general questions about Greg again. Jamie acknowledged that s/he and Greg used to hunt ptarmigan using a .22 pistol. Jamie said s/he wasn't sure what had happened to the gun but that s/he had lost it at some point. Jamie also admitted to knowing Casey but said s/he had forgotten about it before. Jamie said s/he hadn't been sure that Casey was a drug dealer at the time, so s/he didn't think of it when I first spoke with him/her.

21. Before bringing Jamie in, I had gotten more information about his/her relationship with Greg. Based on what co-workers and friends told me, I knew the pair had a rocky relationship. There was a great deal of tension over what to do with the Custom Eyes program they had developed. Greg had wanted to sell it while Jamie had wanted to hold onto it. Co-workers and friends told me about them getting into awful arguments, even getting physical at times. If money isn't a motive, I don't know what is.

22. Given Casey's story and what I understood of Jamie's relationship with Greg, I decided to arrest Jamie. Jamie was initially confused when I did so. After I explained Casey's story, Jamie became furious and out of control. S/He began yelling that Casey was a "damned liar" and a drug dealer. Why would we believe him/her over Jamie? Jamie also began cursing his friends who had suggested that he might do anything to hurt Greg. I think I saw Jamie's true character in that moment.

23. After we arrested Jamie we searched his/her home and business for anything that would connect Jamie to the murder. We did not find anything incriminating during our search of Jamie's apartment. There was no notable amount of cash there, nor any sign of a .22 caliber gun that we could test against the shell casings from the scene. We searched Jamie's former apartment, the one s/he shared with Greg, with similar results.

24. Our search of Foraker Information Technologies turned up a little more. Based on what our forensic accountant discovered there, we believe Jamie embezzled money from Foraker to cover the \$15,000 paid to Casey. This would explain why we did not find any evidence from Jamie's bank records of a payment to Casey. We also discovered that the computer program Jamie and Greg had developed could have been worth up to \$2,000,000.

25. Based on all of this, we arrested Jamie. S/He had motive, opportunity, and means. Jamie denied the charges when we brought him/her in, but I'm confident we have the right person.

## AFFIDAVIT OF CASEY BALE

1. My name is Casey Bale. I am 34 years old, and I live in Alaskopolis, Alaska. I have lived here my whole life, including attending college. I live by myself on the west side of the city.

2. I have dealt drugs for many years. I started dealing drugs in high school, marijuana mainly. I stopped dealing during college, but I had trouble finding work after I graduated, so I started dealing again. First it was marijuana, but after time I began dealing other drugs as well because I needed more money. I started with cocaine, then I began dealing crack and heroin. After several years, I began dealing in prescription painkillers. There's a lot of money in prescription painkillers. I could make a few hundred dollars a sale sometimes. On my best days, I could make several thousand dollars.

3. The police arrested me a few times for various things. Some was pretty typical drug charges – a couple of possessions, sale, that sort of thing. I got busted for getting physical with customers a few times, even spent some time in jail, but it was nothing serious. It's part of the business – I can't have clients falling behind in payments without sending a message. About 4 years ago I did get into something more serious, but that guy started it first. I was just defending myself. I went down for a felony on that, but it was all my lawyer's fault. I got out on that a couple of years ago. I never really hurt anyone. I certainly never killed anyone before.

4. I know A.J. Satter back from when s/he was a druggie. I've heard some of what s/he has to say about me. Honestly, I don't care. A.J. has been peddling his/her feel good crap to people for years. It hasn't worked for many people and frankly, I don't really think it's worked for A.J. either. A.J. tried to talk to me a couple of times. I've used drugs on and off for years, but whatever. It's part of the business. I've been using cocaine especially for a while, but I don't think I'm addicted to the stuff. It's just part of the business. Gotta sample the wares, right?

5. I met Greg Mintner sometime early last year, maybe in March or April. I think he had been looking for painkillers for a while. He had been getting prescriptions, but his doctors finally stopped writing them for him. Then he found another dealer. This guy I know. But that guy got caught, so Greg found me. Greg told me he had some sort of foot operation that didn't go well. Frankly I didn't care. I mean, a client's a client. I'd talk to him, but I didn't really care why he was buying.

6. Usually he'd come to meet me somewhere, but sometimes he called me to come over to his apartment. This was usually when he was in pretty bad need of a fix. He shared the apartment with his friend, Jamie. I ran into Jamie a couple of times there. I tried not to talk to him/her. Jamie seemed suspicious of me from the get go. I don't think Greg ever intended for me to meet Jamie. It was usually an accident. Greg would have been alone when he called me, but Jamie would happen to come home just before I got there. I think it may have happened at a party somehow once, maybe Greg forgot people were going to be over.

7. Greg was a pretty irregular customer for a few months, but after a while, he began buying more and more drugs from me. I started out meeting him maybe once a month. Within a couple of months he was buying drugs every two weeks. By August, he was buying drugs once a week.

I was selling him oxycodone, which is pretty strong stuff. I get my stuff pretty cheap, but it was still expensive. Greg was able to make all of his payments early on, but he began to fall into debt. By the fall, he was buying several hundred dollars worth of drugs a week. He quickly began falling behind in payments, racking up quite a bit of debt. By mid-September, Greg was about \$10,000 behind in his payments to me. I don't want to have any of my customers fall behind, especially not by that much. It doesn't do me any good and it looks bad for my business, but I hoped Greg was good for it. I confronted Greg about this, and he assured me he'd get me the money and not to worry about it. I knew he worked in computers, so I hoped he would make enough money to cover the bill eventually. I also knew that he might enter rehab at some point – he'd told me he was thinking about it. Honestly I didn't believe him. I've heard the rehab story so many times before that I just laugh when someone tells me they're going to get clean. Seems like every time someone tells me they're buying their last hit, they call me again within a couple of weeks. I don't even think about it anymore.

8. A couple weeks into August, Jamie spotted me on the street one day. I have a couple of places that I hang around, so I figure s/he asked about where to find me. I didn't really want to talk to him/her. I figured Jamie knew I was selling Greg drugs, and I've had bad encounters with family members and friends before. But Jamie was insistent. S/He claimed to just want to talk to me, so I finally agreed. It was a pretty innocuous conversation. This surprised me. I've had pretty angry people come after me before. But Jamie just asked some general questions about how long Greg had been using, that sort of thing.

9. A few days later, Jamie called me, asking to meet again. I still didn't want to talk to him/her, but whatever. I said yes. We met at a coffee shop on a Thursday night. I remember it was a Thursday because I planned to go out of town for the weekend the next day.

10. At first, Jamie just asked me more general questions about Greg. Jamie wanted to know how long Greg had been buying drugs off me, how much Greg bought, how often. That sort of thing. We talked about that for a bit. Then Jamie got really quiet. S/He leaned into me and said, "Life would be so much better if Greg wasn't around anymore." I didn't say anything, and Jamie asked, "Can you take care of that for me?"

11. We were both quiet for a few moments. Finally, I leaned over and said, "Maybe. What can you offer me?" Jamie said s/he would pay me \$15,000. I said I had to think about it, and that I'd get back in touch with Jamie in a couple of days.

12. I really wasn't sure if I was going to kill Greg. I know I've gotten physical with my clients, but I don't like to do it. I've certainly never killed anyone before. But Greg had been having trouble paying for his oxycodone. Frankly, I couldn't afford to have him in debt. I needed money to cover some debts of my own. I'd been using a little more cocaine recently than I realized, and I had fallen behind a bit myself. That's not something one wants to do in my world, and I needed money. \$15,000 is a lot of money. I didn't want to do it, but I decided I would.

13. Jamie had given me her/his phone number. I called and we met again. I told Jamie I would do it. Jamie didn't seem happy about it, but s/he said okay. S/He would pay me \$15,000 total – half upfront and the other half after I killed Greg. S/He said s/he needed time to get the

money together. I didn't ask how Jamie was going to get the money, but I assumed s/he was going to get it illegally. We talked about how I would do it. I said I would wait until Greg called me for another deal, then I would take care of it. The only problem was that I didn't have a gun. We talked about it, and Jamie said s/he would give me his/hers. It was a .22 caliber handgun. We hoped this would make it harder to trace the shooting to me. Jamie called me on September 17 to say that s/he had the money but that there were still a couple other things to "take care of" before s/he could commit to the plan. On September 29, Jamie called me and said to meet that evening. We met as planned, and Jamie gave me the gun and \$7,500.

14. Then I waited for Greg to call me. It didn't take long – Greg called me on October 1 and wanted to meet the next day. It had been a while since I'd given Greg a stash, and addicts can never hold out for too long.. I suggested that we meet in a new location, an alleyway on the city's west side. I have to change where I sell pretty frequently, so Greg often met me in new locations. I got there before Greg and waited for him. I had a full packet of oxycodone with me. I planned to go through with the sale then kill Greg. I took the drugs back after I shot him. That's why police found oxycodone on me that night.

15. When Greg pulled into the alleyway, he got out of the car. He seemed pretty sad, to be honest. He thanked me for meeting him. I honestly paused before going through with it, and he ended up getting pretty close to me before I pulled out the gun. Greg didn't seem to know what to do when I did that, but he lunged at me. We fought over the gun. Eventually I was able to back away from him. Then I shot him.

16. I took Greg's money, and I bailed. I threw the gun away, honestly not sure where, and I tried to clean myself off. Greg had scratched me a couple of times, so I was kind of bloody. The police stopped me for having a taillight out that night before I got home, but fortunately they didn't suspect anything. They did charge me with possessing prescription drugs without a scrip, but I posted bail almost immediately. I met Jamie the next night. S/He gave me the remaining \$7,500 in cash, and I took it. I haven't spoken to her/him since.

17. I laid low after that. I figured the police wouldn't trace Greg to me, but I guess I was wrong. Detective Buckler came to speak to me about Greg just a couple of weeks after the murder. I agreed to go down to the police station to speak with Detective Buckler, but I still figured they didn't have anything to connect me to the crime.

18. Initially, I thought I was right, but the police seemed pretty sure I had killed Greg. Detective Buckler confronted me with an eyewitness who said she saw me fleeing the scene. Detective Buckler pushed me pretty hard in that first interview, but I denied killing Greg. I said I'd stopped selling to him at all. I thought I had pulled it off because Detective Buckler let me go.

19. Unfortunately, the police brought me back in about a week later. This time, Detective Buckler said the police had matched my fingerprints to some taken from the scene of Greg's murder. Detective Buckler also confronted me with evidence seized from my apartment, including gunpowder residue found on a jacket of mine. The police arrested me for Greg's

murder, and I knew I was in trouble. Given the evidence, I felt like the police had caught me red-handed.

20. Detective Buckler met with me again after the arrest. I realized I didn't have much choice at this point, and my attorney agreed. I didn't want to tell Detective Buckler about Jamie, but I had to do something. And besides, Jamie shouldn't get away with this. Of course, I didn't want to not get anything out of coming clean. I think Detective Buckler suspected someone else was involved, and I said I would tell him/her the whole story in exchange for a deal. Detective Buckler agreed to speak to the prosecutor and see what s/he could do. I think s/he had a sense someone else was involved. Why would I kill a paying customer on my own?

21. Detective Buckler said the prosecutor would give me a deal by only charging me with manslaughter, bringing a maximum sentence of ten years. I had to do it. I'll only be 44 by the time I get out, maybe even less with good time, so I said yes. I don't want to die in prison, and if I faced murder as Detective Buckler suggested, I might get 99 years in prison. I also had drug charges hanging over me from the traffic stop – the prosecutor agreed to dismiss those too. And the prosecutor agreed not to revoke my felony probation for this.

22. I explained the whole story. How long I'd dealt to Greg, meeting Jamie, the meeting to discuss killing Greg. Agreeing to do it. How I did it. I explained that that was why I had so much cash on hand. I couldn't remember where I'd thrown Jamie's gun. I guess that would have made clear what happened, but the police believed me anyway.

23. I'm sorry for all of this. I never should have agreed to kill Greg. I just did what I thought I had to do.

## AFFIDAVIT OF ALEX GORTON

1. My name is Alex Gorton. I am a certified public accountant with the Alaskopolis accounting firm Dewey Cheatem & Howe. I have been an accountant for twenty-three years, and I received my C.P.A. license seventeen years ago. Most of my practice involves auditing company accounting books. I used to do a fair bit of corporate and individual income tax work. I have also testified as an expert witness in nineteen trials over the past eight years. I have testified on issues of business valuation and estimates of lost profits in commercial litigation between business partners or in contract litigation.

2. I was hired by the State to testify in the present case regarding the accounting records of Foraker Information Technologies (“FIT”) and whether those records reveal any unusual entries that might indicate a misappropriation of funds. I have not testified in this type of criminal case, but I have testified in criminal cases before. Those were basic theft cases where the prosecutors asked me to do an accounting of how much money was taken. I am being paid \$250 an hour for my analysis and testimony.

3. In preparing my analysis, I reviewed the handwritten accounting journals from 2008 and 2009 and a print-out of the spreadsheets for the accounting journal from 2010 and the first ten months of 2011. I also interviewed Jamie Abbot (at length), Charlie Culbieson and Ryan Rudde. In addition, I reviewed time records for these three employees and for Greg Mintner.

4. To say the least, FIT’s accounting journals were highly disorganized and frequently unreliable. The journal entries for 2008 and 2009 were handwritten in a ledger book. The entries were so disorganized that it is impossible to make any sense of them. Entries are not uniformly kept in the same column, making it difficult to differentiate between income and expenses at times. There seems to be very little, if any, correspondence between hours worked for clients, the amount billed to the client, and the payment received from the client. When I met with Jamie Abbot, I asked her/him if s/he could clarify the journal entries, but after about fifteen minutes of looking at the ledger book, Jamie gave up. Jamie told me that Greg Mintner made most of the journal entries. I cannot believe that FIT was able to make payroll with such shoddy accounting. All I can surmise is that Greg and Jamie divided up whatever was left over after employee wages and taxes were paid. I know FIT is a smaller company with limited income, but this does not excuse failing to keep good accounting records.

5. Starting in 2010, the accounting journal for FIT was kept as a computer spreadsheet. My understanding from talking to Jamie, Charlie, and Ryan is that Jamie and Greg recorded most of the entries in the journal, but that Charlie and Ryan would occasionally make entries. It would have been better for everyone if FIT had hired mine or another accounting firm to maintain their accounts. I did not do a detailed analysis of Foraker’s financial viability, but from a cursory review, it was readily apparent that the company was barely making its payroll and expenses. It had serious cash flow problems and did not have a steady and reliable monthly income. This was mostly because Foraker billed its clients only at the completion of projects instead of sending monthly invoices. As a consequence, FIT’s income fluctuated wildly from month to month. In some months, FIT effectively “borrowed” from future income to pay for that month’s expenses. Jamie and Greg did this by not paying their own “salaries” in a down month and reimbursing themselves once some bigger accounts came in.

6. Because the entries were made on the computer and no column was created indicating who entered the transaction in question, I cannot tell specifically who made any given journal entry. The FIT accounting spreadsheet was not completely without protections though. A password was required to access the accounting spreadsheet. For the most part, only Jamie and Greg had the password. Ryan said that s/he was given the password for about a month in July 2011, but that it was changed toward the end of the month and that s/he never received the new password. Charlie told me s/he never had the password and could only make entries into the accounting spreadsheet if Jamie or Greg logged into the file first.

7. In my interview with him/her, Jamie told me that s/he rarely paid much attention to FIT's finances. Jamie said that even after switching from manual to computerized financial records, Greg was primarily the one who did the books and reconciled the accounts. According to Jamie, Greg was always better at catching any discrepancies in the accounting records and was generally much better with numbers. At least, Jamie said, Greg was better before he became involved with drugs. Greg was also the one who regularly monitored the FIT checking account to ensure that the correct amount of money was in the account and that company checks wouldn't bounce. This was important because as a business start-up money was tight for Foraker. Jamie did admit that s/he sometimes made journal entries, especially for projects s/he supervised, but that all of the checks written from the FIT bank account were drafted by Greg even though both of them had check signing authority. The only exception to this was that Jamie handled the quarterly payroll tax payments to the IRS because Greg didn't like dealing with the IRS.

8. The information contained on the spreadsheet was rather sparse, at least in comparison to what accountants are used to seeing. Normally, I would have expected to see many more generically defined categories on the expense side as opposed to separate entries for each month. It also would have been helpful if each client was broken out separately into individual spreadsheets with time billed to the project on a daily basis. As far as I could tell, the total number of hours per employee was entered at one time at the end of the project based upon individual time reports submitted by each employee. When I talked to Jamie, Ryan, and Charlie, they all confirmed that this is in fact what happened. Charlie and Ryan each said that s/he kept a separate spreadsheet per client recording time spent on any given project. I reviewed the printouts of these spreadsheets, and in each instance, with the exception of the North Star Cargo invoice that I will discuss later, the total amount reported on the global FIT spreadsheet matched exactly or exceeded the amount from the individual client spreadsheets.

9. Greg and Jamie each kept handwritten notes on a notepad for time spent on a project – I guess a holdover from doing journal entries manually. Comparing Greg's spreadsheet entries to his handwritten notes, it is clear that Greg was very sloppy with his timekeeping. There were a lot of incorrect entries where Greg either entered more time on the spreadsheet than could be justified from the handwritten notes or on a few occasions entered less time than was in the handwritten notes. The discrepancies were usually about a couple hours either way, but their frequency increased substantially from 2010 to the first half of 2011.

10. Of course, I was not able to interview Greg about these discrepancies. The instances where Greg's manual time entries exceeded the corresponding entry in the spreadsheet are likely situations where Greg purposely deducted some of his time from the final bill to reflect what he thought was a fairer total bill for the project, a practice known as "writing off" some billed time. The instances where Greg over-billed a client do not necessarily reflect anything nefarious. Ryan

Rudde told me about Greg's problem with oxycodone that appeared to increase toward the end of his life. It would be expected that someone with a substantial drug problem would keep very disorganized time records. It is possible that Greg lost some of his handwritten time notes. The handwritten entries by Greg in the ledgers from 2008 and 2009 show a high level of disorganization. Time entries for the same project would often appear on different pages. His handwritten notes in 2010 and 2011 accentuated this haphazard record-keeping practice. Without the constraint of entering his time in a ledger book, Greg would scribble his time entries on random notepads or scraps of paper. My understanding is that none of Greg's papers were thrown away after his unfortunate demise. At the same time, his time records were so disorganized and scattered that it would be inevitable that he would have thrown out some of his handwritten notes whenever he cleaned out his desk. This would explain why his handwritten notes frequently did not add up to the time entered on the FIT spreadsheet. The problem would be even more exacerbated by Greg's drug problem. It is well known that people addicted to oxycodone suffer memory loss.

11. I believe Greg's general disorganization and drug addiction also explain the incident Ryan Rudde described when s/he discovered that the wrong billing rates were being used for the Happy Bear Studios, Inc. account. Fortunately, Ryan caught the billing mistake before the invoice was sent out. With Greg's drug use and the confusion it caused, it is not surprising that Greg made such a mistake. Instead of getting angry, Greg should have owned up to the mistake and not gotten angry at Ryan, but again, Greg's reaction made sense given the situation. When I went back and looked at the spreadsheet for Happy Bear Studios, I noticed that the correct billing rate for web design had been applied. Thus, someone – presumably Greg – corrected it. Ryan said that s/he did not correct the mistake and in fact that the password to the accounting spreadsheet was changed within a couple of days after the incident. When I discussed the Happy Bear Studios error with Jamie and Charlie, neither was aware of what had happened.

12. Jamie's time records were much better organized and reliable than Greg's. I wouldn't say that Jamie took meticulous notes about the time s/he spent on each project, but whereas Greg would often just have a quick note of the amount of time spent without any description of the tasks performed, Jamie usually did include a description of what was done during the time recorded. And, Jamie always kept his/her handwritten time records all on the same notepad. This made it much easier to determine if the amount of time recorded on the FIT spreadsheet could be justified by Jamie's handwritten time records. Jamie was not perfect in this regard, but certainly more accurate than Greg. And, Jamie wrote off time on more projects than s/he overbilled. When I asked Jamie about these write offs, s/he confirmed that s/he sometimes wrote off his/her own time or the time of other FIT employees in an attempt to appease clients who had complained about bills and keep them as returning clients.

13. Because Jamie seemed to be relatively careful in keeping her/his time records, I was surprised that Jamie had lost the time records for the North Star Cargo, Inc. account, especially because this was the biggest account that FIT provided services for in 2011. The North Star Cargo account was invoiced on September 2, 2011. FIT had undertaken a substantial overhaul of North Star Cargo's package tracking computer system. North Star Cargo is one of the largest freight haulers in Alaska, taking freight from Alaskopolis to rural communities around the state, and it was of vital importance to North Star Cargo that it be able to determine at any time the location of each and every package it was shipping. Jamie could not provide me with an

explanation for why his/her time records for North Star Cargo were lost, saying only that it was an unfortunate coincidence.

14. Jamie supervised the North Star Cargo project, though all seven employees of FIT worked on the project at some point or another. The bulk of the work was done by Jamie, Ryan, and Charlie. Because FIT only billed clients at the completion of a project, the invoice sent to North Star covered the entire project. The total bill for the project came out to \$175,170. The invoice reflected exactly what was entered on the FIT accounting spreadsheet. But, there were two serious red flags when I examined the details of the invoice. The first was that some of the billing rates on the invoice were different from what appears on the individual time reports. FIT has three different billing rates: web design is \$100/hour; software programming is \$150/hour; and network programming is \$200/hour. There was very little web design involved in the project relative to the other billing rates, and the individual time records for the project all matched up with the web design time reported on the invoice. However, the number of hours on the invoice of network programming for Charlie and Ryan was inflated as compared to the number of hours of network programming on Charlie's and Ryan's individual time records. And, the hours billed for software programming on the invoice were reduced by the exact same number of hours by which network programming billings were increased. Charlie and Ryan confirmed that they believed they had entered their time correctly and were not aware that their billing rates had been changed on the final invoice sent to North Star Cargo. When I asked Jamie about this discrepancy, s/he said that s/he was very familiar with the project and felt that much of the work that Charlie and Ryan had done was in fact network programming instead of software programming. Jamie explained that there was not a great deal of difference between the two, and that it was her/his responsibility as the project manager to make the final call as to how to bill the time for Charlie and Ryan. Jamie also recorded a fair bit of time on network programming, but of course, I did not have any individual time records for Jamie to compare with.

15. The second red flag arose with a previously unknown billing rate that Jamie billed North Star Cargo. Jamie recorded on the spreadsheet and the invoice 54.4 hours for "project supervision" at a rate of \$250 per hour. I never saw this entry on any of Jamie's individual handwritten time records, anywhere else on the FIT accounting spreadsheet, on any of the other FIT invoices I reviewed, or on FIT's advertising materials. I asked Jamie about why s/he used this rate for the North Star Cargo account. Jamie at first did not want to answer, but with further prodding responded that this particular project was so complicated and involved that s/he felt it necessary to bill at the unusual rate to reflect the time spent ensuring that all parts of the project fit well together. Jamie further explained that most projects are simple enough that only minimal supervision is necessary, meaning that a "project supervision" rate would be unnecessary. On the North Star Cargo project, however, Jamie had to do quite a bit of work overseeing and reviewing the work of others.

16. I do not buy this explanation. Adding together the adjustment in the billing rates for Charlie and Ryan with the total amount billed for "project supervision" totals \$13,625 – almost the amount of money Jamie allegedly paid Casey Bale to kill Greg Mintner. It is possible that Jamie inflated other time entries to make up the difference, but I cannot tell because of not having time records against which to compare the time entered on the spreadsheet. Jamie could not just take \$15,000 out of the FIT bank account because Greg would have quickly noticed it. Plus, profit margins were so small for FIT and it was on such thin footing financially that even

with a large payment coming from North Star Cargo, if Jamie had simply skimmed \$15,000 off the top it would have put FIT in danger of going out of business. Jamie needed to increase the income to Foraker to obtain the extra money that s/he then embezzled from Foraker.

17. As I stated earlier, Jamie was very careful in keeping time records, albeit handwritten instead of computerized ones. It is hard to believe that for the biggest client FIT had Jamie would carelessly lose those time records when Foraker kept detailed time records for much smaller clients. I think Jamie either dramatically inflated his/her handwritten time records before entering them on the FIT spreadsheet from which the invoice was generated or possibly made up entirely the category of “project supervision” and the associated time. Because Jamie could not go back and alter handwritten notes like one could with computer entries, s/he had to destroy his/her individual time records in case North Star Cargo ever requested back-up for the invoice. FIT’s clients were not provided individual time records with the invoice, but could ask for them if they wanted. They almost never did.

18. North Star Cargo promptly paid its bill on September 14. A check from the FIT bank account for \$15,000 made out to “cash” was cashed on September 29, 2011. FIT uses a robo-signature on its checks (of Greg’s signature, ironically), so either Jamie or Greg could have drafted the check. FIT also has a stamp it uses, and used in this instance, on the back of checks when they are deposited or cashed. This is a relatively common business practice. It does mean, though, that it is impossible to tell whether Jamie or Greg cashed the check at the bank on October 1 and walked out with \$15,000 in cold hard cash.

19. But, there is one final piece of evidence that strongly suggests that Jamie embezzled the funds from her/his own company. Jamie had to figure out a way to mask the withdrawal of the \$15,000 from the FIT bank account from Greg so that he would not become suspicious. Jamie figured out an ingenious way to do this. The quarterly payroll tax payments for Foraker were due on September 30, 2011. Jamie made a quarterly tax payment entry on September 27, 2011 to the IRS for \$15,000.00 in the FIT accounting records. It was suspicious that a payroll tax would come out to such a perfectly even amount. I personally calculated FIT’s payroll taxes for the quarter and they came out to \$14,219.73. I contacted the IRS to inquire about how much was paid in quarterly taxes and they informed me that a check dated September 30, 2011 was received on October 4, 2011 for \$14,219.73. This journal entry did not appear on the global FIT accounting spreadsheet. I think Jamie made the \$15,000 entry into the FIT spreadsheet to cover the withdrawal of the embezzled cash, knowing that the actual check to the IRS would not be deposited until after Greg had been killed. I assume Jamie intended to deposit the \$15,000 back into the bank account after the distribution of the money from the North Star Cargo project to cover her/his tracks.

20. I have not made any attempt to track the \$15,000 in cash that was withdrawn from the bank on September 29, 2011, so I cannot say what Jamie used this money for, but it is clear to me that Jamie embezzled \$15,000 from Foraker Information Technologies. Between the altered entries for the North Star Cargo account, the lost time records, and the falsified IRS account entry, there is no other plausible explanation than that it was Jamie, and not Greg, who embezzled this money.

## AFFIDAVIT OF RYAN RUDDE

1. My name is Ryan Rudde. I am 23 years old, and I am an employee of Foraker Information Technologies. I started at Foraker right after graduating college in 2009. I have my degree in computer programming. Jamie and Greg hired me as a technician to work on customer's computers.

2. I loved working at Foraker. We all got along great and used to joke around a lot. Jamie and Greg weren't real sticklers for the rules, and they treated us all more like friends than employees. I know Jamie and Greg were working on their own programming too. They were pretty excited about a new program they had developed – Custom Eyes. Especially when Eye Corp. started talking to Jamie and Greg about buying it.

3. I grew up in Colorado, so I enjoy hiking, climbing, and boating sports. That's the main reason I moved to Alaska. Jamie and Greg and I hit it off right away. We all enjoyed outdoor sports and talking computers. It wasn't long before we were hanging out all the time outside of work. There were a few other employees and outside friends that would come also. Greg and Jamie were always the core of the group though and definitely closest with each other. They always had lots of inside jokes and talked about all their stories from growing up and college. It wasn't until Greg got injured that I first hung out with Jamie by him/herself. We wanted to go climbing, and Greg wasn't up to it yet. After that, Jamie and I got to be closer friends and would sometimes do stuff without Greg. I don't remember exactly when this started to happen, but it was around when Greg and Jamie were talking with Eye Corp. Even though Jamie and I hung out on our own, Jamie and Greg remained close friends. They still hung out and spoke of each other. I'd never seen such close friends before.

4. Jamie used to brag to me that s/he and Greg were going to milk Custom Eyes for all it was worth. She/he thought the program was really innovative and was really proud of it. S/He was sure that no one could develop a similar program for a long time and that since the doctors that had tested it raved about it, it was worth millions of dollars.

5. Eye Corp. eventually only offered Jamie and Greg something like half a million dollars. They were both disappointed, but it definitely hit Jamie harder. S/He told me Eye Corp. just wanted to take advantage of her/him and Greg because they were so young and inexperienced at business and negotiation. Jamie seemed to be pretty angry about it, like s/he thought Eye Corp. was just insulting her/him. Greg just seemed defeated about the whole thing. He would always tell me that Jamie was being unrealistic and that they should take the sure thing rather than try to get more and risk getting nothing. I took a couple business classes in college, and I suggested to Jamie and Greg that I could help them market Custom Eyes on their own. Jamie took to the idea right away, but Greg still wanted to take the Eye Corp. offer. They would often discuss what they should do, and most of us overheard the arguments. Like I said before, things were pretty relaxed at Foraker, so most of the employees knew Jamie and Greg were having problems.

6. It was also around the Eye Corp. negotiations that I noticed Greg seemed less energetic than usual. At first I thought it was just because of his injury and surgery, but I later began to suspect Greg might be taking some kind of drugs. He seemed more withdrawn and depressed,

and he would snap at us for no reason. Greg would hardly ever come out with us after work anymore, and he never talked about going hiking or climbing that summer.

7. I also know that Greg was really stressed about how much financial trouble Foraker was in. The company was having some serious cash flow problems, and I think Greg and Jamie even had to take out some sizeable loans to cover company expenses. This didn't bother Jamie much, but Greg was always really obsessed and stressed about money. I remember seeing Greg staring off into the distance at our break table over lunch in late June. I asked him what was up. He just sighed and said, "Jamie would rather drag Foraker into bankruptcy than admit s/he's wrong. I can't let that happen." Then Greg went back to eating his sandwich. Kind of eerie. It would not surprise me if Greg wanted to make a quick sale to Eye Corp. just to get out of debt.

8. I remember one day near the end of July, 2011 Greg was in one of his "moods." I was working at my desk and I heard all this shouting from the break room. Suddenly, Greg comes storming down the hall and into his office, slamming the door. I ran to the break room to see what had happened, but the only person in there was Charlie Culbieson, another employee. Charlie looked pretty shaken up—her/his eyes were all wide and unfocused—and s/he said, "I can't believe it. Greg just tried to slug Jamie." I asked Charlie what happened. S/He seemed to shake off her/his surprise and said something about Jamie and Greg having an argument and just needing to cool off.

9. I didn't think too much about that argument until Jamie called me a few days later and asked if s/he could crash at my place for awhile. S/He had decided to move out of the apartment s/he shared with Greg. I said it was no problem and asked why s/he was moving. Jamie said s/he was sick and tired of fighting with Greg and that s/he thought Greg was addicted to painkillers. S/He said s/he didn't want to be involved in any of "that drug business."

10. Jamie lived with me at the end of July last summer, for about a week, before s/he found a new apartment. We got along great that week though, so we decided we would go out together every Thursday, usually to play basketball or go hiking or see a movie. A lot of times we'd go back to my place afterwards and play video games. We stuck to that plan fairly regularly. I wanted to be there for Jamie, so I only cancelled a couple of times. Jamie canceled sometimes too, not sure how often.

11. Despite Jamie's complaining, I think s/he really missed hanging out with Greg after work. S/He would often talk about how worried s/he was about Greg's drug problem. But s/he also complained that it was all Greg's fault that the Custom Eyes deal didn't work out. I told Jamie that was a little unfair, and s/he was exaggerating. Jamie did that a lot. Whenever we'd lose against another team in basketball or HALO or something like that, s/he'd tell me it was all my fault, or s/he could kill me for making such a bonehead play, or something crazy like that. But everyone knew Jamie didn't really mean it. It was just her/his personality. We all teased each other like that.

12. The police talked to me about meeting with Jamie. I guess this Casey Bale person claims s/he talked to Jamie about killing Greg on a Thursday. I told the police that Jamie and I always hung out on Thursdays, but I couldn't nail down specific dates for them. We didn't keep a log of when we hung out and when we didn't, and the police were asking about a day a couple of

months after it happened. The police couldn't even give me an exact date to check. How can they expect me to know anything when they don't know themselves?

13. Jamie figured maybe I could talk some sense into Greg about marketing Custom Eyes on our own. Sometime last summer, I think it was in early August, I did try to talk to Greg about it, but he seemed preoccupied with something else. He just told me to come back another time. When I went to talk to Jamie, Jamie was pretty frustrated. I think s/he had been working on some billing stuff, but s/he said s/he couldn't focus. Jamie asked me to handle the bill for one of our clients, Happy Bear Studios. It was actually Greg's account primarily. I was really surprised by this, since neither Jamie nor Greg had ever asked me to do billing before, but I guess Jamie thought I could do it since I had worked on the Happy Bear project.

14. Jamie gave me an invoice for Happy Bear to review so that it could be finalized and sent out. I decided to double check the accounting spreadsheet to make sure that the invoice I had created for Happy Bear matched what was on the spreadsheet. Jamie was using his/her computer, so I went to ask Greg for the password to the accounting spreadsheet. Greg wasn't in, but his computer just happened to be on and already logged on, so it was easy to find the accounting spreadsheet on the desktop. To my surprise, according to the spreadsheet we were billing Happy Bear hourly rates that were lower than our advertised rates that I thought we charged to all of our customers. We were only charging Happy Bear Studios \$80 for web design, \$125 for software programming and \$160 for network programming. I noticed that we'd been billing Happy Bear really low rates on previous projects as well.

15. While I was examining the accounting records, Greg walked into the office and saw what I was looking at. He just flew off the handle and started screaming. I explained what Jamie had asked, but Greg said I had no business messing with the spreadsheet and asked if I was too stupid to handle a simple billing assignment. I was pretty upset about his comments, but I do care about the company's success, so I pointed out to him that I had found a mistake in the invoice. Greg kept yelling that it was none of my business what he had charged in the past, and that he and Jamie changed their rates all the time to keep certain clients. He said if I ever took the accounting spreadsheet on his office computer again, I would be fired. He then ripped the printed invoice out of my hand and told me he'd take care of it himself. Honestly, the whole thing made me so angry and confused, especially since Greg was the one who had asked me to do the billing without even telling me how to do it. I actually thought about quitting, but I had always liked working for Foraker, and besides, I figured maybe Greg was just having one of his "bad days" and would get over it.

16. When I was handling the Happy Bear Studios billing, I noticed that Greg had billed a consulting company, Transarctic Regional Integrated Consulting. I hadn't seen anything like this before, but it wasn't that unusual. Greg and Jamie ran Foraker, so they often made decisions about things I wasn't involved in. Certainly nothing about the bills stood out to me as unusual. I asked Greg the next day about Transarctic Regional Integrated Consulting – you know, after he'd had the chance to calm down – and what kind of consulting services they were providing for Foraker. I was just trying to be friendly and show that I was interested in the business. Greg just shrugged me off and said something like, "Well, I guess we don't really need them. Don't worry, we won't be using Transarctic Consulting any more." I thought that was sort of weird, since I hadn't been accusatory or anything. But maybe Greg was just having another bad day. Or

maybe it was the drugs talking. His behavior did seem to become more erratic as the summer wore on and fall came. Seemed like he just didn't want to talk about Transarctic Consulting.

17. I didn't tell Jamie about the incident with the billing and Greg. Even though I wasn't hanging out with Greg much anymore, I still considered him my friend and I didn't want to create any more hard feelings between him and Jamie. Mostly, I just wanted to stay out of whatever disagreements they had with each other. Because the truth is that they had been such good friends for so long that I thought all of the problems were temporary. That's why I can't believe that Jamie would have anything to do with Greg's murder. That just isn't like Jamie at all.

## AFFIDAVIT OF A.J. SATTER

1. My name is A.J. Satter. I am 53 years old and am a drug counselor in Alaskopolis, Alaska. I have been a drug counselor for 20 years. I became a counselor after overcoming my own heroin addiction many years ago. I have a small practice where I counsel patients. My rates vary depending on what each person can pay.

2. I met Greg Mintner at a Narcotics Anonymous meeting in May of 2011. I still attend meetings regularly for myself. Greg was pretty quiet, which is common for someone who is still addicted. He didn't speak up at the meeting, so I approached him afterward. He caught my eye because I know how difficult it can be for someone to quit. The hardest part is usually deciding to quit at all. I'm always looking out for people at this stage. I liked Greg. Talking to him, I could see that he was someone with a sense of humor, vibrant energy, and a keen intellect. That he had lost so much of that is just the sadness of addiction.

3. Greg was addicted to painkillers, primarily oxycodone. He told me he had become addicted after a couple of foot surgeries. He had the first surgery in the fall of 2010, and a second the following January. He had been pretty frustrated by the whole experience – Greg was quite a hiker and outdoorsman, so not being able to do those things was pretty hard on him. I think being depressed by that was part of what pushed him into drugs. He was also in a lot of pain. The first surgery had not quite gone right. Greg ended up with significant complications from that surgery, so he needed the second operation to correct that. He was still in a lot of pain because of it, and that's why the doctor prescribed such strong painkillers. After a while, Greg went beyond the prescribed dose. Eventually, he became addicted.

4. I began seeing Greg regularly starting in late June, 2011. He would see me usually once a week. Although I have paying clients, I never charged Greg. I don't recruit clients at N.A. meetings because it's inappropriate, and I considered Greg a friend more than anything else. We didn't just talk about drugs. We also talked about hiking and climbing and computers. Primarily though, I was trying to help Greg get through his addiction. He really wanted to overcome it.

5. Unfortunately, Greg's need for painkillers was pretty strong. He was good at covering up his addiction from others, but I could tell how addicted he had become. At the height of his addiction, Greg was taking several oxycodone a day, occasionally as many as 10. Although the size of the pills varies, the maximum prescribed dose is generally 3-4 per day, so this was a lot. Oxycodone has significant side effects when taken in such large doses, including heart arrhythmias and death. Withdrawing from oxycodone suddenly also has significant side effects. Greg knew this. He had tried to quit cold turkey a couple of times, but every time the side effects and addiction were so significant that he got back onto the drug.

6. Greg also exhibited the side effects of heavy oxycodone use. Just from seeing Greg, I could tell he was feeling nauseous and weak. He told me he was vomiting frequently. He also seemed tired yet complained he couldn't sleep at night. All of these are symptoms of oxycodone use. However, Greg also exhibited more significant symptoms. When someone abuses oxycodone they often begin to have memory problems. Greg told me he was having memory problems, but more than that I could see he was having problems. Greg frequently forgot the

names of people who were close to him, as well as forgetting things we had talked about recently. Greg also seemed anxious every time I saw him. His problems made me think he was using a lot of oxycodone.

7. Greg's addiction was expensive too. He didn't tell me how much money he had to spend on his addiction, but it was a lot. Greg made some money working at a tech. company, but I knew he wasn't making enough money there to cover his addiction. Part of counseling drug addicts is confronting them when necessary, and I did that with Greg. I asked him about how he was funding his drug addiction. He never quite came clean with me, but he did admit that he was hurting people. I understood this to mean he was stealing money from someone, but he never admitted that.

8. I also understood that Greg was in significant debt with Casey Bale. This worried me. Greg had gone through a few other drug dealers but settled on Casey because s/he usually offered cheap prices on his/her drugs. However, Casey is known as someone who gets violent with people who fall behind on their payments. I once counseled someone who had fallen into only a few hundred dollars debt with Casey. Casey broke his arm. I actually don't think the police ever busted Casey for this. A lot of addicts won't report something like that because they're afraid of getting busted themselves.

9. I've known Casey Bale for several years. I used to run in similar circles as Casey, so I became familiar with him/her. I actually still see her/him on occasion – last time was when I was visiting a client who had fallen off the wagon. Casey was nearby, hawking his/her usual wares. Casey has quite a reputation as a drug dealer. S/He has managed to have a pretty successful drug career. Casey is known for being pretty ingenious in avoiding the police. I can't speak from personal knowledge, but I have heard that Casey made a few enemies in the drug world by turning on a few people. It's a tough world for someone like Casey.

10. And as I said, Casey has gotten violent with people before. I know Casey went to prison about 10 years ago on misdemeanor assault charges, pretty typical stuff for a drug dealer at that point. I think Casey went back to jail a few years later for threatening a customer with a gun – that was maybe third-degree assault. Casey had another assault after that, but his/her most serious assault came about 4 years ago. S/He got into a fight with a customer who was behind on payments. Word on the street is that Casey beat the client “within an inch of his life.” Casey went down for felony assault and spent over a year in jail for that, only got out maybe 2 years ago actually.

11. I know Casey has some drug problems of his/her own. A lot of my clients still see Casey unfortunately, and they've filled me in. I've also seen her/him at NA meetings on occasion – as part of probation I think. I spoke with him/her a couple of times. As I said, I'm always on the look out for people who need my help. But I don't think Casey was ready for that. S/He was pretty far gone when we spoke at the meetings. I knew Casey from several years back, and s/he was clearly very different when I saw her/him more recently. Casey has been addicted to cocaine for a few years now. S/He denies it to me, but from talking to other people, I know it's true. I could also tell from observing his/her behavior – Casey was clearly using a lot of coke. Even during our brief encounters, Casey alternated between periods of high energy and low energy.

These are common behaviors among cocaine addicts. S/He would also have frequent nosebleeds, a sign of heavy cocaine use. Addiction happens to a lot of drug dealers, and Casey is no exception. I cannot imagine that the addiction has done Casey any favors. Cocaine is an expensive drug. Casey can likely get it cheaper than usual given his profession, but I imagine s/he has been in dire need of money because of it. From speaking with other people, I know Casey has fallen into debt with some unsavory characters. Like Casey, they can get violent when people owe them money. I assume Casey has done whatever s/he had to to stay out of jail to get by at this point.

12. Unlike with Casey, I did think there was hope for Greg. I was trying to get Greg to enroll in a drug treatment program. He needed medical supervision if he was going to get clean. He was reluctant though. He didn't want to admit to his friends and family that he'd managed to get himself into this predicament. He especially didn't want to let Jamie down. Greg and Jamie had been friends since childhood, and Greg knew how disappointed Jamie would be if s/he learned about Greg's addiction. Greg clearly admired and respected Jamie. They truly were lifelong friends.

13. Greg wasn't just worried about upsetting Jamie however. Greg was also worried what Jamie might do if s/he discovered Greg's addiction. Greg told me that Jamie has quite a temper. Jamie's energy was part of what made him so successful, but s/he had trouble controlling it sometimes. I knew Greg and Jamie had fought many times in deciding to sell or not sell a computer program that they had developed together. I don't understand the details of the program itself, but Greg did tell me about some of the fighting.

14. Early on, the fighting centered around whether Jamie and Greg should sell the program or not. Greg told me that he began to think that selling the program would be a good idea. The pair would have immediate money, instead of having to worry that they would not be able to sell the program effectively themselves. Greg also worried that another program might usurp their market. I'm not entirely sure how honest Greg was being with himself even, but that's what he told me. Jamie wanted to hold onto the program for either a better offer or so that they could market it themselves. Jamie was pretty insistent about this. Jamie became pretty angry with Greg over this on a few occasions. They got into yelling matches in discussing it. On a couple of occasions they fought pretty vociferously at work, even getting physical at times. Greg worried about these fights. He said Jamie had a strong temper, and at a couple of points Greg worried that Jamie might actually hurt him.

15. The worst of their fights came after Jamie discovered drugs in Greg's desk at work. Greg called me the night after the fight. He was pretty upset over what had happened. In part, Greg was embarrassed that Jamie had discovered Greg's addiction. That's hard for an addict to overcome. But Greg was also a little frightened over what Jamie had said during the fight. Jamie got pretty upset during the fight. As Greg told me, at one point Jamie yelled, "I would be so much better without you! Why don't you just get this over with and kill yourself with your pills!" Greg also said that Jamie shoved him at one point. Jamie had gotten physical with Greg before, so I imagine he was freaked out about this. I could tell Greg was afraid of Jamie.

16. In August of last year, I began to get hopeful that I could get Greg into rehab. He finally seemed willing to own up to his addiction, explain it to Jamie and go for it. I was really excited about this. The turn really came in September. I think Greg realized how bad his addiction had become. I told him to tell Casey that he wasn't going to buy anymore, and that we'd get him into a rehab program. I was excited about the possibility of Greg really trying rehab.

17. But then the police contacted me about Greg's murder. They wanted to speak to me about what I knew. I was reluctant to talk because I consider things told me about someone's addiction, even not as patients, confidential. Eventually I did reveal that I knew Greg was addicted to oxycodone. I also told them that I knew he was buying mainly from Casey. I have a good relationship with the police, and I thought it was important that the cops had a clear understanding of what happened.

## AFFIDAVIT OF JAMIE ABBOT

1. My name is Jamie Abbot. I am 25 years old. I live in, actually grew up in, Alaskopolis, Alaska.

2. I knew Greg Mintner basically my whole life. We grew up together. We became friends in elementary school. We did everything together as kids. Once we got older we began hiking and camping together. We'd go on long backpacking trips every summer. We'd do hunting and fishing trips. We often spent time hunting ptarmigan with my .22 handgun. We knew it wasn't the most effective way to hunt, but we just loved being out together. Unfortunately, I lost the gun a while back. I think my parents accidentally tossed it out during a move while I was in college. I know they lost some other stuff that way. We also did a lot of mountaineering. Our favorite trip was climbing Foraker one summer during college.

3. When Greg and I went to college, we knew we wanted to go together. We'd always been into computers, and we both wanted to major in computer science. We loved programming, and we wanted to develop programs for new technologies. When we were in college we would develop programs for class and develop even more on our own time. One of my favorites was a program that calculated weather information along with several other factors – trail difficulty, animal activity, expected number of people on the trail – to figure out when was the best time to go hiking. It was a lot of fun. We actually used it one summer while we were working in Alaska.

4. After college, in 2008, Greg and I returned to Alaskopolis. We wanted to keep developing computer programs. Of course, we knew we had to earn some money so we could pay rent and eat and that sort of thing. We could have joined some of the existing computer companies in Alaskopolis. We had both worked for a couple during our summers, but we wanted more freedom to work on our program development.

5. So we got a few folks we knew together and started our own company in the summer of 2008 – Foraker Information Technologies. We wouldn't make as much money this way, but we would have time to develop our own stuff. And we did. We worked nights and weekends sometimes to develop our own programs. It was just as much fun as it had been in college. And of course we made time for hiking and climbing and hunting and whatever. We moved into an apartment together after we returned to Alaskopolis. We had lived together since the beginning of college, so we were pretty stoked to find a cool place together.

6. Our first real success was with a program to calibrate Lasik lasers. Greg had Lasik surgery so that he wouldn't need to keep wearing glasses, and he became interested in the process and how computers were used to calibrate the lasers used in the surgery. He and I got to talking about it, and after I did my own research I started thinking there might be a way to use our computer skills to develop a better and more efficient calibration program than existed on the market. After many months of work, Greg and I came up with a Lasik calibration program in January of 2010. We called it Custom Eyes. I know it's a funny name, but we couldn't think of anything better. We were pretty excited about this because our program could calibrate Lasik equipment more precisely and quickly than what was on the market. We let a local Lasik center use Custom Eyes for a limited time in February-March 2010 to see how it well it worked. The center was excited and so were we – the program worked really well.

7. I guess word about the program's success got out because soon after the trial run, a technology company, Eye Corp., contacted us. They wanted to buy the rights to Custom Eyes so they could market it. We decided to negotiate with them. We figured it couldn't hurt, though we were initially not enthusiastic about selling the program. Eye Corp. offered to buy the program for \$600,000. This must have been around April of last year.

8. Greg and I were pretty firm after the offer. We did not want to sell so quickly. We thought there might be other offers available, and we wanted to see what they were. I started contacting some technology companies to gauge interest. We also figured we could make more money if we sold the program ourselves than if we went through Eye Corp. I did some calculations, and I figured we could make maybe \$2,000,000 marketing the program ourselves. Lasik surgery has become a large and competitive business in the last few years, and surgery centers would pay good money to improve their services. As soon as one got ahead and could offer a less expensive service, others would quickly follow suit.

9. Although I thought we were pretty set on rejecting Eye Corp.'s offer, Greg began to waver. Greg was afraid that someone else would develop a competitive program that would make Custom Eyes obsolete. I frankly thought this was ridiculous. I know the computer industry moves quickly, but Custom Eyes was unique in several ways. Existing technology was nothing like it, and I had heard nothing about anyone trying to develop something similar. Eye Corp. contacted us in August and said the offer would expire in October. I didn't really care, but this just made Greg more nervous about selling as soon as we could.

10. Sure, Greg and I had had to take out some personal loans to keep Foraker running, but I knew we would cover them once the money from the North Star Cargo project came in. The North Star Cargo project was this big account that Foraker was working on to completely redesign the computer tracking system for one of the largest shipping companies in Alaska. I knew the huge number of hours that were being put into the project and that we stood to make over \$150,000 when the bill got paid. You see, Foraker only billed customers when a project was completed. In retrospect, this was a bad idea, since it meant we had no money coming in from these large projects to cover our expenses such as salaries and so on. In fact, I changed this policy after the North Star Cargo project was completed to require monthly billing of all projects expected to take over twenty-five hours. Like I said, though, I wasn't worried about having to take out loans to cover company expenses. I don't think Greg was bothered by it either. At least, he never said anything to me about it.

11. Greg also talked about wanting to develop more programs instead of having to focus on selling Custom Eyes. I also thought this was completely ridiculous. We had spent the last year running an IT company while developing programs. I saw no reason we couldn't continue developing other programs while we marketed Custom Eyes. This was a chance for a huge payday that might not come along again for several years. Honestly, I think I put a little more work into Custom Eyes than Greg did, and I wasn't ready to let it go. Greg was just more nonchalant about the whole thing. I think Greg thought we could keep churning out programs like butter, but that's just foolish. Programs aren't that easy to develop. It took us a long time to even think of Custom Eyes, much less actually develop it. The idea that we could just come up with another program that would make us money was stupid!

12. Greg was pretty insistent on his position, though, and we began to fight about it. Greg stuck to his guns. I was pretty honest with him. I told him he was being an idiot. There was no other word for it. He was being short-sighted and foolish. We were sitting on a lot of money, but Greg could only think about getting Custom Eyes out of our hands so that he could move on to something else. Frankly, I thought he was getting lazy about it. I think he just wanted to focus more on hiking and hunting and hanging out than he did computers. Honestly, I always thought he had been less interested in technology than I was. Greg was going to toss away our future just so he could have some fun! Greg just didn't understand what was at stake.

13. I imagine I said some pretty nasty things during some of these fights. I have a temper and I can get pretty heated at times, especially when something big is at stake. I know I said some things I regret and Charlie overheard them. At one point, Greg and I even got into a bit of a shoving match. It really wasn't a big deal, and neither of us wanted to hurt the other. We were just frustrated. I certainly never stopped caring about Greg. We had been friends for so long, and I would never have done anything to hurt him. I get angry, but those are merely words, nothing more. I know I sometimes get too angry and over-react to things. I'm trying to do a better job of controlling my temper. We actually stopped sharing an apartment because of the fighting. I moved in with a friend of mine. I didn't want to do it, but Greg and I were just at each other's throats too much of the time. It was hurting our friendship.

14. After I had moved out, so maybe mid-August of 2011, I was at work late one night trying to find some information about companies other than Eye Corp. that might want to buy Custom Eyes. Despite fighting with Greg, I was still looking into selling it to other Lasik centers. I knew Greg had a few business cards in his desk from companies we had talked with. I hoped that if I found other potential buyers, Greg might see the error of his ways. While I was looking for the information in Greg's desk, I discovered a plastic baggie filled with white pills. I'm no drug expert, but I knew these weren't good. Greg had abused some drugs in college, mostly marijuana but on a couple of occasions cocaine, so I immediately worried that he was abusing these.

15. I took a couple of the pills and went to a local pharmacist I know. He identified them as oxycodone. This freaked me out. Greg had a foot surgery fall of 2010 then had to have another surgery in January 2011. The second surgery was to fix a problem that cropped up during the first procedure. Recovering from these was pretty painful for Greg, and I know he'd been taking prescription pain meds. Given his history, it occurred to me that Greg might be abusing the medication. I didn't want to confront Greg immediately, so I spent some more time searching for drugs.

16. I still had a key to Greg's apartment, so I waited until I was able to get in while Greg was at work. I looked through Greg's stuff and found more bags of the same pills. These were hidden, rather poorly, throughout the apartment. This convinced me Greg was addicted. I had no idea how long Greg had been addicted, but it made me realize why Greg so badly wanted to sell Custom Eyes. He needed money for his addiction! I was furious with myself for not seeing Greg's addiction sooner.

17. Needless to say, this upset me. Frankly, I was furious. I confronted Greg at work in September of last year. It was by far the worst fight we had ever had. I told Greg that I understood why he wanted so desperately to sell Custom Eyes. He, of course, insisted he wasn't addicted to anything. I couldn't believe he would deny that, much less claim it wasn't why he

wanted to sell Custom Eyes, but he did. We fought for over an hour at least. I was pretty blunt. I can't remember exactly what I said, but I know it was pretty harsh. I may have told Greg I wished he would just get out of my life forever. I wish I could take back my words, but I was just so angry about the whole situation. I couldn't believe Greg would risk everything we had worked toward for some damn pills.

18. After that fight, I just left. I didn't see Greg at Foraker or anywhere else. I wish I had an opportunity to take back what I said, but it's too late for that now I guess. I was devastated when police contacted me about Greg being found dead. I guess he just ended up involved with the wrong people. I know things turn out this way sometimes, but I can't believe it would happen to Greg. We had plans for the rest of our lives. I still can't believe how things have turned out.

19. I never realized Casey was capable of this either, but frankly I never really knew her/him. I met Casey once with Greg at a party at our apartment. S/He had come over to talk to Greg. I wasn't sure about what at the time, but now I know. Greg mentioned a few other times wanting to get together with Casey, but I had no interest in this. I had a bad feeling about Casey. S/He just didn't seem right. I didn't think much about it. But after I found the drugs, I looked up Casey's phone number in Greg's stuff. I decided to give Casey a call because I thought Casey might have been selling Greg drugs.

20. I met with Casey, but not for the reasons s/he would have everyone believe. Honestly, I can't believe Casey would try to pin this on me. It's despicable. I would never do anything to hurt Greg. Yes, Greg and I fought from time to time, but like siblings, not as enemies. Casey deserves whatever punishment s/he gets for this. I just wish it could come from my hand. I met with Casey only to talk about Greg's addiction. I wanted to know how long Greg had been addicted, how bad it was. I just wanted to help Greg. One thing I do remember from our conversations is that Casey mentioned that Greg owed him/her some money. I couldn't figure out how much. Honestly, I would have covered some of Greg's debt, but I just didn't have any cash on hand to do that.

21. I tried to explain this all to the police, but they didn't believe me. I'm still not even sure why the police ever suspected me. I don't understand why Detective Buckler can't understand that I would never do anything to hurt Greg. I even tried to explain that I wasn't even around for an alleged second meeting with Casey. I spent every Thursday with my friend, Ryan. I know Ryan said as much. I don't understand why Detective Buckler didn't believe us.

22. I know I didn't mention knowing Casey when Detective Buckler first contacted me. Of course, s/he had just told me Greg was dead. I think a lot of things slipped my mind. Wouldn't that happen to anyone?

23. The police don't have any evidence. Casey's claim that I paid him/her \$15,000 is crazy. I don't have that type of money. Our accounting at Foraker was relaxed, which isn't surprising. We couldn't afford accountants, and Greg and I didn't give it a lot of attention. We had more important things to worry about. But there's just no way someone could pocket that much cash without people noticing. Greg certainly would have noticed, as he did more of the bookkeeping work than me. I certainly didn't make enough working for Foraker. We were just too small. And Custom Eyes hadn't generated any income yet. \$15,000? That's just ridiculous.

24. The \$15,000 payment to the IRS was part of our normal course of business. Ok, I was running a bit behind on figuring out what we owed the IRS for our payroll taxes. Greg didn't like dealing with the IRS, so this was the one part of the accounting that I always handled. But, Greg kept tabs on it and was always on my case to make sure it got done. Toward the end of September 2011, I was so burned out from the North Star Cargo project that I simply forgot to do the payroll taxes on time. I figured I could still get it done by the end of the month, but I wanted to keep Greg off my back. So, I made a best guess on September 27 about what our payroll taxes would be and entered that number so that Greg would think the payroll taxes had been done and would leave me alone. I in fact did send the IRS the correct amount and got it postmarked by the end of the month. I certainly didn't write a \$15,000 check to me to embezzle money from Foraker.

25. I know there are some concerns about how I handled the North Star Cargo account. The North Star project was the largest Foraker had ever done. North Star is one of the largest cargo shipping companies in Alaska, and we were completely revamping their tracking system. They wanted to be able to track their trucks in real time, which is not an easy task. I was a little surprised we got the project, but we submitted a pretty competitive bid for it. Unfortunately, we had trouble overseeing something this large. Honestly, I had trouble – Greg wasn't involved in overseeing the North Star project the way I was, though he did work on it. I oversaw the project, while Greg just spent some time working on small aspects of it. I screwed up the project management on it a few times. Managing it was pretty hard for me – when we finished, I took a few days off and completely crashed.

26. One problem I had was that I lost some of my project notes. I think I had taken stuff home to work on, and I must have misplaced it. I'm sure this included the missing time records for my work on North Star. This really frustrated me, but it's that simple. I was really busy and I just lost something. I didn't think it was that big a deal, to be honest. And I know I shouldn't have changed billing rates. When we started the project with North Star Cargo we didn't discuss the Project Supervision rate, but we did include that in our standard billing contract. We hadn't used it before, but we tried to write pretty broad contract language. I don't like changing a billing rate without discussing it with the customer, but given how much work I had done supervising the project, I thought it was justified. I also knew I had under billed for some of my prior work, especially after I lost my billing notes, and I thought it was only fair to make up for that somehow. I did more work than I billed North Star for – I know that much for sure. I modified Charlie's and Ryan's billing rates as well because they had inappropriately listed some of their time as software programming instead of network programming. Software programming is a lower billing rate than network programming, so this mistake cost Foraker a lot of money. I knew the project better than either Charlie or Ryan, and I knew from reviewing their individual time records that much of the work they were doing was really network programming, even though it had been listed as software programming.

27. At this point, I can't even comprehend what has happened to Foraker and to Greg. Everything was going so well for us. Then everything began going so poorly so quickly. I know Greg is never coming back, but I just want to get this over with so I can move on with my life.

## **AFFIDAVIT OF SHANNON ARMAS**

1. My name is Shannon Armas. I am twenty-nine years old and an associate professor of accounting at the Alaska State University at Alaskopolis, fondly known as Alaskopolis State. I received my Masters Degree from the University of Oregon two years ago and immediately began teaching at Alaskopolis State. I am currently working on my PhD on the effects of microfinance on social equality in emerging markets and hope to finish in the next two to three years. I teach a variety of introductory and advanced undergraduate accounting classes at Alaskopolis State. Alaskopolis State does not currently have a graduate program in accounting, though I am hoping to start one.

2. This is the first time that I have been asked to serve as an expert in a trial. I was asked by the defense team to examine the accounting records of Foraker Information Technologies (“FIT”) to determine the likelihood that Jamie Abbot embezzled \$15,000 from FIT. The defense is paying me \$250 per hour for my work. I am very familiar with the issue of corporate embezzlement. One of the things I try to train my accounting students on is how to spot possible embezzlement when looking at corporate accounts. I took a course on embezzlement four years ago at Oregon, and my instructor there was a former federal prosecutor of white collar crime, primarily embezzlement. In preparation for my testimony, I reviewed the affidavit of Alex Gorton and interviewed Jamie Abbot. I did not think it necessary to interview either Ryan Rudde or Charlie Culbieson, as I trusted Alex Gorton’s statement that their individual time records were accurately reflected on the FIT spreadsheet and invoices.

3. There are four primary faults that I can find in Alex Gorton’s analysis of the FIT accounting books. The first is that Alex did not do a thorough enough examination of the business model for Foraker and how this might have impacted Jamie’s motivation to embezzle. This is surprising considering Alex’s specialty is business valuation. The second problem was that Alex did not look closely enough at the expense side of the equation in relation to Greg’s over-reporting of hours. This would have shown a clear pattern of systematic embezzlement by Greg and thus offered an alternate theory for the alleged over-charges with the North Star Cargo account. Third, the last fault in Alex’s analysis is that s/he fails to take into account the mindset of embezzlers – embezzlers never want to involve unwitting others in their scheme, and Alex’s theory of the case requires Jamie to have done this extensively. Finally, Jamie had a credible explanation for the overstated IRS payroll tax accounting journal entry.

4. Alex was correct that FIT’s policy of only billing customers once projects are completed was an extremely poor business model. Other than Jamie and Greg, all FIT employees were on salary, meaning they were paid the same amount every month, regardless of whether or not any money came into the company. Jamie and Greg did not work for FIT on a salary but rather split whatever profits existed once expenses were covered. The partnership distributions were made on a two month delay to ensure that enough money was left in the FIT bank account to cover operating expenses. And, in addition to employee salaries and associated benefits, FIT had a variety of fixed expenses, such as rent, utilities, insurance, equipment costs, software licensing fees, and so on. For the most part, these expenses would exist even if FIT did not have any customers. Salary and fixed expenses were relatively constant from month to month and needed to be paid no matter what. If not enough money came into FIT that month, what happened was that Jamie and Greg would not get paid. If expenses exceeded income for long enough, then they

would have to take out a line of credit from a bank to cover expenses until the accounts were paid off.

5. The monthly expenses for FIT, including salaries and all fixed expenses, were approximately \$42,000 for the months of January to September 2011, with only minor variations. No new employees were added during this time, so salaries and expenses remained relatively constant. As of the beginning of April 2011, Foraker had paid most of its bills and was at a break even point financially. Indeed, FIT was taking in on average \$52,000 per month from January to April 2011, meaning that Greg and Jamie took home \$5,000 each before taxes. This is well below what their talents were worth, and less than what some of their employees were being paid, but it was not a terrible wage. Starting in April, however, FIT started spending a significant number of employee hours on the North Star Cargo project. This meant that these employees could not spend time on smaller projects that finished earlier and paid more regularly. But, the salaries and fixed expenses remained at approximately \$42,000 per month. In May, FIT only took in around \$45,000. Jamie told me that s/he and Greg covered their own expenses out of their personal savings. But in June, income dropped to just over \$37,000, at which point Jamie and Greg had to take out a loan against future profits at the beginning of July to cover operating expenses and an additional \$7,000 (\$3,500 each) for their own personal expenses. July's income increased slightly to \$39,000, but August's income dropped dramatically down to \$29,000 as the North Star Cargo project consumed almost half of all employee time. Some of the decline may also have been due to sluggishness in the economy in general. Work did start to pick up a bit in September. Each month Greg and Jaime continued to take out loans to cover company and personal expenses. Not including the North Star Cargo invoice, September was shaping up to have approximately \$33,000 in income. Still, prior to the North Star Cargo invoice being paid, Jamie and Greg had taken out \$42,000 from loans on FIT and its assets to cover business and personal costs. When I interviewed Jamie s/he told me that after the problems with the North Star Cargo account that FIT was changing its policies to bill monthly any account that was anticipated to require more than twenty-five hours of time total.

6. The constant and increasing loans made Foraker look like it was on the verge of financial ruin – certainly to someone like Greg, who kept track of the daily accounts of FIT and was only minimally involved in the North Star Cargo account. This could have put pressure on Greg to want to sell the Custom Eyes patent for a low-ball offer. Jamie, on the other hand, knew that the North Star Cargo account would be invoiced and paid in September and that s/he and Greg would not only be able to pay off the loans in their entirety, but would have a sizable sum of money left over afterwards. Even if a portion of the money was set aside to cover future expenses, Jamie and Greg would each receive a sizable payout whenever the North Star Cargo bill was paid. Jamie knew this payout was coming. It makes no sense to suggest that Jamie would embezzle \$15,000 from FIT because s/he would be receiving well over this amount of money with the partnership distribution at the end of November. I am not aware of any time pressures that would require Jamie to have access to this money before then. And, there was no withdrawal of \$15,000 from Jamie's bank account that might have been used to pay Casey Bale.

7. The second major weakness in Alex's analysis was failing to recognize Greg's systematic embezzlement from his own company. Alex looked at Greg's overbilling of clients and assumed this was simply sloppy record-keeping by Greg exacerbated by his oxycodone use. Alex did not look closely enough at the FIT spreadsheet. For each overbilling by Greg, there is a

corresponding “bill” from Transarctic Regional Integrated Consultants (“TRIC”) in the expense column for the exact same amount in the same month for supposed marketing work. For example, in March 2011, Greg overbilled Johnson Catering by 3.5 hours for software programming compared to his handwritten time records. At \$150 per hour, Johnson Catering was overbilled by \$525. There is another overbilling in March 2011 for web design for Doherty Garden Supplies for 2.0 hours, which at \$100 per hour equals an overbilling of \$200. Meaning that for the month of March 2011, Greg overbilled FIT clients by a total of \$725. There is then a bill from TRIC for March 2011 for \$725 for marketing services.

8. Only, TRIC was not a real company. It has no registered business license in Alaska, is not listed in the phone book, and has no website. Serial embezzlers frequently create fake companies to which to funnel the embezzled funds. The way this works is that the victimized company will receive an “invoice” from the fake company for goods or services that were never actually provided. Of course, this invoice is created by the embezzler, and the service supposedly provided either has to be one that only the embezzler would know about or it has to be relatively so small that it is lost in the overall number of invoices that the company pays at any given time. As long as the fake company has a mailing address (often a P.O. box) where the check can be received, the embezzler does not even need to be the one cutting the checks. The embezzler then sets up a bank account under the name of the fake company into which to deposit the checks and withdraws the money, usually in the form of cash, as needed.

9. I believe this is precisely what Greg did. Because Greg was the one who handled most of the daily accounting for FIT, it would have been easy for him to slip fake invoices through the system. Plus, as one of the owners of FIT, no one would question Greg seeking the services of a marketing company such as TRIC. The invoices for TRIC do not show any telltale signs of who drafted them. It is odd that the invoices are “signed” with a printed name instead of an actual signature, but again, Greg handled most of the accounting, and neither Jamie nor anyone else was paying enough attention to question this. I could not track the bank account that Greg set up for TRIC. There is no bank account under that name in any bank in Alaskopolis or any nearby suburb. Likely, Greg utilized an internet bank account in another state and withdrew the money as cash via an ATM. This is also a common practice among embezzlers.

10. The overwhelming proof that Greg was behind this, though, was the correspondence between Greg’s overbilling and the TRIC invoices. There is simply no way that this could be a coincidence. Greg clearly knew how to embezzle from FIT and had no moral reservations about doing so. I believe that when Greg needed a large sum of money, such as the \$15,000 that was embezzled in late September 2011, he knew that he could not get away with an invoice that large from TRIC. So, he saw the huge payment from North Star Cargo as his opportunity to embezzle a sizeable sum of money, still get a significant payout later on, and hope that the missing funds got lost in the mix. After all, with how little attention Jamie paid to the FIT accounts, Greg would likely be the only one to notice the money was missing. By making the \$15,000 check out to “cash” it was essentially untraceable.

11. The theory Alex Gorton advanced regarding how Jamie Abbot supposedly embezzled the \$15,000 by inflating employee hours and using an unusual billing rate is not consistent with the pattern of embezzlers that I have encountered in my studies. Embezzlers like to operate alone, or at least only in the company of others who are in on the scheme. Alex’s theory requires Jamie to change the recorded billing entries of two employees that could question her/his actions. Then, it

requires Jamie to have used a billing rate that might have drawn complaints from North Star Cargo. It would be a huge leap of faith for Jamie to surmise that North Star Cargo was so big that its accounting department would not have been apprised of the common billing rates for FIT and that FIT hadn't billed for "project supervision" before.

12. In other words, Alex's theory requires Jamie to have embezzled a huge sum of money in a way that easily could have been exposed at two key points in the scheme. This is simply not how embezzlers think. Embezzlers may at times be careless, but they usually go to great lengths to at least attempt to cover their tracks, such as by creating fake companies to serve as fronts for the embezzled money. Indirectly involving two employees and a major client in an elaborate embezzlement scheme is not covering one's tracks. I find Jamie's explanation of why Ryan's and Charlie's billing rates were adjusted to be a much more plausible explanation of the final invoice sent to North Star Cargo. Besides, if Jamie was supposedly embezzling money to have Greg killed, there was no reason to cover her/his tracks so carefully – Greg would be dead and thus could not discover what Jamie had done. Jamie could have been much more brazen in stealing money from FIT and gotten away with it.

13. I also find Jamie's explanation of the overstated IRS accounting spreadsheet to be credible. Jamie told me that s/he was so worn out from finishing the North Star Cargo project that s/he took some time off from work. When s/he came back to work, s/he realized that the IRS quarterly payroll tax payments were due by the end of the month. Jamie normally finished them about a week ahead of time and knew that Greg would be looking for the payment entry in the accounting books. Because the FIT payroll had remained constant for all of 2011, the quarterly payroll tax payment should be close to the same each time. The first two entries for 2011 were \$14,529.18 and \$14,186.33. Jamie explained that s/he made an entry of \$15,000 to be sure to cover the payroll tax payment so that when Greg did budgeting for FIT for the next month, this amount would not be included in the budget calculations. As it turned out, Jamie rushed to finish the IRS payroll tax calculations and sent the correct amount to the IRS by the September 30 deadline.

14. In sum, Alex Gorton's theory that the \$15,000 "cash" check from September 29, 2011 was the result of an elaborate embezzlement scheme by Jamie Abbot is full of holes. And without Jamie embezzling the money from FIT, s/he had no way to pay Casey Bale to murder Greg Mintner. Greg, on the other hand, was a serial embezzler and had a drug problem that required significant sums of money to support. I think it is clear that Greg embezzled the money instead of Jamie.

# **III. Exhibits**

## FIT September Books

<b>Date</b>	<b>Company</b>	<b>Description</b>	<b>Amount</b>	<b>Balance</b>
Start				(21,305.68)
9/1/2011	Great Alaska Bank Alaskopolis Property Management	Loan - business & personal expenses	(20,000.00)	(41,305.68)
9/1/2011	Management	Office rent payment	(4,200.00)	(45,505.68)
9/2/2011	Alltimes Insurance	Business ins.	(2,796.25)	(48,301.98)
9/6/2011	Boomin' Sound Co.	Invoice payment	3,320.00	(44,981.93)
9/9/2011	Alaska Medical	Health ins. premium	(3,541.89)	(48,523.82)
9/9/2011	Alaskopolis Power	Electricity	(788.05)	(49,311.87)
9/12/2011	Media Mania	Invoice payment	2,150.00	(47,161.87)
9/12/2011	Credit Card	Supplies	(730.58)	(47,892.45)
9/14/2011	North Star Cargo	Invoice payment	175,170.00	127,277.55
9/15/2011	FIT Payroll	C. Culbieson	(3,050.33)	124,227.22
		R. Rudde	(2,874.12)	121,353.10
		E. Carver	(2,287.04)	119,066.06
		S. Walker	(1,976.87)	117,089.19
		T. Osaki	(1,833.47)	115,255.72
9/16/2011	Alaska Produce Co.	Invoice payment	6,045.00	121,300.72
9/19/2011	AK Gas	Heating bill	(1,086.24)	120,214.48
9/21/2011	Mary's Pies	Invoice payment	740.00	120,954.48
9/23/2011	OK Realty	Invoice payment	2,370.00	123,324.48
9/23/2011	Alaska Telco	Internet/Telephone	(2,637.65)	120,686.83
9/24/2011	Far N. Health Clinic	Invoice payment	11,580.00	132,266.83
9/25/2011	Alaska Travel	Invoice payment	5,265.00	137,531.83
9/26/2011	Visibility Advocates	Advertising	(2,160.00)	135,371.83
9/27/2011	IRS	Quarterly payroll tax	(15,000.00)	120,371.83
9/28/2011	K9 Kottages	Invoice payment	1,225.00	121,596.83
9/30/2011	FIT Payroll	C. Culbieson	(3,050.33)	118,546.50
		R. Rudde	(2,874.12)	115,672.38
		E. Carver	(2,287.04)	113,385.34
		S. Walker	(1,976.87)	111,408.47
		T. Osaki	(1,833.47)	109,575.00
9/30/2011	Great Alaska Bank	Loan - business & personal expsenses	42,000.00	67,575.00
End				67,575.00

## FIT March Books

<b>Date</b>	<b>Company</b>	<b>Description</b>	<b>Amount</b>	<b>Balance</b>
Start				16,317.60
	Alaskopolis Property Management	Office rent payment	(4,200.00)	12,117.60
3/1/2011	FIT	Partnership Distribution	(9,600.00)	2,517.60
3/2/2011	Alltimes Insurance	Business ins.	(2,796.25)	(278.65)
3/3/2011	Help Me Maid Service	Invoice payment	4,560.00	4,281.35
3/4/2011	Alaska Medical	Health ins. premium	(3,541.89)	739.46
3/8/2011	Alaskopolis Power	Electricity	(769.78)	(30.32)
	Bearly Beginnings Day Care	Invoice payment	6,925.00	6,894.68
3/9/2011	Johnson Catering	Invoice payment	5,580.00	12,474.68
3/10/2011	Fortson Law Office	Invoice payment	1,230.00	13,704.68
3/14/2011	Credit Card	Supplies	(621.22)	13,083.46
	Lebo Educ.			
3/15/2011	Consultants	Invoice payment	21,570.00	34,653.46
3/15/2011	FIT Payroll	C. Culbieson	(3,050.33)	31,603.13
		R. Rudde	(2,874.12)	28,729.01
		E. Carver	(2,287.04)	26,441.97
		S. Walker	(1,976.87)	24,465.10
		T. Osaki	(1,833.47)	22,631.63
	Alaska Potato Marketers Board	Invoice payment	1,885.00	24,516.63
3/16/2011	AK Gas	Heating bill	(1,734.91)	22,781.72
3/18/2011	Surefire Fencing	Invoice payment	630.00	23,411.72
	Doherty Garden			
3/23/2011	Supplies	Invoice payment	3,605.00	27,016.72
3/23/2011	Alaska Telco	Internet/Telephone	(2,637.65)	24,379.07
9/24/2011	Zebra Custom Cars	Invoice payment	1,735.00	26,114.07
3/24/2011	Alaska Travel	Invoice payment	4,740.00	30,854.07
3/25/2011	Visibility Advocates	Advertising	(1,950.00)	28,904.07
3/25/2011	IRS	Quarterly payroll tax	(14,529.18)	14,374.89
3/28/2011	TRIC	Consulting	(725.00)	13,649.89
3/31/2011	FIT Payroll	C. Culbieson	(3,050.33)	10,599.56
		R. Rudde	(2,874.12)	7,725.44
		E. Carver	(2,287.04)	5,438.40
		S. Walker	(1,976.87)	3,461.53
		T. Osaki	(1,833.47)	1,628.06
End				1,628.06

Doherty Garden Invoice

**Foraker Information Technologies**

**INVOICE**

Alaska's IT Choice

2610 Raven Street

Alaskopolis, Alaska 99588

Phone (907) 555-3210 Fax (866) 555-6789

INVOICE #320  
DATE: MARCH 10, 2011

**To:**

Doherty Garden Supplies

3625 Black Bear Blvd.

Alaskopolis, Alaska 99588

**For:**

Website redesign

DESCRIPTION		HOURS	RATE	AMOUNT
G. Mintner	Soft. Prog.	2.7	150	405
	Web Design	9.0	100	900
E. Carver	Web Design	7.1	100	710
S. Walker	Web Design	15.9	100	1,590
			TOTAL	3,605

Make all checks payable to **Foraker Information Technologies**

Total due in 15 days. Overdue accounts subject to a service charge of 1% per month.

**Thank you for your business!**

Johnson Catering Invoice

**Foraker Information Technologies**

**INVOICE**

Alaska's IT Choice

2610 Raven Street

Alaskopolis, Alaska 99588

Phone (907) 555-3210 Fax (866) 555-6789

INVOICE #316  
DATE: MARCH 4, 2011

**To:**

Johnson Catering

812 Birch Ave.

Alaskopolis, Alaska 99599

**For:**

Website ordering template

DESCRIPTION		HOURS	RATE	AMOUNT
G. Mintner	Soft. Prog.	16.8	150	2,520
	Web Design	6.7	100	670
E. Carver	Soft. Prog.	8.4	150	1,260
T. Osaki	Web Design	14.0	100	1,400
			TOTAL	5,850

Make all checks payable to **Foraker Information Technologies**

Total due in 15 days. Overdue accounts subject to a service charge of 1% per month.

**Thank you for your business!**

**Foraker Information Technologies**

Alaska's IT Choice

2610 Raven Street

Alaskopolis, Alaska 99588

Phone (907) 555-3210 Fax (866) 555-6789

**INVOICE**

INVOICE #338  
DATE: SEPTEMBER 2, 2011

**To:**

North Star Cargo

5800 Airport Road

Alaskopolis, Alaska 99599

**For:**

Shipping Computer System Redesign

North Star Cargo Invoice (page 2 of 2)

DESCRIPTION		HOURS	RATE	AMOUNT
J. Abbot	Net. Prog.	188.3	200	37,660
	Soft. Prog.	36.1	150	5,415
	Supervision	54.5	250	13,625
G. Mintner	Net. Prog.	16.7	200	3,340
C. Culbieson	Net. Prog.	136.2	200	27,240
	Soft. Prog.	45.8	150	6,870
	Web Design	18.3	100	1,830
R. Rudde	Net. Prog.	203.9	200	40,780
	Soft. Prog.	88.5	150	13,275
E. Carver	Soft. Prog.	71.0	150	10,650
S. Walker	Net. Prog.	14.7	200	2,940
	Soft. Prog.	43.3	150	6,495
	Web Design	12.3	100	1,230
T. Osaki	Soft. Prog.	20.4	150	3,060
	Web Design	7.6	100	760
			TOTAL	175,170

Make all checks payable to **Foraker Information Technologies**

Total due in 15 days. Overdue accounts subject to a service charge of 1% per month.

**Thank you for your business!**

# Doherty Gardening

2/28/11 - 1.3 web D

3/1 - 2.4 web des

3/3/11 - .8 software

3/7/11 - ~~2.1~~ 2.1 web

3/4 - 1.9 software

3/9 - 1.2 - web design

Johnson Catering Handwritten Notes

# Johnson Catering

- 2/17/11 - 2.0 - software program
- 2/18/11 - web des 1.7
- 2/22 - 3.1 - web design  
1.8 - software
- 2/23 - 1.5 software  
1.1 web des
- 2/23 - 1.5 software program
- 2/23 - 3.6 software program
- 2/23 - 1.9 software design
- 3/2 - 1.4 software  
2.8 web D

Detective Reagan Buckler Crime Scene Sketch



Crime Scene Sketch – Greg Mintner



## **ALASKOPOLIS POLICE DEPARTMENT INVESTIGATION REPORT**

TYPE OF INVESTIGATION: Murder

VICTIM: Greg Mintner, age 23 at time of death; 5'11", 187 lbs, male

INVESTIGATING OFFICER: Det. Reagan Buckler

DATE OF INCIDENT: October 3, 2011

DATE OF INVESTIGATION: October 19, 2011

PRELIMINARY RECOMMENDATION FOR ARREST: October 25, 2011

DATE OF REPORT: November 12, 2011

LOCATION OF INCIDENT: E. Romanov Way, alleyway, Alaskopolis

INDIVIDUALS INTERVIEWED: Jamie Abbot (fingerprints and DNA sample voluntarily obtained); Casey Bale (fingerprints and DNA in system already); Charlie Culbieson; Ryan Rudde.

BACKGROUND: Was contacted via phone (3:27 a.m. 10/3/11) by Officer Riley Smith of the Alaskopolis Police Department re: body found in alley. Arrived at crime scene 3:58 a.m., 10/3/11.

CRIME SCENE INVESTIGATION AND SUBSEQUENT TESTING: Discovered corpse at scene, near dumpster in alley. Examined body. Three gunshot wounds to chest, apparent cause of death. Searched scene for shell casings. Discovered three casings. Later examination revealed these to be .22 caliber bullets. No gun ever discovered to compare bullets to.

Victim's wallet removed from his body but left at scene. Drivers license identified victim as Greg Mintner. No cash or credit cards in wallet. Body showed signs of struggle – jacket torn, blood found under fingernails, bruising on face. Blood sampled for later DNA testing.

Discovered plastic baggie containing 1 pill at scene. Assumed these were drugs. Later analysis identified them as oxycodone, a painkiller. Body did not include any prescriptions for the pills. Presence indicated possible drug sale.

Scene revealed no other evidence.

OTHER EVIDENCE CONSIDERED: Interviewed several people who knew Greg Mintner.

Interviewed Jamie Abbot next morning, at 11:45 a.m., 10/4/11. Informed Jamie about Greg's death. S/He seemed surprised but not shocked. Discussed very little with Jamie that morning. S/He did inform me that the two had been working on a computer program, Custom Eyes together. Jamie acknowledged Greg's drug addiction.

Interviewed Greg's co-worker, Ryan Rudde, 10/5/11, 9:30 a.m. Ryan informed me about Greg possibly being addicted to drugs. Ryan unsure about who Greg purchased drugs from. Ryan also informed me about tension between Jamie and Greg due to possible sale of Custom Eyes.

Interviewed Casey Bale, 10/7/11, 2:15 p.m. Given Ryan's discussion about Greg being addicted to painkillers, began to focus on crime as drug deal gone bad. Noticed that another officer had picked Casey Bale up near the scene later that morning, roughly 4:30 a.m., with a baggie of

drugs on him/her. Due to another call regarding a drunk driver, officer had released Casey. Approached Casey about selling drugs to Greg. Casey admitted that but denied being involved in Greg's death. Released Casey.

Ran fingerprints from baggie found on Greg at scene. Matched Casey's. With search warrant, searched Casey's apartment for anything linking him/her to Greg's death. Discovered several jackets that we seized to test for gunpowder residue. Discovered large stash of cash (nearly \$15,000) under Casey's bed. Later testing found gunpowder on one of Casey's jackets.

Arrested Casey on October 20, 2011 for Greg's murder and brought him back into station. Casey held to story but eventually admitted to having shot Greg. Casey insisted that s/he did not act alone – said someone had paid him/her to kill Greg.

After consulting with prosecutor, offered Casey a deal if s/he explained who paid him/her to murder Greg and it stood up. Casey agreed and said Jamie had paid him/her. Casey said they met twice before Greg agreed to shoot Greg, using Jamie's .22. Casey said the second meeting happened on a Thursday night. Casey claimed that Jamie paid him/her \$15,000 in cash.

Looked further into Jamie's involvement. I had been struck by how Jamie handled the news of Greg's death. I thought Jamie showed very little emotion, but I didn't think much of it. However, now I realized how unusual it was. I spoke with Jamie's and Greg's co-workers and friends.

Charlie Culbieson explained strained relationship between Jamie and Greg. Jamie and Greg fought over the possible sale of a program they had developed – Custom Eyes. Charlie observed them fighting several times in the office. Jamie threatened Greg on at least one occasion.

Also spoke with Ryan Rudde again. Ryan claimed that Jamie would never do anything to hurt Greg. Asked Ryan about hanging out with Jamie on Thursdays – discussed possible meeting time with Casey with Ryan. Ryan claimed the two usually went out on Thursdays but said Jamie couldn't always make it. Ryan could not specify what days Jamie might have missed.

Finally met with Jamie again. Jamie seemed reticent to speak with me. S/He admitted that s/he and Greg had some problems regarding Custom Eyes, but denied that they were serious, even when confronted with the fact Jamie had moved out of their shared apartment. Tried to change subject when I brought up Casey. Jamie admitted not telling me about Casey originally but denied having met with Casey. When I explained Casey's story, Jamie became furious. Began yelling about Casey being a worthless human being. Jamie was furious. Jamie calmed down eventually and seemed embarrassed by his/her outburst. Jamie said s/he usually hung out with Ryan Rudde on Thursdays but could not recall if s/he had shown up to all of these meetings in the last month even.

Given what I knew, I thought Jamie was involved in Greg's murder. I arrested Jamie. S/He again became furious, screaming that Casey was a liar.

Further investigation into Jamie's finances revealed evidence that s/he might have embezzled money from Foraker to pay Casey for the murder.

**CONCLUSION:** Jamie paid Casey Bale to kill Greg.

# **IV. Competition Rules**

**RULES GOVERNING THE ALASKA HIGH SCHOOL**  
**MOCK TRIAL COMPETITION**

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# **I. RULES OF COMPETITION**

## **A. GOVERNING RULES**

### **Rule 1. Competition Coordinators**

The Alaska High School Mock Trial Championship is sponsored by the Anchorage Bar Association, Young Lawyers Section. A committee comprised of interested members of that organization and other persons, as appropriate, shall organize and oversee all aspects of the competition, and shall be referenced as the competition coordinators. All correspondence with the competition coordinators should be addressed to:

ANCHORAGE BAR ASSOCIATION  
P.O. BOX 100362  
ANCHORAGE, AK 99510-0362  
Attn: MOCK TRIAL

You are also welcome to e-mail the organizers at [alaskamocktrial@gmail.com](mailto:alaskamocktrial@gmail.com).

### **Rule 2. Interpretation of the Rules**

All trials will be governed by the current Alaska High School Mock Trial Championship's Rules of Competition and Rules of Procedure and by the Federal Rules of Evidence (Mock Trial Version). Interpretation of the rules is within the discretion of the competition coordinators, whose decisions are final. Any clarification of rules will be issued in writing to all participating teams. Teams who believe that clarification is needed should request clarification in writing. Any situations that arise that are not addressed in these rules may be resolved at the sole discretion of the competition coordinators.

### **Rule 3. Code of Conduct**

The Competition rules, as well as proper rules of courthouse and courtroom decorum and security must be followed. The competition coordinators will have discretion to impose sanctions, up to and including forfeiture or disqualification, for any misconduct, flagrant rule violations, or breaches of decorum which affect the conduct of a trial or which impugn the reputation or integrity of any team, school, participant, court officer, judge or the mock trial program.

### **Rule 4. Emergencies**

During a trial, the presiding judge or the competition coordinators shall have discretion to declare an emergency and adjourn the trial for the period of time necessary to address the emergency. If an emergency arises which would cause a team to be unable to continue a trial, or require it to participate with less than six members, the competition coordinators shall have the discretion to determine how to proceed.

### **Rule 4.5. Food and Beverages in the Courtrooms**

Food and beverages – other than water – are NOT ALLOWED in the courtroom at any time. After receiving a warning, teams that fail to follow this rule are subject to forfeiture of

rounds and/or disqualification. Competition organizers will do their best to make water available during the trial for the participating lawyers and witnesses, but teams may want to consider bringing their own bottled water.

## **B. THE PROBLEM**

### **Rule 5. Case Materials**

The problem will be an original fact pattern which may contain any or all of the following: statement of facts, indictment or complaint, stipulations, witness statements/affidavits, jury charges, exhibits, etc. Stipulations may not be disputed at trial. Witness statements may not be altered.

Teams who believe that errors exist in the case materials should bring such errors to the attention of the competition coordinators in writing prior to the start of the competition. Any clarification of case materials will be issued in writing to all participating teams. In preparing and participating in the Competition, students are limited to the supplied case materials, the Governing Rules and the Modified Rules of Evidence.

Participants are not allowed to introduce at trial cases or exhibits not included in the case materials. Reasonable extrapolation will be allowed as explained in Rule 7.

### **Rule 6. Witness Bound by Statements**

Each witness is bound by the facts contained in his/her own witness statement or affidavit, the Statement of Facts, if present, and/or any necessary documentation relevant to his/her testimony. Fair extrapolations may be allowed, provided reasonable inference may be made from the witness' affidavit or as explicitly allowed by the case materials. If, in direct examination, an attorney asks a question which calls for extrapolated information pivotal to the facts at issue, the information is subject to objection under Rule 7, outside the scope of the problem. In such a situation, the witness should respond that he or she does not have sufficient information to answer the question.

If, in cross-examination, an attorney asks for unknown information, the witness may or may not respond, so long as any response is consistent with the witness' statement or affidavit and does not materially affect the witness' testimony. Fair extrapolations may be allowed, provided reasonable inference may be made from the witness' affidavit or as explicitly allowed by the case materials.

A witness is not bound by the facts contained in other witness statements.

### **Rule 7. Unfair Extrapolation**

Unfair extrapolations are best attacked through impeachment and closing arguments and are to be dealt with in the course of the trial. An unfair extrapolation is a statement by a witness at trial that creates a sense of bias for or against a party and which is not supported by the materials provided. A fair extrapolation is one that is neutral toward the outcome of the trial and either based on common knowledge or reasonably inferred from the witness's statement and pertinent exhibits.

Attorneys shall not ask questions calling for information outside the scope of the case materials or requesting an unfair extrapolation. If a witness is asked for information not contained in the witness's affidavit, the answer must be consistent with the statement and may not materially affect the witness's testimony or any substantive issue of the case.

Consistent with the obligation to attack unfair extrapolations through impeachment and closing arguments, attorneys for the opposing team may refer to Rule 7 in a special objection, such as “unfair extrapolation” or “information is beyond the scope of the statement of facts.” The attorney examining the witness may defend the witness’ statement by directing the judge to a passage in that witness’ affidavit, or to other applicable materials, that support the statement or conclusion made by the witness.

When an attorney objects to an extrapolation, the judge will rule in open court to clarify the course of further proceedings. Possible rulings by a judge include: (a) no extrapolation has occurred; (b) an unfair extrapolation has occurred; (c) the extrapolation was fair; or (d) ruling is taken under advisement. The decision of the presiding judge regarding extrapolations or evidentiary matters is final.

**Rule 8. Gender of Witnesses**

All witnesses are gender neutral. Personal pronoun changes in witness statements indicating gender of the characters may be made. Any team member may portray the role of any witness of either gender. Please try to be mindful of the genders of the witnesses portrayed by the opposing team.

**Rule 9. Voir Dire**

Voir dire examination of a witness is not permitted. Expert witnesses may be challenged on their qualifications as an expert.

**C. THE TRIAL**

**Rule 10. Team Eligibility**

Any Alaska high school may assemble one or more teams and become eligible to compete in the Alaska High School Mock Trial Championship Competition. Two or more Alaska high schools may jointly form a team if each school participating in the formation of a joint team would otherwise be unable to participate in the Alaska High School Mock Trial Championship Competition. Educational and civic organizations which are 1) independent of any Alaska high school, 2) not formed primarily for the purpose of competing in the Alaska High School Mock Trial Championship Competition, and 3) comprised of high school students residing in Alaska, may assemble one or more teams and become eligible to compete in the Competition. Alaska high schools wishing to form a team but not qualifying under this Rule may timely request that an exception to this Rule be granted by the competition coordinators. A decision by the competition coordinators as to eligibility under this Rule or an exception to this Rule shall be final. Any team wishing to participate in the Alaska High School Mock Trial Championship Competition must properly register with the competition coordinators in advance of the competition. The competition coordinators will attempt to accommodate all registrants. Any school or other organization wishing to enter multiple teams must designate a “first” team. In the unlikely event that registration must be limited as a result of too many teams attempting to participate, priority will be given to the “first” team over other teams from the same school or organization. In all other aspects, registration will be permitted on a first come, first served basis. Registration will only be limited if the number of teams registered exceeds the capacity of the facilities where the competition is held.

The team that wins the Alaska High School Mock Trial Championship Competition will be deemed the current Alaska State Mock Trial Championship Team and is eligible to participate and compete in the National High School Mock Trial Championship. Any team representing Alaska in the National High School Mock Trial Championship must be comprised of students who participated on the Alaska State Mock Trial Championship team. A team intending to compete in the National High School Mock Trial Championship *must* bring at least nine members to the National Championship. Teams eligible for the National Championship may decline to participate, in which case eligibility will pass to the next highest finishing team in the Alaska Competition. The Alaska State Mock Trial Championship Team is responsible for its own expenses in attending the National High School Mock Trial Championship Competition. Registration fees (estimated at \$300) incurred by the Alaska State Mock Trial Championship Team in conjunction with participation in the National High School Mock Trial Championship Competition may be paid by the competition sponsors to the extent that budgetary constraints will permit. The Anchorage Bar Association, Young Lawyers Section, may be prohibited from contributing any funds for travel and related expenses.

Rule 11. Team Competition

Teams consist of no less than **six** members and no more than **nine** members, including alternates. Team members are assigned to attorney and witness roles representing the Prosecution/Plaintiff and Defense/Defendant sides in each round of the competition. For each match, a team is required to provide three attorneys and three witnesses, as described below in Rule 12. Teams may rotate participants between rounds at their discretion.

Rule 12. Team Presentation

Teams must present both the Prosecution/Plaintiff and Defense/Defendant sides of the case, using six team members. Different sides will be assigned to teams for different rounds. Only in the case of an emergency may a team participate with less than six members. In such a case, a team may continue in the competition by making substitutions to achieve a two attorney/three witness composition. If an emergency causes a team to use less than three attorneys, the team may be penalized by a reduction of points for that round or may be caused to forfeit the round, depending on the nature of the emergency. Final determinations of emergency, forfeiture, or scoring record will be made by the competition coordinators and are solely at their discretion. If a coach knows his or her team might not be able to field the required six members for a given round, the coach should notify the competition coordinators as soon as possible.

Rule 13. Team Duties

Team members are to evenly divide their duties. Each of the three attorneys will conduct one direct examination and one cross examination; in addition, one will present the opening statement and a different student will present a closing argument. The principal attorney duties for each team will be as follows:

1. Opening Statement
2. Direct Examination of Witness #1
3. Direct Examination of Witness #2
4. Direct Examination of Witness #3
5. Cross Examination of Opposing Witness #1

6. Cross Examination of Opposing Witness #2
7. Cross Examination of Opposing Witness #3
8. Closing Argument

Opening Statements must be given by both sides at the beginning of the trial. The defense does not have the option to reserve their opening statement for the beginning of the presentation of their case.

The attorney who will examine a particular witness on direct examination is the only person who may make objections to the opposing attorney's questions of that witness's cross-examination, and the attorney who will cross-examine a witness will be the only one permitted to make objections during the direct examination of that witness.

Each team must call three witnesses. Witnesses must be called only by their own team and examined by both sides. Although re-direct and re-cross are permissible, witnesses may not be recalled to the stand after their testimony is complete. Thus, once a witness is excused and steps down, neither team may recall the witness for further questioning even if no re-direct or re-cross was previously conducted. A presiding judge may elect not to allow re-cross examination.

Attorneys are not permitted to ask leading questions on direct or re-direct examination, but may ask leading questions on cross or re-cross examination if they so choose. The scope of cross examination is not limited to the scope of issues raised during direct examination. However, the scope of re-direct examination is limited to issues raised during cross examination, and the scope of re-cross examination, if allowed by the presiding judge, is limited to issues raised during the re-direct examination.

Rule 14. Swearing of Witnesses

The following oath, or a similar oath permitted by the presiding judge, may be used before questioning begins:

“Do you promise that the testimony you are about to give faithfully and truthfully conforms to the facts and rules of the mock trial competition?”

The swearing of witnesses will occur in one of two ways. Either the presiding judge will indicate that all witnesses are to be sworn in collectively at the start of the competition, or the above oath will be conducted by the presiding judge upon the calling of each witness. The presiding judge shall indicate which method will be used during any given round of the Mock Trial Competition. Witnesses must stand during the oath unless physically unable to do so.

Rule 15. Trial Sequence and Time Limits

The trial sequence and time limits are as follows:

1. Opening Statement (5 minutes per side)
2. Direct and (optional) Re-direct Exam (20 minutes total per side)
3. Cross and (optional) Re-cross Exam (15 minutes total per side)
4. Closing Argument (5 minutes per side)

The Prosecution/Plaintiff is the first to present the opening statement and give the closing argument. The Prosecution/Plaintiff may reserve a portion of the time allotted for closing

argument to present a rebuttal. Rebuttal is limited to the scope of the opposing side's argument. The Defendant shall not be permitted rebuttal during closing argument.

The time allotted for examination of the witnesses is the combined time for all three witnesses. Teams may allocate their available time between each witness and between direct/re-direct or cross/re-cross examination as they choose. Extensions of time may be granted as set forth in Rule 17. If a team fails to present direct examination of a witness, that team will receive zero (0) points for that round for both the attorney and the witness; the cross-examining attorney will receive the average score of the other cross-examining attorneys. If a team fails to present a cross-examination because their time for cross-examination has expired, that team will receive zero (0) points for that attorney.

Rule 16. Timekeeping

Time limits are mandatory and will be enforced. Where possible, teams will be permitted to have one additional student at the table with the attorneys. This student must be a team member but need not be a witness in that particular match. This person may serve as a student timekeeper, but may not consult with the student attorneys other than to convey available time. Student timekeepers are not considered "official timekeepers" in the tournament. In criminal trials, the timekeeper may be the Defendant if the team so chooses, but teams will not be allowed an additional timekeeper at the table in addition to the Defendant. Time for objections, extensive questioning from the judge, or administering the oath will not be counted as part of the allotted time during examination of witnesses and opening and closing statements. Time does not stop for the introduction of exhibits.

Rule 17. Time Extensions and Scoring

The presiding judge has sole discretion to grant time extensions. Teams will not be given additional time during opening or closing arguments for failure to budget time properly, though the attorney will be allowed to conclude his or her argument. A team that runs out of time during either direct or cross examination of witnesses may request a two minute extension of time. Extensions of time will be granted only in two-minute increments and are at the discretion of the presiding judge. A team requesting an extension of time will be assessed a penalty of three (3) points against that team's overall score for each extension of time granted; the penalty will be recorded in the "penalty" section of each judge's score sheet. There is no limit to the number of extensions that may be requested; however, a three (3) point penalty will be assessed for each extension granted.

Rule 18. Prohibited Motions

Except as provided in these Rules, no motions may be made. (A motion for directed verdict, acquittal, or dismissal of the case at the end of the Prosecution's case, for example, may not be used.) A motion for a recess may be used in the event of an emergency (e.g., health emergency). To the greatest extent possible, team members are to remain in place. Should a recess be called by the court, teams are not to communicate with any observers, timekeepers, coaches, or instructors during the recess.

Rule 19. Sequestration

Teams may not sequester or exclude witnesses belonging to the other team.

Rule 20. Bench Conferences

Bench conferences may be granted at the discretion of the presiding judge, but should normally be conducted in such a manner that all participants, scoring judges, instructors, alternates, and other courtroom observers can hear the arguments and discussions in their entirety. This Rule is designed to further the educational interests of the Alaska High School Mock Trial Competition. Bench conference time shall not be counted against the time allotted to either team.

Rule 21. Supplemental Materials/Illustrations/Demonstrative Displays

Teams may refer to and use as exhibits only the materials included in the trial packet. No illustrations of any kind may be used, unless provided in the case packet. Absolutely no props or costumes are permitted unless authorized specifically in the case materials.

Students will be permitted to make enlargements of the materials in the case packet, including the provided exhibits, for use at trial. Students may also create for use at trial demonstrative displays containing timelines or quotations from affidavits or case exhibits, provided these demonstrative displays quote exactly the source material or are directly supported by the case materials. Demonstrative displays may be objected to as to their accuracy. Demonstrative displays may not be admitted as exhibits. If an enlargement of an exhibit or demonstrative display is used, it must be displayed in a manner easily observable to all trial participants and must remain so displayed for the duration of its use.

Rule 22. Trial Communication

Instructors, alternates, and observers shall not talk to, signal, communicate with, or coach their teams during trial. This Rule remains in force during any recess time that may occur during the course of the trial. Team attorneys may, among themselves, communicate during the trial; however, no disruptive communication is allowed. Signaling of time by the teams' own timekeepers shall not be considered a violation of this Rule. Non-team members, alternate team members, teachers, and coaches must remain outside the bar in the spectator section of the courtroom. Witnesses must remain outside the bar except when called to the stand. Only team attorneys participating in a round and a designated timekeeper may sit inside the bar during that round.

Rule 23. Viewing a Trial

Each team is responsible for the conduct of its members and persons associated with the team throughout the duration of the mock trial competition. Team members, alternates, attorney-coaches, teacher-sponsors, parents, and any other persons directly associated with a mock trial team may view their team competition, but otherwise, except when specifically authorized by the competition coordinators, are not allowed to view other teams in the competition.

Nothing may be brought into the courtroom which would tend to reveal the identity of the participating teams. Spectators should be cautioned that they may not wear school logos or insignias. School-owned equipment should have all identifying marks covered.

Viewing of the competition by members of the public shall be allowed so long as it does not disrupt the conduct of the trial. All persons in the courtroom shall show respect for the conduct of the proceedings.

Rule 24. Videotaping/Photography/Audiotaping

Any team may videotape or audiotape a competition round in which it participates for its own educational purposes only. With the consent of an opposing team, any team may videotape or audiotape a competition round for any other purpose. Bright camera lights, flash bulbs and equipment tending to distract the competitors may be barred in the discretion of the presiding judge. Disruptive conduct in the course of taping, filming, or taking photographs is prohibited, and may result in a penalty against the team responsible for the conduct of the offending photographer.

If school owned equipment is employed for video or audiotaping, identifying information must not be visible on such equipment that might be seen by a judge.

Media coverage will be allowed in accordance with the policies of the competition coordinators. Competition coordinators will be permitted to photograph or otherwise record the competition for promotional purposes. Students may be provided releases so that images can be used in public display.

## **D. JUDGING**

Rule 25. Decisions

All decisions of the judges regarding scoring are FINAL.

Rule 26. Composition of the Judging Panel

The judging panel will consist of individuals determined to be eligible by the competition coordinators. Generally, the competition judges are members of the Alaska judiciary (including law clerks) or attorneys practicing in Alaska. Qualified educators, paralegals, and other persons may also be invited by the competition coordinators to participate as Mock Trial judges. The composition of the judging panel and the role of the presiding judge will be at the discretion of the competition coordinators. For preliminary rounds, one presiding judge and two additional scoring judge will be appointed by the competition coordinators to judge the round. The final (championship) round may have a larger judging panel than preliminary rounds, at the discretion of the competition coordinators. If possible, the judging panel will include a separate timekeeper. This timekeeper will be the official timekeeper for the round. The presiding judge will identify the timekeeper prior to the round beginning.

All presiding and scoring judges receive the mock trial manual, a memorandum outlining the case, orientation materials, and a briefing as to the case, the role of judges, and the standards to be applied. These materials will not be available to the team members.

Rule 27. Scoresheets

The presiding judge and each additional scoring judge shall complete a “scoresheet” for each trial conducted in each round of the competition. Judges’ score sheets will be substantially like the sample provided by the competition coordinators to each team. When evaluating the teams that each judge observes in the competition, the judges will reference the teams only by their assigned identification codes.

Scoresheets are to be completed individually by the judges and without consultation with the other judges. Scoring judges are not bound by the rulings of the presiding judge. While the judging panel may confer within guidelines established by the competition coordinators, the judging panel should not deliberate on individual scores. Judges are to evaluate students on the

basis of the criteria contained in these Rules and the guidelines printed on the back of the scoresheet.

There will be a space on the scoresheet for judges to deduct points at their discretion if a team exhibits poor courtroom etiquette or makes excessive unwarranted objections. At the option of the competition coordinators, there may be a mechanism for awarding certificates of recognition based on individual performance.

Rule 28. Completion of Scoresheets

Score sheets are completed by the judges as follows:

1. **Trial Points:**  
Each judge will award and record a number of points for each aspect of the trial. Points will be awarded from a scale of 1 to 10, with 10 being the highest. Judges are required to complete the ballots in their entirety.
2. **Final Point Total:**  
A team is determined to be the winner of a round when that team wins a majority of the points cast by the judges scoring a given trial. If the opposing teams for a given round each receive the same number of points for that trial, the competition coordinators shall consider the judges' determinations of tiebreaker points, as provided in the tiebreaker box on each score sheet.
3. **Bonus Points:**  
The Mock Trial Committee may decide to award a bonus per score sheet to the team that wins that score sheet. The Committee will announce well in advance of the Competition whether a bonus will be awarded, and if so what the amount of the bonus will be.

A forfeiting team will receive a loss for purposes of ranking. If a trial cannot continue due to forfeiture, the non-forfeiting team shall be considered to have won by default. A non-forfeiting team will not be penalized in ranking by any inability to receive points from scoring judges. The non-forfeiting team will be awarded the average number of points from its remaining rounds.

Rule 29. Team Advancement

Teams will be ranked based on the total number of points received for all rounds. If a semi-final round is to be held, the team with the most points will face the team with the fourth most points, and the team with the second most points will face the team with the second most points. In the semi-final round, the team with the greater number of points in the preliminary round will get the choice of which side to represent.

If no semi-final round is held, the two teams emerging with the greatest number of points from the preliminary rounds will advance to the final round. If a semi-final round is held, the two teams who emerge victorious from their respective match-ups will face off in the final round. Sides in the final round, regardless of how the teams are selected, will be determined based upon the number of points the teams received during the preliminary rounds. The team that received the higher number of points during the preliminary rounds will be permitted to choose the side it wants to present during the final round.

In the unlikely event of a tie in determining placement, the advancing team(s) will be determined by the overall win-loss record in the preliminary rounds, then if necessary by head-to-head competition (if any) between the tied teams, and finally by the total number of highest scores (10 out of 10) on all score sheets combined.

Scoresheets from only the championship round will determine the Alaska State Mock Trial Championship Team. In the final round, and only in the final round, each scoresheet will count as one vote, with the team that receives the higher score for that scoresheet being awarded that judge's vote. The team that receives the most votes will be declared the Alaska State Mock Trial Championship Team. If an even number of judges score the final round and the votes of the judges are split, only then will the scores of the judges be combined to determine the winner of the competition.

**Rule 30.        Selection of Opponents for Each Round**

A random lottery will be conducted prior to the competition for the purpose of assigning team identification designations. The schedule governing the assignment of opponents will designate which team is to present the Prosecution/Plaintiff's case and which is to present the Defense/Defendant's in each round. To the greatest extent possible, teams will alternate side presentation in subsequent rounds. Every effort will be made to ensure that each team will present each side twice, but all teams will be scheduled to present each side of the case at least once. Individual teams will be sent their schedule by the Tuesday before the competition. Coaches should immediately notify the competition coordinators of any scheduling conflicts.

**Rule 31.        Merit Decisions**

Judges will make a ruling on the legal merits of the trial, after deliberating. This determination shall be made independent of the scores awarded to each team. During the debriefing process, judges may inform students of the verdict on the merits of the case. Judges may not inform the students of scoresheet results.

**Rule 32.        Effect of Bye**

A "bye" becomes necessary when an odd number of teams are present for the tournament or if necessitated by scheduling conflicts. If it becomes necessary to schedule a team for a bye, an additional round will be scheduled, during which those teams receiving a bye will compete against each other. Any team receiving a bye must not observe other teams competing during the round in which the bye was drawn.

**E.        DISPUTE SETTLEMENT**

**Rule 33.        Reporting a Rules Violation**

Disputes which (a) involve students competing in a competition round and (b) occur during the course of a trial must be filed immediately upon conclusion of the trial. Disputes may be brought exclusively by a team's official faculty advisor or attorney coach. Such disputes must be made promptly to the competition coordinators, who may ask the complaining party to state the complaint in writing. The competition coordinators will investigate the complaint and seek a response from the advisor or attorney coach of the team against which the violation is alleged. If a rules violation is found to have occurred, the competition committee will determine the appropriate remedy or punishment. These remedies include, but are not limited to, a warning to

the offending team, the deduction of points from the offending team's score, or disqualification from the round in which the offense occurred.

Rule 34. Reporting Rule Violations During Trial

Rule 33 does not preclude students from identifying potential rule violations to the presiding judge during the trial in an attempt to prevent a violation from arising. In such instances, the presiding judge shall consult the competition rules and issue a warning to the offending team if it is determined that a rule violation is occurring. If the violation persists or if it is of such a serious nature as to substantially affect the conduct of the trial, the presiding judge and scoring judges may assess penalty points against the offending team in an amount at their discretion. Except in cases where the rule violation will substantially affect the conduct of the trial, students are encouraged to allow faculty advisors and attorney coaches to address rule violations per Rule 33 as opposed to addressing them at trial.

**F. CONDUCT INITIATING THE TRIAL**

Rule 35. Team Roster

Copies of the team roster must be completed and duplicated by each team prior to arrival for trial. Teams must be identified ONLY by the code assigned at registration. No information identifying a team's city or school of origin should appear on the form or any materials brought into the courtroom. Before beginning a trial, the teams must exchange copies of the Team Roster Form. Copies of the Team Roster Form should also be made available to the judging panel before each round. Teams should provide copies for all three judges.

Rule 36. Stipulations

When the Court asks the Prosecution/Plaintiff if it is ready to proceed with opening statements, the attorney assigned the opening statement should offer the stipulations into evidence.

Rule 37. The Record

The stipulations, indictment, and jury instructions, if any, will not be read into the record at trial. However, all such documents will be considered as part of the record and as governing the legal framework of the case. Students should assume that the judges are familiar with these documents.

Rule 38. Jury Trial

The case will be tried to a jury consisting of the scoring judge(s), who shall serve as the official timekeeper(s). Arguments are to be made to the judge and jury. Teams may address the scoring judges and any other persons permitted by the presiding judge to sit in the jury box as the jury. However, students may at any time also inquire of the jury member in his or her role as timekeeper of the remaining available time for that portion of the trial.

Rule 39. Standing During Trial

Unless excused by the presiding judge or physically unable to do so, attorneys will stand while giving opening and closing statements, during direct and cross examinations, and for all

objections. Attorneys may request permission of the presiding judge to walk around the courtroom during their presentation but may not do so until permitted.

**Rule 40. Objection During Opening Statement/Closing Argument**

No objections may be raised during opening statements or during closing arguments. If a team believes an objection would have been necessary during the opposing team's closing argument, a student attorney, following the arguments, may seek to be recognized by the presiding judge and may say "If I had been permitted to object during closing arguments, I would have objected to the opposing team's statement that \_\_\_\_\_." The presiding judge need not rule on this "objection." Presiding and scoring judges will weigh the "objection" individually. No rebuttal by the opposing team will be heard. It is recommended that students cite Mock Trial Rule 40 if making an objection to an opening statement or closing argument.

**G. PRESENTING EVIDENCE**

**Rule 41. Argumentative Questions**

An attorney shall not ask argumentative questions, except that the Court, may, in its discretion, allow limited use of argumentative questions on cross-examination.

**Rule 42. Establishing Proper Predicate/Foundation**

Attorneys shall lay a proper foundation prior to moving for the admission of evidence. After motion has been made, the exhibits may still be objected to on other grounds. Objections not made upon an attempt to admit evidence as an exhibit will be considered waived. All exhibits contained in the problem materials are to be considered accurate reproductions of the item or document in question and may not be challenged on the basis of authenticity. Other grounds for challenging admission of exhibits are permissible.

**Rule 43. Procedure for Introduction of Exhibits**

The following steps are *examples* by which evidence may be effectively introduced:

1. All evidence will be pre-marked as exhibits. For the sake of the presiding judge and jury, the students should identify the page in the problem materials on which the exhibit appears.
2. Ask for permission to approach the bench. Show the presiding judge the marked exhibit. "Your honor, may I approach the bench to show you what has been marked as Exhibit No. \_\_\_?"
3. Show the exhibit to opposing counsel.
4. Ask for permission to approach the witness. Give the exhibit to the witness.
5. "I now hand you what has been marked as Exhibit No. \_\_\_ for identification."
6. Ask the witness to identify the exhibit. "Would you identify it please?"
7. Witness answers with identification only.
8. Offer the exhibit into evidence.
9. Court: "Is there an objection?" (If opposing counsel believes a proper foundation has not been laid, the attorney should be prepared to object at this time.)
10. Opposing Counsel: "No, your Honor," or "Yes, your Honor." If the response is "yes", the objection will be stated on the record. Court: "Is there any response to

- the objection?”
11. Court: “Exhibit No. \_\_\_\_ is/is not admitted.”

**Rule 44. Admission of Expert Witnesses**

If a team wishes to admit a witness as an expert in a particular area of knowledge, the attorney performing the direct examination must establish foundation to the satisfaction of the presiding judge for admission as an expert. Voir dire by the opposing attorney will not be allowed, but the opposing attorney may object that insufficient foundation has been laid to qualify the witness as an expert in the field asserted.

**Rule 45. Use of Affidavits**

Affidavits may not be independently introduced as evidence, but may be used for impeachment purposes or to refresh a witness’s memory. Affidavits for witnesses not called to testify may not be introduced to the court except as necessary to demonstrate foundation for the statements of a different witness. Quotations from affidavits may be used as part of a demonstrative display, but are not by this use admissible as evidence.

**Rule 46. Use of Notes**

Attorneys may use notes in presenting their cases. Witnesses are not permitted to use notes while testifying during the trial. Attorneys may consult with each other at counsel table verbally (in a volume that does not disturb the conduct of the trial) or through the use of notes.

**Rule 47. Use of Exhibits in Examining Witnesses**

All examinations of witnesses, including re-direct and re-cross examinations are permitted to use exhibits previously introduced by the other party or introduced by the examination of other witnesses, provided that any examinations conform to the restrictions in Rule 611(d) in the Modified Rules of Evidence (Mock Trial Version).

**H. CLOSING ARGUMENTS**

**Rule 48. Scope of Closing Arguments**

Closing arguments must be based on the actual evidence and testimony presented during the trial. Students in closing arguments should address the applicable legal standards necessary to prevail at trial. Attorneys may not cite to affidavits of witnesses not called at trial.

**I. CRITIQUE**

**Rule 49. The Critique**

The judging panel is allowed time for debriefing at their option and time permitting. Judges will not reveal the scores attributed by them to individual performances, nor will they reveal which team was the winner of the round on the score sheets. The judges may announce the winner of the case on the merits and may discuss or comment upon the presentations in furtherance of the educational interests of the Alaska High School Mock Trial Competition.

## **II. MODIFIED RULES OF EVIDENCE** (Alaska Mock Trial Version)

In American trials, complex rules are used to govern the admission of proof (i.e., oral or physical evidence). These rules are designed to ensure that all parties receive a fair hearing and to exclude evidence deemed irrelevant, incompetent, untrustworthy, unduly prejudicial, or otherwise improper. If it appears that a rule of evidence is being violated, an attorney may raise an objection to the judge. The judge then decides whether the rule has been violated and whether the evidence must be excluded from the record of the trial. In the absence of a properly made objection, however, the judge will probably allow the evidence. The burden is on the mock trial team to know the Rules of Evidence (Alaska Mock Trial Version) and to be able to use them to protect their client and fairly limit the actions of opposing counsel and their witnesses. For purposes of mock trial competition, the Rules of Evidence have been modified and simplified. They are based on the Alaska and Federal Rules of Evidence and their (shared) numbering system. When rule numbers or letters are skipped, those rules were deemed not applicable to mock trial procedure. Text in italics, other than topic headings, represents simplified or modified language from the Alaska and Federal Rules of Evidence. Departures from the actual Federal Rules of Evidence are for informational purposes only. These Rules of Evidence are to be interpreted as written.

Not all judges will interpret the Rules of Evidence (or procedure) the same way, and mock trial attorneys should be prepared to point out specific rules (quoting if necessary) and to argue persuasively for the interpretation and application of the rule they think appropriate. The Mock Trial Rules of Competition and these Rules of Evidence (Alaska Mock Trial Version) govern the Alaska High School Mock Trial Competition.

### **Article I. General Provisions**

#### Rule 101. Scope

*These Rules of Evidence (Alaska Mock Trial Version) govern the trial proceedings of the National Mock Trial Championship.*

#### Rule 102. Purpose and Construction

*The Rules are intended to secure fairness in administration of the trials, eliminate unjust delay, and promote the laws of evidence so that the truth may be ascertained.*

### **ARTICLE II. Judicial Notice**

#### Rule 201. Judicial Notice of Fact

(a) *Scope of Rule.* This rule governs only judicial notice of facts. Judicial notice of a fact as used in this rule means a court's on-the-record declaration of the existence of a fact normally decided by the trier of fact, without requiring proof of that fact.

(b) *General Rule.* A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within this state or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

(c) When Discretionary. A court may take judicial notice as specified in subdivision (b), whether requested or not.

Rule 202. Judicial Notice of Law

(a) *Scope of Rule.* This rule governs only judicial notice of law.

(b) Without request by a party, the court shall take judicial notice of the common law, the Constitution of the United States and of this state, the public statutes of the United States and this state, the provisions of the Alaska Administrative Code, and all rules adopted by the Alaska Supreme Court.

**ARTICLE III. Presumptions**

Rule 301. Presumptions in General in Civil Actions and Proceedings

(a) *Effect.* In all civil actions and proceedings when not otherwise provided for by statute, by judicial decision or by these rules, a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast. The burden of going forward is satisfied by the introduction of evidence sufficient to permit reasonable minds to conclude that the presumed fact does not exist. If the party against whom a presumption operates fails to meet the burden of producing evidence, the presumed fact shall be deemed proven, and the court shall instruct the jury accordingly. When the burden of producing evidence to meet a presumption is satisfied, the court must instruct the jury that it may, but is not required to, infer the existence of the presumed fact from the proven fact, but no mention of the word “presumption” may be made to the jury.

(b) *Prima Facie Evidence.* A statute providing that a fact or group of facts is prima facie evidence of another fact establishes a presumption within the meaning of this rule.

(c) *Inconsistent Presumption.* If two presumptions arise that conflict with each other, the court shall apply the presumption that is founded on the weightier considerations of policy and logic. If there is no such preponderance, both presumptions shall be disregarded.

Rule 303. Presumptions in General in Criminal Cases.

(a) *Effect.*

(1) *Presumptions Directed Against an Accused.* In all criminal cases when not otherwise provided for by statute, by these rules or by judicial decision, a presumption directed against the accused imposes no burden of going forward with evidence to rebut or meet the presumption and does not shift to the accused the burden of proof in the sense of the risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast. However, if the accused fails to offer evidence to rebut or meet the presumption, the court must instruct the jury that it may, but is not required to, infer the existence of the presumed fact from the proven fact, but no mention of the word “presumption” shall be made to the jury. If the accused offers evidence to rebut or meet the presumption, the court may instruct the jury that it may, but is not required to, infer the existence of the presumed fact from the proven fact, but no mention of the word “presumption” shall be made to the jury.

(2) *Presumptions Directed Against the Government.* In all criminal cases when not otherwise provided for by statute, by these rules, or by judicial decision, a presumption

directed against the government shall be treated in the same manner as a presumption in a civil case under Rule 301.

(b) *Prima Facie Evidence.* A statute providing that a fact or group of facts is prima facie evidence of another fact establishes a presumption within the meaning of this rule.

(c) *Inconsistent Presumptions.* If two presumptions arise that conflict with each other, the *court* shall apply the presumption that is founded on the weightier considerations of policy and logic. If there is no such preponderance, both presumptions shall be disregarded.

#### **ARTICLE IV. Relevancy and its Limits**

##### **Rule 401. Definition of “Relevant Evidence”**

“Relevant evidence” means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

##### **Rule 402. Relevant Evidence Generally Admissible; Irrelevant Evidence Inadmissible**

Relevant evidence is admissible, except as otherwise provided *in these Rules. Irrelevant evidence is not admissible.*

##### **Rule 403. Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time**

Although relevant, evidence may be excluded if its probative value is outweighed by the danger of unfair prejudice, *if it confuses the issues, if it is misleading, or if it causes undue delay, wastes time, or is a needless presentation of cumulative evidence.*

##### **Rule 404. Character Evidence Not Admissible to Prove Conduct; Exceptions; Other Crimes**

(a) *Character Evidence* – Evidence of a person’s character or a *character trait*, is not admissible to prove *action regarding* a particular occasion, except:

(1) *Character of Accused* – Evidence of a pertinent character trait offered by an accused, or by the prosecution to rebut same;

(2) *Character of Victim* – Evidence of a pertinent character trait of the victim of the crime offered by an accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the aggressor;

(3) *Character of witness* – Evidence of the character of a witness as provided in Rules 607, 608, and 609.

(b) *Other crimes, wrongs, or acts* – Evidence of other crimes, wrongs, or acts is not admissible to prove character of a person in order to show an action conforms to character. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

##### **Rule 405. Methods of Proving Character**

(a) *Reputation or opinion* – In all cases in which evidence of character or a character trait is admissible, proof may be made by testimony as to reputation or by testimony in the form of an opinion. On cross-examination, *questions may be asked regarding* relevant specific instances of conduct.

(b) *Specific instances of conduct* – In cases in which character or a character trait is an essential element of a charge, claim, or defense, proof may also be made of specific instances of that person’s conduct.

Rule 406. Habit; Routine Practice

Evidence of the habit of a person or the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization, on a particular occasion, was in conformity with the habit or routine practice.

Rule 407. Subsequent Remedial Measures

When measures are taken after an event which, if taken before, would have made the event less likely to occur, evidence of the subsequent measures is not admissible to prove negligence or culpable conduct in connection with the event. This rule does not require the exclusion of evidence of subsequent measures when offered for another purpose; such as proving ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.

Rule 410. Inadmissibility of Pleas, Pleas Discussions, and Related Statements

Except as provided in this Rule, evidence of the following is not, in any civil or criminal proceeding, admissible against a defendant who made the plea or was a participant in the plea discussions:

- (1) a plea of guilty which was later withdrawn;
- (2) a plea of *nolo contendere*;
- (3) any statement made in the course of any proceeding under Rule 11 of the Federal Rules of Criminal Procedure or comparable state procedure regarding either of the foregoing pleas; or
- (4) any statement made in the course of plea discussions with an attorney for the prosecuting authority that do not result in a plea of guilty or that result in a plea of guilty later withdrawn. However, such a statement is admissible (i) in any proceeding wherein another statement made in the course of the same plea or plea discussions has been introduced and the statement ought, in fairness, be considered with it, or (ii) in a criminal proceeding for perjury or false statement if the statement was made by the defendant under oath, on the record, and in presence of counsel.

Rule 411. Liability Insurance (civil case only)

Evidence that a person was or was not insured against liability is not admissible upon the issue of whether the person acted negligently or otherwise wrongfully. This rule does not require the exclusion of evidence of insurance against liability when offered for another purpose, such as proof of agency, ownership, or control, or bias, or prejudice of a witness.

## **Article V. Privileges**

### **Rule 501. Privileges Recognized Only as Provided**

Except as otherwise provided by the Constitution of the United States or of this state, by enactments of the Alaska Legislature, or by these or other rules promulgated by the Alaska Supreme Court, no person, organization, or entity has a privilege to:

- (1) refuse to be a witness; or
- (2) refuse to disclose any matter; or
- (3) refuse to produce any object or writing; or
- (4) prevent another from being a witness or disclosing any matter or producing any object or writing.

## **Article VI. Witnesses**

### **Rule 601. General Rule of Competency**

Every person is competent to be a witness.

### **Rule 602. Lack of Personal Knowledge**

A witness may not testify to a matter unless *the witness has personal knowledge of the matter*. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. This rule is subject to the provisions of Rule 703, related to opinion testimony by expert witnesses.

### **Rule 607. Who may Impeach**

(a) Subject to the limitation imposed by these rules, the credibility of a witness may be attacked by any party, including the party calling the witness.

(b) Evidence proffered by any party to support the credibility of a witness may be admitted to meet an attack on the witness' credibility.

### **Rule 608. Evidence of Character and Conduct of Witness**

(a) *Opinion and reputation evidence of character* – The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations: (1) the evidence may refer only to character for truthfulness or untruthfulness, and (2) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence, or otherwise.

(b) *Specific instances of conduct* – Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' credibility, other than conviction of crime as provided in Rule 609, may not be proven by extrinsic evidence. They may, however, in the discretion of the Court, if probative of truthfulness or untruthfulness, be asked on cross-examination of the witness (1) concerning the witness' character for truthfulness or untruthfulness, or (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

Testimony, whether by an accused or by any other witness, does not operate as a waiver of the accused's or the witness' privilege against self-incrimination with respect to matters related only to credibility.

Rule 609. Impeachment by Evidence of Conviction of Crime (this rule applies only to witnesses with prior convictions)

(a) *General Rule* – For the purpose of attacking the credibility of a witness, evidence that a witness other than the accused had been convicted of a crime shall be admitted if elicited from the witness or established by public record during cross-examination, but only if the crime was punishable by death or imprisonment in excess of one year, and the Court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused. Evidence that any witness has been convicted of a crime shall be admitted if it involved dishonesty or false statement, regardless of the punishment.

(b) *Time Limit* – Evidence of a conviction under this Rule is not admissible if a period of more than ten years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the Court determines that the value of the conviction substantially outweighs its prejudicial effect. However, evidence of a conviction more than 10 years old as calculated herein is not admissible unless *the Court determines that probative value of the conviction outweighs its prejudicial effect.*

(c) *Effect of pardon, annulment, or certificate of rehabilitation* – Evidence of a conviction is not admissible if (1) the conviction has been the subject of a pardon or other equivalent procedure based on a finding of the rehabilitation of the person convicted of a subsequent crime which was punishable by death or imprisonment in excess of one year, or (2) the conviction has been the subject of a pardon, other equivalent procedure based on a finding of innocence.

Rule 610. Religious Beliefs or Opinions

Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature the witness' credibility is impaired or enhanced.

Rule 611. Mode and Order of Interrogation and Presentation

(a) *Control by Court* – The Court shall exercise reasonable control over *questioning* of witnesses and presenting evidence so as to (1) make the *questioning* and presentation effective for ascertaining the truth, (2) avoid needless use of time, and (3) protect witnesses from harassment or undue embarrassment.

(b) *Scope of cross-examination* – *The scope of cross examination shall not be limited to the scope of the direct examination, but may inquire into any relevant facts or matters contained in the witness' statement or affidavit, including all reasonable inferences that can be drawn from those facts and matters, and may inquire into any omissions from the witness statement or affidavit that are otherwise material and admissible.*

(c) *Leading Questions* – Leading questions should not be used on direct examination of a witness (except as may be necessary to develop the witness' testimony). Ordinarily, leading questions are permitted on cross examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, leading questions may be used.

(d) *Redirect/Recross* – *After cross examination, additional questions may be asked by the direct examining attorney, but questions must be limited to matters raised by the attorney on cross examination. Likewise, additional questions may be asked by the cross examining attorney*

*on recross, but such questions must be limited to matters raised on redirect examination and should avoid repetition.*

Rule 612. Writing Used to Refresh Memory

*If a written statement is used to refresh the memory of a witness either while or before testifying, the Court shall determine that the opposing party is entitled to have the writing produced for inspection. The adverse party may cross examine the witness on the material and introduce into evidence those portions that relate to the testimony of the witness.*

Rule 613. Prior Statement of Witnesses

*Examining witness concerning prior statement – In examining a witness concerning a prior statement made by the witness, whether written or not, the statement need not be shown nor its contents disclosed to the witness at that time, but on request the same shall be shown or disclosed to opposing counsel.*

*Extrinsic evidence of prior inconsistent statement of witness – Extrinsic evidence of prior inconsistent statement by a witness is not admissible unless the witness is afforded an opportunity to explain or deny the same and the opposite party is afforded an opportunity to interrogate.*

**Article VII. Opinions and Expert Testimony**

Rule 701. Opinion Testimony by Lay Witness

If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness and (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue.

Rule 702. Testimony by Experts

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case. *A witness shall not be permitted to testify as an expert until designated by the Court as an expert. An expert witness shall only be considered an expert in the fields designated by the Court, as requested by the party seeking expert designation.*

Rule 703. Bases of Opinion Testimony by Experts

The facts or data upon which an expert bases an opinion may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the field in forming opinions or inferences, the facts or data need not be admissible in evidence.

Rule 704. Opinion on Ultimate Issue

(a) *Opinion or inference testimony otherwise admissible is not objectionable because it embraces an issue to be decided by the trier of fact.*

(b) In a criminal case, an expert witness shall not express an opinion as to the guilt or innocence of the accused.

Rule 705. Disclosure of Facts or Data Underlying Expert Opinion

The expert may testify in terms of opinion or inference and give reasons therefore without prior disclosure of the underlying facts or data, unless the Court requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross examination.

**Article VIII. Hearsay**

Rule 801. Definitions

The following definitions apply under this article:

(a) *Statement* – A “statement” is an oral or written assertion or nonverbal conduct of a person, if it is intended by the person as an assertion.

(b) *Declarant* – A “declarant” is a person who makes a statement.

(c) *Hearsay* – “Hearsay” is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

(d) *Statements that are not hearsay* – A statement is not hearsay if:

(1) *Prior statement by witness* – The declarant testifies at the trial or hearing and is subject to cross examination concerning the statement and the statement is (A) inconsistent with the declarant’s testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition, or (B) consistent with the declarant’s testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive, or (C) one of identification of a person made after perceiving the person; or

(2) *Admission by a party-opponent* – The statement is offered against a party and is (A) the party’s own statement in either an individual or a representative capacity or (B) a statement of which the party has manifested an adoption or belief in its truth, or (C) a statement by a person authorized by the party to make a statement concerning the subject, or (D) a statement by the party’s agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship, or (E) a statement by a co-conspirator of a party during the course in furtherance of the conspiracy.

Rule 802. Hearsay Rule

Hearsay is not admissible except as provided by *these rules*.

Rule 803. Hearsay Exceptions – Availability of Declarant Immaterial

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

(1) *Present sense impression* – A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.

(2) *Excited utterance* – A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

- (3) *Then existing mental, emotional, or physical conditions* – A statement of the declarant’s then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant’s will.
- (4) *Statements for purpose of medical diagnosis or treatment* – Statements made for the purpose of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.
- (5) *Recorded Recollection* – A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the witness’ memory and to reflect that knowledge correctly.
- (6) *Business Records* – A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnosis, made at or near the time by, or from information transmitted by, a person with knowledge acquired of a regularly conducted business activity, and if it was the regular practice of that business activity to make and keep the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. The term “business” as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.
- (7) *Absence of Record* – Evidence that a matter is not included in the memoranda, reports, records, or data compilations, in any form, kept in accordance with the provisions of subdivision (6), to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind which a memorandum, report, record, or data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate lack of trustworthiness.
- (8) *Public Records and Reports* –Records, reports, statements, or data compilations in any form of a public office or agency setting forth its regularly conducted and regularly recorded activities, or matters observed pursuant to duty imposed by law and as to which there was a duty to report, or factual findings resulting from an investigation made pursuant to authority granted by law.
- (9) *Records of Vital Statistics* – Records or data compilations, in any form, of birth, fetal deaths, deaths, or marriages, if the report thereof was made to a public office pursuant to requirements of law.
- (10) *Absence of Public Record or Entry* – To prove the absence of a record, report, statement, or data compilation, in any form, or the nonoccurrence or nonexistence of a matter of which a record, report, statement, or data compilation, in any form, was regularly made and preserved by a public office or agency, ... that diligent search failed to disclose the record, report, statement, or data compilation, or entry.
- (11) *Records of Religious Organizations* – Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization.

- (12) *Marriage, Baptismal, and Similar Certificates* – Statements of facts contained in a certificate that the maker performed a marriage or other ceremony or administered a sacrament, made by a clergyman, public official, or other person authorized by the rules or practices of a religious organization or by law to perform the act certified, and purporting to have been issued at the time of the act or within a reasonable time thereafter.
- (13) *Family Records* – Statements of fact concerning personal or family history contained in family bibles, genealogies, charts, engravings on rings, inscriptions on family portraits, engravings and urns, crypts, or tombstones, or the like.
- (14) *Records of Documents Affecting an Interest in Property* – The record of a document purporting to establish or affect an interest in property, as proof of the content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, if the record is a record of a public office and an applicable statute authorizes the recording of documents of that kind in that office.
- (15) *Statements in Documents Affecting an Interest in Property* – A statement contained in a document purporting to establish or affect an interest in property if the matter stated was relevant to the purpose of the document, unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of the document.
- (16) *Statements in Ancient Documents* – Statements in a document in existence twenty years or more the authenticity of which is established.
- (17) *Market Reports, Commercial Publications* – Market quotations, tabulations, lists, directories, codes, standards, or other published compilations, generally used and relied upon by the public or by persons in particular occupations.
- (18) *Learned treatises* – To the extent called to the attention of an expert witness upon cross examination or relied upon by the expert witness in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice.
- (21) *Reputation as to character* – Reputation of a person's character among associates or in the community.
- (22) *Judgment of previous conviction* – Evidence of a judgment *finding* a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the Government in a criminal prosecution for purposes other than impeachment, judgments against persons other than the accused.
- (23) *Other exceptions* – A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (a) the statement is offered as evidence of a material fact; (b) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and (c) the general purposes of these rules and the interest of justice will best be served by admission of the statement into evidence.

Rule 804. Hearsay Exceptions—Declarant Unavailable.

(a) *Definition of Unavailability.* Unavailability as a witness includes situations in which the declarant

(1) is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of his statement; or

(2) persists in refusing to testify concerning the subject matter of his statement despite an order of the court to do so; or

(3) establishes a lack of memory of the subject matter of his statement; or

(4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or

(5) is absent from the hearing and the proponent of his statement has been unable to procure his attendance (or in the case of a hearsay exception under subdivision (b) (2), (3), (4), or (5), of this rule, his attendance or testimony) by reasonable means including process.

A declarant is not unavailable as a witness if his exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of his statement for the purpose of preventing the witness from attending or testifying.

(b) *Hearsay Exceptions.* The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

(1) *Former Testimony.* Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

(2) *Statement Under Belief of Impending Death.* A statement made by a declarant while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be his impending death.

(3) *Statement Against Interest.* A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless believing it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

(4) *Statement of Personal or Family History.* (A) A statement concerning the declarant's own birth, adoption, marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; or (B) a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.

(5) *Other Exceptions.* A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (A) the statement is offered as evidence of a material fact; (B) the statement is more probative on the point for which it is offered than any other

evidence which the proponent can procure through reasonable efforts; and (C) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it, his intention to offer the statement and the particulars of it, including the name and address of the declarant.

Rule 805. Hearsay within Hearsay

Hearsay included within hearsay is not excluded under the hearsay rule if each part of the combined statement conforms with an exception to the hearsay rule provided in these rules.

## **EVALUATION GUIDELINES**

The competition judges are given instructions on how to evaluate the performance of participating teams and individuals. The following guidelines, as well as additional instructions contained on the scoresheets, are included in the material provided to the competition judges. Participating teams may assume that the winning team will excel in the following ways:

**ATTORNEYS:**

**DEMONSTRATED SPONTANEITY:**

- in response to witnesses and/or the court;
- in the overall presentation of the case; and
- in making and responding to objections, capitalizing on opportunities that arise during trial.

**DEMONSTRATED COMMAND OF THE FACTS AND ISSUES**

Involved in the case and in the relevant points of law.

When examining witnesses, attorney **PHRASED QUESTIONS PROPERLY** and demonstrated a clear understanding of trial procedure and the simplified rules of evidence used for the mock trial competition.

The attorney's questions:

- were clearly stated, concise, and to the point;
- resulted in straightforward answers from the witness;
- brought out information important to the case; and
- brought out contradictions in testimony.

Opening statements and closing arguments were **ORGANIZED AND WELL-REASONED** presentations, with the closing argument emphasizing the strengths of the attorney's own side and addressing the flaws exposed by the opposing attorneys during trial.

**WITNESSES:**

Testimony was **CONVINCING** and characterizations were **BELIEVABLE** and **CONSISTENT** with the affidavits and character descriptions. **PREPARATION** and **SPONTANEITY** were evident in the manner witnesses handled questions posed to them by the attorneys.

**TEAMS:**

Courtroom **DECORUM AND COURTESY** by all team members and coaches were observed. Affiliated observers were not disruptive. All participants were **ACTIVE** in the presentation of the case.

2011-12 ALASKA HIGH SCHOOL  
MOCK TRIAL CHAMPIONSHIP COMPETITION  
(Anchorage, March 1-3, 2012)

**TEAM REGISTRATION FORM**  
(Please CLEARLY print name and contact information)

School (Organization) Name: \_\_\_\_\_

Team Mailing Address: \_\_\_\_\_

\_\_\_\_\_

Teacher or other School Advisor: \_\_\_\_\_

Advisor Contact Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Advisor FAX Number: \_\_\_\_\_ **E-Mail:** \_\_\_\_\_

Attorney Coach: \_\_\_\_\_

Coach Contact Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Coach FAX Number: \_\_\_\_\_ **E-Mail:** \_\_\_\_\_

Student Team Members (Please print names in block lettering)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THIS IS TEAM NUMBER \_\_\_\_\_

Each team must have a minimum of six student members. No team may have more than nine members, including alternates. The assistance of attorney coaches is recommended, but not mandatory. Schools wishing to register more than one team may designate the same teacher or other school sponsor as the official school advisor. A different registration form must be submitted for each team. Any school wishing to register multiple teams **MUST** indicate which team is the "First Team," "Second Team," etc. **All teams must be registered no later than February 24, 2012.**

HOWEVER, WE STILL NEED TEAM ROSTERS. PLEASE RETURN THIS FORM TO:

ALASKA HIGH SCHOOL MOCK TRIAL  
c/o LARS JOHNSON  
P.O. BOX 100362  
ANCHORAGE, ALASKA 99510-0362

YOU MAY ALSO E-MAIL THE FORM TO:

[lars.johnson1981@gmail.com](mailto:lars.johnson1981@gmail.com)