2013-2014

ALASKA HIGH SCHOOL

MOCK TRIAL

CHAMPIONSHIP COMPETITION

Anchorage, February 27 – March 1, 2014

Boney Courthouse

State of Alaska v. Korma Betansong

Case No. 5AK-13-00999 CR

OFFICIAL CASE MATERIALS & COMPETITION RULES

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

Iniko Betansong died on August 18, 2013 at the age of 8 of metastatic Hodgkin's disease, which is potentially treatable. However, Iniko's mother/father Korma Betansong never took Iniko to a Western doctor, preferring instead to treat Iniko using traditional medicine. Korma took Iniko to a specialist and learned the diagnosis, but s/he never told anyone what it was. Korma follows the ways of the Wosani culture – a traditional culture that relies largely on non-Western medicine and stresses ancestral practices. Chee Lomibu, a local Wosani leader, cared for Iniko during his illness, relying on traditional Wosani healing methods. Unfortunately, those methods did not work for Iniko, who passed away. The State has charged Korma with criminally negligent homicide for the death of his/her son.

*****

As always, it is a pleasure to work with the Alaska High School Mock Trial Committee in drafting this problem. This truly was a group effort, with Ryan Fortson once again lending his hand in developing and crafting the problem. Jeff Davis, annual t-shirt designer for the last few years, also provided a lot of work on the problem along with Kathleen Doherty. The copyright to the characters and story contained in this problem is retained by the Alaska High School Mock Trial Committee, with unrestricted non-monetary use granted to the Young Lawyers Section of the Anchorage Bar Association for use in the 2013-14 Alaska High School Mock Trial Competition.

This year's problem was very interesting to develop, as we tried to create an interesting factual backdrop to analyze legal questions involving causation and the mental state required to make something a crime. We hope students enjoy grappling with the issues we tried to raise.

It is always our goal that students will rely on the affidavits and exhibits to develop their own theories and approaches to the problem. We hope this year is no different. We look forward to seeing what students will do with the problem. We have once again tried to emphasize introducing evidence and using exhibits. Because of that, students and teachers are encouraged to consult the Introduction to the Rules of Evidence found at the Alaska Mock Trial website – 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.

This year, students will once again choose 3 witnesses for each side from a total of 4. This will require students to develop a theory of the case and pick and choose which witnesses best serve that theory.

Students will once again 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 Alaska High School Mock Trial Competition. Its members' efforts are greatly appreciated in organizing and staffing the competition.

Last year began an organizing transition, with Kimberly Tsaousis taking over competition organizing. She will share that responsibility this year with another young attorney, Brittney Goodnight. Ryan Fortson has taken over communications for the competition and will handle communicating with schools about the competition. We hope that with this team effort we can present a more fluid experience for all of the teachers and students who participate.

We look forward to seeing all of you this year!

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,	)	**INDICTMENT**
vs.	)	
	)	
KORMA BETANSONG.	)	
	)	Case No. 5AK-13-00999 CR
	)	
Defendant.	)	
	)	

I certify this document and its attachments do not contain the (1) name of a victim of a sexual offense listed in AS 12 or (2) residence or business address or telephone number of a victim of or witness to any offense unless it is an identifying the place of a crime or an address or telephone number in a transcript of a court proceeding and disclosur 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 11.41.130(a)
Criminally Negligent Homicide

That on or about August 18, 2013, in the city of Alasakopolis in the Fourth Judicial District, State of Alaska, KORMA BETANSONG did negligently cause the death of Iniko Betansong.

All of which is a class B felony being contrary to and in violation of Alaska Statute 11.41.130(a) and against the peace and dignity of the State of Alaska.

DATED this 6th day of September, 2013 at Alaskopolis, Alaska.

A true bill

_____
Grand Jury Foreperson

_____
_____
Assistant District Attorney
Bar No. _____

WITNESSES EXAMINED BEFORE THE GRAND JURY:

Dr. Kelly Gorman
Dr. Tory Milton
Sage Thompson
Ro Tring

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIFTH JUDICIAL DISTRICT AT ALASKOPOLIS

STATE OF ALASKA	)	
	)	
Plaintiff,	)	
vs.	)	
	)	
KORMA BETANSONG	)	
	)	Case No. 5AK-13-00999 CR
	)	
Defendants.	)	
	)	

STIPULATIONS

1It is stipulated for purposes of this Mock Trial that the following facts have been properly introduced into evidence and may be relied upon by the parties in the presentation of their case:

I.

Alaskopolis, Alaska is a city of approximately 300,000 people. It is located in the Fourth Judicial District of Alaska. Jurisdiction for this trial is properly located in the Fourth Judicial District.

II.

All pleadings have been properly filed and served to all other parties. Discovery has been conducted pursuant to the applicable Rules of Procedure, and no discovery violations are alleged. All other procedural matters have been properly conducted.

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. No objections to the authenticity of the exhibits will be entertained. Exhibits may otherwise be challenged for admissibility.

V.

The parties agree that the person calling 911, as seen on the transcript, is Korma Betansong.

VI.

The witnesses for the State of Alaska are (in no particular order):

1. Dr. Kelly Gorman
2. Dr. Tory Milton
3. Sage Thompson
4. Ro Tring

VII.

The witnesses for the Defendant are (in no particular order):

1. Korma Betansong
2. Dr. Riley Dunn
3. Chee Lomibu
4. Umi Makimo

DATED this 21st day of November 2013 at Alaskopolis, Alaska.

ATTORNEYS FOR
STATE OF ALASKA

By:_____/s/_____

ATTORNEYS FOR
KORMA BETANSONG

By:_____/s/_____

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIFTH JUDICIAL DISTRICT AT ALASKOPOLIS

JORDAN STANLEY	)	
	)	
Plaintiff,	)	**JURY INSTRUCTIONS**
vs.	)	
	)	
ATVICTORY, INC.	)	
	)	Case No. 5AK-13-00999 CI
	)	
Defendants.	)	
	)	

FOUNDATIONAL INSTRUCTIONS

Introduction

Members of the jury, you have now heard and seen all of the evidence in the case and you have heard argument about the meaning of the evidence. We have reached the stage of the trial where I instruct you about the law to be applied.

It is important that each of you listen carefully to the instructions. Your duty as jurors does not end with your fair and impartial consideration of the evidence. Your duty also includes paying careful attention to the instructions so that the law will properly and justly be applied to the parties in this case. You will have a copy of my instructions with you when you go into the jury room to deliberate and to reach your verdict. But it is still absolutely necessary for you to pay careful attention to the instructions now. Sometimes the spoken word is clearer than the written word, and you should not miss the chance to hear the instructions. I will give them to you as clearly as I can in order to assist you as much as possible.

The order in which the instructions are given has no relation to their importance. The length of instructions also has no relation to importance. Some concepts require more explanation than others, but this does not make longer instructions more important than shorter ones. All of the instructions are important and all should be carefully considered. You should understand each instruction and see how it relates to the others given.

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.

Direct and Circumstantial Evidence

Evidence is either direct or circumstantial. Direct evidence, if you accept it as true, proves a fact. Circumstantial evidence, if you accept it as true, proves a fact from which you may infer that another fact is also true.

Let me give you an example. Let us pretend that as a juror you are asked to decide the following question: Did snow fall during a particular night? Direct evidence would be a witness testifying that the witness awoke during that night, went to the window, and saw the snow falling. From this evidence you could conclude that snow fell during the night.

Circumstantial evidence would be a witness testifying that the ground was bare when the witness went to sleep at 10:00 p.m., but the next morning when the witness awoke and looked out the window, the witness saw that the ground was covered with snow. From this evidence you could also conclude that snow fell during the night.

Facts may be proved by either direct or circumstantial evidence. The law accepts each as a reasonable method of proof.

Witness Credibility

You have heard a number of witnesses testify in this case. You must decide how much weight to give the testimony of each witness.

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

(1) the witness's appearance, attitude, and behavior on the stand and the way the witness testified;

(2) the witness's age, intelligence, and experience;

(3) the witness's opportunity and ability to see or hear the things the witness testified about;

(4) the accuracy of the witness's 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's truthfulness;

(9) any prior criminal convictions of the witness which relate to honesty or veracity;

(10) the consistency of the witness's testimony and whether it was supported or contradicted by other evidence.

You should bear in mind that inconsistencies and contradictions in a witness' testimony, or between a witness's testimony and that of others, do not necessarily mean that you should disbelieve the witness. It is not uncommon for people to forget or to remember things incorrectly and this may explain some inconsistencies and contradictions. It is also not uncommon for two honest people to witness the same event and see or hear things differently. It may be helpful when you evaluate inconsistencies and contradictions to consider whether they relate to important or unimportant facts.

If you believe that part of a witness's testimony is false, you may also choose to distrust other parts of that witness's testimony, but you are not required to do so. You may believe all, part, or none of the testimony of any witness. You need not believe a witness even if the witness's testimony is uncontradicted. However, you should act reasonably in deciding whether you believe a witness and how much weight to give to the witness's testimony.

You are not required to accept testimony as true simply because a number of witnesses agree with each other. You may decide that even the unanimous testimony of witnesses is erroneous. However, you should act reasonably in deciding whether to reject uncontradicted testimony.

When witnesses are in conflict, you need not accept the testimony of a majority of witnesses. You may find the testimony of one witness or of a few witnesses more persuasive than the testimony of a larger number.

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.

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 number of witnesses, but whether, considering all the evidence, the state has proved every element of each charge beyond a reasonable doubt.

Evaluation of Evidence

The weight to be given the evidence is for you to determine. You must examine the evidence carefully and decide how to evaluate it in light of the law that I have given you in these instructions. In your deliberations, you must not be governed by mere sentiment, unsupported conjecture, sympathy, passion, prejudice, public opinion, or public feeling. You should consider the evidence in light of your own common sense and observations and experiences in everyday life. But you may not consider other sources of information not presented to you in this court.

Your consideration of this case should be based solely on the evidence presented and the instructions I have given. The parties to this action are entitled to have a calm, careful, conscientious appraisal of the issues presented to you. Sympathy, bias or prejudice should not have the slightest influence upon you in reaching your verdict.

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 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.

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.

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 determination of state of mind.

Arriving at a Verdict

If you find that the state has proved 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.

SUBSTANTIVE INSTRUCTIONS

The State of Alaska alleges that Korma Betansong committed the crime of Criminally Negligent Homicide. To prove that s/he committed this crime, the State of Alaska must prove beyond a reasonable doubt that:

(1) Korma Betansong caused the death of Iniko Betansong; and

(2) Korma Betansong did so with criminal negligence.

Definitions (AS 11.81.900)

A person acts with **"criminal negligence"** with respect to a result or circumstance described by a provision of law defining an offense when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

To be guilty of criminally negligent homicide in a case like this, a person must (1) have a legal obligation to provide or obtain life-sustaining medical care for the person's child, (2) have the capability to provide or obtain

life-sustaining medical care, (3) fail to be aware that not providing or obtaining life-sustaining medical care creates a substantial and unjustifiable risk that the child will die, such failure of awareness being a gross deviation from the standard of care that a reasonable person would observe in the situation, (4) in fact not provide or obtain life-sustaining medical care for the child, and (5) the failure must result in the child's death.

Alaska law requires that a parent provide necessary and adequate medical care to a child. A child is defined as an unmarried person under 18 years of age. A person under the age of 18 years does not have a legal right to refuse medical care. As Iniko's sole legal parent, there is no question that Korma Betansong meets the first of these criteria, but the other criteria merit further discussion.

Criminal negligence, or to be criminally negligent, means that the person fails to be aware of a substantial and unjustifiable risk that the child will die without medical care. The risk must be of such nature and degree that the failure to be aware of it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

Criminal negligence is also established if the State proves that the person acts recklessly. A person acts recklessly if the person is aware of and consciously disregards a substantial and unjustifiable risk either that a particular result will occur or that a particular circumstance exists.

The risk must be of such nature and degree that disregarding it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation. With regard to this case, that would mean that the particular result would be the substantial and unjustifiable risk that the child would die without medical care.

Though it is true that our constitution generally protects free expression or religious practices and beliefs, these constitutional protections are limited when the safety and welfare of children are involved. It is not a defense to the charges of criminally negligent homicide that the defendants' care or treatment of their child was based solely upon spiritual means pursuant to the religious beliefs or practices of the defendant.

Finally, in order to find Korma Betansong guilty of criminally negligent homicide, you must find not only that s/he acted negligently or recklessly, but also that the failure to provide or obtain medical care for Iniko was a substantial factor in Iniko's death. If you find that failure to provide or obtain medical care for Iniko was not a substantial factor in his death, then you cannot find Korma guilty of criminally negligent homicide.

SPECIAL INSTRUCTION NO. 1

A parent has a right to direct the religious upbringing of his or her child. Alaska law permits a parent to treat a child by prayer or other spiritual means so long as there is not an immediate threat to life. However, if a reasonable person in the situation should know that there is an immediate threat to life without adequate medical care, then the parent must provide that care or allow it to be provided.

II. Affidavits

Affidavit of Dr. Kelly Gorman

1. My name is Kelly Gorman. I am a pediatric oncologist at Alaskopolis Central Hospital. I am one of only two doctors in Alaska that practice in this field. I graduated from the UCLA School of Medicine in 1998 and did my residency in pediatric oncology at Chicago Grace Hospital. I came to Alaskopolis in 2005 to start the pediatric oncology program at Alaskopolis Central. I am fully credentialed in pediatric oncology and take continuing education courses and attend conferences on a regular basis to maintain my credentials. As part of my practice, I have biweekly conference calls with pediatric oncologists from other states on the cases we have diagnosed during the previous two weeks. This also allows me to learn about various types of childhood cancers even if I do not myself have any patients with that particular type of cancer.

2. It is my professional opinion that Iniko Betansong died of metastatic Hodgkin's lymphoma. Metastatic Hodgkin's lymphoma is a type of cancer that starts in the body's lymph nodes and can spread to other parts of the body, such as the lungs or the liver. It is one of the more common childhood cancers, though it is more common in teenagers than in children of Iniko's age. It is characterized by an enlargement of the lymph nodes, spleen and other parts of the immune system. Enlarged lymph nodes can sometimes be painful and are visible to the naked eye if they get big enough. Other symptoms can include fever, weight loss, fatigue or night sweats.

3. When detected and treated, metastatic Hodgkin's lymphoma has a survival rate of 80-85%, by which I mean that the cancer is in complete remission and the patient is able to go on leading a normal life. The cancer is typically treated with chemotherapy and/or radiation. If left untreated, the lymph nodes can swell to the point that they inhibit the normal functions of the body. For example, the lymph nodes in the neck can swell so much that they prevent the patient from breathing. Other problems can arise when the cancer spreads to other parts of the body. So, the lymphoma can spur abnormal growths in other organs that cause those organs to fail.

4. I received a call from the city medical examiner on August 21, 2013 requesting that I perform an autopsy on Iniko Betansong. The medical examiner had reviewed the report from Dr. Tory Milton and noticed that there was a strong possibility that Iniko had some form of cancer. I do not normally perform autopsies, but the procedures, at least for the purpose of diagnosing cancer, are essentially the same for a deceased patient as for one who is still alive. In either situation, a biopsy is performed of the suspected cancerous growth. This means that a tissue sample is taken and then analyzed under a microscope, often through the use of special dyes. By looking at the pattern and extensiveness of abnormal cell growth, it is possible to determine whether or not the patient has cancer and if so what type of cancer. Sometimes genetic testing of the cancerous cells is performed to get clues on how the cancer might respond to different types of treatment. However, this of course is not necessary when the patient is deceased.

5. I went in to the city morgue to inspect Iniko's body on August 22, 2013. Based on Dr. Milton's notes, I felt Iniko's neck and underarms with my bare hands and could detect definite swelling. In fact, the swelling in Iniko's neck was visible to the naked eye. I suspect that the swelling in Iniko's neck was more serious than it had been when he was examined by Dr. Milton, though I did not talk to Dr. Milton to confirm this. I immediately suspected some sort of cancer of the immune system; the swelling was too large and firm to be typical of inflammation caused by a flu or some other non-fatal illness, such as mono. Really, any trained medical professional would have been able to determine from a simple medical examination that Iniko was in need of serious medical treatment, likely by a specialist.

6. After my initial non-invasive examination of Iniko's body, I took biopsies from the lymph nodes in his neck and underarms. Both of these biopsies showed the unmistakable presence of Hodgkin's lymphoma. I can say this with absolute certainty based on my years of practice and the trainings and conferences I have attended. Knowing that metastatic Hodgkin's lymphoma often spreads to other parts of the body – especially at the relatively advanced stage the disease seemed to have reached in Iniko – I performed additional biopsies on Iniko's left lung, liver, and spleen. It would be expected that there would be significant signs of cancer in Iniko's spleen and in fact there was. There were not any signs that the cancer had spread to Iniko's liver. However, the biopsy of Iniko's left lung revealed conclusive evidence that the cancer had spread there. A subsequent biopsy of Iniko's right lung revealed that the cancer had spread to that lung as well. The final diagnosis was metastatic Hodgkin's lymphoma.

7. Based on the biopsies I performed and the substantial swelling in Iniko's neck, as well as the transcript of Korma's 911 call (which I reviewed in the course of preparing for the autopsy), I concluded that the cause of death was respiratory failure due to complications from metastatic Hodgkin's lymphoma. To put it another way, the cancer had advanced to the point that Iniko could no longer breathe effectively. Over the last couple of weeks of Iniko's life, he likely experienced repeated and substantial wheezing and shortness of breath. It should have been obvious not only to any trained medical professional but also to any competent adult that Iniko needed immediate and significant medical intervention. I only wish Korma Betansong or Chee Lomibu had sought medical attention for Iniko. At the time of his death, Iniko likely would have been struggling and gasping for air, fighting, ultimately unsuccessfully, to get enough oxygen into his lungs to survive. This struggle is consistent with the transcript from the 911 call Korma made at the time of Iniko's death.

8. The question of whether Iniko would have survived with appropriate medical treatment is a complicated one. I did not meet Korma until after Iniko's death, and I never met Iniko. My office did not receive any referral from Dr. Milton pertaining to Iniko. Had we done so, we certainly would have followed up with Korma and insisted that Iniko be brought in to see me. Such an examination would have been necessary to make a definitive diagnosis for virtually any type of childhood cancer. Even if a referral had been made following Iniko's June 18, 2013 visit to Dr. Milton, I would not have been able to diagnose Iniko's cancer based solely on the information in the referral. This is by no means a criticism of Dr. Milton's notes, it is just that a cancer diagnosis cannot reliably be made without a visit by the patient and biopsies having been taken and analyzed.

9. However, I do feel confident that had Korma brought Iniko into my office even as early as June 18, 2013, I would have been able to diagnose Iniko's cancer. Dr. Milton's notes, while not sufficient by themselves to conclusively diagnose metastatic Hodgkin's lymphoma or any other cancer, did indicate symptoms that would have caused me to examine carefully Iniko's neck and lymph system and perform the necessary biopsies to diagnose the disease. Based on the typical progression of metastatic Hodgkin's lymphoma, Iniko certainly had some detectable form of the cancer a few months prior to his death.

10. Also, based on the typical progression of metastatic Hodgkin's lymphoma, it is likely that in June and early July, Iniko would have responded well to chemotherapy and radiation. Indeed, it is likely that Iniko could still have been effectively treated up until very close to the time of his death, though at some point, probably only in the last days of his life, he would have gotten too sick to tolerate chemotherapy. But, there was a long window of time during which Iniko could have been brought into my office and the chances of survival would have been quite high. I frequently see children with relatively advanced stages of cancer that are still able to be treated.

11. I should caution, though, that even assuming Iniko was brought in for treatment at a time prior to the last week or so of his life, there is no guarantee that treatment would have resulted in a complete remission and in Iniko being alive today. As I stated earlier, metastatic Hodgkin's lymphoma has an 80-85% survival rate. This means that 15-20% of patients who get the disease do not survive even with standard medical treatment. Iniko did not come in for treatment, and without this there is no way to know for sure whether he would have survived had he received the chemotherapy and radiation treatment I would have prescribed for a child his age with metastatic Hodgkin's lymphoma.

12. The success rates for treatment of childhood cancers vary greatly depending on the type of cancer and how advanced it is. It is standard practice among pediatric oncologists that when a child has a less than 50% chance of survival, the parents are given the option of refusing treatment. Understandably, few parents refuse medical treatment for their children unless the child is in obvious and substantial pain and the chances of survival are slim. Up until the final week to ten days of Iniko's life, his chances of survival were close to or greater than 80%, and I certainly would have strongly advised Korma to allow Iniko to undergo chemotherapy and radiation treatment. It is also standard practice among pediatric oncologists that if a child has a greater than 50% chance of survival and the parent refuses treatment, a referral is made to the state child protective services agency, which in Alaska is the Office of Children's Services, and treatment is pursued even if this means taking the child into state custody.

Affidavit of Dr. Tory Milton

1. My name is Tory Milton. I have been a family practice doctor in Alaskopolis for eighteen years. I have spent my entire career with Far North Pediatrics here in Alaskopolis. I obtained my medical degree from Ohio State in 1990 and did a residency in general pediatrics in Denver before moving up to Alaska. In order to maintain my active practice, I am required to recertify every three years, which means that I have to keep up on all the latest advances in pediatric medicine.

2. I love practicing family medicine. I love working with kids. They are generally in such good spirits that it really brightens my day. Sure, I sometimes have to poke them with a needle or shine a light down their throat, but they usually get over it pretty quickly. Most of what I deal with are your basic yearly check ups, authorizations to play sports, that kind of thing. Occasionally something more serious comes along, but when that happens, it is my job to know enough to know when I need to refer a child to a specialist.

3. I'm good at what I do, but I know my limits and do not try to exceed them. For example, I am not qualified to diagnose childhood cancers. But, I have been trained to identify symptoms of a wide variety of cancers that may afflict children. Thus, when a patient comes to my office that has these symptoms, I refer that child to a specialist – in this example a pediatric oncologist – who is able to make the appropriate diagnosis. It would be unethical and malpractice for me to try to treat a child whom I suspect has an illness beyond my training to handle.

4. This is what happened with Iniko Betansong. Iniko's mother/father Korma Betansong brought Iniko into my office on June 18, 2013. I had not met Korma before and had not seen Iniko previously as a patient. Korma spoke very halting English. I asked Korma if s/he'd prefer coming back another time with a friend or relative who could translate for him/her, but Korma insisted that s/he could understand me just fine and wanted to go ahead with the examination. I was a little reluctant to do so without someone else there to help explain things to Korma, but I couldn't figure out what language Korma was speaking or where s/he was from, so I was at a bit of a loss as to what else to do. I decided to conduct the examination as best I could.

5. Iniko was 8 at the time. His birthday was not until January 10. Iniko looked to be of about average height and weight for a boy his age. However, he was very clearly a bit listless. I asked Iniko what was wrong with him. Iniko seemed to understand English slightly better than his father/mother, but was still only 8 years old. Iniko said that he was tired and that his neck hurt. I asked Korma if there was anything else. S/He replied that Iniko slept a lot and had to miss soccer a couple of times because he kept complaining about how his body hurt. Korma said that Iniko was not eating much and had lost some weight. S/He also said that sometimes Iniko would wake up in the middle of the night sweating. Well, Korma did not say that exactly. S/He said that Iniko would "get wet at night", but I gathered from her motions that he was sweating and not wetting his bed. I confirmed this by pointing to my forehead and asking, "Wet? Wet?" Korma responded "Yes".

6. At first, I thought maybe Iniko just had a flu or maybe mono. I took Iniko's temperature, and he had a bit of a fever at 100.8. His pulse seemed fine; his blood pressure was slightly higher than normal, but not something I was especially worried about. Then I felt Iniko's neck. I felt a relatively small but firm lump on the left side of Iniko's neck. It was not visible unless you stretched Iniko's head to the other side, but I could definitely feel it. It was at that point that I suspected Iniko might have something more serious than the flu.

7. Abnormal lumps like the one that I felt in Iniko's neck have the potential to be cancerous tumors. I decided to examine a few other places on Iniko's body to see if there were similar lumps there. I gently touched Iniko's torso, legs, and arms. The only other place that I found hard tissue was in both of Iniko's armpits. I could not see or feel any lumps here, but the tissue was definitely firmer than it should have been. If there had just been only the one lump in Iniko's neck, there were a variety of possible explanations, many of them not harmful. But the fact that there was similar abnormally hard tissue in more than one location on Iniko's body made me strongly suspect the he had cancer. Of course, I was not able to diagnose the type of cancer. Nor could I tell whether the tumors were malignant or benign. The only way to determine this was to have Iniko go see a pediatric oncologist.

8. It is always hard to tell parents that their child might have a serious illness. It is one of the worst parts of my job. I sat Korma down and told her/him that Iniko might be very ill. I told him/her that I thought that Iniko might have cancer. I emphasized to Korma that if the cancer was not treated then it was possible that Iniko would die. I also said to Korma that Iniko would need to see a different doctor and that I could not myself figure out exactly what disease Iniko had or how to treat it. I can't remember the exact words I used, but I think I said something like, "I can't fix Iniko, but there are other doctors that can." I asked Korma if s/he understood how serious all of this was, and s/he nodded her head yes.

9. Before I made the referral to a pediatric oncologist, though, I wanted to make sure that Iniko did not really just have mononucleosis or the flu, which can also cause fever and swelling in the neck. I considered this unlikely, but I did not think it would hurt to wait a couple of days for Iniko to see a specialist, and I did have a simple blood test that I could do to detect these illnesses. I asked Korma if I could draw some blood from Iniko, and s/he consented to this. I told Korma that it would take a couple of days to do the tests, but that I would call and let him/her know the results. I emphasized that either way, Korma would need to bring Iniko back in to my office in a couple of days, regardless of the test results. If the test results showed a flu or mono, I could prescribe a course of antibiotics. But if the tests came back negative, as I suspected they would, my office at that time could make a formal referral to a pediatric oncologist. We even set up an appointment for the afternoon of June 21 to go over the results and make a referral if necessary.

10. On June 20, I received a phone call from Sage Thompson, a case worker with the Office of Children's Services. Sage asked me if Korma had brought Iniko in to see me. I said that in fact s/he had. I told sage that Iniko was very ill and might die without serious medical treatment, but because of federal privacy laws could not say that I thought that Iniko might have cancer. I probably said more than I should have, but given the seriousness of the situation, I felt justified in bending the rules a bit. I also told Sage that Iniko had a follow-up appointment for the next day to go over the results of some tests that I had run. I have assisted OCS workers before in getting children declared in need of aid and taken into state custody because parents were negligent in providing medical care for their children. I did not feel this was the case yet because Korma still had the follow-up appointment the next day for Iniko.

11. The blood tests did indeed come back negative for mono and the flu, leading me to conclude that Iniko in all likelihood had cancer or a similar illness. However, Korma and Iniko did not show up for the appointment on June 21. My receptionist called Korma several times over the course of the next week to try to reschedule the appointment, but Korma never answered the phone or returned our urgent messages. I cannot make a referral without the parent of the minor agreeing to this. Thus, because Korma did not come back, I was not able to refer Iniko to Dr. Gorman. I only wish Korma had. Nor could I initiate a call to OCS about taking Iniko into state custody. Even though as a physician I am a mandatory reporter of harm to children, because I did not have an actual diagnosis of cancer, I believed that federal privacy laws prevented me from calling Sage, and s/he never called me back.

Affidavit of Sage Thompson

1. My name is Sage Thompson. I'm 24 years old and I have lived in Alaska my whole life. I have a bachelor's degree in social work from University of Alaska. I've been working for the Office of Children's Services (OCS) for 3 years, ever since I graduated from college. For the first year or so I did intake at the agency, which means I would take down all the information on reports of harm and pass them along to the case workers. Two years ago, I was promoted to be a case worker myself.

2. When I get assigned a case, it's my job to investigate the allegations. The first thing we do is decide whether the report is substantiated or not. This means we interview people, including the child if he or she is old enough, and review any documents to see if there really is a concern for the child's welfare. If there is, that means the report is substantiated. At that point, we try to work with the parents to correct the problem. We don't remove the child from the parent's home unless there is an emergency. We also don't necessarily open a court case unless there is an emergency. Mostly, we try to see if we can first help the parents with suggestions, resources, or classes that can correct the problem.

3. I first learned about Korma and Iniko Betansong from a report of harm filed by Ro Tring on June 12, 2013. Ro had called our office to say that s/he had a friend whose son seemed very ill and the parent was refusing to get the child medical care. I was assigned Iniko's case, so the next day, I went over to the house to meet with Korma and Iniko. When Korma answered the door, I tried to explain who I was. It was apparent right away the Korma did not understand English very well. S/He first thought I was a police officer and wouldn't let me in. When I explained that Ro had called me because s/he was worried about Iniko, Korma got very upset. S/He said Ro is "lying" and told me to go talk to Iniko and I would see "he is fine.".

4. When I saw Iniko, I could tell immediately that the child was very sick. He was pale, feverish, and seemed tired, even though it was the middle of the day. I asked Iniko how long he had been feeling sick, and he said "many weeks." I tried to ask him specifically what was wrong, but he also did not seem to understand English very well. He pointed to his head and neck, and said "it hurts." I asked him if his mom/dad had taken him to the doctor; he said no.

5. I then spoke to Korma again. I told him/her that Iniko did not look "fine" and that he needed to see a doctor. Korma said, "Chee is a doctor, Chee is helping him." I asked who Chee was and Korma said he was a "Wosani healer." I told Korma that Iniko needed to see a real doctor, and Korma became very upset again. He/She accused Ro of lying, said I "did not understand," and insisted that Chee would help. Korma showed me the herbs that Chee had left for Iniko. S/He said she would show me "how to do it" and tried to drag me over next to Iniko. When I refused to go over, Korma insisted she was a "good Mother/Father" and that I was "disrespectful".

6. I gave Korma a list of pediatricians in his/her neighborhood and pointed to the card, saying that Korma needed to make an appointment with one of them. When Korma still refused, I explained that if he/she did not take Iniko to the doctor, then I would have no choice but to try to declare Iniko a "child in need of aid" and have the state take custody. S/He became very agitated and asked "you will take Iniko away?" I said no, I would not do that if s/he "called one of these doctors. Iniko needs to see one of these doctors." Korma nodded after that and said "OK, I will take him."

7. I left my card with Korma before I left and told him/her that I would call back soon to see how the doctor's appointment went. I called Korma back on June 20, 2013. Korma said he/she went to see Dr. Milton on June 18, 2013. S/He said Dr. Milton "did not help" and "did not know what is wrong." Korma told me that "Chee will help Iniko." I was surprised that the doctor wasn't able to help, and I honestly didn't believe what Korma was saying. But I wasn't sure, maybe Iniko wasn't that sick after all, so I told Korma to do what the doctor had said.

8. I also decided to follow up with Dr. Milton myself to make sure Korma was following all of his/her recommendations. Dr. Milton told me that he/she was concerned that Iniko might be seriously ill and could potentially die, but that s/he wasn't a specialist and would refer Korma to another doctor who would better be able to diagnose Iniko's illness. Dr. Milton was purposely vague in talking about what was wrong with Iniko to avoid

violating federal privacy laws. S/He did mention, though, that Korma had another appointment the next day to go over the results of some tests s/he had run on Iniko and that s/he would be making a referral at that appointment.

9. On June 24, 2013, I called Korma again to see how the second appointment went. Korma said she did not go. I was concerned, so I visited the home again the next day. Iniko did not look any better to me; in fact he looked even worse and more lethargic. Korma continued to insist that Chee was the only one who could help. Korma again tried to show me what she was doing to help Iniko, but I told him/her I did not have time to sit and pray with him/her. I told Korma that Iniko needed real help right away and that if Korma continued to refuse to see the doctor, I would try to get Iniko removed from the home. Korma got extremely angry and insisted I leave.

10. On June 26, 2013, I filed an internal report about what I had learned about Iniko's situation. I felt that Iniko was seriously ill and that whatever Korma was doing with his/her herbs was not working. I included in the report that the doctor also felt this was potentially a serious illness that could be fatal if left untreated. I suggested we file an emergency petition for the state to take custody of Iniko so that we could get him treatment ourselves.

11. My supervisor denied my request. She said that she could not file that petition because there was a statute (Alaska Statute 47.10.085) prohibiting us from declaring a child in need of aid just because a parent uses spiritual treatment for medical care instead of a doctor. My supervisor also noted that no actual diagnosis had been made, so it was premature to consider Korma negligent for failing to treat it. This did not make any sense to me, as the need for a diagnosis was why we should be taking Iniko into state custody in the first place! It didn't seem to matter to my supervisor that Dr. Milton told me Iniko probably had a fatal disease or that it was obvious for anyone to see that the herbs and prayers were not working. Iniko had gotten worse in just the week I'd known him! But my supervisor told me there was nothing more I could do and closed the case. I only wish I had somehow been able to convince Korma to follow the doctor's advice. That poor boy might still be alive.

Affidavit of Ro Tring

1. My name is Ro Tring. I am Wosani, and I immigrated to Alaskopolis when I was eight years old. I belong to the local Wosani church, I married another Wosani immigrant, and we have four beautiful children, including a son who was in the same class at school as Iniko

2. I was fortunate that my family was able to emigrate before the civil unrest that destroyed so many other Wosani families. As I've grown up in the United States, I've always tried to help create a community that is safe and welcoming for Wosani immigrants like me and my family. I think we've been pretty successful — we are the largest community of Wosani anywhere in the world outside of our homeland.

3. I first met Chee at church a few weeks after s/he moved to Alaskopolis. I admire Chee's leadership skills and energy. S/He is always willing to help in the community, especially in leading spiritual rituals and teaching the traditional Wosani cultural values and way of life. S/He often hosts cultural events and outreach; my family almost always participates in these events. Our ancestor rituals are very important to our faith – especially as immigrants in a very different cultural environment, it can be challenging to maintain our identity. It is through our church and the efforts of spiritual leaders that we keep our connections to our ancestors, our history, and our culture.

4. What Chee could never understand, however, was that his/her strengths are as a spiritual leader, not a political one and certainly not as a healer. I believe that we can learn from Western culture – Alaskopolis has sheltered and embraced our community, they are not our enemies or trying to destroy us. We fled our home country so we wouldn't have to be afraid of that anymore. I believe that our ancestral rituals and traditional medicines are not incompatible with Western medicine. I don't see a reason why we can't use both. For example, I understand that our traditional diet is more healthful than what most Americans eat, and that it can help prevent or treat diseases like diabetes. But just because we don't eat greasy fast food, doesn't mean we also have to shun Western drugs or surgical techniques.

5. I think Chee relies on his/her traditional beliefs to keep his/her power over the Wosani community. Chee is afraid that if people learned more about Western culture they would see that Chee doesn't have all the answers. Chee doesn't understand that if we don't try and assimilate, at least a little bit, we're always going to be outsiders and vulnerable. We are a large community in Alaskopolis, and we should have a voice in local government. I am planning on running for city assembly next year, but no one is going to take a Wosani candidate seriously when other leaders like Chee are running around berating all of Western culture.

6. I first met Korma and Iniko at a soccer game last year. My son and Iniko are on the same team. Our sons hit it off right away and I enjoyed Korma's company as well. Korma has had a tough life and I admire how s/he has put the pieces back together and stayed strong for her/his family. It is not easy to be a single parent in a strange country. Korma seemed to rely a lot on the church and our traditional beliefs to help him/her through the trauma of his/her past. I also know that Chee helped Korma get on his/her feet when s/he first moved here. I only wish that some of the rest of us had been there as much in the beginning for Korma; maybe s/he would not have relied so much on Chee for everything and would have more trust in those of us who have adapted to life in Alaska.

7. I first noticed that Iniko seemed sick at the beginning of this summer. He is usually one of the better players on the soccer team, but this past season he missed a lot of practice and just didn't seem to have any energy. He was always asking for time-outs or breaks. At first, I thought it was just a bad cold or the flu, but it lasted for several weeks and didn't seem to be getting better.

8. I can't remember the exact day, but it was a few weeks into the season, and I went to visit Korma to see why Iniko had missed another practice. When Korma said Iniko was still sick, I asked Korma what was wrong with him. Korma told me s/he didn't know, but that s/he had taken Iniko to see Chee and that everything was going to be all right. I've heard a lot of stories from my friends at church about Chee treating illnesses with traditional rituals and practices. A lot of people in our community think Chee cured their children. Frankly, I think the majority of them just got better on their own. Usually, I don't say anything, because the prayers and herbs don't do any damage and it's not worth the argument. They might even help in a few cases. It's always good to ask the ancestors to help and strengthen our bond with them. Even Western medicine recognizes the importance of spiritual and mental

health in helping with physical health. And a lot of the herbs Chee uses do have healing properties. But that's for things like colds, not serious diseases.

9. I suggested to Korma that s/he take Iniko to see a real doctor. Korma got very upset with me and said that Chee *was* a "real" healer and that Western doctors would just talk down to him/her, and s/he couldn't understand them anyway. Korma accused me of being a bad influence on her/his faith and that I "always had bad things to say about Chee." I tried to tell Korma that s/he could still see Chee and just see the doctor also, but Korma was so angry by then, I don't think s/he really heard me.

10. I spent that whole next weekend worrying about Iniko. I have a son too, and I don't think it's fair that Iniko was suffering because of a stubborn and ignorant adult. Korma is really a loving parent, but he/she is just so blinded by faith in Chee that s/he can't see what is really happening. I felt I had no choice but to call the Office of Children's Services (OCS) to make a report of harm. It's not that I'm trying to get Korma or Chee in trouble, but I thought that maybe they could convince Korma to get help, or even stop Chee from doing all this faith healing.

11. The OCS worker took my statement, but I didn't hear back from them. I don't know whether they did anything or not. I did notice that Iniko never came back to soccer. I did see him at church a few times around the middle of summer, and he seemed a little better, so I assumed at the time that OCS took care of it. But then Iniko stopped coming to church also. I got worried again, because I thought maybe Iniko had something serious that the doctors couldn't fix. I wondered if maybe Korma needed help taking care of him. So I stopped by his/her house in early August. Korma wouldn't let me in and told me, "I know you are the one who reported me to the government. Just leave our family alone."

12. I refused to leave though, and I asked Korma if s/he had taken Iniko to a doctor. He/She said yes, but that the doctor didn't know what to do. S/He said that there was another doctor who tried to call a few times, but by that time Iniko had gotten better, so s/he never called the doctor back. I was pretty skeptical about that, so I asked whether Chee was still trying to heal Iniko. Korma said yes, that Chee was a much bigger help than my "stupid doctors, who didn't know anything." I begged Korma to let me take Iniko back to the doctor, but Korma just told me to stay out of it.

13. I didn't know what to do anymore. It seemed like OCS hadn't done anything. So I finally tried to talk to Chee. S/He was actually very polite to me this time. Chee said that Korma was just upset about the OCS report, but that Iniko was actually doing much better and the traditional treatment was working. Iniko wasn't coming around to church and soccer as much because Korma and Chee felt he needed more rest to fully get better. I believed Chee at the time, but now I know it was all a lie so he/she wouldn't get in trouble. I didn't go see Iniko during this time, but I also didn't believe what Chee told me.

14. I wish I had done more to help Iniko — if only I had made another report or called the police, maybe things would be different. It also makes me sad that to this day Chee doesn't accept any blame for this. I don't think s/he was purposely manipulating Korma or thought this would happen, but I worry that if no one stops him/her, more children will end up dead. Chee needs to understand that s/he needs to stick to church rituals and leave the serious healing to the experts.

Affidavit of Korma Betansong

1. My name is Korma Betansong. Iniko Betansong was my son. I am thirty-four years old. I was lucky to have immigrated to Alaskaopolis on a political asylum visa in 2009. I moved here in order to protect Iniko and Sitatnee, my two children, from future violence and unrest after my husband/wife was killed in a clash between government soldiers and the local resistance movement.

2. I came to Alaskaopolis because it has a large Wosani culture. We found a small apartment in a neighborhood where other Wosani lived, and I began to look for a job. I thought it would be easier for my children to find solace by being around the people and the culture they knew and were comfortable with. I did not want to add the stress of a new culture on top of them losing their father/mother, and I did not want to pollute them with dangerous Western culture. It was the Western way of thinking that started the civil unrest that took my wife/husband. Before the Wosani were polluted with the West our people were peaceful and reverent of the life giving Earth and all its creatures.

3. It is very important to revere and respect your ancestors and traditions, and I wanted my children to have that same reverence and respect. I started attending our local Wosani church so my children could learn our ways and traditions. We quickly became integrated into the church and made many friends and were able to stay connected to our homeland and its values. We often attended services two or three times a week and became very involved in church activities.

4. I met Chee Lomibu the first time we attended church. Chee is the spiritual leader of the Wosani church and made it a point to introduce him/herself to new faces in the congregation. Chee was very outgoing and introduced us to other church members. When I told Chee about the death of my wife/husband and our escape to Alaskaopolis, s/he made sure my family had the things we needed to get started in Alaskaopolis. I liked Chee because s/he was a strong charismatic leader who knew how important a strong sense of tradition and spirituality was when surrounded by a secular society like Alaskopolis.

5. Iniko began showing signs of sickness in May of 2013. The symptoms were small at first. Iniko would feel weak and have fevers and night sweats. Initially, I thought Iniko would get better in a couple of days, as children often do. But he did not. As the symptoms worsened, I sought the help of Chee. Chee's deep connection to the Wosani people allows him to channel spiritual powers for healing the sick. Chee said that he had healed many Wosani children. My friend Umi's child was healed by Chee. Umi had met more children helped by Chee and knew Chee's healing power. Chee said to not take Iniko to a Western doctor because it would offend the spirits of our ancestors and end up harming Iniko.

6. Chee began visiting Iniko twice a week to pray and perform healing rituals. Chee brought medicinal herbs, teas and cleansing foods for Iniko to flush away demons and cleanse his soul. However, Iniko's symptoms continued to worsen and he began losing weight. Often he would be too sick to attend school and soccer practice.

7. In June, Ro Tring came to our home. I knew Ro from church and because s/he has a son that plays soccer with Iniko. S/He does not respect our people and our ancestors. S/He does not believe in the Wosani way and wants the church and the Wosani people to modernize. I had heard Chee say that Ro wanted to take over the leadership of the church. This would be very bad for the Wosani. We must stay true to our traditional ways, and Ro would not do this.

8. Ro said that s/he had noticed Iniko was missing soccer practice and did not look well. I told Ro about Iniko's symptoms and that Chee was healing him. Ro told me that I should take Iniko to a "real doctor." I am faithful and obedient to the church and our ancestors and refused Ro's suggestion. Chee is as capable as any doctor – otherwise he couldn't have healed so many children.

9. Some days later a social worker from OCS named Sage Thompson came to our house. I later heard in church that Ro had called them and reported us. I tried to explain that Iniko was being healed by Chee and showed him/her the herbs and medicines that Chee was using. I asked Sage to pray with me for Iniko's recovery but s/he refused. Sage was very disagreeable and told me if I did not take Iniko to a Western doctor s/he would try to have

Iniko taken away from me. I told Sage that I was faithful and obedient to the church and would not disrespect the Wosani. However, if it was what was required, I would take Iniko to a doctor. S/He then left.

10. I took Iniko to see Dr. Tory Milton. Dr. Milton told me that Iniko was very ill but s/he was not sure about his sickness and would not be able to treat him. Dr. Milton said something about cancer but said that another doctor would know more. Dr. Milton took some blood from Iniko and told me to come back in a few days and we would talk about the blood. I did not understand what was wrong with Iniko after visiting Dr. Milton, and because Dr. Milton could not heal Iniko, I did not see any reason to go back to her/him. I believed Iniko would be and should be healed the Wosani way.

11. And I was right. Soon after our visit to Dr. Milton, Iniko's condition started to improve. I believe this was because of all of the attention Chee was paying to Iniko and all of the medicine s/he was giving him. His complexion and strength came back and he was able to attend Wosani community functions again. I decided there was no need to see Dr. Milton again and did not go in for my scheduled appointment. Dr. Milton said that s/he could not heal Iniko anyway, so there was no purpose. At the end of the week Sage returned to our home. Sage said that Iniko was still sick, but I said "No, can you not see that Iniko is getting better because of Chee." Sage told me that s/he did not believe Chee's treatment was working and again told me to take Iniko to see Dr. Milton. I told Sage that Dr. Milton could not heal Iniko, but that Chee could. I tried again to show Sage how to mix the herbs to make Iniko better, but s/he refused to watch and refused to pray with me for Iniko.

12. Iniko's improvement was short lived. He began to worsen in late July and in August he quickly deteriorated. Chee tried different treatments and new herbs and plants, but nothing worked. During this time, Ro told me to take Iniko back to the doctors, but I told him/her no and that s/he needs to have faith in the wisdom of our ancestors. Chee kept telling me that this was a very difficult sickness but to keep faith and that things would work out as the ancestors intended. I believe in the Wosani and I believed that our faith would heal Iniko.

13. On the night of August 18, Iniko was strong enough to walk and was walking around the house when he suddenly collapsed and started choking, having a very difficult time breathing. I frantically called Chee to come to the house. Chee arrived at our home and started performing healing rituals on Iniko. Chee began praying and performing Reike (hands on healing) on Iniko and told me to join him. When Iniko did not respond I got very scared and got up from the floor and called 911. The operator answered and I told her that my son had collapsed and could barely breathe. Chee yelled at me to let nature take its course and to come pray over Iniko. I did not want Iniko to die, and I told the operator that I wanted a doctor. I did not want to insult my ancestors and the Wosani, but I love Iniko and I believe my ancestors will forgive me for trying to save him.

14. An ambulance did arrive quickly, but it was too late. Iniko was gone. I know Chee did everything s/he could to save Iniko, but I have learned in my life that sometimes the ancestors have a different plan. I feel terrible about losing Iniko but I find comfort in the church and our people. I know that the spirits took Iniko from me for a reason. It is not my place to question the wisdom of our ancestors. I will continue to live according to Wosani tradition and defend our people and way of life.

Affidavit of Dr. Riley Dunn

1. My name is Professor Riley Dunn. I am 42 years old. I am an anthropology professor at Alaska State University. I got an undergraduate degree in history at Northwestern University outside Chicago. I graduated from undergrad in 1995 at Beloit College. I expected to get a Ph.D. in history, but after undergrad I spent two years working for the Peace Corps in Africa. I became fascinated with learning about other cultures and decided I would return to school to study anthropology. I got my Ph.D. from the University of Chicago. I am from Alaska originally, and hence decided ultimately to return here with my family, but I absolutely love Chicago and the Chicago area. I earned my Ph.D. after several years of study, including the fellowships, in 2005.

2. I loved graduate school – I got to spend significant time abroad studying other cultures and learning even about different cultures in the United States. I did two fellowships abroad during school, studying native tribes in Zimbabwe as well as traveling with a group of Buddhist Monks throughout Asia for several months. I am absolutely fascinated with other cultures and believe there is so much we can learn from them.

3. I became a professor at Alaska State University after graduation. At 33, I was fairly young for the anthropology department, and I was very excited to be a part of helping that program grow at the college. I had offers at several other schools, but I decided that I finally wanted to return to Alaska after spending so long away.

4. Since beginning at the University, I have become head of the department. I also publish frequently – I have published articles in various publications, both locally and nationally. I like to write for the local paper on various topics, but my professional work has meant publishing articles in several renowned anthropological journals. Most of these have been peer-reviewed. I believe that since becoming a professor, not counting what I published in graduate school, I have published a dozen articles discussing and comparing our society to other cultures. My most recent article compared the Wosani community in Alaska to the Somali community in Minneapolis, analyzing the different social factors that have caused such a large immigration of a cultural minority to a particular area of the country. Of course, they are from different parts of the world, but it is very interesting to see how the two groups have assimilated, or not assimilated, to the mainstream culture since their arrival in the United States.

5. It's only in the last few years that I have begun testifying at trials. It's not something that I ever thought I would do. The university allows me to do it as part of a special agreement – Alaska State usually prefers that professors do not testify as experts. I testified three times last year in trials in the Lower 48, once in Minneapolis about something related to the Somali community and twice in New Mexico where a large group of Buddhist immigrants from Laos resides. Courts qualified me as an expert in all three cases. I have only testified once as an expert in Alaska, maybe six years ago, about how new immigrants will react to different situations. That was a self-defense case – very interesting issues to discuss. I normally receive $200 per hour for pre-trial preparation and am paid $350 per hour for trial testimony. These rates are competitive with rates offered elsewhere, and frankly I do it more because I find it interesting than for the money. In fact, for this case I am donating my services for free because I believe in the importance of preserving Wosani culture.

6. One of the reasons I love Alaska, aside from the hunting, is that there are so many different cultures to study within our own state. After I moved back here, I became fascinated in particular with the Wosani culture. It is such an interesting culture to study. With where they came from, you wouldn't think they would fit in well in Alaska, but they have. I became involved with the Wosani community soon after arriving in Alaska. I got to know several of their cultural leaders, including Chee Lomibu. I have since that time written several articles explaining the Wosani culture and its many traditions. These articles have been published in prestigious journals of anthropology and sociology. Indeed, I am one of only a couple of scholars worldwide on the Wosani culture.

7. The Wosani have immigrated to the United States largely due to civil unrest and political persecution in their native country. The Wosani were never a large percentage of their population, maybe 10% at most. During a recent civil war, the government focused on the Wosani as a scapegoat for economic strife. This led to violence against Wosani communities, often resulting in bloodshed, even murders. Many of the families that moved to the United States did so leaving behind family members who had been killed. This strife can actually make Wosani people feel more of a connection to their roots – having been driven out of their country and even killed for their beliefs often makes people believe much more strongly in those beliefs. It's frankly common psychology, though I know I do not have a psychology degree.

8. The Wosani community in Alaska is now the largest Wosani community in the world outside of their homeland. Although some of the Wosani immigrants have moved to other parts of the country, most have chosen to remain in Alaska. This is very common among immigrant populations. There is strength to be had in numbers, to put it simply. It also gives people a strong base of support for starting a new life here, which can be a very frightening experience.

9. In their home country, the Wosani are known for their traditional practices. These include a deep dedication to honoring their ancestors and a focus on particular cleansing and spiritual rituals. The Wosani have always used a variety of rituals to connect people to their ancestors. The Wosani believe that these connections give them a greater sense of purpose than they would otherwise have. They perform rituals regularly designed to remember their ancestors and take strength from those ancestral practices. I have gotten to take part in some of these rituals myself and to be honest, they are quite beautiful. Most of the Wosani who have ended up in Alaska have brought those practices with them.

10. The most controversial aspect of the Wosani culture is their medical tradition. The Wosani avoid Western medicine for the most part, preferring instead to rely on their traditional medical customs and practices. It is hard to distinguish Wosani religious and ancestral practices from their medicinal practices – in the Wosani community the medicinal customs are integral to their religion and ancestral practices.

11. The Wosani have several unique features of their medical customs. First, they do not rely on modern medical technology. This does not mean that Wosani practices are archaic or unable to deal with complex illnesses. The Wosani rely on largely herbal techniques and healing rituals. Many of these are primarily spiritual in nature, but I have seen Wosani medical healers also perform surgeries in their home country – I once saw a Wosani healer use herbs to provide general anesthesia then remove a swollen appendix. Though it is a very simple surgery from Western viewpoints, I was amazed by what I saw. I have never heard of that happening in the United States – that would be legally questionable.

12. One of the interesting aspects of Wosani practice is that traditional medicine was fairly basic for most of their existence. The Wosani have existed as a definable community for the last several centuries, though one can see the roots of their culture in various groups from their area. During most of that time, medical options were limited in general, and that was no different for the Wosani. Their focus on healthy living functioned as modern medicine for them. It also has a remarkable ability to prevent illness. The traditional Wosani diet, focusing on eating plants and limiting consumption of red meat, is very healthy. The Wosani also believe in cleansing rituals that I think helped prevent the spread of serious illnesses by creating more sanitary living conditions.

13. The Wosani do practice Reiki, sometimes called hands-on healing. It is similar to acupuncture and massage, in that the healer uses his/her hands to manipulate pressure points on a person's body. As with acupuncture, some patients see dramatic results quickly. This, of course is frowned upon by traditional Western medicine, but many people worldwide find the techniques quite effective.

14. When contrasted with modern, advanced medical technology and understanding, Wosani practices may seem outdated. In some instances, they frankly are not the most objectively helpful way to handle a disease or an illness. Some members of the Wosani community have begun to recognize this. Although many members of the Wosani community rely solely on Wosani practices, more and more rely on a hybrid approach. For common illnesses, the Wosani will often rely on home remedies that frankly are as effective as any medicine I have ever seen. Anytime I start to feel a cold coming on I make a Wosani drink that uses a variety of herbs – I drink that and go to bed for the rest of the day, and I haven't suffered from a cold in five years. Chee Lomibo taught me how to make this tea.

15. For more serious problems, some Wosani people in Alaska visit a doctor. I know people who believe devoutly in Wosani traditions, but who visit doctors for surgeries or other serious medical issues. Then again, there are also Wosani people who believe solely in traditional practices to the exclusion of all forms of Western medicine. This is not uncommon in immigrant communities. Many people prefer to rely on traditional methods as opposed to modern techniques. In the Wosani community, more so than most other immigrant communities, many people rely solely on traditional practices. It is very common in the Wosani community and not too surprising. Wosani immigrants have, for the most part, only come over to the United States very recently, so one would expect more

attachment to traditional ways. Over time, parts of the Wosani culture will become assimilated into American culture, but I certainly hope a large part of Wosani culture remains intact.

16. I have not personally met with Korma Betansong, though I have met innumerable times with Chee Lomibo. Korma's behavior of seeking Wosani healing practices for Iniko is consistent with the more traditional elements of the Wosani community. As I said, the Wosani people are still adapting to life in the United States, and it would be inappropriate to judge Korma by Western standards. While some Wosani are able to reconcile the tension between Western medicine and the deeply religious nature of traditional Wosani medical practices, many are not. Those who cannot often stick with these traditional healing practices even when there are signs that to us brought up in a Western culture would indicate a need for a Western doctor. And for most Wosani, this works perfectly well. Wosani parents who remain faithful to traditional Wosani healing practices should never be accused of not caring for the health of their children. It is just a different way of trying to care for the sick. There is no doubt in my mind that Korma sincerely believed that if Iniko could be cured, it would be through traditional Wosani medicine.

Affidavit of Chee Lomibu

1. My name is Chee Lomibu, and I am 57 years old. I am Wosani. I immigrated to the United States 20 years ago because I was fleeing violence in my own country. That is why many members of the Wosani community came to this country. Our government persecuted practitioners of the Wosani faith, casting us as political scapegoats and torturing or even killing people for following Wosani beliefs. I was imprisoned for 2 years in my home country at one point for using traditional Wosani healing methods. It's remarkable to think that practicing a century-old method of healing could result in spending time in jail. I think the experience made my faith even stronger than it otherwise would be.

2. I'm fortunate to have ended up in Alaska among such a vibrant Wosani community. We have truly made a second home in Alaska, bringing with us many of our traditions and practices. We have made it the biggest Wosani community in the country. I think its size is part of the reason we have been able to maintain our traditions so well. We do not have to feel like outcasts, even if we are not persecuted for our beliefs. Instead, we have a strong community of like-minded people. It has allowed us to be part of Alaska's community without giving up our traditions. I have even seen Alaskans join us because they admire our practices.

3. Wosani practices are based on ties to our ancestors. We believe that by honoring and remembering our ancestors we can better understand ourselves. We also believe that connections to our ancestors can strengthen us. These connections are very real – I gain strength from my ancestors every day. I perform ceremonies regularly to keep memories of my ancestors fresh in my mind. I also have customarily provided offerings in the form of craftwork and food to my ancestors. These practices are central to my daily life, and I believe they keep me focused and strong to deal with life's challenges.

4. One of the most important aspects of Wosani culture is our focus on non-traditional, or non-Western, healing methods. There is a lot of value in Western healing practices, but for the most part I do not believe they are necessary or even helpful. For example, look at how doctors treat aging in this country – we treat it like a disease instead of like another stage of life. Doctors prescribe pills and medical therapies to treat things that are best addressed by other methods. Arthritis is better treated through light physical activity than it is through drugs, and using drugs does nothing to prevent the illness from getting any worse or developing in the first place. No, I'd much rather follow Wosani methods to address any number of issues.

5. I actually studied Wosani healing methods in school in my home country, though I do not have a degree in it. Nobody can get a degree in Wosani healing methods – that completely ignores the point of the ideas we practice. As in many things, experience is the best teacher. I learned from following the teachings of Wosani practitioners I knew since being a young child. I used to travel with my uncle, who would visit the families of the sick. Instead of treating just the person with an illness, he would treat the entire family, praying with them and offering to honor their ancestors. He would try to rebuild the energy of the home, so that the ill person would be surrounded by positive feelings and beliefs. He would do more than that though, he would also ensure that the ill person was kept comfortable, fed, and hydrated. Finally, he used many herbal remedies. One thing I have always found funny is that many of my uncle's methods rely on herbs and medicines that form the ingredients in common pharmaceuticals. It seems silly to me to cast off something just because it does not happen to come in a pill or a bottle.

6. I am particularly proud of my abilities in Reiki. Reiki is a form of healing where I use my hands to massage and apply pressure to a person's body. It is sort of like acupuncture, only without the needles. There are many points on the human body where pressure and massage can release toxins and allow the body to heal itself. It takes many years of study to learn where these points are and how to provide pressure in just the right way to get the desired result. I have used this successfully on many patients to cure both injuries and illness.

7. My uncle did not make it to the United States, unfortunately, but I have taken his training and put it to use in this country. I am good friends with many members of the Wosani community, some who have been practicing for longer than me. We all practice traditional Wosani medicine a little bit differently; I have learned from them, and they have learned from me. I have taken a position of authority within the Wosani community in Alaska as a healer, though I did not really intend for that to happen. I regularly visit with community members, reminding them of how important it is to honor their ancestors as well as providing herbal remedies for various illnesses.

8. Not everyone still embraces the traditional ways. Many members of the Wosani community in Alaska feel like they should forget their Wosani past and embrace Western traditions and practices. That is their choice, but I think it is misguided. If we do not honor where we came from, we will forget what made us who we are. I think that is dangerous – we can far too easily forget what has kept us strong for so many years. We can also far too easily fall into the trap of believing that our traditional practices are ineffective or have no value. That would be a terrible thing to think. We have so much value to offer from our practices that it is silly to just toss them aside because they do not appear to be as fancy or as shiny as Western technologies. Our ways have worked for hundreds of years and will continue to work.

9. I know Ro Tring well. I met him/her when her/his family first arrived in Alaska. This was several years ago. Ro has become a vibrant member of our Wosani community, organizing people to better our neighborhoods and working heavily with the children to stay out of trouble and do well in school. Ro has a young child who was about Iniko's age. I have always admired Ro's dedication to his/her family and our community. It is admirable to see someone put so much time and effort into building a community. A lot of members of our community admire and respect Ro. Her/His opinion carries significant weight in community council meetings and discussions about the direction our community should take.

10. Ro and I disagree, however, on some very fundamental aspects of Wosani beliefs. Ro seems to believe that we should wholeheartedly embrace Western traditions, especially in the area of medicine. Ro sees little value in traditional healing methods or in using our connections to our past to strengthen us in our present. I respect Ro's opinion, but he/she is wrong – we cannot forget where we came from. If we do, we are going to sacrifice so much of what is important to us. Our medicine is our spirituality, our culture.

11. I met Iniko and Korma Betansong soon after they arrived in Alaska. That was about 4 years ago. It's very important to me to meet with new members of our community as soon as possible after they come here and provide whatever support I can. People are scared when they arrive, particularly when they arrive under the harsh circumstances that Iniko and Korma faced. Iniko was a fantastic child, even at age 4. He had a lot of positive energy and just loved to play. I could tell that their experience before coming here had affected him – he had nightmares sometimes according to Korma, but Iniko was a very resilient child. I would visit Korma and Iniko often. I liked to check in on how they were doing and see if they needed anything. We would also pray and make offerings together – Korma had a strong belief in Wosani practices, and I encouraged him/her to honor them.

12. That was why I had so much hope when Iniko became sick. Korma came to me soon after Iniko began showing symptoms of illness. I had seen symptoms like these before – Iniko had lost a lot of his energy as well as weight. I could see that he was suffering from fevers – sometimes when I visited him he would appear to be burning up. Korma also told me that Iniko was having night sweats. I'm not sure how many times I visited Korma and Iniko during this time – a few dozen at least.

13. I have treated other children with various medical illnesses as well – even some diagnosed with serious diseases. I treated a child once who doctors said was suffering child childhood diabetes. We dramatically altered the child's diet – she had been eating, frankly, too much junk food – to comply with traditional a Wosani diet, and she improved dramatically. I also provided several critical herbal supplements as well as helped the child connect to the traditions that have kept the Wosani strong for so long. After several months doctors acknowledged that she was no longer diabetic. They had wanted her to start using insulin, but the child has never had to take a single shot of insulin or otherwise use modern medicine to overcome her disease. Instead of a life dependent on bottles and pills, she will have a life focused on healthy living and exercise.

14. I did not know while I was treating him that Iniko might have cancer. I do not believe Korma ever told me that. I recognize how serious that diagnosis is – I may have agreed that Korma should take Iniko to a Western doctor for advance treatment, but I don't know that I would have done that. I have treated a variety of illnesses with Wosani techniques with impressive results. The fact we attach the word cancer to a disease does not mean Wosani methods are somehow ineffective. I have overseen treatment for children with cancer – admittedly usually in conjunction with Western techniques. Some of those children, unfortunately, died. Others survived and recovered dramatically. I have even had doctors give my techniques credit for how quickly children can recover after surgeries or other cancer treatments, as well as acknowledge the strength that can come from our practices.

15. When Iniko began to improve, I was overjoyed. Our treatments were working! I had seen that type of improvement before and wanted to re-double our efforts. Korma, unfortunately, took this as a sign that our treatments were no longer necessary. I think Korma did not want to admit that there was more to be done – it's hard for a parent to recognize how serious an illness is for a child. Korma started to cancel meetings with me and allowed Iniko to return to Wosani cultural events. I told Korma that more time was necessary, but Iniko was doing so well that it was hard for Korma to admit it might worthwhile to do more.

16. It was after this time that Iniko became so ill so suddenly. I resumed treatments, using even more herbs and focusing more heavily on Iniko's connection to his ancestors. I was visiting Iniko almost daily at this point, sometimes twice a day. I urged Korma to continue using the Wosani techniques, because I had seen children recover from worse situations under them. Unfortunately, nothing seemed to make a difference at that point. Iniko's condition worsened.

17. I had seen Iniko the day he died. Korma called me early that evening, frantic, and I rushed to their home. Iniko was unresponsive and barely breathing. I tried applying herbal compresses to Iniko, who was feverish. After an hour, he stopped breathing. We called 911, and I even tried using CPR, but it was too late. Medics arrived on scene, but there was nothing they could do. Iniko was dead. I went to the hospital with Korma, and I helped him/her through the difficult time. It is always so sad to lose a child.

18. I still practice Wosani methods with sick members of our community. I still see success with them, and I still believe they are a valuable and helpful aspect of our community.

Affidavit of Umi Makimo

1. My name is Umi Makimo. I am a friend of Korma Betansong. I first met Korma when he started attending our church in 2009. Korma had just moved here from our homeland as a political refugee and was in need of help getting settled in Alaskaopolis. Korma's spouse was killed in civil unrest and his/her two children were very shaken by the events. The Wosani community is very close and it is our duty to help others in need. I helped Korma with food and clothing for the children, finding a house and finding a job for Korma.

2. Korma loved both his/her children very much. S/He was very worried about how they would adjust to being thrown into Western society. S/He spent much time talking to them about the death of their mother/father. S/He kept them active in the church and sports so they would make friends. S/He was worried about their physical safety in a city as well as their spiritual safety from being exposed to corrupting western influence. Korma was deeply in touch with the Wosani and wanted Iniko and Sitatnee to be deeply in touch too.

3. As a long-standing member of the Wosani community, I know Chee quite well. S/He is a very good spiritual leader and healer. Her/His connection to the spirit world is very strong. S/Hhe believes in the Wosani people and wants to preserve our culture.

4. My son Piken was healed by Chee after having the same symptoms as Iniko. Piken also had a fever and fatigue and night sweats. But Chee was able to cure this, and Piken is completely better now. Chee has used sacred ritual prayer, herbs and other medicinal plants and foods, and Reiki (hands on healing) to help many Wosani people with diseases and spiritual disorders, so I knew I could trust Chee to heal my son. Chee was very dedicated to my son and came over daily. I did not understand what Chee was doing, but I trusted her/him. Over time, I could see a gradual improvement in Piken, and he was strong and healthy after three weeks of Chee's treatments.

5. I know many other Wosani children who were sick and recovered under Chee's care. Chee is a very good healer. Chee was extensively trained in traditional Wosani medicine back in our homeland before coming over to the United States and is one of the most respected Wosani spiritual leaders in our new country. The Wosani community in Alaskopolis is very lucky to have Chee as its leader. I have seen bed-ridden children go back to playing soccer and running through the Wosani church playground because of her/his powerful ways.

6. When Iniko started showing symptoms, Korma became very concerned. I encouraged Korma to see Chee about Iniko's sickness and was with Korma when s/he first spoke to Chee about Iniko. Chee was very anxious to help Iniko and console Korma. I was at Korma's home on a few occasions when Chee came to heal Iniko. Chee and Korma both tried their hardest to cleanse and heal Iniko, often praying for hours until exhausted. Korma has a very strong faith and believed that our ancestors would guide Iniko through. I encouraged Korma to stay strong and believe in our faith. I know the power of Chee and I thought s/he would be able to heal Iniko.

7. A lot of members of our community put their faith in Chee and see positive results. As one neighbor once told me, "Chee's a miracle – s/he healed my son after only two days!" Another neighbor told me about his child being sick with a serious flu – the father didn't think much of the illness initially and didn't worry about it. The child became very sick very quickly though. A doctor who visited the child wanted to put the child in a hospital and give the child all sorts of medicine. At that point, Chee stepped in and offered to heal the child using traditional ways. The parents were strong with the ancestors and knew that it was best to look to Chee for assistance. Within a few days the child was fully healed and back on the soccer field.

8. I knew several other members of the Wosani church whose children were similarly ill, but who recovered under Chee's care. I have spoken to some of my non-Wosani friends about seeking treatment from Chee, but they think that I am just being superstitious. These people do not know the ways of our culture and the strength that the ancestors can provide. Even if these people tried to go to Chee for healing it would not work because the ancestors will only heal those who believe in them.

9. There is a great tension in the Wosani culture between those who want to follow the traditional ways and those who would abandon them for American culture. Ro Tring is one of those who have abandoned what it means to be Wosani. Ro is jealous of Chee and wants to take control of the Wosani community. I have heard Ro at community meetings talking to community members and explaining to them why it's important that s/he be in

control of things. Ro will do and say anything to make Chee seem like a bad, out of touch leader. Ro does not understand the inner strength of the Wosani culture. Korma and I have had several long conversations about the traditional ways, and we both agree that only by being faithful to Chee will the Wosani community in Alaska remain united and strong.

10. Korma would never intentionally harm or neglect his/her children. Korma was a caring parent who helped Iniko and Sitatnee through the very difficult loss of their mother/father. Korma gave them a new life in Alaskaopolis removed from the violence of our homeland. Korma talked frequently about how the main reason s/he fled her/his homeland was to give his/her children a better, safer life. Once here in Alaskopolis, Korma made many sacrifices to ensure that her/his children were clothed and well fed. Korma prayed often for guidance from our ancestors and for the happiness and safety of Iniko and Sitatnee. Korma believed that Chee could heal Iniko and that the healing process was working.

11. I feel bad for Korma – nobody should lose a child. But Korma never lost faith even after the death of Iniko. Korma knows that higher powers are guiding us. Korma is more active than ever in the church and is working hard to find the path our ancestors have chosen for him/her.

III. Exhibits

911 Audio Transcript

Operator: 911, what is your emergency?

Korma: My son! My son! He collapsed! He can't breathe! Can you help me? I need help!

Operator: Sir/Ma'am, I need you to try to stay calm. What is your name?

Korma: My name is Korma Betansong. Please help my son.

Operator: I will try, Korma. Where are you calling from? Where is the emergency?

Korma: I made a mistake. I need help! Please send help! Please send help for my son!

Operator: Korma, please stay calm. What is your address?

Korma: 1234 Fake Street, Alaskaopolis.

Operator: Thank you Korma, I am alerting paramedics. They are on their way and should arrive shortly. Please stay on the line while I collect more information for the paramedics.

Korma: Thank you! Thank you! [audible in background "Get off the phone. Have faith. Have faith. Let our ancestor's decide his path."]

Operator: How old is your son?

Korma: He's eight.

Operator: Eight years old. What was he doing when he collapsed?

Korma: He was… was just walking around the house. He has been very sick lately. [audible shouting in the background "Who are you calling? Hang up the phone and come pray with me."]

Operator: What was he sick from?

Korma: I don't know. I don't know. We have been trying to heal him here.

Operator: Is he bleeding or vomiting?

Korma: No. He is just laying there, choking.

Operator: Where is your son now? Can you see him?

Korma: He is in the next room. I can see him. He isn't moving. Please send help.

Operator: Is there anybody else there?

Korma: Yes. Chee is here and trying to help him.

Operator: Who is Chee?

Korma: Chee is our spiritual leader. [audible shouting in the background "Korma, get in here and be with your son! He doesn't have much longer!"] I must go. I must go be with my son.

Operator: Korma, please say on the… [phone disconnects]

Excerpt of paper written by Professor Dunn on Wosani culture

Excerpt from "Traditional Practices in Wosani Culture – Using Wosani Medicine to Best Western Doctors", published in National Anthropology Journal, May 15, 2006

Excerpt – pages 7 - 9

Wosani culture has a strong connection between religion, tradition, and medicine. Like other immigrant communities in the United States, Wosani practitioners bring their traditions with them to this country. That is true of the Wosani community in particular. Traditional Wosani practices, discussed above, include a strong belief in faith healing and a strong tradition of worshiping and honoring ancestors. It is difficult to separate the two in traditional Wosani practices – honoring of ancestors is considered part and parcel of medical treatment. Without it, the person will not be spiritually whole and will remain physically ill.

What is more interesting is how the Wosani community in Alaska has, in some cases, struggled with this connection. For many members of the Wosani community, the integration of the two (honoring ancestral traditions and following traditional medical healing methods) remains critical to their belief. To this faction of the Wosani community, one cannot have one without the other. However, other members of the Wosani community have attempted to maintain the traditional cultural beliefs while embracing, in whole or in part, Western medical approaches.

This has created a division within Alaska's Wosani community, with those who follow traditional Wosani medical customs disagreeing strongly with those who prefer to use Western medicine. How the Wosani community navigates these disagreements will determine the course of the community as a whole – if it will abandon its traditional practices in favor of assimilation into Western society or maintain its cultural identity and practices.

Case studies in the Wosani community provide an interesting analysis of how effective Wosani medical practices can be. People commonly assume that traditional medical practices are ineffective without analyzing them in detail. I spent several months working with Chee Lomibu, a Wosani spiritual leader and medical healer, following him/her as she/he used Wosani medical techniques to treat Wosani community members. I had the opportunity to document Chee's experiences with over 20 members of the Wosani community. I observed Chee oversee traditional healing for a variety of illnesses, from common colds to much more serious diseases.

In my time with Chee, he treated several children suffering from a serious strain of the flu that struck in Alaska. Although no one in Alaska died from the illness, it commonly left children bedridden for weeks. The children that Chee treated, however, recovered much faster on the whole. I knew one child who was near death, but Chee used a combination of herbal remedies and prayer for several days. The child recovered completely within a week.

Also impressive were the preventative effects of Chee's treatment. Rates of illness amongst Alaska's Wosani are remarkably low. Fewer Wosani suffer from cardiovascular disease, diabetes, or any of several other illnesses than rates among Alaska's general population. Wosani elders are also significantly healthier than their general Alaskan counterparts, with lower rates of Alzheimer's, arthritis, and other illnesses common amongst the elderly.

At the same time, it was not always clear that Chee's methods worked. He attempted to treat two children suffering from a degenerative neurological condition known as fenal neurolapathy. Fenal neurolapathy is treatable when caught early. If allowed to go untreated for a significant period of time, however, it is difficult to reverse its effects, even if doctors can address them.

The parents of these children initially supported Chee's efforts to use traditional Wosani healing methods. However, these methods failed. The parents, frustrated, turned to traditional Western medicine. Doctors were able to arrest the disease's progression. In one child, who had suffered from the malady for only a few months, doctors were able to reverse the effects. That child made a full recovery. However, the other child had suffered from the illness for longer. In his case, doctors were unable to reverse the effects. That child lost the use of his legs due to the disease.

Most interesting to that situation was the effect it had on the Wosani community. The parents of the two children were enraged with Chee. The parents of the child who did not recover threatened to sue him. Ultimately, they chose

not to do so. However, the discussion of that incident reverberated throughout the community. Many Wosani all but abandoned Chee and his teachings, moving to more Western cultural and medical practices. Despite the fact this happened over two years ago, members of the Wosani community still discuss it regularly.

Notes of Dr. Tory Milton from visit on June 18, 2013 of Iniko Betansong

Name: Iniko Betansong
Sex: Male
DOB: 1/10/2005
Height: 3'10"
Weight: 55 lbs
Date: 6/18/13

Comments: Patient came in complaining of fatigue and a sore neck. Patient's father/mother claimed patient has lost weight and experienced night sweats. Patient is of normal height for a boy his age. Is slightly below ideal weight, but not so much as to be a concern. Patient's pulse is normal; blood pressure slightly elevated. Patient has fever of 100.8. Initial examinations reveal symptoms consistent with a flu or mononucleosis.

Subsequent examination of patient's neck revealed small, firm mass on left side of neck. Difficult to see lump, but could be felt with light pressure. Similar lumps found under both armpits. No masses felt at other locations on body.

Analysis: Lumps in body, consistent with other symptoms, indicate strong possibility of cancer. Unable to diagnose cancer. Recommended and performed blood tests to confirm patient does not simply have flu or mono. Will take a couple of days for test results to be returned from lab.

Recommendation: Advised patient's parent of possibility of cancer and seriousness of obtaining follow-up diagnosis and treatment. Scheduled appointment with patient for 6/21/13 to review test results and make pediatric oncology referral to Dr. Kelly Gorman.

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

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 by 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.

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 9, with 9 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 (9 out of 9) 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 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 rules 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.

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 proved, 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 proved 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 which conflict with each other, the court shall apply the presumption which 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 proved 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 proved 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 which conflict with each other, the *court* shall apply the presumption which 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 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 which do not result in a plea of guilty or which 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 proved 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) to 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 which 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 date, 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 which 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 which arise during trial.

DEMONSTRATED COMMAND OF THE FACTS AND ISSUES in the case and attorney's understanding of 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.

2013-2014 ALASKA HIGH SCHOOL
MOCK TRIAL CHAMPIONSHIP COMPETITION
(Anchorage, February 27-March 1, 2014)

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 wising to register multiple teams MUST indicate which team is the "First Team," "Second Team," etc. **All teams must be registered *no later than February 14, 2014.***

THERE WILL BE A $150 REGISTRATION FEE PER TEAM THIS YEAR. PLEAES INCLUDE A CHECK, PAYABLE TO ANCHORAGE BAR ASSOCIATION, WITH YOUR REGISTRATION. PLEASE RETURN THIS FORM, WITH A TEAM ROSTER, TO:

ALASKA HIGH SCHOOL MOCK TRIAL
c/o PROF. RYAN FORTSON
JUSTICE CENTER, UAA
3211 PROVIDENCE DRIVE, LIB 213
ANCHORAGE, ALASKA 99508
EMAIL: hrfortson@uaa.alaska.edu

APPLICATION FOR FINANCIAL AID
2013-14 ALASKA HIGH SCHOOL MOCK TRIAL CHAMPIONSHIP

School: _____

Coach: _____

Address: _____

_____

_____

Phone: _____

E-mail: _____

Anticipated Team Members:

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

Total Number of Anticipated Team Members: _____

Please list the prior years in which your school participated in the Mock Trial Championship in Anchorage:

_____

Please indicate how you intend to travel to the Mock Trial competition:

( ) Plane ( ) Bus ( ) Van

Approximately how many miles must your team travel to attend the Mock Trial Championship in Anchorage? _____

Do you need to arrange for lodging in Anchorage for the Mock Trial Championship?

( ) Yes ( ) No

Please estimate the costs you will incur in bringing a team to participate in the Mock Trial Championship:

Food $_____ Lodging $_____ Transportation $_____