
2008

ALASKA HIGH SCHOOL

MOCK TRIAL

CHAMPIONSHIP COMPETITION

Anchorage, February 15-16, 2008

Boney Courthouse

State of Alaska v. Logan Wheeler

Case No. 5AN-07-9999 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

Since I have been involved in the Alaska High School Mock Trial Competition, students and teachers have frequently noted that for the criminal problems it has been too difficult to get a conviction. One of the big issues with criminal problems is that in order to make the problems interesting creating reasonable doubt is almost unavoidable. My goal this year has been to create a more balanced problem that is at the same time interesting and a good introduction to criminal law. My hope is that centering the problem around a claim of self-defense will accomplish this goal. (Please note that there are other elements of the alleged criminal act that the prosecution still needs to prove, in addition to refuting the claim of self-defense.) The self-defense claim also introduces a twist into the trial because the defense will, in essence, not just be trying to disprove the case offered by the prosecution but should, more affirmatively, advance its own story of the events that transpired at the softball game between the Wheelers and Meikuks (pronounced: MAY-cook).

The problem is set in the small village of New Shavlik (pronounced like HAVE-lick, but starting with a "sh" sound). Students are encouraged to take into account the culture and relative isolation of New Shavlik when making their arguments. Although Mock Trial problems are written to be both gender-neutral and race-neutral, students should be careful to avoid stereotypes about behavior that may offend others. With this caveat, however, students playing witnesses are still encouraged to "get into character"; convincingsness as the chosen character is one of the criteria for evaluating witnesses.

The problem this year is meant to be relatively straightforward, though not without its subtleties. Typical of assault cases, especially where the identity of the perpetrator is not in doubt, there is less emphasis on physical evidence and more on witness testimony. In real life criminal cases, witness testimony is frequently not completely consistent between witnesses. Such is the case here, and all "contradictions" in the affidavits should be assumed to be intentional. There are multiple instances of contradictory testimony, not just between witnesses on opposite sides of the case but also between witnesses on the same side. Indeed, students should weigh the potential damage of these contradictions in choosing which witnesses to call and in preparing to examine the witnesses. Students should also prepare cross-examinations that bring out contradictions in opposing testimony or tend to impeach the credibility of the witness.

The 2008 Alaska High School Mock Trial Competition is organized and sponsored by the Young Lawyers Section of the Anchorage Bar Association, and the efforts of its members are greatly appreciated in staffing the competition. Additionally, I owe a great debt to Regan Williams, Christopher Slottee, and David Nesbett, who together provided first drafts of half of the affidavits. The problem was definitely improved by their input. I would also like to thank my secretary, Patty Johnson, for formatting the various documents into one cohesive whole. I myself have once again greatly enjoyed drafting the mock trial problem and hope that all those who participate in Mock Trial find the problem not only equally enjoyable but educational as well.

Thank you,

Ryan Fortson

I. LEGAL DOCUMENTS

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

STATE OF ALASKA,

Plaintiff,

vs.

LOGAN WHEELER,
DOB: 8/15/1968
APSIN ID: 7654321
SSN: 574-12-3456
ATN: 107-907-000,

Defendant.

Case No. 5AN-S07-9999 CR

INDICTMENT

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

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

THE GRAND JURY CHARGES:

Count I
AS 11.41.200(a)
Assault in the First Degree

That on or about the afternoon of August 18, 2007, in the village of New Shavlik in the Fifth Judicial District, State of Alaska, LOGAN WHEELER did commit assault in the first degree by causing serious physical injury to Sam Meikuk either (1) recklessly by means of a dangerous instrument, or (2) with intent to cause serious physical injury.

All of which is a Class A felony being contrary to and in violation of Alaska Statute 11.41.200(a) and against the peace and dignity of the State of Alaska.

Count II
AS 11.41.210(a)
Assault in the Second Degree

That on or about the afternoon of August 18, 2007, in the village of New Shavlik in the Fifth Judicial District, State of Alaska, LOGAN WHEELER did commit assault in the second degree either (1) by causing physical injury to Sam Meikuk by means of a dangerous instrument with the intent to cause injury, or (2) by recklessly causing serious physical injury to Sam Meikuk.

All of which is a Class B felony being contrary to and in violation of Alaska Statute 11.41.210(a) and against the peace and dignity of the State of Alaska.

Count III
AS 11.41.220(a)(1)
Assault in the Third Degree

That on or about the afternoon of August 18, 2007, in the village of New Shavlik in the Fifth Judicial District, State of Alaska, LOGAN WHEELER did commit assault in the third degree by recklessly causing physical injury to Sam Meikuk by means of a dangerous instrument.

All of which is a Class C felony being contrary to and in violation of Alaska Statute 11.41.220(a)(1) and against the peace and dignity of the State of Alaska.

Count IV
AS 11.41.230(a)
Assault in the Fourth Degree

That on or about the afternoon of August 18, 2007, in the village of New Shavlik in the Fifth Judicial District, State of Alaska, LOGAN WHEELER did commit assault in the fourth degree by recklessly causing physical injury to Sam Meikuk.

All of which is a Class A misdemeanor being contrary to and in violation of Alaska Statute 11.41.230(a) and against the peace and dignity of the State of Alaska.

DATED this 12th day of December, 2007 at Alaskopolis, Alaska.

A true bill

Grand Jury Foreperson

Assistant District Attorney
Bar No. _____

WITNESSES EXAMINED BEFORE THE GRAND JURY:

Officer Jo(e) Stanton
Sam Meikuk
Gene/Jean Meikuk

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Defendant.

Case No. 5AN-S07-9999 CR

STIPULATIONS

It 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.

New Shavlik is a village of approximately 300 residents located on the Raven River in the Alaska Bush.

II.

New Shavlik is located in the Fifth Judicial District of Alaska. Jurisdiction for this trial is properly located in the Fifth Judicial District. The case has been removed from New Shavlik to Alaskopolis.

III.

All pleadings have been properly filed and served to all other parties. All procedural matters have been properly conducted. Logan Wheeler has pled "Not Guilty" to all counts contained in the Indictment.

IV.

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, dated, and notarized.

V.

All exhibits included in these case materials are authentic and, where appropriate, validly signed. All photographs are accurate representations of the objects or scenes they are identified as portraying. No objections to the authenticity of the exhibits will be entertained. Exhibits may otherwise be challenged for admissibility.

VI.

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

1. Sam Meikuk
2. Gene/Jean Meikuk
3. Ed(na) Frank
4. Officer Jo(e) Stanton

VII.

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

1. Logan Wheeler
2. Dylan Meikuk
3. Brit Terry
4. Dr. Aaron/Erin Sanchez

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Defendant.

Case No. 5AN-S07-9999 CR

JURY INSTRUCTIONS

[Note: The following jury instructions are based on the Alaska Criminal Pattern Jury Instructions with only minor edits. For the Foundational Instructions, the Pattern Jury Instruction number is included by way of reference. For the Case-Specific Instructions, the Alaska Statute on which the instruction is based is included. The prosecution will be able to proceed under either or both theories of first and/or second degree assault, but should clarify to the judge and jury what theories of guilt are being asserted. This is meant to provide students with the greatest flexibility in how they want to structure their case. Prosecution teams are not required to prove guilt under all possible claims, and a good prosecutor will not assert greater claims than he or she believes can be proved beyond a reasonable doubt. Please also note that because they are related to the same incident, a conviction on one count of assault supersedes all assault counts of a lower degree. For example, if Logan Wheeler is convicted of first degree assault, s/he will be sentenced accordingly and the second, third, and fourth degree assault charges in essence disappear. In legalese, this is known as “lesser included offenses.”]

FOUNDATIONAL INSTRUCTIONS

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

The distinguishing features of a criminal trial are 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. A reasonable doubt may arise not only from the evidence produced, but also from a lack of evidence. Since the burden is upon the prosecution to prove every essential element of the crime charged, beyond a reasonable doubt, a defendant has the right to rely upon the failure of the prosecution to establish such proof. A defendant may also rely upon evidence brought out on cross-examination of witnesses for the prosecution.

1.07: Evaluation of Evidence

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

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

1.09: Objections

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

You may wonder why some evidence must be excluded or disregarded when it appears to be of some interest to you. The rules that govern what evidence can be received are designed to do two things. First, they try to help you focus on important and reliable evidence by keeping out interesting but not very important or reliable information. Second, the rules help you decide the case objectively without being swayed by information that might cause you to respond emotionally. Many of us have said to ourselves from time to time something like “I wish I never heard that about someone, because it makes it impossible for me to be unbiased now.” The law tries to protect jurors from this natural human reaction. It is because the law protects what jurors hear that we have such confidence in the impartiality and integrity of the jury.

You should not be influenced by the fact that objections are made or that requests are made that I take certain actions; nor should you be influenced by the number of objections or requests that are made. Objections or requests are not evidence. Please remember that my rulings that exclude evidence or that bar questions are designed to help you decide the case fairly. When I allow testimony or other evidence to be introduced over the objection of a lawyer, I do not mean to suggest any opinion as to the weight or effect of such evidence.

1.10: Witness Credibility

You may believe all, part, or none of the testimony of any witness. You need not believe a witness even though the witness’ testimony is uncontradicted. You should act reasonably in

deciding whether or not you believe a witness and how much weight to give to the witness' testimony. In deciding whether to believe a witness or how much weight to give a witness' testimony, you should consider anything that reasonably helps you to judge the testimony.

Among the things you should consider are the following:

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

1.11: Expert Witnesses

A witness who has scientific, technical or other specialized knowledge or experience may be qualified as an expert and may express an opinion in addition to giving testimony as to facts. In determining whether to believe an expert witness and the weight to be given to his or her opinion, you may consider the expert's qualifications and knowledge, the reasons given for the opinion, how the expert got the information he or she testified about, in addition to the factors given you for evaluating the testimony of any other witness. As with other witnesses, you must decide whether or not to believe an expert witness and how much weight to give his or her testimony. You may believe all, part or none of the testimony of an expert witness.

1.12: Opinion Testimony of Non-Experts

A non-expert witness may testify to his or her opinion if it is rationally based on the witness' perceptions and helpful to a clear understanding of the testimony or the determination of a fact in issue. In determining the weight to be given to an opinion expressed by a non-expert witness, you should consider the witness' credibility, the extent of the witness' opportunity to perceive the matters upon which the opinion is based and the reasons, if any, given for it. You are not required to accept such an opinion but should give it the weight, if any, to which you find it entitled.

1.14: Direct/Circumstantial Evidence

A fact may be proved by direct evidence, by circumstantial evidence, or by both. Direct evidence is given when a witness testifies about an event which the witness personally saw or heard. Circumstantial evidence is given when a witness did not personally see or hear an event but saw or heard something which, standing alone or taken together with other evidence, may lead a juror to conclude that the event occurred. Both types of evidence are admissible and may be considered by you. Neither is entitled to any greater weight than the other.

1.15: State of Mind

State of mind may be shown by circumstantial evidence. It can rarely be established by any other means. While witnesses may see and hear and thus be able to give direct evidence of what another person does or fails to do, no one can see or hear the state of mind with which another person's acts were done or omitted. But what a person does or fails to do may indicate that person's state of mind. In determining issues of state of mind, the jury is entitled to consider any statements made and acts done or omitted by the person, and all facts and circumstances in evidence which may aid determination of state of mind.

1.35B/1.51: Arriving at a Verdict

A separate offense is charged in each count. You must decide each count separately. Your verdict on one count should not control your verdict on any other count. As you consider each count, if you find that the state has proved each element of that offense beyond a reasonable doubt, then you must find the defendant guilty on that count. If, however, you find that the state

has not proved each element of that offense beyond a reasonable doubt, then you must find the defendant not guilty on that count.

To return a verdict of guilty or not guilty on a count, each of you must agree with that verdict. You will be provided a separate verdict form for each charged offense and for each lesser included offense. When you are ready to record your verdicts, follow the instructions on these forms.

CASE-SPECIFIC INSTRUCTIONS

First Degree Assault (AS 11.41.200):

Logan Wheeler, the defendant in this case, has been charged with the crime of assault in the first degree. To prove that the defendant committed this crime, the state must prove beyond a reasonable doubt each of the elements of the crime of assault in the first degree. There are two theories of assault in the first degree applicable to this case, and you as the jury can find guilt under either theory. Jury members need not agree on which theory is applicable, only that the defendant is guilty. Therefore, the prosecution must prove either:

- (1) the defendant intended to cause serious physical injury to another person;
and
- (2) the defendant caused serious physical injury to any person.

OR

- (1) the defendant caused serious physical injury to another person;
- (2) the defendant caused the injury recklessly; and
- (3) the defendant caused the injury by means of a dangerous instrument.

Second Degree Assault (AS 11.41.210):

Logan Wheeler, the defendant in this case, has been charged with the crime of assault in the second degree. To prove that the defendant committed this crime, the state must prove beyond a reasonable doubt each of the elements of the crime of assault in the second degree. There are two theories of assault in the second degree applicable to this case, and you as the jury can find guilt under either theory. Jury members need not agree on which theory is applicable, only that the defendant is guilty. Therefore, the prosecution must prove either:

- (1) the defendant intended to cause physical injury to another person;
- (2) the defendant caused physical injury to another person; and
- (3) the defendant caused the injury by means of a dangerous instrument.

OR

- (1) the defendant caused serious physical injury to another person; and
- (2) the defendant caused the injury recklessly.

Third Degree Assault (AS 11.41.220):

Logan Wheeler, the defendant in this case, has been charged with the crime of assault in the third degree. To prove that the defendant committed this crime, the state must prove beyond a reasonable doubt each of the following elements:

- (1) the defendant caused physical injury to another person;
- (2) the defendant caused the injury recklessly; and
- (3) the defendant caused the injury by means of a dangerous instrument.

Fourth Degree Assault (AS 11.41.230):

Logan Wheeler, the defendant in this case, has been charged with the crime of assault in the fourth degree. To prove that the defendant committed this crime, the state must prove beyond a reasonable doubt each of the following elements:

- (1) the defendant caused physical injury to another person; and
- (2) the defendant caused the injury recklessly.

Justification: Use of Nondeadly Force in Defense of Self (AS 11.81.330):

A claim of self-defense has been raised in this case. Unless the State has proven beyond a reasonable doubt that the defendant did not act in self-defense, you shall find the defendant not guilty. The law of self-defense regarding the use of nondeadly force is as follows:

A defendant may use nondeadly force upon another when and to the extent the defendant believes it is necessary for self defense against what the defendant believes to be the use of unlawful force by the other person. The defendant's beliefs must be reasonable under the circumstances. However, a defendant may not use nondeadly force in self-defense if :

- (1) the force involved was the product of mutual combat not authorized by law; or
- (2) the defendant provoked the other's conduct with intent to cause physical injury to the other; or
- (3) the defendant was the initial aggressor.

In any of these three circumstances, the defendant may use nondeadly force if the defendant has withdrawn from the encounter and effectively communicated the withdrawal to the other person and the other person persists in continuing the incident by the use of unlawful force.

Self-defense may apply where a defendant reasonably perceived a threat of harm, so long as the perceived harm was imminent. The reasonableness of a defendant's beliefs must be evaluated by the jury based on the circumstances of the situation facing the defendant, including any relevant knowledge the defendant had about the other person, physical attributes of all persons involved (including the defendant), and any prior experiences that could provide a reasonable basis for the defendant's beliefs.

Justification: Use of Deadly Force in Defense of Self (AS 11.81.335):

A claim of self-defense has been raised in this case. Unless the State has proven beyond a reasonable doubt that the defendant did not act in self defense, you shall find the defendant not guilty. The law of self defense regarding the use of deadly force is as follows:

A defendant may use deadly force upon another person when and to the extent the use of deadly force in self defense is justified, and the defendant reasonably believes the deadly force is necessary for self-defense against death or serious physical injury. However, a defendant may not use deadly force in self-defense if the defendant knows that, with complete personal safety and with complete safety as to others, the defendant can avoid the necessity of using deadly force by retreating.

Self-defense may apply where a defendant reasonably perceived a threat of harm, so long as the perceived harm was imminent. The reasonableness of a defendant's beliefs must be evaluated by the jury based on the circumstances of the situation facing the defendant, including any relevant knowledge the defendant had about the other person, physical attributes of all persons involved (including the defendant), and any prior experiences that could provide a reasonable basis for the defendant's beliefs.

Definitions (AS 11.81.900): The following definitions shall be used in this trial:

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

A person acts “**recklessly**” with respect to a result or a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards 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 disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with respect to that conduct or circumstance.

A “**dangerous instrument**” means (A) any deadly weapon or anything that, under the circumstances in which it is used, attempted to be used, or threatened to be used, is capable of causing death or serious physical injury; or (B) hands or other objects when used to impede normal breathing or circulation of blood by applying pressure on the throat or neck or obstructing the nose or mouth.

“**Deadly force**” means force that the person uses with the intent of causing, or uses under circumstances that the person knows create a substantial risk of causing, death or serious physical injury; “deadly force” includes intentionally discharging or pointing a firearm in the direction of another person or in the direction in which another person is believed to be and intentionally placing another person in fear of imminent serious physical injury by means of a dangerous instrument.

A “**deadly weapon**” means any firearm, or anything designed for and capable of causing death or serious physical injury, including a knife, an axe, a club, metal knuckles, or explosive.

“**Force**” means any bodily impact, restraint, or confinement or the threat of imminent bodily impact, restraint, or confinement; “force” includes deadly and nondeadly force.

“**Serious physical injury**” means (A) physical injury caused by an act performed under circumstances that create a substantial risk of death; or (B) physical injury that causes serious and protracted disfigurement, protracted impairment of health, protracted loss or impairment of the function of a body member or organ, or that unlawfully terminates a pregnancy.

II. AFFIDAVITS

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

STATE OF ALASKA,

Plaintiff,

vs.

LOGAN WHEELER,
DOB: 8/15/1968
APSIN ID: 7654321
SSN: 574-12-3456
ATN: 107-907-000,

Defendant.

Court No. 5AN-S07-9999 CR

AFFIDAVIT OF SAM MEIKUK

1. My name is Sam Meikuk. I'm forty-three years old, widowed, with three children – Jennifer, who is 20, Wendell, who is 17, and Evan, 12. I don't have much to say. Logan Wheeler hit me in the head with an aluminum softball bat. S/He admits it, and s/he should go to jail for it.
2. Logan hit me at the annual Meikuk-Wheeler softball game. We Meikuks had won for the sixth straight year. I knew we would win. So, after the game, as Logan was getting ready to leave, I went over to her/him to rub it in a little bit. Nothing serious, just a little friendly teasing. Logan would have done the same thing to me if the Wheelers had lucked out and won the game.
3. I think I said something about how Logan was such a good cook and that I'd really enjoy the food. I mean, it's not often that I compliment a Wheeler. And Logan goes all ballistic. I could tell from the way Logan was talking that s/he was drunk. Logan is always drunk, so this is no surprise. What I really should have done is tell Logan it was unsafe for him/her to drive home. A couple of years ago, Logan wrecked his/her car driving home one night drunk. No one was hurt, not even Logan. But, it is only a matter of time before Logan gets into another accident, and we might not be so lucky next time, now that Logan has a big truck.
4. Anyway, after I make this innocent joke about enjoying Logan's food, Logan accused me of cheating at softball. Said that Tom Coulter shouldn't have been allowed to play on the Meikuk team. I thought this was supposed to be a friendly game. I didn't see any problem in Tom playing. I mean, he and Jennifer are starting to get pretty serious. And, it's not like there is a rulebook saying you had to be a family member to play. It's a stupid rule anyway. So, I lied to Ed(na) Frank and said that Jennifer and Tom were engaged. I didn't see anything wrong with this. I'm sure they'll be engaged soon enough.
5. I told Logan that who was and wasn't in my family was none of her/his business. Well, this just angered Logan even more. Logan gets out of her/his truck. And, I could see Logan grabbing one of the softball bats from the game. I'm thinking to myself, "Whoa, what's going on here?" I could tell Logan was mad about the softball game and about thinking that I had cheated, but I didn't think s/he'd resort to violence.

6. But, accusing me of cheating wasn't the worst thing. Logan then brings my dead husband/wife, Randi/y, into it. At the time, it had only been two months since Randi/y had died, and his/her loss was a real sensitive subject for me. I still wake up nights weeping over his/her death, even now. Randi/y was a living angel, and I know s/he's up in Heaven looking down on me. For Logan to insult Randi/y is simply unforgivable. I was so distraught at Logan even mentioning Randi/y that I don't really remember what Logan said. I think it was something like Logan asking me what Randi/y would think about me cheating at softball.

7. I remember immediately putting up my right hand – I'm right handed – as if to say, "Stop! Don't talk about this any more!" I didn't hit Logan. I would never do that. I was mad at Logan, but I'm not a violent person.

8. I have to admit that I was getting kind of afraid here. I've seen Logan become violent before when drunk. For example, last New Year's Eve, at the village fireworks display, Logan was drunk again and accused me of not helping to pay for the fireworks expert the town had flown in to put on the display. My cousin Gene/Jean is mayor, so of course we chipped in. In fact, Gene/Jean did most of the arrangements to get the person here. I told Logan s/he didn't know what s/he was talking about and to leave me alone. Well, Logan just snapped and charged at me, wanting to start a fight. Sure, I punched Logan a few times, but only so that Logan wouldn't threaten me or my family. A person's allowed to defend himself/herself, right?

9. So, I know Logan's capable of getting violent when drunk, and here Logan is drunk and standing in front of me with an aluminum bat. Like I said, I had put my hand up, almost instinctively, when Logan started talking about Randi/y. Logan swatted my hand away. I shoved Logan back, you know, to try to create some space between the two of us. I may have shoved back a second time; I don't remember. Then I started to think, "Well, if Logan's got a bat, I'd better get out of here."

10. I started to back up a bit, still facing Logan. I could see Logan had this wild look in her/his eyes. Logan reared back and was holding the bat like s/he was going to take a swing. A full out swing of the bat at me! And sure enough, Logan did it! At least, I assume Logan did. After seeing Logan getting ready to take a swing, the next thing I remember is being revived by Dr. Sanchez with all my family standing around me.

11. I was still pretty woozy when Dr. Sanchez revived me with smelling salts. I was bleeding massively from the side of my head, and couldn't stand without someone to hold me up. To be honest, most of what happened over the next several hours is still a bit of a blur to me. I remember that Dr. Sanchez brought me into the New Shavlik Clinic for observation overnight. That must have been pretty boring for Dr. Sanchez, as mostly all I did was sleep. I think Dr. Sanchez also gave me a couple of X-rays of my head to make sure my skull wasn't fractured. Thankfully, it wasn't. The next day, Dr. Sanchez put me and Gene/Jean on a plane to Cicely so that I could receive more thorough testing. I was still pretty groggy, so I definitely needed Gene/Jean to go with me.

12. The Cicely Regional Hospital has a lot more sophisticated equipment than we have at the clinic in New Shavlik. That's not surprising and all. At Cicely they gave me more X-rays and put me in this enclosed scanning sort of machine. Fortunately, the doctors there didn't discover any major damage. I was still in a great deal of pain, though, so they also gave me some pretty powerful painkillers. This kept me groggy, but I didn't mind that. I slept a lot.

13. My vision was kind of blurry at the time. I figured that would go away as I healed, but I still get spells of blurry vision from time to time. The doctors in Cicely and Dr. Sanchez haven't been able to detect any permanent damage to my vision, but I didn't have this problem before

Logan hit me with that bat. I also, even now, continue to get serious migraine headaches from time to time. The usually follow the period of blurry vision. I guess it is good that I get a warning the migraine is coming. If I'm not out in the wilderness, it allows me time to go home, take some aspirin, lay down, and just hope the migraine isn't too severe. I also didn't used to get migraine headaches before Logan injured me. I'd say I probably get one of these blurry vision/migraine headache spells every two or three weeks. My doctors say the frequency may lessen over time but there is no guarantee. I did have them a lot more the week or two after the injury, so I hope they are right.

14. I stayed at the hospital in Cicely for four days total before I was released to go back to New Shavlik. On Tuesday, Officer Jo(e) Stanton paid me a visit in the hospital on the way out to New Shavlik to arrest Logan. Officer Stanton asked me what happened, so I told her/him the same things I just recited about how Logan was drunk and being aggressive and how Logan hit me with a softball bat as I was trying to back away. Officer Stanton told me s/he'd "take care of things." I've known Officer Stanton ever since s/he was assigned to be the Trooper for New Shavlik and have come to trust Officer Stanton as a devoted public servant. Officer Stanton has never taken any nonsense from anyone, so I knew that s/he'd make sure that justice was served and that Logan Wheeler was put in jail where s/he belongs.

15. I know that Logan thinks the Meikuks have a grudge out against the Wheelers. That's not true. I mean, we Meikuks know we are better than the Wheelers, but we don't hate them for it. We founded New Shavlik and have always been a well respected family in the village. We are better hunters and fishers and better at traditional crafts. Logan Wheeler is a drunk, and the rest of his/her family is ashamed of it. The rest of the Wheeler family isn't much better and has never accomplished much of any significance. I only have a high school education, but my sister Natalie went to medical school and became a doctor. A few other Meikuks have gone to college and gone on to get good jobs outside of New Shavlik. Only a couple of the Wheelers have even gone to college, and I don't think either of them finished. It's not my fault if Logan and the rest of the Wheelers are jealous of us.

16. I do have handgun that I sometimes carry around with me, but not all the time. It is a .38 caliber Smith & Wesson revolver. I also have a holster that I put the gun in when I am carrying it around. I usually slip the holster, which can be used with or without a belt, in my jeans in the small of my back. I didn't have the gun with me at the softball game. Why would I risk bring it there with all those small children around. That would be very irresponsible of me. I only carry it around for protection, such as if I am wandering around New Shavlik at night. Not only do we have some pretty unsavory characters in New Shavlik, we also have some pretty unsavory animals. Fortunately, I've never had to use the gun on anyone, not even as a threat. I did have to shoot Clyde Parson's dog when it got loose and looked like it was going to attack me. Clyde had a big dog, and it was late at night and I thought it might be a wolf. I also have a few rifles that I use for hunting and target practice.

17. My family and I mostly get by through subsistence hunting and fishing. I'm worried now about going out on long trips to our fishing camp because of my migraine headaches. I never know when I am going to need more serious medical care. I also earn money in town by working as a teacher's aide at the school during the school year. I need to be depended on to be at school when the teacher needs me, and I'm worried that I might not be able to continue working if I have to take off so many days because of migraine headaches. I've already missed a lot of time this year and wouldn't be surprised if I am let go at the end of the school year. All of this is Logan's fault, and I hope that s/he is put away for a long time for what s/he has done to me.

WITNESS ADDENDUM

I have reviewed this affidavit, and I have nothing of significance to add. The material facts are true and correct.

Sam Meikuk

SUBSCRIBED AND SWORN TO before me this ___ day of _____, 2007.

Notary Public in and for Alaska
My Commission Expires:_____

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

STATE OF ALASKA,

Plaintiff,

vs.

LOGAN WHEELER,
DOB: 8/15/1968
APSIN ID: 7654321
SSN: 574-12-3456
ATN: 107-907-000,

Defendant.

Case No. 5AN-S07-9999 CR

AFFIDAVIT OF GENE/JEAN MEIKUK

1. My name is Gene/Jean Meikuk. I am forty-six years old. I am Sam Meikuk's sister/brother, and proudly so. Never married; never found the right person. I treat Sam's three children as if they were my own and spoil them rotten. I am also currently the mayor of New Shavlik. I was elected in August 2006, defeating Marc(y) Wheeler, Logan's husband/wife. The previous mayor was also a Meikuk, my cousin Stan, but he moved to Cicely, so the position was open for a few months. I also work as the postmaster and only delivery person for New Shavlik. This is a part-time job, as we only get mail three times a week. Still, I like wandering around town talking to people.

2. Logan Wheeler has always been a trouble-maker in town. Logan even accused me at a town meeting of stealing the election. That was ridiculous. Logan was just being a sore loser. New Shavlik is not exactly a thriving metropolis, so it's not like being mayor is all that powerful a position. I think Logan thinks that us Meikuk's secretly manipulate what everyone in New Shavlik thinks. The Meikuk's are proud to play an active role in the community, and New Shavlik responded to that by electing me mayor. But to say that I stole the election or that Sam is turning the village against the Wheelers? Logan is just being paranoid.

3. Or, like the fight that Logan got into with Sam at last year's New Year's Eve fireworks show. We don't get much entertainment out here in New Shavlik, so I thought it would be nice if the village could have a fireworks display to brighten the cold winter evening. I called around and found a pyrotechnics expert who amazingly was not already booked that evening. Well, "expert" may be going a bit too far. I think it was the daughter of an owner of a fireworks store out in the Mat-Su Valley, but still, it was better than nothing. Between her fee, the plane tickets out to New Shavlik, and the cost of the fireworks, the bill ran to a little over \$3,000. I was determined not to contribute any of the village's money toward the show, so I organized a fundraising drive to help pay for it.

4. To her/his credit, Logan donated \$300 to the event, though I'm sure most of this came from profits from the restaurant. I donated \$200 of my own money toward the display, even though I had also spent a lot of time organizing it. I don't recall that Sam donated any money toward the fireworks display. When we were getting close to this goal, I think I may have

mentioned this to Brit Terry, who was on the organizing committee with me, what as it was. I asked Brit to go see if Sam could spare any money for the fireworks display. I'm not sure if Sam gave Brit any money, but I do know that between the ten people on Brit's list, we did raise the final \$400 to cover our expenses.

5. Even if Sam didn't give Brit any money for the fireworks display, this is no reason for Logan to start a fight with Sam on New Year's Eve. I didn't witness the fight, but I heard about it afterwards from Sam. It sounds like Logan was drunk ... again. Not that this is any surprise. Sam does so much good for New Shavlik that Logan had no reason to get all mad at him/her. Sam has helped organize community plays while working at the New Shavlik school. These productions aren't much, but they do help alleviate boredom in the village. Sam has also generously taught a lot of New Shavlik children – even those who aren't Meikuks, in fact, even a couple of Wheeler children, I think – how to fish. Sure, Logan runs the only restaurant in New Shavlik, Mama's Cookin', but that is for profit. Sam does everything s/he does for New Shavlik for free. So, it was really disrespectful when Logan accused Sam of not contributing to the fireworks display and implying that Sam never did anything good for New Shavlik. Logan never should have lost her/his cool like that and attacked Sam. I'm just glad Sam was able to defend himself/herself and wasn't hurt. Unfortunately, the same scene repeated itself at the annual Meikuk-Wheeler softball game.

6. My bones are starting to get a bit creaky, but I did play on the Meikuk team. Sam put together a good team this year. Tom Coulter was the star of the game. These games are always casual fun. Yeah, there is a big bet riding on the game, but the whole event is meant to bring the two families together. The picnic bet just makes the game a little more interesting, especially for those that aren't playing. The Meikuks have been fortunate enough to win for the last several years. Nothing like getting Logan Wheeler's fine cooking for free!

7. Logan had definitely been drinking during the game. Logan should know s/he's an alcoholic and shouldn't drink, definitely not in public. I remember seeing Logan down several beers between innings and while on the bench. You could tell this was having an affect on Logan, because her/his play deteriorated as the game went on. By the eighth and ninth innings, Logan was missing several easy plays at second base. Let a grounder go through her/his legs and then dropped a catch on a tag out. Logan wasn't stumble-bum drunk, but there was no doubt in my mind that Logan was drunk. I was a bit concerned when I could see that Logan was the only Wheeler left, which meant Logan would be driving home, but I wasn't really in a mood to try to stop Logan. Since Logan was leaving, I didn't think anything would happen, despite her/him being drunk. Boy was I wrong!

8. Once again, while drunk, Logan showed that s/he is a sore loser. After the game was over, the other Wheelers cleared out pretty quickly, but Logan stayed behind to clean up a bit. I remember Sam saying to me that s/he was going to go over to Logan to wish him/her better luck next year. I guess Logan took the game a bit too seriously. I was eyeing the food, trying to figure out what I wanted to eat first, and the next thing I know I hear yelling coming from Logan and Sam. The covered area with the food was about eighty or so yards from where Logan's truck was parked near home plate of the ballfield. I couldn't really make out what was being said, but I turned to see what was going on, and Sam had her/his hand in Logan's face. At first, I thought Logan was going to slap Sam. But then it became clear to me that Sam was just trying to calm Logan down. Like I said, I couldn't hear what Logan said, but even from a distance it was clear s/he was pretty mad.

9. The next thing that happened was that Logan shoved Sam. Sam then pushed Logan back, but not really hard or anything. Mostly, it just looked like Sam was trying to keep Logan at a

distance. I should have gone over there to help Sam, but I was just kind of frozen where I was. You know, sort of like watching a train wreck. Logan was definitely losing it and shoved Sam a second time, this time with even more force. It was at this point that I realized that Logan had a bat in his/her hand. I don't know why – Sam wasn't going to hurt Logan. I feared the worst.

10. I guess Sam must have seen the bat too, because s/he started to back away slowly. Sam was maybe four feet away from Logan, and Logan wildly swings the bat as if s/he was back in the softball game and Sam's head was the softball. And, this wasn't a soft swing, it was a swing for the fences. Logan hit Sam full on; I'm surprised I didn't hear Sam's head crack. Sam immediately dropped like a rock.

11. I started running over toward Sam, along with a bunch of the other Meikuks. Logan could see us coming, because s/he quickly jumped back in his/her truck and backed up almost immediately. As I got over to Sam's fallen body, I distinctly remember Logan sticking his/her head out of the truck window and saying, "I guess I just hit a home run." It was almost eerie how calmly Logan said it, as if hitting Sam in the head with a bat was no big deal. I'm sure some of us Meikuk's would have jumped into the truck and throttled Logan, but Logan sped away before we could get to him/her.

12. My first thought, of course, was about Sam. Sam had fallen on her/his left side, and you could see a pool of blood slowly seeping out from under Sam's head. My nephew Dylan rolled Sam over onto her/his back. Sam was completely motionless. Dylan pulled off the sweatshirt s/he had tied around his/her waste and held it against Sam's left temple to help stop the bleeding. I knew Sam needed medical help and fast. We don't have cell phone service in New Shavlik, but fortunately there was a public payphone at the field, as it sort of doubles as a town commons. I didn't want to leave Sam, so I told Dylan that I'd take care of Sam and to go call Dr. Sanchez. I think it was about 5:30 or so when Dylan called Dr. Sanchez.

13. I hear Logan claims s/he hit Sam because Sam was carrying a gun. Sam does have a gun, but so do most people in New Shavlik. We need guns to hunt, to survive. I know for a fact that Logan has a hunting rifle. But whatever, Sam wasn't wearing his/her gun at the softball game and certainly didn't have it on him/her when Logan started that fight with him/her. I was there, I helped take Sam to the clinic. If Sam had a gun, I would have seen it. But there was no gun. Logan was just making that up as an excuse for what s/he did. Just like I bet Logan had Marc(y) hit her/him in the face to cause that black eye so that it would look like Sam had hit Logan. You just can't trust anything Logan does or says.

14. Dr. Sanchez got there pretty quickly. In the meantime, Ed(na) Frank left to go over to see Logan. Ed(na) said s/he was going to try to get Logan to accept blame and come back to apologize. In a way, I'm glad that Ed(na) wasn't successful, because we were so fired up that we would have torn Logan apart. Logan never has apologized to this day. I can't believe that Logan is claiming s/he hit Sam in self-defense. That is the most ridiculous thing I've ever heard!

15. Dr. Sanchez looked over Sam, did some tests, that sort of thing. I don't really understand what Dr. Sanchez was checking for. When Dr. Sanchez told us that Sam was going to recover I practically jumped for joy. Dr. Sanchez put something under Sam's nose, and Sam jerked awake. It was almost like magic. Sam was still bleeding pretty badly, so Dr. Sanchez put a bandage on Sam's head and told everyone that Sam needed to come back to the New Shavlik Clinic to spend the night for observation. I offered to Dr. Sanchez that s/he didn't need to get her/his truck all bloodied up and that I would drive Sam to the Clinic instead. I was really worried about my brother/sister and Dr. Sanchez could sense this, so s/he let me do it.

16. I wanted to stay overnight with Sam, but Dr. Sanchez told me there was no reason for me to spend the night at the clinic and that I should rest up so that I could take Sam to the hospital in Cicely the next day. I was still pretty mad when I got home. I knew that something had to be done before Logan injured someone else. So, I called Officer Jo(e) Stanton, whose territory covers New Shavlik, and told her/him what had happened. I said that Logan had been drunk again but that this time s/he had hurt someone really bad. Sam had been knocked unconscious, was currently in the clinic, and that I would be taking him/her to the hospital in Cicely the next day. I told Officer Stanton that as both mayor and as a citizen something needed to be done about Logan Wheeler. Logan was setting a bad example for the youth of New Shavlik and needed to be put in jail to teach them a lesson and keep everyone in town safe. Officer Stanton said that s/he was going to be in Carverville on Monday but that s/he would come by the hospital on Tuesday to talk to me and Sam and determine if Logan needed to be arrested.

17. Sam's head was still swollen up when we left for Cicely Sunday afternoon. Since it was Sunday, we couldn't go on the regular mail plane and had to charter a flight. Fortunately, I have a friend in New Shavlik who has a plane and was willing to fly us for just the cost of gas. Gas is pretty expensive, but it was still a lot cheaper than having to get Black Bear Air to come retrieve us. Black Bear Air is a private outfit that schedules regular flights to New Shavlik around the mail run so that it can get the flights partially subsidized. Like I said, though, they don't fly on Sundays. It was a little windy Sunday morning, so we couldn't get out of town until a little after noon. We got into Cicely at about 2:00 and immediately went to Cicely Regional Hospital. Sam was admitted for care and observation. The nurses told me they would wait until the next day, when Sam's swelling went down a bit more, before doing any tests.

18. Sam got good care at the hospital in Cicely. Sam was very groggy as a combination of the injury and being drugged up. All sorts of tests were done on Sam on Monday to make sure there wasn't any permanent injury. I know the doctors say they didn't find anything more than a concussion, but I also know that Sam says s/he still gets persistent migraine headaches and sometimes has blurry vision. I don't see any reason why Sam would lie about that.

19. The next day we got a visit from Officer Stanton. S/He had me step out of the room and talked to Sam for a bit. Then, Officer Stanton took me into a separate room and asked me what had happened at the softball game. I told Office Stanton about Logan being drunk and how Logan had gotten out of his/her truck for no reason and then started a fight with Sam. I then recounted how Logan had shoved Sam a few times and then how while Sam was trying to back away Logan hit Sam as hard as s/he could with the bat. Officer Stanton said s/he had what s/he needed and that s/he'd take care of things. I sure am glad that Officer Stanton is responsible for New Shavlik because s/he always does a good job of enforcing the law. As mayor, I know how hard it is living out in a village where there is not a permanent police presence. Usually, nothing major happens and we can take care of things ourselves, but this time we definitely needed help. And Officer Stanton was there to give it.

20. I have to say that things have been a lot calmer in New Shavlik ever since Logan Wheeler got arrested. The Wheelers have become friendlier now that their agitator is gone. And, everyone in town has learned not to step over the line and bring the Troopers down on them. I can't say that everything has changed for the better – Mama's Cookin' hasn't been the same since Logan left. All in all, though, I'm glad that Logan is behind bars. S/He deserves it, and I hope s/he stays there.

WITNESS ADDENDUM

I have reviewed this affidavit, and I have nothing of significance to add. The material facts are true and correct.

Gene/Jean Meikuk

SUBSCRIBED AND SWORN TO before me this ___ day of _____, 2007.

NOTARY PUBLIC IN AND FOR ALASKA
MY COMMISSION EXPIRES: _____

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

STATE OF ALASKA,

Plaintiff,

vs.

LOGAN WHEELER,
DOB: 8/15/1968
APSIN ID: 7654321
SSN: 574-12-3456
ATN: 107-907-000,

Defendant.

Case No. 5AN-S07-9999 CR

AFFIDAVIT OF ED(NA) FRANK

1. My name is Ed(na) Frank. I am sixty-eight years old now. I find myself one of the few remaining elderly folks here in New Shavlik. I think there are about 300 or so living in the village, but we get a lot of people visiting, and leaving to go visit. I was born in Shavlik, which is where we used to live before the Raven River changed course and started flooding our village on a regular basis. My grandparents were respected elders of Shavlik in the old days. They passed down traditions and the oral history of the village to me, as I was always eager to learn the ways of the past. One of the most important values was harmony and working together.

2. I moved to New Shavlik when it was founded in 1962. I was still young then, and I followed my parents when they decided to move. It was a tough decision for those who had lived in Shavlik all their lives to abandon the old village site and build a new village up the river a bit, where there was not so much flooding, but we really had no choice. It had flooded for three straight years in Shavlik, and seven of the previous eleven. It seemed like all I did during the summers growing up was help families around town clean up from the most recent flood.

3. Even back then, the two most prominent families in Shavlik were the Meikuk and Wheeler families. The Meikuks had been there as long as anyone could remember, and the Wheelers settled in Shavlik not long after that. It was the Meikuks that spearheaded the decision to start over in a better location. The Wheelers were reluctant to leave Shavlik because they had nice houses and all and lived on one of the few hills in town, so they weren't affected as much by the floods. The Meikuks, on the other hand, were flooded out every year, but they always kept in good spirits. Finally, the Meikuks couldn't take it anymore and said they were leaving to found a new village and if the Wheelers wanted to come they could. Pretty much everyone else in Shavlik agreed with the Meikuks, and the Wheelers didn't want to face everything alone, so they agreed to move.

4. Sam and Gene/Jean's father Oscar selected the site for the new village. He was an excellent hunter and fisher and wisely chose a site with abundant wildlife so that the residents of New Shavlik could continue their subsistence lifestyle. Despite having a small general store in the village, the subsistence lifestyle is still very important to New Shavlik. Most of the residents don't make much money and can't afford the high prices it takes to ship food out to the village.

So, I'm glad that Oscar Meikuk had the foresight and good fortune to find a location that would allow the village to continue its traditional ways.

5. When New Shavlik was founded, there was some tension over selecting plots of land to give to the different families. There was plenty of land, but as with everywhere, some sites were better than others. It was decided that we would have a lottery for the first few selections. It cost \$100 per ticket to enter the lottery. That was a lot of money back then, especially since everyone was so poor. I think it was divine intervention that Oscar Meikuk won the first choice, since he had picked the location for the town. Logan Wheeler's parents, Fred and Sue, got the fourth choice. Like I said, things were kind of tense at first, but they smoothed over pretty quickly once everyone became so busy building their new lives.

6. For years I worked in town as a pilot for Shavlik Air, and as a hunting and fishing guide. It wasn't much of a business, just a couple of planes, but there were several small villages in the area that needed our assistance, so we did decent business. I flew a six-passenger Cessna 207, until the owner passed away and the company closed 10 years ago. Black Bear Air took over the mail and scheduled flights after Shavlik Air closed up. I still do some guiding now and then, but have a harder time getting around.

7. Nine years ago I was asked to umpire the annual softball game between the Meikuk and Wheeler families. The game had been going on for several years by that time, but I had never been involved with it because I am not directly related to either the Wheelers or Meikuks. For the most part, the game had been friendly, so there had never been an umpire. But, the two families decided it might ease tensions a bit to have a neutral person making the calls. I thought it was a good opportunity to teach harmony and good sportsmanship to the young people in the village. But it has not been easy. I always do my best to be fair, but I know that some of my calls may be wrong. Both families trust me and know that I won't be biased in my calls, even though one of my grandsons married a Wheeler and some of my other grandkids are good friends with the Meikuk children. My eyesight is still good, but I'm not perfect. But, both families plead with me to be the umpire each year, so I do it for them.

8. This year there was a real problem. Tensions were higher than ever between the Meikuks and the Wheelers. You could sense it in the town. Then, before the game was set to begin, Logan Wheeler comes up to me and says that Tom Coulter should not be allowed to play for the Meikuks on account of him not being family. Logan said that Sam had lied about Tom being engaged to Sam's daughter Jennifer. It didn't much matter to me, but I could tell it was important to Logan. I felt that Logan was taking the game far too seriously – the softball game had originally been intended as a fun outing between the two families – but I knew I had to address Logan's concerns. I hadn't heard of Jennifer and Tom being engaged, but I suggested to Logan that perhaps they were. I told Logan not to worry about it and just to play the game. I then went over to Sam Meikuk, and I asked her/him if Tom Coulter was a Meikuk. Sam said that Jennifer and Tom had just gotten engaged the previous week. It was not my place to judge whether this was true or not. I congratulated Sam on the blessed event and got ready to umpire the game.

9. There were no major disputes or incidents during the game, but it is what happened after the game that is the reason we are all here. Sam got hurt pretty bad after Logan hit her/him with a softball bat. I did not see it happen, as I was in the covered eating area at the time. I was eating with the Meikuk family after the game because they had won. I objected to the idea that the winner keeps all the food. I tell this to both families each year, but they ignore me with polite smiles. Winner take all is not in harmony with the old ways – as we always shared what

we had. But I was always invited to eat with the winning team, the food is good, and I use the time to teach them the old ways of respect and sharing.

10. I was chewing on a smoked salmon strip when I heard a commotion on the other side of the field. Someone, I'm not sure who, yelled out that Sam was hurt. Several of us ran over to where Sam was laying on the ground. I'm not as fast as I used to be, but I got there as quickly as I could. Sam was not moving, and there was a lot of blood coming from the left side of his/her head. I could see the blood soaking the sweatshirt that Dylan Meikuk had pressed against Sam's head. "Who is responsible for this?" I asked. I heard several people say it was Logan, that Logan had hit Sam with a softball bat.

11. Without saying a word, I immediately went to my car. I was determined to confront Logan and see if this was true. Tension has been too high between the Wheeler and Meikuk families in New Shavlik. I did not want to see the village continue to be torn apart by violence. In the old times, blood feuds could destroy communities, and people often died defending honor and avenging wrongs. I was determined to do what I could to make things right, so we could avoid this. I had no time to lose.

12. I was at Logan's house in a matter of minutes. Logan lives in her/his parent's old house on the edge of town. Logan did not open the door at first. I told her/him I was alone and needed to speak with him. S/He opened the door, and invited me in. As is custom when it comes to weighty talks, there was a long silence before either of us spoke. Logan had the shades pulled down. Logan sat in the dark, looking down at the floor. Logan kept refusing to look me in the eyes, but I kept staring straight at her/him so that s/he could feel my presence. I let Logan take her/his time before speaking. Without my asking, s/he told me s/he hit Sam with the bat.

13. According to tradition, when one admits fully their transgression, they are soon forgiven. It is our way. In the days before Troopers and courts and jails, this is how we settled things. First and foremost was telling the truth. I listened to Logan carefully, and felt his/her remorse. I was not there to judge Logan. I knew there was a long history of mistrust and ill feelings between the Meikuks and the Wheelers and that these feelings can boil over from time to time. Who among us can say for certain they would perhaps not do the same thing if we were in Logan's position? No, I was there to restore harmony. That is why I didn't ask Logan what had happened. The important thing is not to live in the past – what happened – but to make things better in the future.

14. I told Logan that Sam was hurt bad, that s/he was on the ground and not moving at all. Logan did not say anything. I told Logan that s/he needed to face the Meikuk family and admit what s/he did. Logan stayed quiet – contemplating. S/He looked up at me, then looked away. Logan was hurting emotionally. Physically, Logan seemed fine. I did not notice any cuts or bruises on her/him. Like I said, though, there was not much light inside her/his home. Logan also didn't seem drunk to me – I've seen Logan drunk plenty of times, and this wasn't one of them. But you could tell that inside Logan was distraught coming to grips with what s/he had done. Logan has a bit of a temper and self-control problems, but s/he generally means well. Logan knew what s/he had done was wrong, but didn't want to fully admit it to me.

15. I suggested again to Logan that s/he go back to the field and apologize to the Meikuks, that this would be the best thing for working to resolve the hatred surrounding this feud. Logan seemed nervous and said that s/he wasn't ready to go back to face the Meikuks. S/He kept saying that Sam started the fight, as if this exonerated him/her. The worst was that Logan even said s/he was not sorry about Sam being injured so badly and that "Sam got what was coming to her/him." Logan clearly did not understand that nothing Sam could have done would justify hitting her/him in the head with a metal bat. I sat with Logan and waited through the silence that

followed, thinking s/he would say more, but s/he did not. Maybe I should have been more patient, more understanding. Perhaps then Logan would have revealed the whole truth about what happened. But I let my mind wander and imagined the Meikuk family back at the field with Sam, growing angrier at Logan and the Wheelers by the minute. In that fear I snapped at Logan – I told him how the Wheeler and Meikuk families were tearing the village apart – and now this. “Violence has erupted! Sam’s probably going to have to go to the hospital. This feud as to be stopped now!”

16. After my outburst I saw the fear in Logan’s eyes. I cannot blame her/him for not wanting to face the Meikuk family that day. Logan said that I should to back to the field and tell the Meikuks to apologize to the Wheelers. This would not have solved anything. But, I knew I could get no further with Logan. The only thing more I could do would be to return to the ball field and check to see how Sam was doing. When I returned to the field, Dr. Sanchez was taking Sam away to get medical attention. I did what I could to calm the Meikuk family. Logan has admitted to hitting Sam, let us not be so quick to judge ... but my influence is not so great as the anger that still swirls in the village over this. I only wish the youth would embrace the wisdom of the old. I long to restore harmony between the families.

WITNESS ADDENDUM

I have reviewed this affidavit, and I have nothing of significance to add. The material facts are true and correct.

Ed(na) Frank

SUBSCRIBED AND SWORN TO before me this ___ day of _____, 2007.

Notary Public in and for Alaska
My Commission Expires: _____

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

STATE OF ALASKA,

vs.

LOGAN WHEELER,
DOB: 8/15/1968
APSIN ID: 7654321
SSN: 574-12-3456
ATN: 107-907-000,

Defendant.

Case No. 5AN-S07-9999 CR

AFFIDAVIT OF OFFICER JO(E) STANTON

1. My name is Jo(e) Stanton. I am 31 years old. After college I spent over four years in the U.S. Coast Guard, where I was periodically stationed in various parts of remote Bush Alaska. Although originally from California, I fell in love with the Alaskan wilderness and decided to stay after my stint in the military.
2. When I was 27, I applied for a position as an Alaska State Trooper. A year later, after successfully completing over seven months of training in Sitka at the Trooper Academy, including a month of work under the supervision of a veteran field training officer, I got my first posting in Cicely, where I've been for the last three years. Cicely is a city of about five thousand people located in the heart of Bush Alaska. During my time in Cicely, as one of only several Troopers in the region, I have responded to hundreds of dispatch calls – including just about every kind of call a peace officer could imagine.
3. Typical with such a remote posting, I also service the surrounding villages in addition to Cicely. My “jurisdiction” includes 6 different villages and is spread out over 20,000 square miles. It is not uncommon for me to be called to multiple villages in one day and not be able to get to one of the villages to investigate until several days later. Also, access to some of the more remote villages, like New Shavlik, can be very difficult, sometimes requiring several days of patient waiting for a storm to clear before being able to fly in or out by small plane. Because of the vast territory I must cover, sometimes I don't get to spend as much time on an investigation or a case as I'd like to.
4. On Saturday evening, August 18, 2007, I received a call from the Mayor of New Shavlik, Gene/Jean Meikuk, requesting that I respond to an incident in the village involving an alleged assault at a village softball game. Gene/Jean was noticeably upset. S/He informed me that one of the two people involved in the fight, his/her sister/brother Sam Meikuk, was being transported to the Cicely Regional Hospital for medical treatment for injuries suffered as a result of the altercation. Gene/Jean conveyed that it had been Logan Wheeler who struck Sam and that Logan Wheeler was inebriated at the time. This did not surprise me, both in the sense that Logan Wheeler is frequently drunk, and in the sense that Logan and Sam are frequently at odds with each other. Gene/Jean implored me to arrest Logan. I wouldn't commit to that yet, but I could tell there was a solid basis for investigating in more depth. I informed Gene/Jean that I was

already scheduled to go to Carverville on Monday to investigate a domestic violence incident, but that I would be returning to Cicely that evening and would meet with him/her and Sam the next day at Cicely Regional Hospital.

5. On Tuesday morning, August 21, 2007, I met Gene/Jean Meikuk at the hospital in Cicely and had a chance to interview Sam Meikuk. I first spoke with Sam from his/her hospital bed to get his/her version of events before meeting with Gene/Jean. According to Sam, his/her family team had won the village softball grudge match between the two predominate families in New Shavlik, and Logan Wheeler, the coach of the opposing Wheeler team, took it personally. After the game, Sam approached Logan, who was in her/his vehicle in the parking lot near the ball field, intending to rub in the win in a playful way. Sam reported s/he congratulated Logan on the great food s/he had made and let Logan know s/he was enjoying the spoils of victory.

6. According to Sam, Logan, who appeared to Sam to be intoxicated, took offense to Sam's teasing and became visibly upset. Logan accused Sam of cheating by adding a non-family member to the team who was significantly better at softball than everyone else. Sam reported that Logan then said something to the effect that Sam's deceased spouse Randi/y, who had only recently died in a boating accident, would not have approved of Sam cheating. Tempers flared and Sam admitted becoming upset and saying, "Hey, don't talk about my husband/wife that way."

7. Sam recounted that Logan then extricated herself/himself from the vehicle with a baseball bat in her/his hand. Sam feared that Logan was intoxicated and dangerous. Sam raised his/her right hand in an attempt to de-escalate the situation. Pushing and shoving between the two of them ensued and then last thing Sam remembers is Logan raising the bat and striking him/her in the head. Unprompted, Sam added that although s/he owned a hand gun and often carried it with him/her, s/he did not bring the gun to the game.

8. I noted that Sam appeared slightly disoriented and had large bandages wrapped around his/her head. His/her speech was slightly slurred, and I could tell from the look in his/her eyes that Sam was having difficulty concentrating. However, s/he appeared cogent and mentally lucid.

9. I then left the room and met with Gene/Jean Meikuk in an unoccupied hospital room. S/He remembered seeing Logan drinking beer during the game and believed s/he was intoxicated based on Logan's poor motor skills near the end of the game. After the game, Gene/Jean informed me s/he was eating at the barbeque when s/he heard raised voices from across the parking lot. S/He looked up and saw Sam holding his/her hand in Logan's face as if trying to keep Logan at bay. Gene/Jean said they both seemed mad. Gene/Jean then saw Logan push Sam and Sam defend herself/himself. Gene/Jean then observed Logan with a baseball bat take a full swing at Sam and strike Sam in the head. Sam collapsed on the ground and Gene/Jean ran over to help. As Gene/Jean approached, Logan drove off saying "I guess I hit a home run."

10. According to Gene/Jean, Sam was on the ground laying motionless when s/he arrived. Gene/Jean said s/he and Dylan Meikuk applied clothing to Sam's bleeding head while waiting for the doctor to show up. The doctor arrived within the next ten minutes and transported Sam to the village clinic. Because Sam had brought it up, I asked Gene/Jean whether s/he knew if Sam had a gun with him/her at the game. Gene/Jean responded that s/he believed Sam did not have a gun with him/her at the game because Gene/Jean did not see one on Sam when s/he was administering first aid before the doctor arrived. I had thought it odd that Sam would discuss not having a gun when I had not asked any questions about it, but my mind was put at ease by Gene's/Jean's confirmation that Sam did not have a gun at the game.

11. I finished my interview with Gene/Jean and left the hospital. I then arranged for a charter flight to New Shavlik that afternoon. Although I felt I had probable cause to arrest Logan at that time, based on the reports of Sam and Gene/Jean Meikuk, I believed additional investigation would be behooving. Tuesday night I stayed at Burley's Brown Bear B & B owned and operated by Ted Burley, the local fishing and hunting guide in New Shavlik. Over a breakfast of pancakes and bacon the next morning, Ted mentioned he'd heard that Sam got beat up pretty good but wondered how that could have happened in light of the fact that Sam is always carrying a "rocket in his/her pocket." I always liked staying at that B & B because Ted keeps his ear to the ground and also makes great breakfasts.

12. After breakfast, I wandered over to the New Shavlik community ballfield to survey the scene. I had been to the ballfield a couple times before, but never to view it as a crime scene. I knew I needed to take a couple of photographs to use as evidence, and the State provides us with digital cameras to do this. Gene's/Jean's estimate of 80 yards between the sheltered food area and the edge of the ballfield, where Logan had parked was a bit too short, but within the ballpark, so to speak. I paced out the distance and estimated it to be 100 yards.

13. I interviewed Dylan Meikuk, Sam's and Gene's/Jean's nephew/niece, toward the latter part of the morning in order to complete my accumulation of investigative evidence. According to Dylan, both Logan and Sam have taken the family rivalry too far. Dylan remembered riding to the game with Sam and discussing Sam's gun. Sam told Dylan s/he was bringing the gun to the game for protection against the Wheelers. Dylan suspected instead that Sam was carrying the gun as a form of intimidation to bolster his/her tough-person status in the community. Dylan said s/he was friends with the Wheelers and didn't understand why his/her uncle/aunt conducted himself/herself in such a hostile manner towards that family. Dylan said Sam told him s/he lied about their star softball player being part of their family so that they would have a competitive edge against the Wheelers.

14. Dylan said s/he saw Logan only sipping a beer during innings and didn't think s/he was drunk. After the game, Dylan saw Sam walk over to Logan in his/her car and surmised s/he was planning to taunt Logan. Dylan said s/he was watching the whole time, not trusting that Sam wouldn't do something. Dylan estimated s/he was about 100 yards away at the time, when s/he could hear loud voices and saw Logan get out of the truck with a baseball bat. Dylan reported that out of nowhere, Sam punched Logan in the face. Logan then reacted by hitting Sam on the left side of his/her head with a half-swing of the bat.

16. Dylan said s/he watched Sam fall to the ground before s/he started running over to help. Dylan arrived at about the same time as Gene/Jean and helped wrap Sam's head in an old flannel shirt. Sam wasn't moving and appeared unconscious. As Logan drove away, Dylan heard him/her say, "I think I'll be leaving now."

17. I concluded my interview with Dylan and realized there was conflicting evidence. However, I didn't have time to conduct any more interviews if I wanted to get the warrant, pick up Logan and fly out that evening. A storm was heading that direction and I didn't want to get stuck in New Shavlik for a week. Regardless, I believed Logan was likely the primary aggressor and Sam had suffered serious injuries, so I knew I had enough for a warrant. I figured I'd let the attorneys sort it all out.

18. From the Brown Bear I called Judge Fairchild back in Cicely and testified by telephony regarding the events surrounding the assault and requested a warrant for the arrest of Logan Wheeler. Before finally issuing the warrant, Judge Fairchild asked a lot of questions, particularly about whether there were any weapons involved in the incident. I assured Judge Fairchild that no weapons had been involved. Ted Burley was talking in the background and

kept trying to interrupt me, always trying to add hearsay information. I had to hush him up so I could hear the Judge properly.

19. Armed with the warrant, I proceeded to Mama's Cookin' to arrest Logan. Before entering the establishment, I took a couple pictures of Logan's truck to add to my report. Logan knew immediately upon seeing me why I was there. I read Logan her/his rights and explained that s/he was being arrested for assault against Sam Meikuk. Logan was upset but relatively cooperative. S/He kept stating repeatedly, "It was self-defense!" I explained that it wasn't my problem and again warned Logan that anything s/he said could and would be used against her/him in a court of law. I reminded Logan that a jury would decide if s/he was telling the truth. It was getting close to the departure time for our flight, but I knew we had to make a quick stop at Logan's house to secure as evidence the baseball bat Logan used to injure Sam. By that time Logan wisely saw there was no point in resisting further and compliantly gave me the bat. We got to the airport just in time to catch our flight. Upon arriving in Cicely, I transported Logan to the Cicely Correctional Center — the "Triple C" as we Troopers like to call it.

20. Over the years, I've had several dispatch calls regarding Logan Wheeler and most, if not all of them, involved public inebriation. Because Logan has access to alcohol through his/her restaurant, s/he tends to indulge. None of the incidents was serious enough, however, to warrant a visit by me. After all, no one got hurt. Maybe I should have gone there and arrested him/her earlier to send Logan a warning to stop drinking so much. Maybe then I could have prevented this whole thing from happening.

21. Sam, on the other hand, has always been upfront and honest with me, and s/he's never caused any trouble. That's why when I was called by Logan's husband/wife Marc(y) to investigate an altercation between Logan and Sam at a New Year's Eve celebration last year, I was skeptical when I heard that Sam had caused the fight. Turns out, it was Logan who had been drinking and who was picking on Sam. Sounds like Logan was just seeking retribution at the softball game for the last time Sam got the better of him/her.

WITNESS ADDENDUM

I have reviewed this affidavit, and I have nothing of significance to add. The material facts are true and correct.

Jo(e) Stanton

SUBSCRIBED AND SWORN TO before me this ___ day of _____, 2007.

Notary Public in and for Alaska
My Commission Expires: _____

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

STATE OF ALASKA,

Plaintiff,

vs.

LOGAN WHEELER,
DOB: 8/15/1968
APSIN ID: 7654321
SSN: 574-12-3456
ATN: 107-907-000,

Defendant.

Court No. 5AN-S07-9999 CR

AFFIDAVIT OF LOGAN WHEELER

1. My name is Logan Wheeler. I am thirty-nine years old and married with two children. I have lived in New Shavlik all of my life, and my family was one of the founding families of New Shavlik. I run a small restaurant in town – Mama’s Cookin’. Nothing fancy, standard burgers, pasta, and so on. I don’t make that much money, but I enjoy seeing all the people that come in to eat. Good way to catch up on town gossip.

2. I like to think of my family as civic leaders of New Shavlik. It is a small and young town, but three of the last seven mayors of New Shavlik have been from the Wheeler family. The residents of New Shavlik know they can come to the Wheeler family if they are in trouble. My family and I are very generous, always giving away some of our food so that others will not have to go hungry. If children in the village need to learn to hunt, it is my family they come to. My father runs the general store in the village. I don’t know how many people have lines of credit with him that he is not really expecting to collect on. Customers pay what they can when they can, and he makes enough to get by, but the important thing is to take care of the village. You need to look out for your neighbors, and he’s been fortunate enough to be able to do this while making a decent living.

3. I wish I could say the same thing about the Meikuk family. While we give, they just take, take, take. Take from community potlatches and never hold one of their own. Attending community events but never contributing any money toward them. Never fulfill their promises when they barter for goods and services. They seem to think that the village exists just for their benefit. Yeah, the Meikuk family were the ones that were the driving force behind abandoning old Shavlik and choosing the location for New Shavlik, but that doesn’t make this their village. We Wheelers were there too and played just as big a part, if not bigger, in building this town. I wish we got the respect we deserve for all the things we’ve done for New Shavlik. And I wish that other people would recognize that the Meikuks are just a bunch of bullies.

4. My kids, Robert and Allen, get the worst of it. They are only fourteen and ten, but they get picked on bad at school by the Meikuk kids. Sam Meikuk’s son, Evan, is twelve and should pick on other kids his own age, but he’s always pushing around my son Allen. And, Robert had a run in with a group of Meikuk kids about a month before the softball game. This is typical of

all the Meikuks, grown ups and children alike. I'd guess there are somewhere around 300 people in New Shavlik – about a fifty or so are a part of the Meikuk family and about forty or so are Wheelers. And all the Meikuks look down on all the Wheelers like we were vermin. We try to turn the other cheek and be good neighbors, but sometimes it is difficult.

5. The worst of the Meikuks is Sam, who is sort of the ring leader of the family. Gene/Jean Meikuk may be the current mayor of New Shavlik, but everyone knows that Sam runs things behind the scenes. Everyone is afraid of Sam. It is well known that Sam always carries around a handgun with him/her. This is Sam's way of being intimidating and making people do whatever s/he wants. Sam has never actually pulled the gun on me, but I've heard stories of Sam threatening other people with the gun. Sam even went so far as to point it at my sister Julie once when she was skinning a moose and refused to give Sam some of the meat. As far I'm aware, Sam's never actually shot the gun at anyone, but that's probably because everyone knows better than to mess with Sam. Except me. I'm tired of Sam being a bully.

6. I've decided over the last year that I'm no longer going to put up with Sam. I needed to do this not just for myself but for the sake of my family and all of New Shavlik. It is time that someone stood up to the Meikuks. Maybe if people stopped caving in to everything the Meikuks asked, we could all learn to get along and everyone would be happier.

7. The first time I really confronted Sam was the New Year's party the village had to close out 2006. Several families in New Shavlik thought it would be fun to hire one of those fireworks experts from the Mat-Su to fly out to the village and put on a fireworks display. Everyone in town contributed to paying for the expert, except for the Meikuks. It was nice weather New Year's Eve. Cold, clear, about zero, but that's to be expected. And, the fireworks display was great. But, then I saw Sam and her/his family there, and I just didn't think it was fair. I went up to Sam and said, "Hey, if you are going to enjoy the fireworks, you should help pay for them." Sam said back, "Why should we, looks like they got paid for." I heard this, and I just flipped out. I rushed at Sam and started pushing Sam, telling her/him, "Go away, you and your family aren't welcome here." Then Sam gets me in this headlock and starts punching me repeatedly in the face. Sam lets go, and I fall to the ground and Sam takes to kicking me. I mean, I wasn't fighting back at that point. I just sort of lay there. After Sam finishes kicking me, s/he just sort of snorts at me, "Know your place, Wheeler, and stop causing trouble." I wish I had the strength to get back up and punch Sam right in the mouth.

8. After that New Year's Eve, I've tried to keep my distance from Sam, but I knew I couldn't avoid seeing Sam again at the annual Wheeler-Meikuk softball game. The softball game is a tradition between our two families for the last 34 years, back to when I was a young kid. It started as a fun get together when the Wheelers and Meikuks were really the only two families in New Shavlik. We'd have the game toward the end of the summer, after most of the salmon had been caught and right at the beginning of berry picking season. This was back before dad opened up his general store, so it was quite an effort to get so much food together. There was always all this great food, though. The first dozen or so years of the softball game, both families shared the food after the game. It was a celebration of friendship in the village. But over time the softball game became more contentious. Then, one year, the two families decided to bet the food on the outcome of the game. Since then, the winner of the softball game has gotten to enjoy the feast, and the loser has gone home with nothing.

9. That's how it was this year, too. We had the game on Saturday, August 18. The weather was a bit overcast. And, it was starting to get cool. You could tell that Fall was coming, with some of the leaves even starting to change. Like I said, the Wheelers are generous people. So, we came with lots of salmon and moose meat, along with baked beans, salads with fresh-picked

berries, potato salad, a couple of pies, plates of cookies, and a lot of other stuff. I closed down the restaurant and spent all day cooking. I know several other members of the Wheeler family also spent most of the day cooking. The Wheelers had lost the game the previous five years, but I felt this could be our year. I had a few practices with the members of my family who would be playing the game – myself, my wife/husband Marc(y), my sister Julie, my dad, my uncle John and his wife Claire, their children my Peter, Walter, and Loise, and Walter’s wife Amber. I mean, we’re not state champion players, by any means, but I thought the practices went pretty well. We had come close to winning in 2006; the Meikuks won only because of a couple fluke hits and a couple key errors. I felt that with any luck that wouldn’t happen again this year.

10. I didn’t expect Sam to cheat at softball, but sure enough s/he did. It’s not like we ever wrote down any rules, but it was commonly understood that only family members could play. This doesn’t include boyfriends and girlfriends. But Sam’s 20-year-old daughter Jennifer is dating Tom Coulter, who’s probably the best athlete in New Shavlik. Now, I don’t doubt that they are dating, but when I told Sam that Tom couldn’t play because only family members are allowed in the game, Sam replied, “Oh, didn’t you hear, Tom and Jenny are engaged.” Now, New Shavlik is a small village, and surely if that had happened, I’d have heard about it. I went to Ed(na) Frank to complain, but Ed(na) just said, “Well, maybe they *are* engaged. Don’t worry about it. Play the game.” No one has heard anything since August 18 about Tom and Jenny being engaged. I’m sure if you asked Sam about it, s/he’d say they broke it off, or something.

11. I’m glad Ed(na) Frank was there to umpire the game. If s/he wasn’t, Sam probably would have tried to cheat even more. I’ve always trusted Ed(na) to be fair. Ed(na) may be a bit too passive to confront the Meikuks about all the damage they are doing to this village, but at least Ed(na) is always honest. Unfortunately, even with the game called fairly, we still lost. The final score was 13-7 in favor of the Meikuks. And, of course, Tom Coulter hit in five of those runs and scored another couple himself. I bet the Wheelers finally would have won the game if Sam hadn’t have cheated and brought in Tom to play. The game finished round about 5:00 in the afternoon.

12. After the game, I told my family to go on ahead and leave. I didn’t even bother asking the Meikuks if they’d share any of the food. I stayed behind to gather our family bats, gloves, and bucket of balls and generally to clean up the field a bit. Most of the Wheelers had come to watch the game. Most of the Meikuks, too. And there was drinking and snacking and so on, so I had cans and wrappers to clean up from our side of the field. I had a couple of beers during the game, but I wasn’t drunk or anything. It took me about 15 minutes or so to clean up the trash the Wheelers had left behind. I sure wasn’t going to clean up any of the mess the Meikuks had made.

13. I was just getting in my truck to leave when Sam comes sauntering up to me, all smug like. I was parked over toward the end of the parking lot near the backstop, so there was no reason for Sam to come over to me other than to pick a fight. I told Sam, “Look, I don’t want there to be any trouble. Why don’t you just go enjoy all that fine food I made and leave me alone.” But did Sam walk away? Heck no. Sam gets this big grin on his/her face and says, “Yeah, you must be hungry this time of year. You keep giving me all of your food.” I wasn’t going to take this kind of abuse from Sam, not again. I told Sam back, “We would have won this year if you hadn’t have cheated by putting Tom on your team. You know he’s not Meikuk family.”

14. “Oh, so you’re calling me a cheater, huh? The Meikuks won fair and square because we’re better than you Wheelers. If you think I’m a cheater, why don’t you get out of that truck and do something about it.” When Sam said this, I thought to myself that I should just let things

be and leave, but something inside of me told me this was the time to stand up for myself and my family. I slowly started to get out of my truck. As I did so, I remember grabbing a bat to protect myself because I was afraid that Sam might try to beat me up again. I kind of grabbed the bat in the middle of the barrel with my right hand. I didn't really intend to use it, I just wanted it just in case.

15. Once I got out of my truck, I decided to see if Sam could take it as well as s/he could give it. Sam's wife/husband, Randi/y, had died earlier in the summer in a boating accident. Randi/y was one of the few Meikuks I actually liked; s/he was the only one that treated me with any respect. I knew Sam was still sensitive about Randi/y's death. I shouldn't have brought Randi/y up, but I couldn't stop myself. I was so angry that I blurted out "Did Randi/y know you're a cheater? I don't think s/he'd be very proud of you right now."

16. That was a cruel thing to say, but no worse than what Sam had been saying to me all my life. And, it was no excuse for what Sam did next. Sam reeled back and punched me as hard as s/he could in my left eye. That hurt. A lot. I staggered back. Without thinking, I shoved Sam in the chest. I don't think it was very hard. Then Sam shoved me back, so I shoved Sam a second time. Sam slapped me really hard, and I was thinking to myself that this was just going to get worse, so I should just leave. I backed up slightly toward my truck. Then I saw Sam starting to reach back behind her/his back with her/his right arm. I was afraid that Sam was reaching for her/his gun. Sam was wearing jeans and a loose t-shirt. I hadn't seen Sam with a gun during the game, but s/he had plenty of time to grab it since then. I could tell Sam was getting increasingly violent. I thought Sam might be going to shoot me because of what I had said about Randi/y. Or maybe to finally get rid of me. I didn't have any choice – I had to defend myself. So, I took my bat and whacked Sam upside the head with it.

17. Sam dropped to the ground like a rock. I knew I had to get out of there quick. I mean, there were still a bunch of Meikuks there, and I was the only Wheeler. Right after Sam collapsed to the ground I looked up and could see all these Meikuks running toward me. So, I jumped in my truck, started the engine as quickly as I could, and backed up to head off. There were several Meikuks getting close to my truck – fifteen feet or so – so I leaned out my window and said, as sternly as I could muster, "Don't any of you follow me home now." I was really afraid for my life after what I had done. I went straight home where I felt I could be safe. My eye where Sam hit me still really hurt. So, when I got home I drew down the shades to cut down the light and put a bag of ice on my eye.

18. Before I knew it, Ed(na) knocked on my door. Ed(na) told me that I had knocked Sam unconscious and that Sam looked to be hurt real bad. I knew that – I was the one who hit Sam. Ed(na) suggested that I go back to the softball field and apologize to the Meikuk family. After listening to Ed(na), I was starting to feel a little bad that I had knocked Sam unconscious – I hadn't meant to do that – but I wasn't about to go back to the softball field with everyone riled up.

19. Ed(na) started talking about how the feud between the Wheelers and Meikuks was tearing New Shavlik apart. I didn't like being talked down to this way. I knew the feud was disruptive, but it wasn't the Wheelers who were at fault. I said this to Ed(na) and that Sam started the fight. I don't know if Ed(na) believed me or not. Ed(na) is generally a pretty understanding person, but s/he tries so hard to be a peacemaker that sometimes s/he loses the ability to be critical of people like Sam who mistreat others. I told Ed(na) that if s/he wanted to put a stop to this feud, s/he should go back to the softball field and tell the Meikuks to start treating us Wheelers with respect.

20. My left eye hurt real bad the rest of Saturday evening and all day on Sunday. My best friend Brit Terry came to visit me on Sunday to see how I was doing and to hear about what happened at the softball field. Brit told me my face was puffy, which I hadn't really noticed, and that I should get my eye looked at by Dr. Sanchez. The clinic Dr. Sanchez runs isn't open on Sundays except for emergencies. I had quite a shiner, but I didn't think it was an emergency and didn't want to bother Dr. Sanchez. I did go in first thing on Monday morning, though. Dr. Sanchez asked me if I had been keeping ice on the eye, which I had been. S/He then asked me if my vision was okay, examined my eyes for any scratches, and gave me a quick vision test. Fortunately, Sam hadn't done any permanent damage. The Doc told me to start soaking towels in hot water and putting them on my eye for the next few days to increase the blood flow to the eye. S/He also told me to stay away from any activities that might cause the eye to get reinjured. I did that and my eye feels fine now.

21. I didn't think I'd get arrested for hitting Sam, especially in self-defense. I'm not saying that fights happen all the time in New Shavlik, but this wasn't the first fight ever, and no one has ever gotten arrested before that I am aware of. I mean, it's not like the cops came to help me out when Sam beat me up on New Year's Eve. I wish we had more of a police presence here in New Shavlik. Officer Stanton is nice enough and all, but sometimes I feel like s/he doesn't really like coming out here and only comes when it is absolutely necessary.

22. Unfortunately, I guess one of those times was on Wednesday, August 22 to arrest me. Since it's not often that Officer Stanton comes to New Shavlik, it was not hard for me to guess the reason for the visit when the officer walked in the door of my restaurant. Officer Stanton, rather impassionately, told me that I was under arrest for assault against Sam Meikuk, that I had the right to remain silent, and that anything I said could be used against me in court. I protested that it wasn't necessary to arrest me because I was just acting in self defense when I hit Sam. Officer Stanton said s/he didn't care, that it would be up to the jury to determine whether I acted in self-defense.

23. Still, I'm glad I grabbed that bat. I'm sorry Sam got hurt, but who knows what would have happened if I hadn't defended myself. I've been in jail the last few months, but from what my husband/wife tells me, Sam hasn't bothered us Wheelers much since the softball game. So, I guess Sam learned his/her lesson.

WITNESS ADDENDUM

I have reviewed this affidavit, and I have nothing of significance to add. The material facts are true and correct.

Logan Wheeler

SUBSCRIBED AND SWORN TO before me this ___ day of _____, 2007.

Notary Public in and for Alaska
My Commission Expires:_____

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

STATE OF ALASKA,

Plaintiff,

LOGAN WHEELER,
DOB: 8/15/1968
APSIN ID: 7654321
SSN: 574-12-3456
ATN: 107-907-000,

Defendant.

Case No. 5AN-S07-9999 CR

AFFIDAVIT OF DYLAN MEIKUK

1. My name is Dylan Meikuk. I am twenty-two years old. I am the nephew/niece of Sam Meikuk and Gene/Meikuk through their sister Gloria. I have a high school education and am currently unemployed. I live a subsistence lifestyle.

2. I am proud of most of my family, but I am tired of Sam being such a negative influence in New Shavlik. Don't get me wrong, I'm no friend of Logan Wheeler either. I think both Sam and Logan have gone off the deep end with this whole family rivalry thing. New Shavlik is far too small for petty differences over meaningless things.

3. For example, when we went to the annual softball game last year, the one where Logan hit Sam with the bat, Sam brought her/his pistol to the game. I rode with Sam to the game, and I remember Sam saying, "Gotta be protected. You never know when a Wheeler is going to get out of hand." I told Sam just to leave the gun in the car, that nothing was going to happen and that nothing ever did happen. I'm glad that Sam listened to me. I mean, who brings a pistol to a softball game?

4. But that is just like Sam. Pretty much everyone in New Shavlik has a gun, or at least knows how to shoot one. Hunting is a necessary part of life. Plus, you need to be able to defend yourself against animals when you are out in the wild. But that is why most people have a rifle, which is much better suited for those purposes. I have a hunting rifle, but I don't carry it around with me unless I really think there is going to be a need for it. Sam has a rifle, too, but that pistol of his/hers, the only purpose that has is to shoot people. It is a .38 caliber revolver, which isn't exactly going to stop a bear charging you in the woods. I think Sam just carries around that pistol so much because it makes him/her feel powerful. That is so stupid. I mean, we live in a village of a little over 300 people. We just need to learn to all get along.

5. It was also stupid of Sam to say, "You never know when a Wheeler is going to get out of hand." When I was a teenager, as Sam started to become the *de facto* head of the Meikuk family, Sam was always saying bad things to us about the Wheelers. "You can't trust the Wheelers." "The Wheelers are a burden to New Shavlik." That sort of thing. I believed it, too, until I started making friends with some of the Wheelers who were my age. I realized that they were genuinely nice people and that New Shavlik was fortunate to have two strong, resourceful families. That is

why it bothers me so much when I hear Sam talk poorly about the Wheelers to her/his own kids and tells them that it is okay to pick on the Wheeler kids because they deserve it. Jennifer outgrew that, just as I did. Wendell is starting to realize how much of a jerk his mom/dad can be. Evan is still a bully at school, from what I hear. I hope he grows out of it soon.

6. It was too bad that Randi/y died last summer in a boating accident. The whole village turned out for Randi/y's funeral. Logan Wheeler even cooked a lot of the food for the wake. Randi/y was well liked by everyone. Not always, but sometimes, Randi/y could be a calming influence on Sam. After Randi/y died, Sam became even more bitter and angry – angry at the world. I sort of thought that Sam might not come to the softball game last year, since Sam had been very reclusive and anti-social in those two months since Randi/y's death. But, I guess Sam couldn't turn down the chance to compete against the Wheelers.

7. I enjoyed playing in the annual softball game, which I had done for the previous five or so years. I'm not very good at softball. Well, none of us are, really, except for Tom Coulter. Sam wanted to win so bad last year that s/he lied about Tom being engaged to her/his daughter Jennifer, even though Sam knew the tradition was always that you had to be related either by blood or marriage. Heck, even being engaged wouldn't really count in my book. I didn't mind, though. I mean, it's just a softball game. Yeah, there is a bunch of food riding on the outcome, but I think that whole bet thing is kind of stupid and that both the Meikuks and Wheelers should enjoy the food together after the game. There's always enough for both of us.

8. Not too much exciting happened during the game. There were a couple nice plays, but a lot more missed plays. Like I said, most of us aren't very good, so that's not surprising. A few people drank alcohol, but not too many. New Shavlik is damp, meaning that if you can get your own alcohol you can drink it, but stores and restaurants can't sell alcohol. In a village like New Shavlik, there is so little to do that sometimes if you start drinking it is hard to stop. That's why so many people choose not to drink in the first place. Logan Wheeler, unfortunately, is one of those people that sometimes has trouble knowing when to stop drinking. Logan can get beer and wine easily through her/his restaurant connections. Logan never breaks the law by selling it at Mama's Cookin', but that just leaves more of it for Logan to consume.

9. I do recall seeing Logan drinking beer at the softball game, but s/he wasn't really chugging them. Just sipping a beer a little bit between innings. I wasn't counting, but I'd guess that Logan only had two, maybe three beers. There were a couple of people at the game who got drunk, other Wheelers who Logan gave beer to, but Logan wasn't one of them. Logan, who was playing second base, did miss a couple of plays toward the end of the game, but I think that was more from being inept and maybe a bit frustrated at the score than from being drunk.

10. The game was over at about 5:00 p.m. After the game was over, most of the other Wheelers left fairly quickly, but Logan stayed behind to clean up a little bit. Logan had parked her/his truck right next to the backstop on the ball field. This made it easy for Logan to load up the cooler and all the softball equipment into the truck. Of course, Logan had plenty of room in the back of the truck after unloading all that great food before the game. Logan was getting in her/his truck and about to leave too, when Sam starts walking over to Logan. I know Sam was just going over there to taunt Logan. I don't know why else Sam would go talk to Logan after the game. Sam is just so immature this way. Sam just can't leave well enough alone.

11. Because I had learned not to entirely trust Sam, I kept my eye on the situation, so I know exactly what happened. Well, at least what I could see. I was about a hundred yards away from Logan's truck, so I could hear that there were some loud words being exchanged, but I couldn't hear exactly what was being said. What I saw, though, was Sam walk up to Logan's truck. Sam

must have said something to tick Logan off because a short bit later, Logan got out of the truck, holding a bat. Logan was holding the bat about in the middle in his/her right hand.

12. Then, out of nowhere, Sam punched Logan in the face. It looked like a really hard punch, too. Logan stumbled backwards slightly, and I thought s/he was going to fall down. But, Logan was able to right herself/himself and shoved Sam back for what s/he had just done. Knowing Sam as I do, I feared this would only escalate, and sure enough it did. Of course, Sam shoved Logan back, and Logan returned the shove. Sam then shoved Logan a second time, this time even harder. Logan just paused there, sort of frozen. Without Logan taking another offensive action, Sam then slapped Logan as hard as s/he could.

13. I'm sure Logan was incensed by this; I know I would be. Sam sort of nonchalantly put his/her hands on his/her waste, as if waiting to see what Logan would do next. Logan and Sam were standing about two feet apart at this point. Sam then sort of swung his/her right arm behind his/her back as if s/he was about to let loose with a real haymaker punch. Logan must have been afraid that Sam was going to hit her/him again because s/he swung his/her right arm, the one with the softball bat in it, and hit Logan on the left side of the head with the barrel of the bat. It didn't seem like Logan was swinging all that hard. Logan was still holding the bat sort of in the middle, maybe at the top of the handle, but definitely not enough to take a full swing with the bat. I mean, it really did look to me more like Logan was reacting to something than taking the initiative.

14. Still, Logan did hit Sam with an aluminum bat. Sam dropped flat to the ground as if s/he'd been shot. I know Sam probably deserved it, but s/he's still my aunt/uncle, so I started running toward her/him. Logan paused for a moment, but then when s/he saw that a lot of the Meikuks were running in that direction s/he jumped in his/her truck. Logan probably thought, perhaps with good reason, that the other Meikuks and I were coming to get him/her. I was more concerned about Sam, but still I shudder to think what could have happened if Logan had just stood there. It seemed that just as soon as Logan jumped in the truck, s/he started backing up. Logan backed up so fast, I was afraid s/he was going to run over Sam, but Sam had fallen a few feet to the side of the truck, which gave Logan enough room to avoid Sam. I'm kind of a fast runner, so I was the first to get to where Sam was laying. Logan had already backed up enough to head off. I yelled out to Logan, "Logan, wait!" I don't know if Logan heard me or not, but s/he leaned out the window and said, rather measuredly, "I guess I'd better be heading home now." Logan then sped off.

15. I immediately turned my attention to Sam, who was laying there at my feet. Sam wasn't moving at all, not even twitching. I could see that Sam was bleeding profusely on the left side of her/his head by the pool of blood that was forming underneath. I knew I had to do something to get the bleeding under control. I knelt down next to Sam, took off the sweatshirt I had wrapped around my waste, rolled it up in a ball, and held it to Sam's head. It was a nice sweatshirt, but I did this without a second thought about it. The sweatshirt quickly turned red, but I do believe it helped control the bleeding some.

16. Gene/Jean Meikuk, the mayor of New Shavlik and Sam's sister/brother, got to me just as I was holding up Sam's head and putting my sweatshirt to Sam's left temple, which is where s/he was bleeding. Gene/Jean can be a bit subservient to Sam at times, but I still more or less respect him/her. So, when Gene/Jean told me that s/he'd take care of Sam and that I should go call Dr. Sanchez, I did it.

17. I think it was about 5:30 when I called Dr. Sanchez. I didn't know his/her number off the top of my head, so I called the operator, told her I was in New Shavlik, and that it was an emergency that I get in touch with Dr. Aaron/Erin Sanchez. The operator tried the New Shavlik

Clinic first and stayed on the line with me. But Dr. Sanchez wasn't there. I was getting worried. So, I asked the operator to try Dr. Sanchez at his/her home. I was afraid that I'd have to drive around town looking for Dr. Sanchez. Or even worse, that Dr. Sanchez might be out in the woods fishing or hunting or out at a neighboring village. Fortunately, though, Dr. Sanchez was at home. I told Dr. Sanchez that Logan Wheeler had hit Sam in the head with a softball bat and that Sam was bleeding profusely. Dr. Sanchez said s/he'd be there as quickly as s/he could. Dr. Sanchez is a great doctor. S/He arrived in under ten minutes and took good care of Sam.

18. I visited Sam in the Clinic that evening. Dr. Sanchez told me that thanks to my quick thinking, Sam hadn't lost too much blood and would be alright. Dr. Sanchez said that if Sam had lost too much blood, s/he might have gone into shock and maybe even died. It's great to think I could have saved Sam's life. I don't consider myself a hero or anything, I'm just glad that Sam wasn't permanently injured. Dr. Sanchez told me that Sam would be fine, and I trust Dr. Sanchez far more than I trust Sam. I know Sam says that s/he still has migraine headaches and occasional blurry vision, but I wouldn't be surprised if Sam was just making that up to try to keep Logan behind bars.

19. Late Wednesday morning, August 22, Officer Stanton met with me about the incident at the softball field. Officer Stanton said that s/he was inclined to arrest Logan but that s/he wanted to confirm a few things in Sam's and Gene's/Jean's stories. I guess since I'm family, Officer Stanton probably figured I'd want to see Logan arrested. I knew what Logan did was wrong, but I also am smart enough to know that there are two sides to every story. I was happy to tell Officer Stanton what happened if it would help resolve the feud that led to this horrific event.

20. Like I said before, I'm no friend of Logan Wheeler. But, I also don't trust the stories Sam has been going around town saying that s/he didn't do anything wrong and that Logan hit her/him for no reason. I just want to tell the truth as best as I know it and let the jury decide.

WITNESS ADDENDUM

I have reviewed this affidavit, and I have nothing of significance to add. The material facts are true and correct.

Dylan Meikuk

SUBSCRIBED AND SWORN TO before me this ___ day of _____, 2007.

Notary Public in and for Alaska
My Commission Expires:_____

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

STATE OF ALASKA,

vs.

LOGAN WHEELER,
DOB: 8/15/1968
APSIN ID: 7654321
SSN: 574-12-3456
ATN: 107-907-000,

Defendant.

Case No. 5AN-S07-9999 CR

AFFIDAVIT OF BRIT TERRY

1. My name is Brit Terry. I grew up in the village of Mercy, which is about fifty miles from New Shavlik and only has about one hundred residents. There are no roads between Mercy and New Shavlik, but people frequently go back and forth between the two villages on 4-wheelers or snowmachines, depending on the season. When we were kids, Logan became pretty good friends with my younger brother who was closer to Logan's age. Logan is six years younger than me. My brother and Logan met during some high school activity back in the day, and used to hang out together. Logan used to stay over at our house when s/he visited our village. S/He was always polite to our folks, and was always quick to help out around the house, we liked him/her. Logan used to surprise us by cooking us lunch every now and then. That was unusual for a high school kid. We liked his/her food, and I was glad when I heard that s/he opened up his/her own restaurant in New Shavlik about eight years ago.

2. When I moved to New Shavlik in the Spring of 2006, I stopped by her/his place for a burger. Logan and I struck up a conversation about the old times, and it was like back when we were kids. We've been good friends ever since. On her/his days off, Logan likes to go fishing or hunting to unwind – who doesn't? S/He always brings plenty of beer when we fish, but s/he handles it really well, and can still out fish me. S/He always seems to catch more and bigger fish, but that's because s/he knows the best places to fish.

3. In fact, Logan and I were fishing early in the summer of 2006 at one of Logan's favorite fishing spots when Sam walked up to Logan and told him/her to get away from *her/his* (Sam's) fishing spot. I know that it is custom to leave other people's fishing spots alone – I have worked in fish camps – but this was not a place where you could set up a fish camp or place a fish wheel. No one's livelihood was at stake or anything like that. Besides, there were plenty of fish for everyone at this spot. For that matter, New Shavlik is in a pretty good spot on the Raven River, and Sam easily could have found another fishing spot nearby if s/he didn't want to be near other people.

4. Sam told Logan to "Get your drunk ass off my fishing spot." Logan hadn't been drinking much that day, but I guess Sam saw the few beer cans that were laying around. Anyway, Sam said this spot was a secret Meikuk spot and accused Logan of trespassing – and bringing an outsider with her/him as well. Sam asked me in a sarcastic manner if I was there to help carry

Logan's beer. What a jerk! Logan ignored Sam. I was trying to think of something biting to say back when Sam walked up and glared at Logan. Logan continued to fish and ignored Sam. I think Logan was intimidated, but s/he tried not to show it. Sam then said, "Don't make me force you to leave." Logan was frustrated, but said it wasn't worth the trouble of staying and that we should just find another place to fish. Logan later told me that Sam's threat about forcing us to leave was a way of saying that s/he'd pull her/his gun on us if we didn't leave. Logan said it was well known around New Shavlik that Sam carried a handgun at all times in her/his back pocket, just as a way to intimidate people. Later that evening, after getting drunk, Logan punched a wall in his/her house and said s/he "hated that bully."

5. This was my first real encounter with Sam Meikuk, although I had been warned about him/her and his/her family. I mean, I had seen Sam around the village, but I generally tried to keep my distance. People warned me that the Meikuks like to push their weight around and act like they own New Shavlik. I didn't pay much attention to town gossip – I know that sometimes grudges last a long time in the Bush. But after this incident with Sam I recalled having heard negative things about the Meikuks from lots of folks around town, not just Logan. And now I was seeing it first hand.

6. It was not too long later when I had Sam actually pull a gun on me. It was a bit later in the summer of 2006, and I was returning from a particularly successful fishing trip. I had a chain of what I think was nine big silver salmon that I was carrying back home. Sam came up the path toward me. I figured Sam was just heading to the same fishing spot, which was fine with me – I was done fishing there for the day. But Sam stopped right in front of me so that I couldn't get past him/her and said, "Give me half of those fish. My family needs to eat." Well, so does mine. I had a husband/wife and two teenage kids at home. I tried to walk around Sam, but Sam stepped in my path and wouldn't let me by. I told Sam that if s/he wanted fish, there were still plenty in the river and that s/he should just get his/her own. Without saying anything, Sam at that point reached behind his/her back and pulled out a pistol. S/He didn't aim it at me, but just gripped it in his/her hand and crossed his/her arms in a bossy stance. I didn't know Sam well enough to know if s/he'd been drinking, or if s/he might use the gun, but I thought it best to give Sam some of my salmon and leave. This made me really mad, but I didn't feel like I had a choice.

7. The incident really shook me up. When I told Logan and other people about the incident, they told me Sam has threatened various members of the Wheeler family, and has shot animals in town. I was told about the time Sam shot Clyde Parson's dog – then bragged about it. Everyone knew the Parson dog was old and wouldn't harm a fly. Sam made it a point to tell Logan's parents that they had better keep their dog inside, and not to let her/him (Sam) catch it out without a leash. Sam told people it was her/his town and s/he could do what s/he wanted.

8. I'm told that Sam encourages her/his family to threaten the Wheelers. S/He tells anyone who will listen that they are not good enough for New Shavlik and should be run out of town. S/He even tells her/his family never to eat at Logan's restaurant, Mama's Cookin', though since it is the only restaurant in town, everyone but Sam does anyway. Since members of the Wheeler family come to Logan for help and advice with fishing and cooking and whatnot, Logan hears all the threats and abuse the Meikuks dish out against the Wheelers. This seems to be having an effect on the Meikuk youth, too. At the village carnival last fall, some Meikuks pushed some Wheeler kids out of line and took their ride coupons. Another time, Sam Meikuk's boy Evan knocked Logan's son Allen off his bicycle, then took the bike from him for a day before letting him have it back. Those types of minor bullying incidents weigh heavy on Logan, and both Logan and I know it is Sam who is encouraging them.

9. I'd describe Logan as a non-violent person for the most part. Logan only gets aggressive when s/he's been drinking. S/He keeps his/her problems and frustrations inside, but sometimes "bottled courage" bursts out and leads to expressions of anger. S/He has called me a number of times worried about the safety of his/her children, saying that Sam's kids are threatening her/his kids. Logan has also told me about a few times where her/his boys have been beaten up by Sam's boys and other Meikuks. Logan asks me what s/he should do, but I never have any real answers. The conversation usually ends with Logan saying someone needs to stand up to Sam.

10. Then there was the fight at the New Year's party. I only caught the tail end of that, but it was ugly. Logan had had a lot to drink – it was a merry time. I heard the commotion and stood on a stool to see what was going on. About 20 feet away, Sam had Logan in a headlock and was just punching her/him in the face over and over. When Sam let go, Logan fell like a rock. Logan was in no condition to defend herself/himself. To my horror, Sam then starts kicking the crap out of Logan while s/he lay there on the ground. By the time I pushed through the crowd and got to Logan, Sam was walking off. I gave a statement to the village safety officer that night, but I was told that if anyone would be charged for anything, it would be Logan! The village safety officer even told me that if I didn't want for Logan to be arrested, I had better not call the Alaska Troopers. I didn't get it, surely all the witnesses saw the beating Sam gave to Logan.

11. Then, I remembered later that Sam's brother/sister, Gene/Jean, had just been elected mayor of New Shavlik and was the one who paid the safety officers. And, I think another Meikuk may have been mayor before that. Sam was never charged for shooting the Parson dog, for kicking Logan when defenseless, or for anything that I ever heard about. Everything was starting to make sense, as depressing as that truth may be.

12. The annual Wheeler-Meikuk softball game always seemed to me to be a disaster waiting to happen. Sure enough, things took a turn for the worse last year. It was the day after the game – Sunday, August 19 – when I heard from a neighbor that Sam Meikuk was in the hospital with a head injury, after being hit with a softball bat by Logan in a fight after the game. I immediately went to Logan's house to find out what happened. When Logan opened the door, the first thing I saw was the huge shiner s/he had under her/his left eye. The whole left side of her/his face was a little puffy. What a mess. I told Logan s/he should get that checked out by Dr. Sanchez.

13. I asked Logan what happened. S/He told me that Sam came up after the game and taunted him/her about losing again – six in a row. About how s/he would never have to pay to eat Wheeler's food – something like that. Logan says s/he told Sam to go away. Logan said Sam laughed at him/her and told him/her to get out of the truck and make her/him. Logan said s/he got out of the truck, grabbed a bat, and stood his/her ground.

14. Logan said s/he let loose on Sam with what s/he was feeling – that the Meikuks only won because they cheated by bringing in Tom Coulter as a ringer and that Sam's late wife/husband Randi(y) would be ashamed of the pathetic cheater s/he was. Logan said Sam became enraged and in a blink struck Logan in the eye, knocking her/him down.

15. Logan said s/he remembered pushing, swearing, slapping – but s/he knew s/he was no match for Sam. S/He said with everything happening so fast, s/he thought s/he saw Sam reaching for his/her gun, and that s/he swung his/her bat at Sam and swung it hard. Logan emphasized that s/he didn't swing the bat intending to hurt Sam and that s/he was only reacting in self-defense. Logan said Sam immediately fell to the ground and wasn't moving. S/He got out of there, head still ringing, and didn't go back, on account of there were so many Meikuks still buzzing around. Logan repeated that s/he felt bad Sam was injured, but that s/he felt s/he had no choice once Sam started pulling her/his gun out of her/his back pocket. I thought back to

when Sam pulled a gun on me and knew that Logan had done the right thing. It sounded like tempers were so hot that Sam might really have shot the gun this time.

16. I told Logan s/he had every right to defend herself/himself, and that maybe Sam would stop terrorizing the Wheelers. I wish more people in town had the courage to stand up to Sam. Ed(na) is right that the feud between the Wheelers and the Meikuks has to end because it is tearing the community apart. From where I stand, though, most of the fault lies at the feet of the Meikuks, especially Sam. I don't know how to end the feud, but if Sam pins criminal charges on Logan for defending himself/herself, things will only get worse.

WITNESS ADDENDUM

I have reviewed this affidavit, and I have nothing of significance to add. The material facts are true and correct.

Brit Terry

SUBSCRIBED AND SWORN TO before me this ___ day of _____, 2007.

Notary Public in and for Alaska
My Commission Expires: _____

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

STATE OF ALASKA,

Plaintiff,

vs.

LOGAN WHEELER,
DOB: 8/15/1968
APSIN ID: 7654321
SSN: 574-12-3456
ATN: 107-907-000,

Defendant.

Case No. 5AN-S07-9999 CR

AFFIDAVIT OF DR. AARON/ERIN SANCHEZ

1. My name is Aaron/Erin Sanchez. I am thirty-four years old and have been a family practitioner in New Shavlik for the last two years. I graduated from the University of Utah Medical School in 1998. I did not specialize in any particular area while at school, but I did my residency at Providence Alaska Medical Center in Anchorage, Alaska.
2. Providence's Family Medical Clinic has a program where residents spend their third and fourth years working in small villages in the Alaskan Interior. It is a great program because it provides residents with valuable medical experience while providing health care to communities that need it. During my residency, I worked in Bethel, Nome, and Aniak and had significant experience dealing with both the injuries that commonly occur in Native villages (broken bones, cuts, bruises, etc.) and Native culture.
3. I so enjoyed living and working in Alaska villages that, after I completed my residency, I decided to continue working there. I worked in Aniak until April 2006, when I moved to New Shavlik after the village received a federal grant that let them open a new medical clinic. The medical clinic in New Shavlik serves New Shavlik and the surrounding villages. Patients are either brought to New Shavlik or I go to them. This can be difficult at times, because some injuries require immediate treatment, and it can take a long time to reach some of the other communities.
4. While I am the only doctor in New Shavlik, we also have a trained nurse that provides assistance to me and can treat many minor injuries. However, given the minimal medical staff, the New Shavlik Clinic is only open Monday through Friday and in the mornings on Saturdays. I am available for emergencies on Sunday and after hours, and am often called at home, but the clinic is not open.
5. On Saturday, August 18, 2007, I received a call at approximately 5:30 p.m. from Dylan Meikuk at my home. I was not at the New Shavlik Clinic because it was Saturday and the Clinic closes at 1:00 p.m. on Saturdays. Dylan asked me to come to the village softball field because there had been a fight and his/her aunt/uncle Sam Meikuk was injured. Dylan said that Logan Wheeler had hit Sam in the head with a softball bat.

6. I arrived at the softball field to find Sam Meikuk unconscious in the parking lot near home plate. Sam was bleeding significantly from the side of her/his head. Gene/Jean was holding a sweatshirt next to Sam's head in an attempt to stop the bleeding. The effort was only partially successful as the sweatshirt was soaked through with blood.
7. I took over for Gene/Jean and immediately checked to make sure Sam was breathing. S/He was, so I then proceeded to check his/her vital signs. His/Her pulse was normal and his/her eyes dilated when I shined a light into them. This told me that his/her condition was not immediately life threatening.
8. Gene/Jean volunteered that Dylan was the first one to get to Sam and had placed the sweatshirt against Sam's head. Sam was very lucky that Dylan had tried to stop the bleeding with his/her sweatshirt. The bleeding from Sam's head was a potentially very dangerous injury, especially given the mild swelling that had already occurred, and Sam was in danger of going into shock. If Sam had gone into shock, her/his head injury would have been much more serious and possibly resulted in permanent brain damage or death. I do not want to say this definitely would have happened, but in medicine we do not like to take any unnecessary chances.
9. I used smelling salts to wake Sam up. It was important to wake her/him up as soon as possible so that I could properly determine her/his medical status. When Sam came to, s/he was very disoriented and needed help to stand. S/He could tell me who s/he was, but did not know what time it was or what happened. S/He may have said something about being in a fight, but I could not understand clearly what s/he was saying.
10. After examining Sam, I determined that a medical evacuation was not necessary because his/her injuries were not immediately life-threatening. Sam, however, had very quickly developed a moderate amount of swelling in his/her left temple, and the bleeding was still a concern. I was particularly concerned about possible further swelling in Sam's skull, which posed a very serious risk of permanent damage if it did not subside, so I admitted him/her to the New Shavlik Clinic for an overnight evaluation. Gene/Jean Meikuk was kind enough to transport Sam to my clinic in her/his car so that I wouldn't have to get blood in mine. Gene/Jean wanted to stay with Sam, but I was afraid that s/he would get in the way, so I told her/him it was best if s/he went home. There was nothing much Gene/Jean could have done, anyway. And, my nurse Marilyn was on call if I needed her. I wasn't going to make Marilyn stay the night with me, but I did need her help with the X-rays, and she promptly arrived.
11. The X-rays I took at the Clinic showed there were no fractures of Sam's skull. This eased my concerns a great deal. In my opinion, based on my experience, the swelling was caused by some form of blunt force trauma. It is not possible to determine with complete accuracy the force that caused the trauma to Sam's left temple. The level of swelling in Sam's left temple and the lack of skull fractures, however, suggests that while the blow to Sam's temple was forceful, it would not have been caused by a full swing of a softball bat. If Sam had been hit by someone by a softball bat swung at full force, I would expect to find skull fractures and/or much more serious swelling. It is therefore my opinion that the injury to Sam's head, if it was indeed caused by a softball bat, was caused by a half-swing of the bat.
12. Sam slept most of the night at the New Shavlik Clinic, which is standard for the type of head injury s/he suffered. Her/His swelling went down overnight. S/He did not say anything to me about how s/he suffered his injuries. In fact, Sam did not say much of anything at all to me except when I asked her/him questions about how s/he was feeling. Dylan Meikuk visited Logan that evening in the Clinic. I made sure to praise Dylan for acting quickly to stop the bleeding in Sam's head. If Dylan had not acted when he had, there was definitely a possibility that Sam could have suffered permanent injury or even died.

13. The next morning, Sunday, August 19, 2007, Gene/Jean arranged for a flight to take Sam to Cicely Regional Hospital for further evaluation. Although I didn't see a need for an immediate medivac, I wanted to make sure that there was no significant pressure on Sam's brain as a result of his head injury. Pressure on the brain is very serious. If the pressure rises too high, it may be necessary to do surgery to decompress the brain. Death is possible. I also wanted Sam evaluated for possible symptoms of a concussion. A concussion is a bruise to the brain and can have very serious long lasting effects. I am well aware of the symptoms of a concussion – confusion, light-headedness, and lack of coordination and balance after a traumatic head injury – but at the Cicely Regional Hospital they have much more advanced diagnostic equipment than I do at my clinic here in New Shavlik, such as a CT scanner and an MRI machine. Still, I suspected that Sam had suffered a concussion.

14. The doctors at Cicely Regional did indeed diagnose Sam with a concussion, but fortunately not with anything more serious. The diagnostic tools the doctors there used showed no permanent brain damage. Even with this diagnosis, though, it is still conceivable that Sam would experience lingering pain or other side effects from his/her head injury. Since s/he returned to New Shavlik on August 23, I have been regularly treating Sam for migraine headaches. Every two or three weeks, Sam comes into the Clinic complaining of significant head pain. S/He also reports having blurred vision. Both of these symptoms are consistent with the head injuries that Sam suffered and can be expected to last for an unknown period of time. It is likely that the symptoms will occur with less frequency as time passes.

15. Most of the time, the pain can be treated with over the counter pain medication such as aspirin. When necessary, I treat Sam's pain with prescribed pain killers. S/He has not had to receive additional medical treatment for her/his injuries, aside from this pain management. There is no procedure that will cure Sam of her/his recurring pain and blurred vision. Again, the best hope is that these symptoms will subside over time, which is the typical pattern for head injuries.

16. Based on my records, there is no indication that Sam suffered from migraine headaches prior to the incident at the softball game. Consequently, I must conclude that the migraines have been caused by the trauma Sam suffered on Saturday, August 18th. The migraines and blurred vision are symptoms consistent with the injuries Sam suffered, but they likely would not be a direct result of the concussion. Blurred vision is one of the symptoms of a migraine headache, so it is likely that Sam's vision is fine other than the association with the migraine headaches. Indeed, Sam reports that the blurred vision often precedes a migraine headache, which strongly suggests that the two are related. Sam has not reported other symptoms of migraine headaches such as nausea, sensitivity to light, or fatigue. This has forced me to rely on Sam's subjective reports of headaches to confirm the existence of migraine headaches. However, I have no reason to believe that Sam would lie to me about the migraine headaches.

17. On Monday, August 20th, Logan Wheeler arrived at the New Shavlik Clinic wanting me to examine a black eye under his/her left eye. I examined Logan by shining a light into his/her eyes to examine for injury to the eye itself. I also put a dye into the eye to determine if there were any abrasions to the eyeball itself. I additionally checked motor coordination by making sure that Logan's eye could follow my finger as I moved it back and forth from left to right. Based on my examination, I determined that while there was definitely a bruise under the eye, there was no damage to the eye itself. This indicated that while Logan was struck by some sort of blunt force in the general area of his/her left eye, there was likely no direct blow to the eye itself. Logan told me that s/he had been applying ice regularly to the injury, which is precisely what s/he should have been doing. I told Logan that the ice had done its job and that s/he should start soaking towels in hot water and placing them on his/her eye to increase blood flow to the

area. I told Logan to do this for ten minutes three times a day. I also told Logan to avoid any activities in which the eye might be injured and to take aspirin or some other pain reliever for any lingering pain.

18. I did not ask Logan how s/he got the black eye, nor did s/he tell me how s/he got it. I did not ask about the cause of the black eye because black eyes are relatively common in New Shavlik, and it was not a life-threatening injury. Plus, it was none of my business – my job only is to heal. I did not make any connection between Logan’s black eye and Sam’s head injuries until I was told by one of the Meikuks that Logan and Sam had gotten into a fight at the softball game.

19. The most common cause of a black eye is a blow to the eye or the nose. Depending on where the blow lands, one or both eyes may be affected. A blow to the nose often causes both eyes to swell because the swelling from the nasal injury causes fluid to collect in the loose tissues of the eyelids. Other causes of swelling around the eye include allergic reactions, bites, cellulitis (a skin infection around the eye), angioedema (hereditary condition causing swelling, usually around both eyes), and dental infections. However, these conditions do not make the skin turn black and blue around the eye. Logan’s black eye did not indicate that any of these conditions were the cause. Thus, I concluded that a blow to the eye area was the most likely cause of Logan’s black eye.

20. Pain and swelling are the most common signs and symptoms of a black eye. Initially, the swelling and discoloration will be minor, with the eye starting off slightly reddened. After approximately 20 to 30 minutes, the injury will gradually progress to a darker shade. Ultimately, after approximately one hour, skin around the eye becomes deep violet, yellow, green, or black in color. The swelling increases as discoloration progresses, and over the course of a few days, the area becomes lighter and the swelling goes down. The swelling and discoloration were still very pronounced when Logan came to see me. Assuming that the injury to the eye did in fact occur on Saturday night, this indicated that the blow causing the black eye was quite forceful. I did not see any scars, which suggested that the injury was caused by blunt force as opposed to a sharp object. Beyond that, I could not definitively determine the cause of the injury, but it was definitely consistent with being punched in the face.

21. This was not the first time that I had to treat Logan for injuries consistent with being in a fight. On January 1, 2007, Logan arrived at the Clinic. Despite being a holiday, I opened the Clinic, mostly expecting patients with hangovers. Logan had one of those, but more importantly Logan also had multiple, severe bruises on her/his face and upper chest. Both eyes were bruised and her/his nose was broken and bleeding. There were multiple bruises across her/his chest and neck, along with several deep scratches. Logan complained of significant pain and was very distressed and angry. When I asked her/him how s/he received her/his injuries, Logan claimed that they were the result of a fight between her/him and Sam Meikuk the previous night. The injuries Logan suffered were consistent with being in a fist fight, likely one in which Logan got the worse end of the deal.

22. Unfortunately, treating individuals for injuries suffered in fist fights is a significant and increasing part of my practice in New Shavlik, especially among children. Over the past two years, I have had to treat many children from the Wheeler family for bruises and other injuries they suffered in fist fights. The Wheeler children have all claimed that the fights were started by kids from the Meikuk family.

23. For example, Allen Wheeler, Logan Wheeler’s son, once came to me, I believe it was August 2006, with two black eyes and a swollen lip. Allen told me that he was fishing for salmon when Evan Meikuk intentionally tangled his line. Allen then said that Evan then yelled

at him, blaming him for tangling the lines, and then pushed him into the water. A fight resulted, and because he is a couple years older than Allen, Evan won the fight. Allen was only nine at the time, and Evan eleven. It disheartens me greatly when children that young get into fights.

24. In mid-July 2007, I had to treat Robert Wheeler, Logan's other son, for a broken nose and some bruises. Robert Wheeler claimed that he was walking home one night when a group of children from the Meikuk family, including Wendell Meikuk, stopped him on a side road. They pushed him around and when he retaliated, he was punched in the face and beaten by several of the kids. Robert came to me for treatment the next morning. I don't think Robert wanted to make a big deal of it, but Logan brought him in. The injuries were not serious, but I did have to re-set Robert's nose. If Robert had not come in when he did, his nose might have been permanently disfigured. I told this to Logan, and s/he just sighed.

25. Some children from the Meikuk family have also seen me for injuries suffered in fights, including black eyes and broken noses. A significant percentage of the injuries they have suffered, however, have been for dislocated fingers or bruised hands. The Meikuk children have claimed that the Wheeler children started the fights. On the whole, I would say that over the past several years, children from the Wheeler family have suffered much more serious and numerous injuries than children from the Meikuk family.

WITNESS ADDENDUM

I have reviewed this affidavit, and I have nothing of significance to add. The material facts are true and correct.

Dr. Aaron/Erin Sanchez

SUBSCRIBED AND SWORN TO before me this ___ day of _____, 2007.

Notary Public in and for Alaska
My Commission Expires:_____

III. EXHIBITS

Alaska State Troopers Incident Report

Synopsis: Received call August 18, 2007, reference assault in New Shavlik. Sam Meikuk (victim) suffered extensive head injury, transported to CRH in Cicely. Logan Wheeler (suspect) intoxicated, perpetrator of assault. Arrested warrant obtained. Subject detained without incident and transported to CCC.

Narrative: On August 18, 2007, at 19:30 hrs., I received a call from Mayor of New Shavlik reference an assault that took place at village softball game. Gene/Jean Meikuk said his/her brother/sister Sam was beat with a bat by Logan Wheeler. Wheeler appeared drunk and violent. Witnesses confirm that Logan struck Sam unprovoked. Planned to have Sam spend night in village clinic and transported tomorrow to Cicely Regional Hospital.

Note: I've had multiple previous contacts with suspect. Suspect owns a restaurant and is known drunk in town who causes problems for community.

August 21, 2007, 10:00 hrs.: I met with Gene/Jean Meikuk and Sam Meikuk at CRH and interviewed them both. Interviews not recorded.

Interview with Sam Meikuk (Victim): After Meikuk's team won the softball game, victim went to congratulate suspect Logan Wheeler at car across parking lot. Suspect intoxicated, appeared upset and violent. Victim tried to calm things down when suspect exited vehicle with bat. Both were pushing and shoving, victim trying to get away. Suspect then swung bat at victim, striking him/her in the head and knocking him/her unconscious. Victim did not instigate fight.

Interview with Gene/Jean Meikuk (Witness): Corroborated victim's statement. Said s/he saw victim approach suspect in vehicle approximately 80 yards away. Observed suspect exit vehicle. Saw victim raise hand in defensive motion before suspect took full swing at victim with a bat. When victim fell to the ground, witness ran to help provide medical aid. Victim was bleeding profusely from head wound. The doctor arrived shortly thereafter. Victim's nephew/niece Dylan Meikuk also present.

Case Status: Pending – Arrest warrant being sought for suspect in New Shavlik.

On August 22, 2007, at 14:00 hrs.: I met with Dylan Meikuk in New Shavlik.

Interview with Dylan Meikuk (witness): Witness observed fight between suspect and victim. Witness claims s/he saw victim throw first punch. Ran to scene after suspect swung bat at victim striking him/her in the head. Helped uncle/aunt at scene until medic arrived.

Action Taken: Called Judge Fairchild to seek arrest warrant. Warrant obtained at 13:30 hrs. Arrested suspect at place of business without incident.

Case Status: Closed by arrest. Photographic evidence attached.

Log:



ikuk

Logan Wheeler's Truck

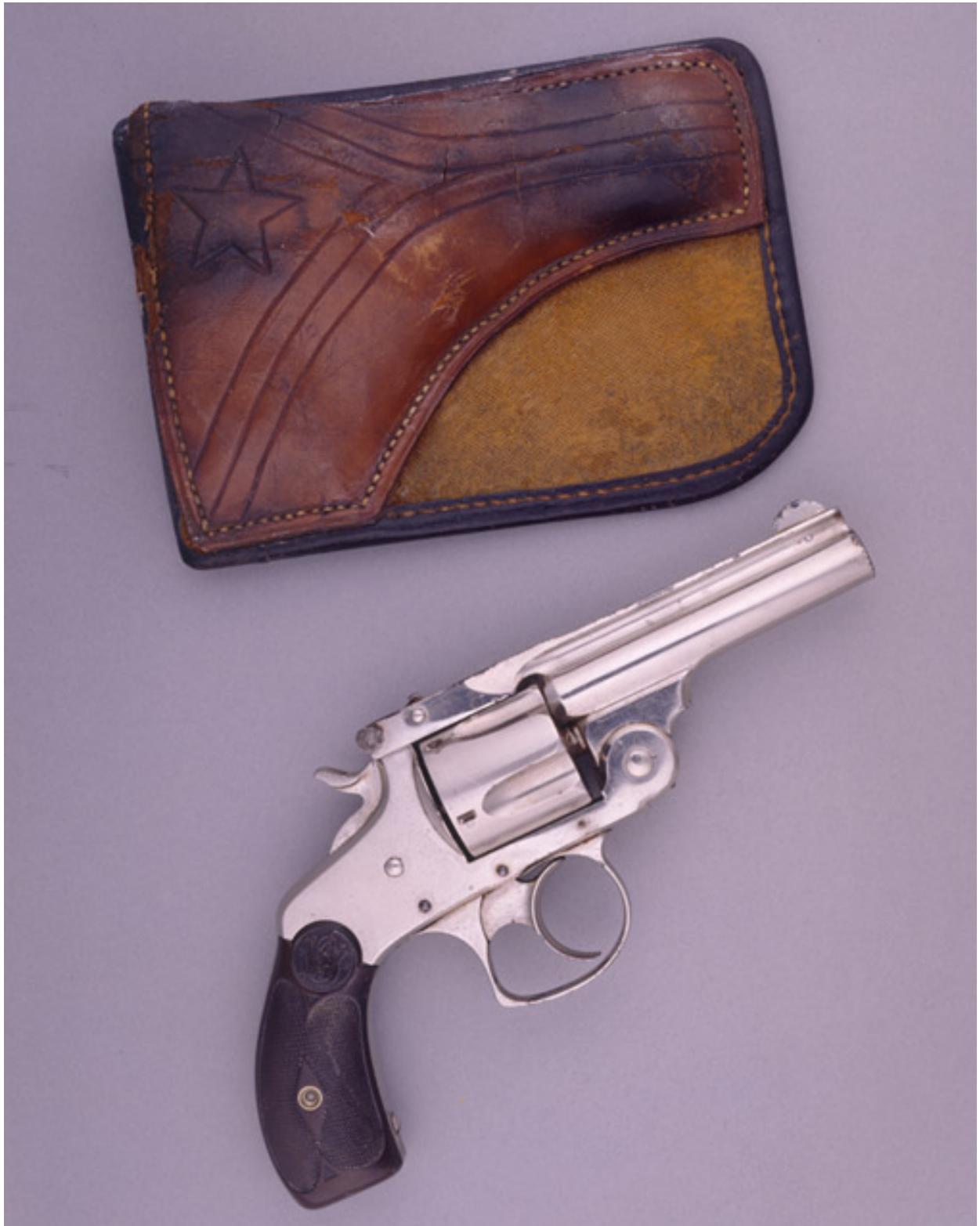


Photos of New Shavlik Softball Field and Picnic Area





Sam Meikuk's Gun (.38 Caliber Revolver) and Holster



IV. COMPETITION RULES AND FORMS

**RULES GOVERNING THE ALASKA HIGH SCHOOL
MOCK TRIAL CHAMPIONSHIP 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
YOUNG LAWYERS SECTION
P.O. BOX 100844
ANCHORAGE, AK 99510-0844
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.

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. Water will be available during the trial for the participating lawyers and witnesses.

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, 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' statement 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.

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.

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."

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.

When an attorney objects to an extrapolation, the judge will rule in open court to clarify the course of further proceedings. 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 seven 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 and one cross; in addition, one will present the opening statement and another 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 four (4) 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.

Rule 18. Prohibited Motions

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

Rule 19. Sequestration

Teams may not sequester 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/Illustrative Aids

Teams may refer to and use as exhibits only the materials included in the trial packet. No illustrative aids of any kind may be used, unless provided in the case packet. No enlargements of the case materials will be permitted, except for personal use by team members. Absolutely no props or costumes are permitted unless authorized specifically in the case materials.

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.

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. Score Sheets

The presiding judge and each additional scoring judge shall complete a “score sheet” 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.

Score sheets 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.

There will be a space on the score sheet 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 Score Sheets

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 by a coin flip in which "heads" will represent Team A as the Plaintiff/Prosecution and "tails" will represent Team B as the Plaintiff/Prosecution.

In the 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.

Score sheets from only the championship round will determine the current Alaska State Mock Trial Championship Team.

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 score sheet results.

Rule 32. Effect of Bye

A “bye” becomes necessary when an odd number of teams are present for the tournament. If an odd number of teams are competing, 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 Inside the Bar

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 must be brought to the attention of the presiding judge at the conclusion of the trial. If any team believes that a substantial rules violation has occurred, one of its student attorneys must indicate that the team intends to file a dispute. The presiding judge will instruct the student attorney to prepare a notice of dispute, in which the student will record in writing the nature of the dispute. The student may communicate with counsel and/or student witnesses before lodging the notice of dispute or in preparing the form. At no time in this process may team sponsors or coaches communicate or consult with the student attorneys. Only student attorneys may invoke the dispute procedure permitted under this Rule.

Rule 34. Dispute Resolution Procedure

Upon receipt of a Rule 33 notice of dispute, the presiding judge will review the written dispute and determine whether the dispute should be heard or denied. If the dispute is denied, the judge will record the reasons for this, announce his/her decision to the Court, retire to complete his/her score sheet (if applicable), and turn the dispute form in with the score sheets. If the judge feels the grounds for the dispute merit a hearing, the form will be shown to opposing counsel for their written response. After the team has recorded its response and transmitted it to the judge, the judge will ask each team to designate a representative. After the designated representatives have had time (not to exceed three minutes) to prepare their arguments, the judge will conduct a hearing on the dispute, providing each team’s designated representative three minutes for a presentation. The judge may question the designated representatives. At no time in this process may team sponsors or coaches communicate or consult with the student attorneys. After the hearing, the presiding judge will adjourn the court and retire to consider his/her ruling on the dispute. That decision will be recorded in writing on the dispute form, with no further announcement.

Rule 35. Effect of Violation on Score

If any judge, whether presiding or scoring, observes independently that a substantial rules violation has occurred, or if the presiding judge makes such a determination in accordance with Rule 34, the judge will inform each of the other judges for that trial. The presiding judge shall inform all other judges who score a trial in which a notice of dispute is submitted of the nature and existence of the dispute, and in the event that some or all of the scoring judges are not present for resolution of the dispute, the presiding judge shall provide a summary of each team’s

argument and any decision rendered as to the dispute. Each scoring judge will consider the dispute before reaching his or her final decisions. The dispute may or may not affect the final decision, but the matter will be left to the discretion of the scoring judges.

Rule 36. Reporting of Rules Violation Outside the Bar

Disputes which arise from matters not governed by Rule 33 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 select and appoint a dispute resolution panel which will (a) notify all pertinent parties; (b) allow time for a response, if deemed by the dispute resolution panel to be appropriate; (c) investigate, if deemed by the dispute resolution panel to be appropriate; (d) conduct an informal hearing, if deemed by the dispute resolution panel to be appropriate; and (e) rule on the charge. The dispute resolution panel may notify the judging panel of the affected courtroom of the ruling on the charge.

F. BEFORE THE TRIAL

Rule 37. 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 38. 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 39. 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.

G. BEGINNING THE TRIAL

Rule 40. 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.

Rule 41. Standing During Trial

Unless excused by the presiding judge, attorneys will stand while giving opening and closing statements, during direct and cross examinations, and for all objections. Attorneys may request permission to walk around the courtroom during their presentation.

Rule 42. 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 42 if making an objection to an opening statement or closing argument.

H. PRESENTING EVIDENCE

Rule 43. 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 44. Admission of Evidence

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.

Affidavits may not be introduced as evidence, but may be used for impeachment purposes. Affidavits for witnesses not called to testify may not be introduced to the court.

Rule 45. 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.
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 46. 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 47. Use of Notes

Attorneys may use notes in presenting their cases. Witnesses are not permitted to use notes while testifying during the trial. Affidavits of a particular witness may be used to refresh the memory of that witness or for impeachment purposes. Attorneys may consult with each other at counsel table verbally or through the use of notes.

Rule 48. Re-direct/Re-cross

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

I. CLOSING ARGUMENTS

Rule 49. Scope of Closing Arguments

Closing arguments must be based on the actual evidence and testimony presented during the trial. Attorneys may not cite to affidavits of witnesses not called at trial.

J. CRITIQUE

Rule 50. 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 Championship.

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.

Rule 504. Physician and Psychotherapist-Patient Privilege

(a) *Definitions.* As used in this rule:

(1) A patient is a person who consults or is examined or interviewed by a physician or psychotherapist.

(2) A physician is a person authorized to practice medicine in any state or nation, or reasonably believed by the patient so to be.

(3) A psychotherapist is (A) a person authorized to practice medicine in any state or nation, or reasonably believed by the patient to be so, while engaged in the diagnosis or treatment of a mental or emotional condition, including alcohol or drug addiction, (B) a person licensed or certified as a psychologist or psychological examiner under the laws of any state or nation or reasonably believed by the patient so to be, while similarly engaged, (C) a person licensed as a marital or family therapist under the laws of a state or nation or reasonably believed by the patient so to be, while similarly engaged, or (D) a person licensed as a professional counselor under the laws of a state or nation, or reasonably believed by the patient so to be, while similarly engaged.

(4) A communication is confidential if not intended to be disclosed to third persons other than those present to further the interest of the patient in the consultation, examination, or interview, or persons reasonably necessary for the transmission of the communication, or persons who are participating in the diagnosis and treatment under the direction of the physician or psychotherapist, including members of the patient's family.

(b) *General Rule of Privilege.* A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of diagnosis or treatment of the patient's physical, mental or emotional conditions, including alcohol or drug addiction, between or among the patient, the patient's physician or psychotherapist, or persons who are participating in the diagnosis or treatment under the direction of the physician or psychotherapist, including members of the patient's family.

(c) *Who May Claim the Privilege.* The privilege may be claimed by the patient, by the patient's guardian, guardian ad litem or conservator, or by the personal representative of a deceased patient. The person who was the physician or psychotherapist at the time of the communication is presumed to have authority to claim the privilege but only on behalf of the patient.

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, including all reasonable inferences that can be drawn from those facts and matters, and may inquire into any omissions from the witness statement 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 therefor without prior disclosure of the underlying facts or data, unless the Court requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross examination.

Article VIII. Hearsay

Rule 801. Definitions

The following definitions apply under this article:

- (a) *Statement* – A “statement” is an oral or written assertion or nonverbal conduct of a person, if it is intended by the person as an assertion.
- (b) *Declarant* – A “declarant” is a person who makes a statement.
- (c) *Hearsay* – “Hearsay” is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.
- (d) *Statements 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* – (a) To the extent not otherwise provided in (b) of this subdivision, 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 that are not included here, 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.

2008 ALASKA HIGH SCHOOL
MOCK TRIAL CHAMPIONSHIP COMPETITION
(Anchorage, February 15-16, 2008)

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

School (Organization) Name: _____

Team Mailing Address: _____

Teacher or other School Advisor: _____ T-Shirt Size: _____

Advisor Contact Phone: _____ Message Phone: _____

Advisor FAX Number: _____ **E-Mail:** _____

Attorney Coach: _____ T-Shirt Size: _____

Coach Contact Phone: _____ Message Phone: _____

Coach FAX Number: _____ **E-Mail:** _____

Student Team Members (Please print names in block lettering)

(T-Shirt Size)	(T-Shirt Size)
()	()
()	()
()	()
()	()
()	()
()	()

Each team must have a minimum of six student members. No team may have more than nine members, including alternates. The assistance of attorney coaches is recommended, but not mandatory. Schools wishing to register more than one team may designate the same teacher or other school sponsor as the official school advisor. A different registration form must be submitted for each team. Any school wishing to register multiple teams **MUST** indicate which team is the "First Team," "Second Team," etc. **All teams must be registered no later than February 1, 2008.**

TO REGISTER A TEAM, PLEASE RETURN THIS FORM WITH THE REGISTRATION FEE OF \$150 PER TEAM TO:

ANCHORAGE BAR ASSOCIATION
YOUNG LAWYERS SECTION
P.O. BOX 100844
ANCHORAGE, ALASKA 99510-0844

2008 ALASKA HIGH SCHOOL MOCK TRIAL CHAMPIONSHIP

2008 SCHOLARSHIPS

In an effort to provide financial aid to teams participating in the 2007 Alaska High School Mock Trial Championship, the Mock Trial Committee of the Young Lawyers Section of the Anchorage Bar Association has set aside \$1500 for three **\$500** scholarships. Additional \$500 scholarships may be awarded as the Committee budget allows.

All teams from outside the Municipality of Anchorage that are participating in the 2008 Anchorage Bar Association Mock Trial Competition are eligible to apply for a scholarship. Schools bringing multiple teams are only allowed to apply for one scholarship. The total number of students and teams from a particular school, however, is a factor that will be considered in evaluating that school's application for a scholarship.

The scholarships will be awarded based on financial need, taking into account the necessary mode of travel for a team and associated travel expenses, the distance a team must travel to participate in the competition (if traveling via the road system), past participation in the mock trial competition, and the number of teams and students participating. The scholarships are intended to defray some of the costs incurred by teams participating in the competition and to encourage new teams to participate in the competition. The financial cost to individual teams, however, is not the only factor that will be considered. All applications that are submitted will be considered. The decisions of the Mock Trial Committee are final.

If you are interested in applying for a \$500 scholarship, complete the attached application and submit it no later than **November 30, 2007** to:

Christopher Slottee
ATTN: 2007 Mock Trial Championship
Atkinson, Conway & Gagnon
420 L Street, Suite 500
Anchorage, Alaska 99501

Recipients of the three \$500 scholarships will be announced on **December 15, 2007**. If a team receives a scholarship and is unable to attend the competition, they will be required to refund the money as soon as they are aware they will not be attending the competition.

If you have any questions about this scholarship, please contact **Christopher Slottee** at 907-276-1700 or cjs@acglaw.com.

**APPLICATION FOR FINANCIAL AID
2008 ALASKA HIGH SCHOOL MOCK TRIAL CHAMPIONSHIP**

School: _____

Coach: _____

Address: _____

Phone: _____

E-mail: _____

Anticipated Team Members:

Total Number of Anticipated Team Members: _____ Total Number of Teams: _____

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 Personal vehicles/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 (you may attach a narrative description if helpful):

Food \$_____ Lodging \$_____ Transportation \$_____