



American Mock Trial Association

2012 Mid-Year Board Meeting Agenda

Conference Call

Saturday, December 8, 2012, 11:00am EST

I. Call to Order

A. Conference call attendance:

Members present (X): Bernstein, Butler, Detsky, Eslick, Guliuzza, Halva-Neubauer, Heytens, Kelly, Langford, Leckrone, Nelmark, Racheter, Scott, Seelau, Smith, Vile, Walsh, Woodward, Zeigler

Members not present (X): Calkins, Creed, Neuhaus, Palmer, Satler, Wagoner

Candidate Members present (X): Keener, Leapheart, Parker, Paveley, Thomason, Warihay, Weatherby

Candidate Members not present (X): None.

Staff & Guests (X): Dorman, Koblasz

Directors Emeritus (X): None

II. Welcome and Remarks (Halva-Neubauer)

Halva-Neubauer welcomed the group. Compliments to Toby Heytens for his work on Civil Case, issuing a very balanced case timely, as well as his work on preparing for the Championship. Thanks also to Sarah Sawtelle. Thanks to Will Warihay and Josh Leckrone for their work on the web pages and with hosts. Matthew Eslick is an excellent steward of our resources and has overseen the implementation of Pay Pal, with help from Mike Walsh, Assistant Treasurer. The HR committee has worked to revise the contract with Susan Ewing and the contract has put us in a better situation with Susan. Margarita Koblasz has also done wonderful work with the contracts. Justin Bernstein is a wonderful President-Elect, who has done a great deal of work. Ryan Seelau is doing much work on Rules. Please send feedback on Susan's performance to Sara for the midyear evaluation. If you wish to contribute to Susan's holiday gift, please send a check by the 12th.

Halva-Neubauer has appointed an ad hoc growth committee, Adam Detsky and Mike Walsh to co-chair. Congratulations to John Vile for the latest addition of *Pleasing the Court* and our continued thanks to him for sharing the royalties with AMTA.

III. Format of Agenda:

Delivered by Secretary – Zeigler

The agenda for the mid-year conference is set by the Executive Committee pursuant to rule 10.2.1.

IV. Approval of Agenda

Approved.

V. Approval of 2012 Board of Directors Meeting minutes.

Approved.

VII. Committee Reports

A. Budget Committee Report (Eslick):

The AMTA tax attorney filed for 6-month extension for taxes, but anticipates that we will have it filed before the holiday. There is no penalty associated with the extension.

As you prepare your plans for AMTA Representative assignments, please review the travel policies carefully.

B. Criminal Case Committee (Butler and Parker):

The report was delivered by Butler. The committee has met and expects to make decision on a general topic area within the next month or so and the case committee will construct the case itself. Parker adds that the committee will seek to make the case entertaining as well.

C. Civil Case Committee (Heytens)

The report was distributed in advance of the meeting by Heytens.

D. Development Committee (Palmer): Palmer was absent

E. Ad Hoc Committee on Religious Accommodation (Koblasz):

The report was delivered by Warihay – there were two requests for accommodations – Wheaton and Yeshiva. Wheaton is assigned to Minneapolis. If they cannot obtain permission to compete on Sunday, AMTA will run Wheaton on a 1-3 schedule, with Wheaton and its opponent competing on Saturday evening. Warihay and Leckrone will prepare a letter if necessary. This situation is still pending. Yeshiva has not registered – it has not paid registration and has not responded to inquiries, so we will not need an accommodation in New Haven. Koblasz notes the need to develop a

standardized policy, which she and Warihay will draft together, in consultation with the committee, to be submitted for review by the Board at the summer meeting.

F. Rules Committee (Seelau): The report was distributed by Seelau in advance of the meeting.

G. Strategic Planning Committee (Halva-Neubauer.): No additional report save the items on the agenda.

H. Tabulation Advisory Committee (Woodward): Woodward will distribute a quiz to representatives shortly.

I. Tournament Administration Committee (Warihay):

There are new AMTA email addresses. Ewing has a new address and we have one for each office, creating stability in email addresses. Communication with hosts and teams is going well, as did team assignments. We have 25 tournaments, 618 teams assigned, and all timely registered teams assigned in the initial pass. We are at 98% capacity at our tournaments. There have been 8 drops since assignment, 11 teams assigned from wait list, 8 teams still on the wait list. AMTA reps are assigned and a draft of ORCS assignments is ready. The online application system has worked well. You have a web page for AMTA Reps. The committee needs applications for 2015 Championship.

J. Other Committee Reports:

Ethics Committee report submitted in writing by Weatherby, distributed with this agenda.

IX. Motions:

MYC-01

Motion by Eslick to amend Rule 1.15 as follows:

Rule 1.15 Hosting goals. ~~Hosts are reminded that the~~ **One** purpose of mock trial is to instill respect for the legal system and its ideals of justice, equity, and truth. Hosts and their volunteers are expected to promote and champion these ideals above winning, even if **a host institution does not** if you don't have a team competing at the tournament.

Rationale: (1) I doubt most hosts without a team competing would read the rulebook, so they cannot be “reminded” of anything. (2) The use of the pronoun “you” renders the existing rule vague.

Submitted with a positive recommended by TAC/Site selection.

Approved.

MYC-02

Motion by Heytens:

To direct the appropriate committee to revise the draft judges' PowerPoint currently on the AMTA website to remove material offering guidance about what constitutes the elements of a successful opening, closing, direct, cross, or witness portrayal or provide any other guidance about how to score attorneys and witnesses other **than** that contained in the Rulebook or the current AMTA ballot.

Rationale: The draft PowerPoint contains a substantial departure from past AMTA practice. Specifically, in addition to material similar to that contained in previous PowerPoints, it also contains new slides offering guidance about "Scoring Opening Statements" (slide 18), "Scoring Attorneys" (19), "Scoring Witnesses" (20), "Scoring Closing Argument" (23), and specific advice about scoring "Objections" (26). I have been giving the judges' presentation at our invitational for the last six years, and I not recall AMTA ever instructing judges about the elements of a successful opening, closing, direct, cross, or witness portrayal.

If the Board decides that our judge instructions should contain guidance of this nature, there are undoubtedly things in the draft that I would propose adding, removing, or changing. More fundamentally, however, I do not think we should have reps offer this sort of guidance at all. We recruit attorneys whenever possible (and law students when not) because we want their perspective about what constitutes "good" trial advocacy, notions of which can and do vary substantially from place to place and person to person. Subject, of course, to the limits imposed by our rulebook -- which, for example, expressly permit witness characterization (see Rule 7.14) and prohibit invention of material facts (see Rule 8.9), among other things -- I do not think we should go down the road of instructing our judges about what constitutes "good mock trial" beyond the (deliberately) limited advice given on the first page of our longstanding ballot. If one of our committees can decide to offer guidance of this sort, I do not see why in principle it could not decide to instruct judges that any witness with an accent or any attorney who asks an open-ended on cross examination should automatically be scored down. I do not deny that some of the people who judge our competitions would agree with one or both of those things. But they are not matters about which I think that we as an organization should have any position.

Submitted without recommendation by the Executive Committee.

Approved by roll call vote, 14-3.

MYC-03

Motion by Bernstein to replace Rule 10.2.2 with the following (new language is underlined):

The Board will set the time and place of the annual summer meeting at the immediately

preceding summer meeting. Those wishing to host an annual summer meeting shall submit proposals to the board by the deadline for motion submission for the preceding annual meeting. Proposals should include information regarding transportation, accommodations, and facilities for the meeting, as well as any other information the host expects the board will find helpful. Proposals shall be referred to the Executive Committee, whose only task with respect to the proposals is to ask the host for more information if the Executive Committee thinks it would be helpful. Proposals shall be included in the agenda. The board shall determine the site of the annual meeting by vote in the same fashion that it elects officers pursuant to Section 5.05 of the Bylaws. If someone wishing to host the next annual board meeting does not submit a proposal by the deadline for motion submission, the board at the preceding annual meeting may still consider and vote upon such a proposal if and only if two-thirds directors present vote to include it among the proposals in consideration. Absent a board vote to the contrary, motions regarding the site of annual meetings shall be conducted via secret ballot.

Rationale: Our current process for selecting the site of the annual meeting is informal and unclear. Those willing to devote the time and energy to hosting deserve clarity, transparency, certainty, and sufficient time to prepare. The board would also benefit from more information.

Submitted with a positive recommendation by the Executive Committee.

Approved.

MYC-04

Motion by Bernstein (on behalf of candidate G. Keener) to create a permanent judges committee with the task of handling issues related to judge assignments and instruction.

Rationale: In 2008, we formed an ad hoc judges committee to create guidelines for the assignment of judges. We have continued to give responsibilities to the Judges Committee, appoint people to the Committee, and ratify those appointments. This motion formally authorizes what we have already been doing.

Submitted with a positive recommendation by Judges' Committee.

Approved.

MYC-05

Motion by Bernstein (on behalf of candidate Keener) to replace in Rule 4.21 the phrase "Board or Executive Committee" with "Board, Executive Committee, or Judges Committee."

Rationale: To the extent that AMTA wishes to disseminate a handout to judges, the Judges Committee ought to be among the committees eligible to approve it.

Submitted with a positive recommendation by Judges' Committee.

Failed.

MYC-06

Motion by Bernstein (on behalf of candidate Keener) to create the following process for the adoption and approval of the Judges PowerPoint Instruction:

By October 1 of each season after the 2012-13 season, the Judges Committee shall circulate to the Board a draft PowerPoint for that season so that directors and others may offer comments and suggestions regarding the draft PowerPoint. Such comments and suggestions shall be sent to the chairs of the following committees by November 1: Tournament Administration, Rules, and Judges. By December 1, and after reviewing the comments and suggestions received, the aforementioned chairs will issue and/or revise PowerPoint. Nothing in this rule shall be construed to limit the ability of the Judges Committee to revise the PowerPoint in response to issues that arise during the season, at which point such revisions must be approved by the same combination of committee chairs. For the 2012-13 season, the aforementioned dates shall be, respectively, November 15, December 1, and December 15.

Rationale: This provides the Judges Committee with authority and other directors with the opportunity to provide input and limited oversight.

Submitted with a positive recommendation by Judges' Committee.

Motion by Racheter to amend motion to have the revision take place before the invitational system begins in the fall. This would provide a service and allow for testing. Accepted by Bernstein as friendly amendment. Will suggests amending date to October 1, which would allow for testing the PowerPoint at tournaments, then we can leave other dates the same. Bernstein accepts as friendly.

Seelau notes that there are gaps in the motion in terms of what happens if committees cannot agree. Seelau moves to table the motion to address those gaps. Seconded by Woodward.

Motion to table approved.

MYC-07

Motion by Toby Heytens and Justin Bernstein to amend Rule 10.3.2(5)(f) to say, "The Case Committee will include the law governing the case, which may take the form of jury instructions, precedent or summaries of precedent, statutes, judicial orders, or any combination thereof."

Submitted with a positive recommendation by the Civil Case Committee.

Approved.

MYC-08

Motion by Halva-Neubauer to conduct straw poll on sanctions issue:

Sanctions: The Board referred the motion on creating a Sanctions Committee to the EC for further study. We propose taking a straw poll on the following options for the shape of the Sanctions Committee; such a poll would offer guidance to the EC as it creates a final motion for consideration in Ada.

Three options for straw poll:

A. Submit a change to the by-laws removing sanctioning authority from the EC and giving it to the Rules and Sanctions Committee. This proposal fuses the investigatory and sanctioning power in a single committee. Appeal to Board.

B. Keep the status quo—Rules investigates; EC decides on sanctions, if any. Appeal to Board.

C. Investigatory powers remain with the Rules Committee, and an elected Sanctions Committee of three persons decides upon sanctions, if any. Appeal to Board.

Why this approach?

The EC must now report on its activities. Having data from a year on the EC's deliberations, including its decisions on sanctions, would be helpful to the Board in determining where this power should lie.

This is an important issue, and one that is better suited for face-to-face debate. The straw poll, however, will provide further guidance to the Board as it develops a polished motion for the 2013 Board meeting.

The EC approved conducting a straw poll at the MYC.

Halva-Neubauer yields the chair to Bernstein so that Halva-Neubauer might speak to the motion.

The Board must first authorize the straw poll – friendly amendment by Guliuzza to conduct the straw poll electronically.

Approved.

MYC-09

Motion by Halva-Neubauer to conduct straw poll on nominations issue:

Nominations: The Board referred the motion on creating a Nominations Committee to the EC for further study. We propose taking a straw poll on the following options for the shape of the Nominations Committee; such a poll would offer guidance to the EC as it creates a final motion for consideration in Ada.

The options are:

A. Maintain the status quo. The EC vets candidates and forwards a slate for consideration by the Board.

B. The Board elects a five-person nominations committee, which forwards a slate for consideration by the Board.

C. The President appoints a five-person nominations committee, which forwards a slate for consideration by the Board.

The EC approved conducting a straw poll at the MYC.

The Board must first authorize the straw poll – friendly amendment by Guliuzza to conduct the straw poll electronically.

Motion to conduct straw poll approved.

MYC-10

Motion by Halva-Neubauer:

Former directors who served on the Board for at least five years are eligible for consideration as Directors Emeriti. A current member of the Board must prepare a letter of nomination, submitted to the Chair of the Nominations Committee (or the EC, depending on the result of straw poll on this matter), by March 1. The Nominations Committee should evaluate the contributions of the nominee toward advancing AMTA's mission. Individuals who receive the designation of Director Emeritus hold that title unless the Nominating Committee recommends to the Board that the individual be stripped of the title. The Nominating Committee may act to remove a Director Emeritus status at any point in time. The title of Director Emeritus can be stripped only by a 2/3rds majority vote of the Board.

Directors Emeriti shall have no authority to bind or represent AMTA or otherwise act on its behalf except where AMTA has expressly bestowed such authority in writing on a Director Emeritus by name, such as assigning a Director Emeritus to serve as an AMTA tournament representative, which would bestow upon a Director Emeritus the authority delegated by AMTA to tournament representatives. A Director Emeritus receiving such authority must be in good standing with AMTA, as required of all Directors Emeriti. AMTA disclaims any and all authority, including apparent authority, not bestowed upon Directors Emeriti in accordance with the forgoing policy.

Submitted by Strategic Planning with a positive recommendation.

Amendment by Woodward to add “this language will be inserted into the Bylaws in an appropriate section.” Accepted as friendly by Halva-Neubauer.

Woodward notes that “in good standing” is not defined. Racheter notes that Roberts has a definition of good standing and that would cover us, since we have adopted Roberts. Guliuzza refers us to page 6 of the 10th Edition of Roberts. Roberts specifies “good standing” to indicate that it simply means that the individual meets the qualifications of membership.

Approved as amended.

Halva-Neubauer resumes chair.

Motion by Guliuzza to adjourn, seconded by Racheter. Approved.

Meeting adjourned at 12:32 pm, EST.

Tabled Motions

Motion by Detsky to create the following new rule regarding pre-trial procedures:

The parties may engage in brief pre-trial activities. Pre-trial is limited to the following:

- a) Introducing the individuals sitting at the team's respective attorney bench;
- b) An application for witnesses to be considered constructively out of the courtroom pursuant to MRE Rule 615;
- c) Requesting permission to use the Well;
- d) Offering copies of pleadings, prior orders and/or pre-trial stipulations furnished in the case packet

Tabled by Rules.

X. Unfinished/New Business

XI. Adjournment

Reminder: The 2013 Board Meeting will be held on July 20-21, 2013 at Ohio Northern University in Ada, Ohio.