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Dear AMTA Teams,

On February 16, 2018, the AMTA Executive Committee sanctioned an AMTA member school for violating the AMTA Rules. After an investigation conducted by the AMTA Competition Response Committee (“CRC”), the Executive Committee concluded that the offending team committed an egregious improper invention of a material fact in violation of Rule 8.9. Accordingly, the Executive Committee adopted the CRC sanctions recommendation and officially reprimanded the offending school and placed the school on probation for the remainder of the AMTA season. The school may compete at ORCS, but AMTA reserves the right to monitor its performances for further rule violations. Additional rule violations could result in additional sanctions, including a loss of any earned National Championship Tournament bid. This letter serves as a public explanation of the CRC sanctions recommendation.

### **Background**

During round four of the Regional Tournament, a defense team crossed Kerry Bell-Leon. On cross-examination of Kerry Bell-Leon, the defense team asked whether Bell-Leon could identify the race of her attacker. Bell-Leon said the attacker was Caucasian and the defense team impeached. Subsequently, the defense team called Jamie Morrison and elicited testimony that Hendricks is an African American male. Neither fact is contained in the case materials, and no Dylan Hendricks was present in the courtroom.

On Monday, February 5, 2018, the CRC received an allegation that a school invented certain material facts as the defense during Round 4 of the Regional Tournament. Only one invention was determined to be egregious: That Jamie Morrison testified on direct examination that Dylan Hendricks was an African American male.

### **Investigation**

The CRC gathered detailed statements from: (1) the prosecution team; (2) the AMTA Representatives; and (3) the defense team. After reviewing the statements, the CRC asked for and received a supplemental response from the defense team. The Committee reviewed the submissions and deliberated.

### **Analysis**

Pursuant to AMTA Rule 8.9(6)(b), “[i]n determining whether an Improper Invention is egregious, the Competition Response Committee shall consider whether, based on the totality of the evidence, the Improper Invention additionally constitutes an ethical violation under Rule 1.4, 1.5, 1.6, and/or 1.7.” Factors to consider include, but are not limited to “the significance of the invented material fact(s) to the case at hand; use of the material fact(s) elicited through the Improper Invention in closing arguments; repeated use of the same or similar Improper Invention in multiple trials; and any other evidence of prior planning or premeditation by the attorney(s) and/or witness(es) to knowingly engage in an Improper Invention . . .”

The CRC concluded that Jamie Morrison inventing Dylan Hendricks' race is an egregious invention of material fact because: (1) Morrison never testifies to Hendricks' race in the affidavit; (2) the testimony was invented for the purpose of contradicting Kerry Bell-Leon's statement that Hendricks was Caucasian, which was made in response to a defense team cross-examination question that was not answerable based on the text of the Bell-Leon affidavit; (3) no Dylan Hendricks was present in the courtroom; (4) the testimony regarding Hendricks' race was admittedly used by the defense team in closing argument; (5) Kerry Bell-Leon's ability to identify an attacker is significant to the case; and (6) the testimony is neither included in nor reasonably inferred from the witness's affidavit.

The defense team's invention of Dylan Hendricks' race is an egregious improper invention for another important reason: The invention contravenes the spirit of the mock trial closed fact pattern competition. By asking Kerry Bell-Leon whether the witness could identify Hendricks' race, the defense team put the prosecution team in the position of having to give an answer that is not contained in the witness's affidavit. As you know, pursuant to Rule 8.9(4)(b), on cross examination, "a witness commits no violation or Improper Invention when she or he testifies to material facts not included in her or his affidavit—as long as the witness's answer is responsive to the question posed." Further, "a witness is allowed to invent material facts on cross-examination as long as the witness remains responsive to the question posed." *Id.* The defense team's attempt to "impeach" Kerry Bell-Leon's testimony by inventing a race on Jamie Morrison's direct examination violates both the text of the AMTA Rules and the spirit of the competition (codified at Rules 1.5 and 1.6). For those reasons, the CRC concludes that the defense team's invention of Dylan Hendricks' race was an egregious violation.

### **Conclusion and Recommendation**

The CRC next considered the available sanctions and relevant factors (including the severity of the conduct and the desire to impose a sanction no more severe than the conduct warrants). After discussion, the CRC voted to recommend the following sanctions to the AMTA Executive Committee: (1) a Written Reprimand and (2) Probation for the remainder of the 2017-2018 competition season. The Executive Committee has adopted the CRC's recommendations in full. Accordingly, the defense team was formally reprimanded for committing an egregious improper invention of material fact at the Regional Tournament. Further, the defense team is placed on probation for the remainder of the 2017-2018 competition season. AMTA reserves the right to monitor the team's performance at ORCS, and a repeated violation of the material-invention rule could result in additional sanctions, including the loss of any earned National Championship Tournament bid.

Although the CRC ultimately recommended a reprimand and probation, multiple members of the CRC would have suspended all students involved in the offense for the remainder of the competition season (including ORCS), and some members of both the CRC and the Executive Committee found this violation egregious enough to warrant removal of the team's ORCS bid.

AMTA Teams are reminded that it is a violation of the AMTA Rules to commit egregious improper inventions of material facts, and the CRC and Executive Committee will fully investigate all complaints and rule violation allegations. Additionally, teams should review AMTA Rules 1.4, 1.5, 1.6, 1.7, 8.9, and 9.5. In considering the appropriate sanction for a violating team, the CRC will consider all available sanctions, including removal of a bid or loss of bid eligibility.

We understand that rule violations are rare, and that AMTA teams strive to uphold the values of fair play, civility, and friendship. But we also realize that violations of the rules can threaten the integrity of our activity. We wish all teams the best for the remainder of the competitive season.

Sincerely,  
Frank Guliuzza  
President, American Mock Trial Association

Brandon Harper  
Chair, Competition Response Committee