



February 8, 2019

Dear AMTA Teams,

As we begin our collective journey down the road to our National Championship Tournament in Philadelphia, Pennsylvania, the AMTA Competition Response Committee (“CRC” or “Committee”) provides this memorandum of important reminders relating to factual inventions during AMTA competitions. Last year, the CRC received sixteen complaints relating to alleged improper invention of fact. After investigation, the Committee recommended and the Executive Committee adopted sanctions in two instances.

The CRC is charged with responding to in-season questions and problems and with issuing timely rule interpretations during the season. The CRC also investigates allegations of improper invention of fact at AMTA tournaments, and it is empowered to make sanctions recommendations to the AMTA Executive Committee. Members of the CRC include its Chair, the Tabulation Director, the Rules Committee Chair, the Civil Case Committee Chair, the Ombudsperson, The Tournament Administration Committee Chair, the President, and in the event of recusal, the National Championship Tournament Case Committee Chair.

### **Review Process**

Any allegations of an egregious improper invention must be brought to the attention of the Competition Response Committee by 12:00 noon Central time on the Tuesday immediately following the tournament, unless the matter occurred on the final weekend of regionals or the final weekend of ORCS, in which case the deadline is 4:00 p.m. Central time on the Monday immediately following the tournament. If the allegation is raised timely, the Competition Response Committee shall investigate the allegation and report its findings and recommendation to the Executive Committee. The Executive Committee shall review the report of the Competition Response Committee and, upon the Executive Committee’s determination of egregious wrongdoing, may issue sanctions against the violating program, team, and/or its individual members.

To initiate a Complaint with the CRC, complete the Complaint Form on the AMTA website. Under Rule 8.9(6)(b) of the AMTA Rules, in 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 7.6.

Factors that may be considered 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 and use the material fact(s) introduced thereby to gain an unfair advantage at trial.

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As part of its investigation, the CRC will contact both of the teams involved in the round, the AMTA representatives present at the tournament, and will seek any and all additional relevant information (including, but not limited to, videos and statements of others present during the alleged invention). Teams will generally have seventy-two hours to respond to a complaint and the CRC intends to complete its investigations and submit any recommendations to the Executive Committee within seven days of the complaint's filing, unless the circumstances dictate a faster timeline. The Committee will consider the factors articulated in Rule 8.9 in determining whether conduct constitutes an egregious improper invention.

The CRC will also consider: whether the invention can be adequately addressed through an in-round remedy (objection, impeachment, cross examination, etc.); whether there is evidence of premeditation; whether the invention played a role in other elements of the trial (opening, closing, other examinations, objection arguments, etc.); whether there is evidence that the same team made the same invention in other rounds; whether evidence exists that the invention affected the judges' perception of the round; or whether there is evidence that that perpetrator failed to admit the invention when questioned by AMTA.

### **Improper Inventions**

Improper inventions, as defined under Rule 8.9(4) are “any instance (on direct, cross, re-direct, or re-cross examination) in which a witness introduces testimony that contradicts the witness’s affidavit . . . [or] any instance on direct or re-direct examination in which an attorney offers, via the testimony of a witness, material facts not included in or reasonably inferred from the witness’s affidavit.” Facts are material when “they affect the merits of the case. Facts are not ‘material’ if they merely provide background information or develop the character of a witness. One test that judges and competitors can use to assess materiality is whether the facts at issue are of the type that could reasonably be expected to be included in the party’s closing argument.” A reasonable inference “must be a conclusion that a reasonable person would draw from a particular fact or set of facts contained in the affidavit.”

The bottom line: All inventions of material fact constitute cheating. The CRC considers this notice to all AMTA teams that allegations of improper invention of material fact will be investigated thoroughly and those individuals and teams found to be in violation of the AMTA Rules will be subject to sanctions.

### **Sanctions**

The CRC may recommend sanctions to the Executive Committee. Under Rule 9.5, “In determining whether sanctions are appropriate and, if so, which sanctions are appropriate, the Executive Committee shall consider the severity of the conduct and the severity of the possible sanctions. The Executive Committee shall endeavor to impose a sanction no more severe than the conduct warrants. The Executive Committee should also consider the impact any sanction may have on individuals or teams not directly responsible for the conduct, and shall avoid or minimize such impact as appropriate and wherever possible.” Available sanctions include: (a) written warning or reprimand; (b) probation; (c) loss of bid eligibility; (d) fines and/or restitution; (e) suspension of a coach or team member; (f) suspension of school membership. Sanctions issued by the Executive Committee are appealable to the full AMTA Board under the procedures outlined in Rule 9.6. The decision of the full Board of Directors with respect to a sanction is final.

### **Conclusion**

As you prepare for your regional competitions, teams should review AMTA Rules 1.4, 1.5, 1.6, 1.7, 8.9, and 9.5. Teams are on notice that 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,

/s/

William B. Warihay  
President, American Mock Trial Association

/s/

Brandon D. Harper  
Chair, Competition Response Committee

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