



American Mock Trial Association 2014 Board Meeting Agenda July 11-13, 2014 Newport Beach, California

I. Call to Order

Attendance:

Members present (X): Bernstein; Guliuzza; Halva-Neubauer; Haughey; Hawley; Heytens; Keener; Langford; Leapheart; Leckrone; Olson; Parker; Pavely*; Racheter; Schuett; Scott; Seelau; Smith*; Thomason; Wagoner*; Walsh; Warihay; Weatherby; Woodward; Vile
Members not present (X): Detsky; Eslick
Candidate Members present (X): Ben-Merre; Bluebond; Caldwell; Freuhauf; Gelfand; Nelson
Candidate Members not present (X): Dorman; Harper; Minor
Staff & Guests (X): Krumholz; Panichelli; Wlodarczyk; Smith, M.
Directors Emeritus (X): Pohlmann

*Pavely, Smith, and Wagoner were not present on Sunday.

II. Welcome and Remarks (Halva-Neubauer/Bernstein).

Both delivered remarks. Halva-Neubauer circulated a President's Report.

III. Format of Agenda:

Delivered by Assistant Secretary – Leckrone

All motions submitted were referred to the corresponding AMTA Committee pursuant to the policy adopted by the Board in 2007 (Rule 10.2.1). All motions are referenced numerically by the abbreviation of the AMTA Committee to which the motion was referred (e.g. EC-02 or TAB-03). The numeric order is based upon the order in which the motions were submitted, subject to the exception that every effort was made to place motions addressing the same issue in sequential order regardless of submission date. The Committees had the option of tabling the motion, amending the motion or substituting the motion. Tabled motions retained their original designations, but are provided in an appendix. Motions could be advanced with recommendation or without. The final motion agenda order was subsequently set by the Executive Committee (AMTA Bylaws, Section 10.2.1)(Subject to agenda amendments made at the board meeting).

Motions appear in red and bolded. The decision of the respective committees follows each motion **IN BOLD BLUE, CAPITAL LETTERS AND UNDERLINED.** Motions that have been recommended by committee do not need to be seconded at the meeting. Motions forwarded without recommendation require a second. For a motion to be adopted, it must have received a majority of the votes cast at a meeting at which quorum is present. (AMTA Bylaws, Section 4.10). Motions to amend the Bylaws required an affirmative vote of two-thirds of the Voting Directors (AMTA Bylaws, Section 8.02)

Appended to the Agenda as **Appendix A** is the Consent Calendar

Appended to the Agenda as **Appendix B** is a list of tabled motions. These motions were tabled by the reviewing committee and will not be considered by the Board for action. To “untable” a motion, five or more members of the Board (not including the motion’s author(s)), must request that the motion be considered. If such request is made, the full Board may vote on whether to overturn the Committee’s recommendation to table. A motion to overturn the Committee’s recommendation to table must be passed by a majority vote of the Board. ***Taking a motion off the table and placing it on the agenda alone does not result in adoption of the motion.*** A separate vote will be necessary on whether to adopt the motion.

Appended to the Agenda as **Appendix C** are the minutes from the December 2013 mid-year conference call/board meeting.

IV. Approval of Agenda

Motion by Woodward to approve the agenda. Seconded by Heytens.

Motion by Heytens to move consideration of EC-08 ahead of item VI of the Agenda. Seconded by Thomason. **Motion PASSES.**

Motion by Keener to consider Academics-02 before Academics-01. Seconded by Leapheart. **Motion PASSES.**

Motion by Walsh to move discussion of Budget items to Sunday morning. Seconded by Woodward. **Motion PASSES.**

Motion by Pavely to consider all motions sponsored by Bernstein at one time. Motion seconded by Wagoner. **Motion PASSES.**

Motion to approve the agenda as amended PASSES.

V. Approval of 2013 Mid-Year Board of Directors Meeting minutes.

Motion by Racheter that Candidates have the right of voice but not vote. Motion seconded by Keener. **Motion PASSES.**

Motion by Woodward to approve the 2013 Mid-Year Minutes. Seconded by Warihay.
Motion PASSES.

VI. Special Board Elections (President-Elect, Disciplinary Committee Member, Human Resources Committee Member)

Motion by Halva-Neubauer to go into executive session. Seconded by Wagoner.
Motion PASSES.

Motion by Halva-Neubauer to go out of executive session. Seconded by Woodward.
Motion PASSES.

GULIUZZA is elected President-Elect.

SCOTT is elected at-large member of the Disciplinary Committee. HAWLEY is elected backup member of the Disciplinary Committee.

WEATHERBY is elected at-large member of the Human Resources Committee.

VII. Consideration of Tabled Motions

For procedure to “untable” a motion, please see discussion of Appendix B above. If a motion is “untabled”, it will be taken up in the order it would have appeared in the Agenda. (i.e. EC-05 would be discussed after EC-04).

Motion to untable EC-09; signatures from Pavely, Haughey, Walsh, Langford and Bernstein. **Motion PASSES.**

Motion to untable TAC-TEAM ASSIGNMENT-01; signatures from Keener, Halva-Neubauer, Heytens, Walsh and Leckrone. **Motion PASSES.**

VIII. Approval of Consent Calendar (attached as Appendix A)

Consent Calendar, including Committee Assignments, is APPROVED.

IX. Committee Reports

- A. Academics Committee (Leapheart): Oral report delivered.**
- B. Audit Committee (Smith): Oral report delivered.**
- C. Budget Committee Report (Eslick): Moved to Sunday. On Sunday, Eslick delivered a written report.**
- D. Civil Case Committee (Haughey): Written and oral reports delivered.**
- E. Criminal Case Committee (Bluebond): Written and oral reports delivered.**

- F. **Competition Response Committee (Smith): Written and oral reports delivered.**
- G. **Development Committee (Heytens): Written report delivered.**
- H. **Ethics Committee (Parker): Written and oral reports delivered.**
- I. **Human Resources Committee (Bernstein): Oral report delivered.**
- J. **Accommodation Committee (Gulizza): No report.**
- K. **Rules Committee (Seelau): Seelau delivered a written report.**
- L. **Strategic Planning Committee (Halva-Neubauer): No report.**
- M. **Tabulation Advisory Committee (Woodward): Oral report delivered.**
- N. **Technology Committee (Warihay): Oral report delivered.**
- O. **Tournament Administration Committee (Warihay): Written report submitted. Oral report of the NCT Subcommittee delivered by Gulizza.**
- P. **Executive Committee (Bernstein): Oral report delivered. Committee to deliver quarterly reports, with votes of EC. First report will be submitted in October.**

X. Motions:

ACADEMICS-01: Motion by Halva-Neubauer, on behalf of Ben-Merre to amend Rule 4.27 to permit videotaping only with the consent of all parties.

Rationale: A few students at the Jackson Regional came to the Tab Room, visibly upset that their opposing team had set up a video camera in the classroom without asking (as is allowed by AMTA rules). This was not the first time I encountered young students who were on the verge of tears at an AMTA tournament because they didn't want to be videotaped.

I am aware that the whole AMTA experience is supposed to be professional in nature, but I am worried about forcing young students (especially those new to college and/or mock trial) who do not want to be videotaped to be videotaped. Beyond my personal concern, this could have an adverse effect on new and/or developing programs. Some students are worried that their amateur performances might wind up on youtube. Videotaping would also allow teams equipped with cameras to steal original material more easily from other teams. I think also of the volunteer judges who may or may not want to be videotaped. At one tournament I was a part of, a local news team came to videotape a round--this was a clear indicator to the judges that the host school was participating in the round.

The recent updates to AMTA bylaws show something new about this, so I apologize if I am re-raising a matter that has already been debated and resolved. I haven't phrased anything in "motion lingo," but could if you think this is a matter that we should discuss this summer. (I already mentioned my concern to Justin who said he might be willing to sponsor a motion.) I would suggest changing the rules to allow videotaping of Regional rounds only with the permission of both teams and judges (possibly with

the condition that the tape is made available to both teams?). I think the public expectations for ORCs and the National Championship are different. Thus, I would say that, in the advanced rounds, teams can tape at will (though I do think it's always good to ask). If teams need videotape to practice in the early rounds, they can always tape their own scrimmages.

ADVANCED WITH POSITIVE RECOMMENDATION

Motion FAILS.

ACADEMICS-02: Motion by Woodward to Amend Rule 4.28(2) by adding the following sentence at the end of the subpart:

"No recording may be posted to the Internet or any form of social media without the express consent of the opposing team and the presiding judge."

And amend Rule 4.28(3) by adding the following sentence at the end of the subpart:

"No recording may be posted to the Internet or any form of social media without the express consent of both teams and the presiding judge."

Rationale: I was approached by a coach at a tournament earlier this year who had concerns about our video recording rules. While the coach understood the educational rationale behind our relatively liberal video recording policy, the coach felt that the policy should be revisited in light of YouTube, Vine, and all the other multitude of ways videos may be shared on line. In other words, it was one thing 10 years ago for a team to have an internal VHS or DVD copy of a trial to analyze at practice; it's an entirely different ballgame now where such videos might be posted online solely to embarrass an opponent or a volunteer judge. The purpose of this motion is primarily for the Board to discuss whether the video recording rules need to be amended in light of such concerns.

ADVANCED WITH POSITIVE RECOMMENDATION

Motion by Smith to amend the motion to say the video may not be *publicly* posted to the internet. **Accepted as a friendly amendment.**

Motion by Walsh to amend the motion to say the video may not be posted unless password protected. No vote taken.

Motion by Keener to amend the motion to say "unless reasonable steps are taken to prevent public dissemination." No vote taken.

Motion by Guliuzza to refer the motion to the Rules Committee. Seconded by Leapheart. **Motion to refer PASSES.**

ACADEMICS-03: Motion by Walsh (in collaboration with Zeigler) to modify Rule 8.9 as described below

Rule 8.9 Invention of fact. In lieu of discovery, this rule shall govern the testimony of all witnesses.

(1) CLOSED UNIVERSE. Mock trial competitors are to advocate as persuasively as possible *based on the facts provided*. Thus, teams must rely on the facts stated in the Case Problem rather than creating new facts or denying existing facts in order to advantage their parties (an “Improper Invention”).

(2) JUDGES’ SCORING. If a team demonstrates through impeachment that its opponent has made an Improper Invention, judges should reflect that violation in their scores by penalizing the violating team, rewarding the impeaching team, or both.

(3) STUDENTS’ OBLIGATIONS UNDER RULE 1.4. Students should note that while the primary trial remedy for violating this rule (impeachment) is explained below, an opponent’s inability to successfully impeach a witness does not necessarily mean the witness has complied with this rule. Teams have independent professional and ethical obligations under the AMTA Rules (including, but not limited to, Rules 1.4, 1.5, and 7.6); an Improper Invention constitutes unethical behavior regardless of whether an opponent is successful in demonstrating the violation via impeachment.

(4) IMPROPER INVENTION.

(a) **Definition.** There are several types of Improper Invention:

- i. Any instance (on direct, cross, re-direct, or re-cross examination) in which a witness introduces testimony that contradicts her or his affidavit;
- ii. Any instance on direct or re-direct examination in which a witness testifies to or otherwise introduces material facts not included in her or his affidavit; and
- iii. Any instance on direct or cross examination (including any re-direct or re-cross examination) in which a witness recants the facts set forth in his or her affidavit (as the term “affidavit” is defined in Rule 4(c)(iii)).

(b) **Clarification concerning cross-examination.** 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 and is consistent with the affidavit, reports, or other materials attributed to the witness. In other words, a witness is allowed to invent material facts on cross-examination as long as the witness remains responsive to the question posed and no answer to the question posed on cross examination is contained in that witness’s affidavit. Attorneys who ask questions to which the witness’s affidavit does not provide an answer risk receiving an unfavorable answer in trial. Notwithstanding the aforementioned rules, however, nothing in this section is intended to prevent attorneys from attempting to challenge a witness’s credibility by demonstrating an omission through use of the witness’s affidavit.

(c) **Ancillary Terms.**

- i. **Material facts.** Facts are “material” if 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.

ii. **Reasonable inference.** A witness's answer does not qualify as a "reasonable inference" merely because it is consistent with (*i.e.*, does not contradict) statements in the witness's affidavit. Rather, 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.

iii. **Affidavit.** For the purposes of Rule 8.9, an "affidavit" includes not only a witness's sworn statement, but also any document in which the witness has stated her or his beliefs, knowledge, opinions or conclusions (such as a deposition or an expert's written report). This definition does not include affidavits or documents produced by other witnesses, except to the extent that a witness has relied on such affidavits or documents in forming her or his own conclusions.

(5)(a) TRIAL REMEDY FOR VIOLATIONS. If the cross-examiner believes the witness has made an Improper Invention as described in section 4(a)(i) and 4(a)(ii), the only available remedy is to impeach the witness using the witness's affidavit. Impeachment may take the form of demonstrating either (i) an inconsistency between the witness's affidavit and trial testimony ("impeachment by contradiction") or (ii) that the witness introduced material facts on direct or redirect examination that are not stated in or reasonably inferred from the witness's affidavit ("impeachment by omission"). The cross-examiner is not permitted to raise an objection to the judge on the basis of "invention of fact."

(b) If an attorney conducting an examination believes that the type of Improper Invention described in 4(a)(iii) has taken place, then that attorney or a member of his/her team, may bring this issue to the attention of the AMTA Representatives for purposes of seeking intervention and an in-trial remedy. All rules regarding interventions apply in the event of this type of an intervention. In the event that the AMTA Representatives believe an in-trial remedy is appropriate under the circumstances, the AMTA Representatives may afford the aggrieved team the following in-trial remedy(ies): An instruction will be given to the judges in the round that it is a violation of these Rules and thus it is a violation of AMTA's ethical standards, for a witness to deny the truth of the facts and opinions set forth in that witnesses' affidavit; that it is a violation of these Rules, and thus it a violation of AMTA's ethical standards, for a witness to attempt to invoke a privilege that would allow that witness to avoid answering questions put to that witness; and that Judges may score the witnesses and attorneys as they think appropriate under the circumstances in light of this/these instruction(s).

(c) Notwithstanding the fact that the instruction(s) as described in paragraph (b) were given during the course of a round, either team may avail itself of the Post-Tournament Review set forth in section (6) below.

(6) POST-TOURNAMENT REVIEW. Notwithstanding Rule 9.2(1), an AMTA Representative may not impose any tournament penalty for an alleged violation of this rule. However, if a team or AMTA Representative believes that a team has made an egregious Improper Invention, it may report that allegation to the Competition Response Committee. Any such allegations 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 team. Sanctions may include any sanctions permitted under this AMTA Rulebook.

ADVANCED WITH POSITIVE RECOMMENDATION

Motion by Schuett to refer to the motion to the Rules Committee. **Motion FAILS for lack of a second.**

Motion FAILS. Racheter requested that the Minutes reflect that he voted aye.

BUDGET-02: Motion by Leckrone that the stipend received by a Regional host shall be provided, in full, at least one month in advance of their event.

Rationale: The current system is woefully inadequate to the hosts who put on these events, and detrimental to the Tournament Administration Committee who has to then recruit hosts for the following year. The team evaluations of tournaments should remain as is, but be used not as a way to reward or punish teams with a supplemental stipend, but to evaluate whether AMTA should renew that site in the following year. As it stands, the initial stipend is received in December/January and amounts to around \$800-\$1,000. The hosts then have to wait until all team evaluations are tallied to receive their supplemental stipend, which is based upon said evaluations. In the 2014-15 season, as of the date of the National Championship Tournament, no site had received its supplemental stipend. This motion will ensure that Regional hosts have their monies BEFORE their event, but retain the ability of AMTA to appropriately evaluate our Regional tournaments.

ADVANCED WITH NO RECOMMENDATION

Motion PASSES.

BUDGET-03: Motion by Leckrone that any team that hosts an AMTA Regional shall have available to it an amount of funds from the Tournament Support Fund equal to its program registration fee, provided such host submits the documentation required to be eligible for such funds.

Rationale: Our current system of selecting Regional sites is at a breaking point, due mostly to the manner in which we fund said events. With the growing ability of programs to host far more financially lucrative invitationals, without having AMTA run their event, it is becoming increasingly difficult to recruit a sufficient number of quality hosts. As of the drafting of this motion, many current hosts have indicated that they are reconsidering hosting in the future, with the basis almost exclusively being costs. Not only does this motion give a lucrative financial incentive to host an event, but it specifically targets our larger, more experienced programs, in an effort to increase the likelihood that they would host an AMTA sanctioned event.

ADVANCED WITH POSITIVE RECOMMENDATION

Motion by Leckrone to amend the motion to apply to all programs that host an AMTA sanctioned tournament and to provide that starting with the 2015-2016 season there will be an up-front waiver of the fee. Seconded by Schuett. **Motion to amend PASSES.**

Motion as amended PASSES.

BUDGET-04: Motion by Leckrone to increase the stipend for hosts of our National Championship Tournament to \$25,000.

Rationale: The cost of hosting the National Championship Tournament, and making it the event that we want it to be, have skyrocketed in recent years as our premier event travels around the country. As a result, rather than focusing on the logistics of hosting such an event, including the ever important judge recruitment, hosts end up spending the bulk of their energy on raising funds to cover the costs of same. Early estimates on the 2015 Cincinnati NCT reflect that the current amount allotted (at last estimate \$17,400) does not even cover the costs of the closing ceremony banquet, let alone the costs for opening ceremonies, courthouse facilities, security, etc. That stipend amount was also well below the amount actually spent by our last two hosts. While our more recent hosts have had the resources to secure sufficient funding, such will not always be the case. Increasing the NCT stipend will increase the pool of potential hosts who currently may not feel they have the ability to raise large amounts of funding, and as such, do not submit bids.

ADVANCED WITH POSITIVE RECOMMENDATION

Motion PASSES.

Motion by Eslick to amend the budget with the passage of BUDGET-03. **Motion PASSES.**

Motion by Eslick to amend the budget, changing the shipping line item for the 2015 NCT, to zero. **Motion withdrawn.**

DEVELOPMENT-01: Motion by Detsky to create the following new rule (to be placed in the rulebook at the discretion of the Rules Committee):

Use of the AMTA logo. Absent written permission from the Executive Committee or in conjunction with rights granted in a contract or agreement with AMTA, no person or group may use, in any form or fashion, the AMTA logo for any purpose. Nothing in this rule shall be interpreted to preclude the use of materials purchased from AMTA containing the AMTA logo.

No Rationale.

ADVANCED WITH POSITIVE RECOMMENDATION

Motion by Warihay to table until Sunday morning.

Motion by Heytens to table. Seconded by Keener. **Motion to table PASSES.**

ETHICS-01: Motion by Weatherby that, due to the possibility of identification by judges, hosts at all AMTA-sanctioned tournaments (Regionals, ORCS, and the National Championship) shall, when visiting rounds where their own teams are competing, sit in a neutral location in the trial room – so that they cannot be clearly associated with one team over the other.

Rationale: Strong concern has been expressed that an unfair advantage potentially exists when hosts are present in rounds – clearly linked to their own team via positioning in the courtroom – in view of those judging and/or scoring.

ADVANCED WITH POSITIVE RECOMMENDATION

Motion by Wagoner to amend the motion to prevent hosts from entering rounds in which their teams are competing. **Motion FAILS for lack of a second.**

Motion FAILS.

EXECUTIVE COMMITTEE-02: Motion by Schuett to amend Bylaw Section 4.03.01(a)(1):

Current Bylaw:

Section 4.03.01. Director Selection Process.

(a) Information Gathering from Directors.

(1) Applications.

Anyone seeking to be a Director on the upcoming year's Board of Directors must submit a board applicant questionnaire (form B) no later than March 1. The names of the individuals who have submitted Director applications will be announced in writing to the entire Board of Directors within two business days following the National Championship.

Suggested Bylaw:

Section 4.03.01. Director Selection Process.

(a) Information Gathering from Directors.

(1) Applications.

Anyone seeking to be a Director on the upcoming year's Board of Directors must submit a board applicant questionnaire (form B) no later than March 1. Any director submitting a board applicant questionnaire within one week after March 1 must also submit a show cause application to be considered for reapplication. The names of the individuals who have submitted Director applications will be announced in writing to the entire Board of Directors within two business days following the National Championship.

(g) *Show Cause Application*

In the case of a late board applicant questionnaire submission, a Director applicant must file a show cause application providing good cause for the late submission in order

for the untimely submission to be considered. The Executive Committee will vote on the application. For good cause shown, an untimely board applicant questionnaire may be accepted and the name of the individual will be announced with the other applications to the entire Board of Directors within two business days following the National Championship.

Rationale: We are volunteers. It is not unreasonable for a Board of Directors comprised of lawyers and full-time academics to have busy calendars. The current rule leaves no room for error or discretion. Its Natural Law approach is unnecessarily harsh. While I appreciate the notion that we give Board applicants at least a month to turn in the questionnaire, our lives get busy. For most of us, February and March are extremely busy with real life and mock life. In the legal world, we can at least apply for a court to accept untimely filings. Much like a show cause hearing in court, this motion would allow the Executive Council discretion to decide on a case-by-case basis if the Board applicant's untimely submission should be accepted. Nothing about this motion requires or suggests that the Executive Council must accept an untimely filed questionnaire. Furthermore, the submission period provided isn't unreasonable and wouldn't significantly delay our process.

ADVANCED WITH NO RECOMMENDATION

Motion FAILS.

EXECUTIVE COMMITTEE-03: Motion by Walsh (in collaboration with Bernstein, Parker, Zeigler, and Cody Davis) that the Religious Accommodations Committee be re-titled the Accommodations Committee and that it be tasked with working with AMTA-sanctioned tournament hosts, persons responsible for the courthouses and university facilities in which AMTA-sanctioned competitions take place and members of the Board of Directors of AMTA to provide reasonable accommodations to all eligible participants, including (but not limited to) reasonable accommodations based on the religious beliefs of participants and reasonable accommodations to visually, hearing, cognitively, or physically impaired participants participating in AMTA-sanctioned tournaments. Toward that end, Rules 7.10, 7.11, and 7.12 be replaced with the following language:

Rule 7.10. Presumption regarding witnesses. Unless otherwise specified in the case materials, all witnesses were able to see, hear, and perform all acts described in the case materials at the time of the events in question. Witnesses must so acknowledge if asked.

Rule 7.11. Reasonable accommodations for students with disabilities. AMTA is committed to inclusiveness and educational opportunity and supports the efforts of eligible students with disabilities to compete in AMTA-sanctioned competitions. It is AMTA's policy to provide reasonable accommodations for its eligible students with physical impairments. A reasonable accommodation is a change in the competitive environment or a change in the process or rules that normally govern AMTA-sanctioned competitions that enables an eligible student to perform the essential functions required of mock trial competitors, without creating undue hardship to the organization or fundamentally altering the educational aspects of the mock trial activity.

- 1) Unless it is not feasible, requests for accommodation must be made in writing by the January 15 preceding the AMTA-sanctioned tournaments for which the accommodation is sought. The request may be made on the Team Registration Form or to the AMTA Accommodations Committee. The student who requires accommodation or any coach or official contact person of the student's school may make the request for accommodation. Requests should identify the basis for the accommodation, the specific accommodation sought, verification of the disability, and any other information the requesting individual deems appropriate. Such verification need not include medical documentation.
- 2) By submitting a request for accommodation, the individual requesting same consents to the sharing with officials from the courthouse or other venue, the tournament host, members of the Accommodations Committee, members of the AMTA Board of Directors and other teams and coaches participating in the AMTA-sanctioned competition the information necessary to identify the disability, impairment or religious belief that prompted the request for an accommodation. The requestor may, but need not, offer a proposed accommodation. . Those persons provided with the request for an accommodation will avoid revealing information unnecessary to providing the accommodation and will conduct such discussions with respect for the requesting individual's privacy and dignity.
- 3) The Accommodations Committee will respond to the request for accommodation in a timely fashion. The Accommodations Committee may ask the requesting student, coach, or school for more information, including additional verification of the disability. The Accommodations Committee may offer the requested accommodation; deny the requested accommodation; offer accommodations other than those requested; or take any other actions consistent with AMTA Rules. The Accommodation Committee will inform the host, the AMTA Representatives, the courthouse or university official responsible for the use of the facilities and any other person the Accommodations Committee determines is a necessary recipient of any approved accommodations.
- 4) Decisions of the Accommodation Committee may be appealed to the AMTA Executive Committee.
- 5) Students and teams seeking an accommodation must submit separate requests for each tournament for which the student seeks an accommodation. Said request may be submitted in the same fashion and to the same persons as described in subsection (1) of this Rule and should be submitted along with the submission of bid reservation forms for ORCS and for the National Championship Tournament. However, due to variations in schedules, formats, and facilities, AMTA reserves the right to offer different accommodations to the same student/team in other/later AMTA-sanctioned competitions than that/those offered at the first tournament at which the student is accommodated AMTA reserves the right to share information received in conjunction with an earlier request for an accommodation with AMTA Representatives officiating subsequent AMTA-sanctioned competitions in which that student/team participate, the host of subsequent AMTA-

- sanctioned tournaments and officials responsible for the courthouse or university campus on which the competition takes place.
- 6) AMTA is not responsible for providing, or the costs of providing, any accommodations granted under these rules. For example, if a visually impaired student is granted the use of assistive technology, AMTA will neither provide nor pay the costs of such technology.
 - 7) Teams whose students have been granted accommodations must notify opposing teams, and may notify judges, of the accommodation before the trials in which the accommodated student is competing.

Rule 7.12. Materials accessible to all students. All AMTA materials, to the extent possible, including but not limited to, websites, case materials, and forms, should be text enabled and accessible by screen reading software. Where not possible (e.g. a map or other images), effort should be taken to identify and/or describe images.

ADVANCED WITH POSITIVE RECOMMENDATION

Motion PASSES.

EXECUTIVE COMMITTEE-04: Motion by Bernstein that the Rules Committee shall absorb all responsibilities currently assigned to the Judges Committee, and the Judges Committee shall be dissolved.

Rationale: (1) The tasks historically assigned to the Judges Committee fall entirely within the jurisdiction of the Rules Committee. The Judges Committee first had the task of creating rules for the assignment of judges to trials. Having accomplished that task, the Judges Committee was tasked with revising the judge instruction PowerPoint, which explains AMTA rules to the judges. Assigning tasks like those to the Rules Committee would help ensure consistency (e.g., consistency between our Rulebook and PowerPoint). (2) The Judges Committee has fulfilled its purpose. It was created as an ad hoc committee tasked with developing rules for assignment of judges to trials. That work is done. Since then, its primary task is revising the PowerPoint annually. Even if the PowerPoint required substantial annual revision, we do not need an entire committee devoted to this task. (3) This merger would be efficient. The Rules Committee is busy for only about three weeks each year—when evaluating proposed motions for the summer board meeting. The Rules Committee has the time and expertise to take on the one or two tasks currently assigned to the Judges Committee.

ADVANCED WITH POSITIVE RECOMMENDATION

Motion by Keener to amend the motion to provide that the Rules Committee must submit the Powerpoint for approval by October 1. Seconded by Wagoner. Motion to amend FAILS.

Motion PASSES.

EXECUTIVE COMMITTEE-05: Motion by Bernstein to amend the bylaws to

provide that if a person resigns her or his position as director or candidate in order to serve as AMTA's legal counsel, then she or he, once no longer legal counsel, may immediately stand for reelection in whichever position she or he held before becoming legal counsel.

Rationale: We should not provide disincentives to those willing to provide quality, pro bono legal advice.

ADVANCED WITH POSITIVE RECOMMENDATION

Motion PASSES.

EXECUTIVE COMMITTEE-o6: Motion by Bernstein to amend the bylaws to provide that the chairperson of the Academics Committee serve on the Executive Committee.

Rationale: Of our seven appointed EC positions, four (Rules, Competition Response, Tabulation, Tournament Administration) relate directly to competition. None relates directly to academics/education. The EC needs that voice when addressing its most important matters. Moreover, many board members believe AMTA needs to re-emphasize its educational mission. This motion is consistent with goal.

ADVANCED WITH POSITIVE RECOMMENDATION

Motion PASSES.

EXECUTIVE COMMITTEE-o7: Motion by Walsh (in collaboration with Zeigler) to Modify Rule 10.3.2 as follows (new language in red):

(1) The Case Committee is charged with being creative and topical in determining the subject matter of the case, the changes it makes to the case throughout the year, including the changes it makes between regionals and the National Championship Tournament, and in the structure or process by which the case will be tried. The Case Committee is not prohibited from proposing that a second case be used for purposes of the National Championship Tournament. The Case Committee will not "contract" with anyone to write a given year's case. The case committee may solicit entire cases or portions thereof, outlines, précis, synopses, summaries, topics, or ideas by an announcement on the AMTA website. In the event that the committee solicits entire cases and selects a fully drafted case from those submitted, the Case Committee will give a cash award of \$500 to the individual whose case is used.

(2) **Case Release and Other Deadlines.** Each year's case will be made publicly available no later than August 15. The Case Committee will inform the Executive Committee of the subject matter of the case it proposes to use the following year no later than seven (7) days prior the date that the Case Committee wishes to release the Case Summary, but may submit same at any point during the year. Should the Executive Committee determine that the subject matter of the case should be discussed by the Board of Directors, it may make arrangements for the Board of Directors to discuss same. Any such discussion by the Board of Directors will take place in

executive session. Should the Board of Directors not approve the subject matter of the case, it will inform the Case Committee of its decision immediately. Should the Board of Directors determine that more information and/or a more complete description of the case is required before it can approve the subject matter of the case, the Case Committee shall provide the Executive Committee with the information and/or description by a date determine by the Executive Committee. Within seven (7) days of its receipt of the description/information from the Case Committee, the Executive Committee, keeping in mind whatever concern(s) were raised by the Board of Directors, will give final approval to the subject matter of the case, or it will inform the Case Committee that the subject matter is not approved.

Should the Case Committee propose that a second case be used for purposes of the National Championship Tournament, an NCT Case Subcommittee, not composed of any active coaches, will author the second case. The full Case Committee will neither author nor have advance access to the second case. The President will appoint and the Executive Committee will approve the members selected to the NCT Case Subcommittee no later than two weeks after notification by the Case Committee that a second case is to be used. The NCT Case Subcommittee will notify the Executive Committee of the subject matter of the NCT case pursuant to the deadlines and approval process described above.

(4) Case Changes for the Championship Series. The Case Committee is authorized, but not required, to release changes to the case at any point between the case's initial release and two weeks before the first regional tournament. The Case Committee shall release at least one set of changes between the conclusion of regionals and the start of the National Championship Tournament, but no post-regionals changes shall be made until after the conclusion of the final regional tournament and no post-ORCS changes may be made until after the conclusion of the final ORCS tournament. When the Case Committee determines that doing so is feasible, the Case Committee shall release substantial changes between regionals and ORCS. *The Case Committee may also, but need not, release substantial changes to the case, or it may release a second case to be used exclusively at the National Championship Tournament. These changes or the second case will not be released until after the conclusion of the final ORCS.*

(4) Case Changes for The Championship Series. The Case Committee is authorized, but not required, to release changes to the case at any point between the case's initial release and two weeks before the first regional tournament. The Case Committee shall release at least one set of changes between the conclusion of regionals and the start of the National Championship Tournament, but no post-regionals changes shall be made until after the conclusion of the final ORCS tournament. When the Case Committee determines that doing so is feasible, the Case Committee shall release substantial changes between regionals and ORCS. The Case Committee may also, but need not, release substantial changes to the case, or it may release a second case to be used exclusively at the National Championship Tournament. These changes or the second case will not be released until after the conclusion of the final ORCS.

Note: Passed for amendments to be determined at a later date by Bernstein, Walsh and Warihay.

ADVANCED WITH POSITIVE RECOMMENDATION

Motion by Warihay to amend the motion to remove the word publicly. **Motion to amend accepted as friendly.**

Motion by Guliuzza to substitute the motion to say no case committee can announce a case without approval of the Board. Seconded by Leckrone. **Motion to substitute FAILS.**

Motion by Hawley to divide the question of the first paragraph of section 2 from the remainder of the motion. Seconded by Smith. **Motion to divide the question PASSES.**

With respect to the portion of the motion regarding Board approval (the first paragraph of section 2):

Motion PASSES.

With respect to the portion of the motion regarding the second case (the remainder of the motion):

Motion by Keener to amend the motion to change the word “propose” to “release.” Seconded by Warihay. **Motion to amend PASSES.**

Motion by Hawley to amend the motion to require Board approval of the use of a second case. Seconded by Racheter. **Motion to amend PASSES.**

Motion by Warihay to substitute the motion to say that the Case Committee is authorized to release one and only one case each academic year. Seconded by Wagoner. **Motion to substitute FAILS.**

Motion by Seelau to substitute the motion to authorize two cases for the 2014-15 season. Seconded by Schuett. **Motion to substitute PASSES.**

EXECUTIVE COMMITTEE-08: Motion by Heytens to amend the bylaws to provide that while the President will continue to serve a two-year term, the President-Elect and the Past President each will serve only a one-year term and that the President-Elect shall be elected one year prior to beginning service as President. To further provide that any provision in our current Bylaws or Rules that assign a specific task to the President-Elect or Past President (e.g., the provision that the President-Elect serves on the HR Committee and that the Past President serves on the Disciplinary Committee) be modified to indicate that that task will be assigned to whichever of those two positions exists at any given time. Finally, if adopted this will require the election of a President-Elect at the 2017 annual meeting and that no such election will occur at the 2016 annual meeting.

Rationale: The current system has one great virtue: it maximizes stability, which may well have been the reason for its adoption when we were laying the groundwork for a transition to a rotating President.

That stability, however, has a number of significant disadvantages:

- It requires prospective candidates to make a six-year commitment in order to perform a two-year job. This proposal would reduce it to four.*
- It means that we elect a President-Elect simultaneously with the installation of a new President. This creates several anomalies. A President-Elect who runs on an ambitious change platform must wait two years before having any direct ability to put that agenda into place and it is entirely possible that, by the time the President-Elect assumes office, circumstances will have changed to such an extent that the issues during the election have been superseded by new ones. The new President, in turn, risks having the first of her two annual meetings as presiding officer sidetracked before it even starts by the question of who should succeed her once her minutes-old term is over. Staggering the elections addresses both problems. First, it reduces by 50% the amount of time between the election and a new President's installation. Second, it would permit each election to be (at least in part) a referendum on the administration that the President-Elect would succeed rather than the one before that.*
- At the same time, this system would preserve stability by not requiring a newly elected President to step into office immediately. Under this system, the President-Elect still would have a full year to further familiarize herself with any aspects of AMTA with which she is not currently well-acquainted, including spending at least one pre-President year on the Executive Committee (though, as a practical matter, I would note that every recent President-Elect was already a member of the EC before being elected President-Elect.)*
- In terms of implementation: this system would mean that there would always be a Past President (during the first year of a new President's term) or a President-Elect (during the second) but there would never be both a Past President and a President-Elect at the same time, which necessitates merging the limited number of specific functions assigned to people in those roles*

ADVANCED WITH NO RECOMMENDATION

Motion by Racheter that the vote on this motion be done by secret ballot. Seconded by Vile. **Motion for secret ballot PASSES.**

Motion by Heytens to amend the motion to strike the last sentence and change it to "provided that this motion will take effect immediately and the presidential election will be deferred to 2015." Seconded by Hawley. **Motion to amend FAILS.**

Original motion is seconded by Wagoner. **Motion FAILS.**

Pursuant to the vote of the Board to consider Tabled Motion EXECUTIVE COMMITTEE-09, the Board now considers EXECUTIVE COMMITTEE-09, which reads as follows:

EXECUTIVE COMMITTEE-09: Motion by Heytens to amend the bylaws to provide that the term of a each new President shall begin two weeks following the

conclusion of the relevant National Championship Tournament

Rationale: I understand that there sometimes are post-NCT matters that should be addressed by the outgoing administration. However, once time has been allotted for those matters, it makes sense to empower the new administration to begin acting in a formal capacity as soon as possible.

NOTE: I do not believe that this would require a bylaws amendment. Section 5.06 of the Bylaws states that “[t]he term of each Officer shall begin at the time of his/her election or appointment, unless otherwise ordered by the Board of Directors or by the person or committee having authority to appoint the Officer. Approving this motion would seem to fall within the underlined phrase.

TABLED BY COMMITTEE; UNTABLED BY VOTE OF THE BOARD

Motion to amend by Woodward to change the date to May 15. Seconded by Thomason.
Motion to amend PASSES.

Motion as amended PASSES.

JUDGES-01: Motion by Keener on behalf of the Judges Committee to amend the AMTA Rulebook as follows:

Rule 4.19 Categorization of judges prior to assignment. Using information from tournament hosts and/or the judges themselves, AMTA Representatives shall categorize volunteer judges as follows:

(1) CATEGORY ONE. Category One shall generally consist of sitting judges, trial attorneys, **litigators** and other attorneys with indicia of mock trial experience.

(2) CATEGORY TWO. Category Two shall generally consist of non-coach attorneys who do not fall within Category One.

(3) CATEGORY THREE. Category Three shall generally consist of coaches, law students, other non-attorneys, and anyone who would otherwise fall within another category but who the AMTA Representative feels is unfit to judge a top round.

a. At tournaments at which their team(s) are not competing, coaches who volunteer to judge should be categorized without regard to their status as a coach

(4) NO RELIEF. No team may claim relief of any sort on the grounds that a judge was miscategorized.

ADVANCED WITH POSITIVE RECOMMENDATION

Motion by Racheter to amend the motion to strike “and other attorneys” in subpart (1).
Motion to amend FAILS for lack of a second.

Motion PASSES.

RULES-01: Motion by Heytens to amend Rule 8.5(4) and accompanying comment to read as follows (New text in red; deleted text ~~strikeout~~)

(4) RESTRICTION ON MATERIALS NOT INCLUDED IN CASE PACKET. No team may introduce material facts through a demonstrative aid that it would not be permitted to introduce through testimony or AMTA-provided documents. ~~Nothing in this rule prevents a witness from creating a demonstrative illustration during the course of his or her examination.~~ The fact that a demonstrative aid is not excluded by an AMTA Representative does not render it admissible at trial. Evidentiary objections may be made. Restrictions imposed on the use of a demonstrative aid by an AMTA Representative must be honored and the failure to honor such restrictions may be grounds for a tournament penalty or sanctions.

(5) DEFACING PROHIBITED. Permanently defacing an opponent's demonstrative aid is not permitted.

Comment to rule 8.5(4): **No demonstrative aid -- whether created ahead of time or by a witness during testimony-- may purport to depict** ~~photograph, pre-made map, or pre-made drawing, or pre-made depiction of a particular person, particular place, or particular thing~~ ~~may be used as a demonstrative aid~~ unless it has been provided with or is specifically permitted by the case materials. By way of example, "a skull" is not a "particular thing," but "the victim's skull" is. Similarly, a photo of a station wagon is not a particular thing, but it would be if described as a photo of the defendant's vehicle or the particular make and/or model of the defendant's vehicle. Lists, charts, graphs, phrases, etc. are not considered "drawings" for the purposes of this rule, and may be used to summarize, combine or illustrate facts that are already present in the case packet.

Rationale: This motion is designed to address two issues. First, to clarify that a witness may not draw or otherwise create something mid-round (such as a map) that purports to depict a particular person, place, or thing in the case packet. Two, to make clear that the prohibition on using a demonstrative aid to depict particular people, places, or things is not limited to "photographs," "maps," "drawings," or "depictions."

ADVANCED WITH POSITIVE RECOMMENDATION

Motion PASSES.

RULES-02: Motion by Smith to modify Rule 4.33:

Rule 4.33 All-loss rule.

...

(3) WHEN TRIAL IS DEEMED COMPLETED. A trial is deemed completed ~~when both scoring ballots from the trial are submitted to an AMTA Representative or his/her designee upon the conclusion of closing arguments (including any rebuttal argument).~~ The trial shall be deemed completed even if any ballot must be returned to a judge due to error, incompleteness, or illegibility.

Rationale: The purpose of the All Loss rule is to keep tournament rounds moving in an efficient manner so that the tournament itself can remain on schedule. The All Loss rule keeps teams and judges responsible for limiting the duration of untimed activities (pretrial, objections) so that an individual round does not derail the ability of reps to tabulate, pair, and initiate 30 minute reviews.

However, the rule in its current execution takes almost all ability to control the All Loss clock away from the student competitors. Under most circumstances, the length of arguments and pretrial is in the hands of the presiding judge. Sometimes, the factor most responsible for causing round delay is judges taking time to write comments between each performance. Most often, however, the length of time used is related to a judge allowing for extended arguments.

With some tab rooms far away from courtrooms, in situations where judges fail to follow the rule to score as they go, students awaiting scores are placed into an awkward position of forcing judges to give up incomplete ballots so that they can run them to tab just to have to run them back. This is a silly process and creates unnecessary anxiety for the students placed in this position.

Amending the rule to impose the all loss rule based on the completion of the round, rather than receiving the ballots, would place more control over the timing in the hands of the students themselves (when running long, it would be clear that a successful remedy would be shorten or eliminating closings or even a cross).

ADVANCED WITH POSITIVE RECOMMENDATION

Motion PASSES.

RULES-03: Motion by Smith to amend the tabulation manual procedures to provide a process for assigning courtrooms.

Trial room assignments. After finalizing the subsequent round's pairings, the AMTA Representatives shall promptly assign each trial to a room. The primary consideration shall be to accommodate, to the maximum extent possible, accessibility requirements of participants, and/or judges. The Representatives should further consider a team's anticipated number of spectators, competitive considerations, and any other relevant factor in assigning trial rooms. No team shall have any claim for relief on the basis of a room assignment.

Rationale: While AMTA has done an excellent job recruiting tournament sites, most locations (particularly for regionals, but not uncommon at ORCs at Championship) have substantial disparity in room quality. At a single tournament venue, the range can run from an actual courtroom to a conference room. Under the present procedure there is no process for assigning courtrooms that is consistent across venues and any reference to assigning rooms seems to suggest that it should be done randomly, while

some venues assign rooms based on projected spectator attendance and others assign rooms based on quality of room and round.

ADVANCED WITH POSITIVE RECOMMENDATION

Motion PASSES.

Motion by Woodward to move discussion of Strategic Planning motions after remaining motions. Seconded by Leckrone. **Motion PASSES.**

SPC-01: Motion by Halva-Neubauer on behalf of SPC to adopt a strategic plan.

SPC-02: Motion by Halva-Neubauer on behalf of SPC to hire an executive director.

Motion by Halva-Neubauer to enter into committee of the whole for the purposes of discussion of SPC-01 and SPC-02. Seconded by Racheter. **Motion PASSES.**

Motion by Bernstein to send SPC-01 to the Strategic Planning Committee to put together a plan for the midyear meeting. The Strategic Planning Committee will meet in October to formulate the plan to be discussed at the midyear meeting. Motion to amend by Woodward to discuss the plan at the 2015 annual meeting. Seconded by Warihay. **Motion to amend PASSES. Motion as amended PASSES.**

Motion by Halva-Neubauer to table SPC-02. Seconded by Schuett. **Motion to table PASSES.**

Motion by Racheter that the committee of the whole rise and report. Seconded by Halva-Neubauer. **Motion PASSES.**

Motion to adopt the recommendations of the committee of the whole. Seconded. **Motion PASSES.**

Motion by Woodward to go into executive section. Seconded. **Motion PASSES.**

TAB-01: Motion by Heytens to remove SOO as tiebreaker to Eliminate Strength of Opposition as the fourth-level tie breaker (aka move from OCS to PD)

Rationale (by Sarah Sawtelle): As the person who programmed the AMTA tabulation Excel workbooks, I am continuing to improve them to make life easier for the AMTA representatives. I'm currently working on a version that auto-sorts teams by rank, saving time after R4. The formulas already calculate CS, OCS, and PD for teams, and I think I can crack the head-to-head calculation by the next season. The SOO takes four pages of the tab manual to explain and is not conducive to being expressed in a programmable formula. The SOO is rarely used, and most of its value is already captured in the CS and OCS tiebreakers that come before it. Removing it as a

tiebreaker would allow for a self-ranking tabulation workbook.

ADVANCED WITH POSITIVE RECOMMENDATION

Motion PASSES.

TAC-SITE SELECTION-01: Motion by Bernstein to amend Rule 6.9 shall be amended such that the third tiebreaker (after whether the school already has a bid) shall be whether the school hosted an AMTA-sanctioned tournament in the given season.

Rationale: We need to provide incentives for schools to host AMTA tournaments.

ADVANCED WITH POSITIVE RECOMMENDATION

Motion FAILS.

Pursuant to the vote of the Board to consider Tabled Motion TAC-TEAM ASSIGNMENT-01, the Board now considers TAC-TEAM ASSIGNMENT-01, which reads as follows:

TAC-TEAM ASSIGNMENT-01: Motion by Bernstein to amend the Rulebook so that the two-teams-per-school-per-regional limit shall not apply to any of the following schools in a given season:

- schools without multiple teams in the top 150 of AMTA's bonus bid ranking; and
- schools that host an AMTA tournament in that given season and which are without multiple teams in the top 75 of AMTA's bonus bid rankings.

Rationale: (1) Reducing the number of teams subject to the limit would reduce the driving distance and travel costs for many teams. (2) Providing an additional host incentive might encourage more teams to host AMTA tournaments. This is one of our most vital needs. (3) The limit is not as crucial as it was when first enacted. The limit primarily aims to prevent pairing impurities at the top of a bracket caused by same school matchup constraints. In an age when more and more schools are qualifying for ORCS and NCT, fewer and fewer schools have the depth to disrupt the pairing purity at the top of a bracket. For example, the number of schools that qualify multiple teams for NCT is about half of what it was. For the first three years of ORCS (2009-11), a minimum of 9 schools per season earned multiple bids to NCT. In the last three seasons (2012-14), an average of 5 schools, and no more than 6, have earned multiple NCT bids in a season. This year only 4 schools qualified multiple teams to the National Championship Tournament -- the lowest number in recent AMTA history. Only one school (Rhodes) qualified teams to NCT in each of the last two seasons. No schools have done it in each of the last three seasons. Our bonus bid rankings show the same parity: only one school has multiple teams ranked among the top 24, and only four schools have multiple teams in the top 48. In short, the major rationale for the limit is no longer true.

TABLED BY COMMITTEE; UNTABLED BY VOTE OF THE BOARD

Motion by Schuett to amend the motion to change the “and” to an “or.” Seconded by Racheter. **Motion to amend PASSES.**

Motion fails.

TAC-02: Motion by Warihay to direct the Tournament Administration Committee to allow for additional regional tournament schedules on the LSAT weekend to accommodate competitors taking this exam. Specifically, the TAC is authorized to allow for a 1-1-2 tournament schedule, with the Saturday round not starting before 2:00 p.m. Further, the TAC is authorized to allow a 2-2 tournament schedule that has the first Saturday round not starting before 2:00 p.m. Nothing in this motion is intended to require such a schedule on LSAT weekends, as the ultimate decision is between the Tournament Administration Committee and AMTA’s tournament hosts.

Rationale: As many know, our current rule advises our regional tournament hosts to “avoid” the LSAT weekend. However, in practice, with 25 regional tournaments, there are inevitably a number of regional tournaments held on the LSAT weekend each year. In some respects, this is unavoidable given the schedule of our annual tournaments. The unwritten policy for TAC over the years has been to not accommodate the LSAT as a conflict, as many teams and students plan accordingly to avoid taking the LSAT on this weekend. However, given growing changes in law school admissions, many students are taking the LSAT multiple times each admissions cycle, which inevitably means that many students are taking the LSAT each weekend. Unfortunately, this means that many mock trial competitors with having to choose between participating in an activity that prepares them for law school and the entrance examination for same. This motion seeks to spark the conversation for the AMTA Board to speak on this issue. Either the Board should decide concretely that this is a conflict that we are not going to recognize, or adopt this motion, which seeks to implement measures to allow TAC to be flexible with this test. This motion is not intended to indicate that this is the only solution to this problem. Rather, this motion seeks to make space on our agenda for this conversation, which will hopefully provide guidance from the Board to the Tournament Administration Committee on this issue.

Note: The 2:00 p.m. time referenced above is based on the traditional end-time for the LSAT of 1:30 p.m.

ADVANCED WITH NO RECOMMENDATION

Motion FAILS.

XI. Unfinished/New Business

Motion by Leckrone that the Annual Board Meeting take place in Atlanta in July 2015. Second by Walsh.

Motion PASSES.

Motion by Guliuzza to award the 2016 National Championship Tournament to Furman University with the contract to do so to contain certain caveats.

Motion PASSES.

Motion by Guliuzza to thank Justin Bernstein, Michael Smith, Marissa Oxman and the students from the University of California for hosting a wonderful Board Meeting. Seconded by Acclamation.

Motion PASSES.

XII. Adjournment

Motion by Woodward to adjourn. Seconded by Acclamation.

Motion PASSES.

Appendix A: Consent Calendar

Motion by Racheter to start the midyear phone meeting an hour later than we have been to create more attendance from those of us not on the east coast who attend church on Sundays before we are free to join the call.

No Rationale.

Motion by Racheter to ensure that all directors shall have access to the case once it is published to schools.

Rationale: It is important for directors to be aware of AMTA's important matters.

Motion by Warihay to add the following language to Rule 2.8:

(e) Submission of the online AMTA School Registration form.

Rationale: AMTA has had an online and/or paper registration form for years, but it is currently not required under our rules for any purpose. In practice, we have required the form, so this change is to codify an existing practice for purposes of registration.

Motion by Warihay to change the name of the Bonus Bid Rankings to Team Power Rankings, and amend Rule 6.11, and all related references in AMTA documents accordingly.

Rationale: The name "Bonus Bid Rankings" or "BBR" is a reference to a mechanism that is no longer used in mock trial. I understand that BBR was historically used to determine which regional tournaments received additional bids (i.e. Bonus Bids) to

respective tournaments based on the power of the teams attending. However, under our current rules, this is no longer done. Therefore, this motion seeks to better describe the nature of the rankings that we prepare, and the purpose for same.

Motion by Bernstein to adopt proposed 2014-15 AMTA Committee Assignments

Committee	Members
Academics	DeLois Leapheart (Chair) David Ben-Merre (Assistant Chair) Melissa Pavely (Director of Mentoring Program) Emily Shaw Angela Minor Joann Scott Kyle Thomason Brandon Harper Michael Nelson Zac Caldwell Georgie Weatherby Jackie Olson Keshav Nair
Accommodations	Frank Guliuzza (Chair) David Cross (Counsel) Michael Gelfand Don Racheter Cody Davis
Audit	Michael Smith (Chair) Shirley Pepples
Budget	Matthew Eslick (Treasurer/Chair) Anna Smith (Assistant Chair) Justin Bernstein Michael Walsh
Case – Civil	Dan Haughey (Chair) Abbe Stensland Michael Gelfand Toby Heytens Justin Bernstein (NCT Subcommittee) Ryan Seelau (NCT Subcommittee) Laura Seelau (NCT Subcommittee)

Committee	Members
Case – Criminal	Alex Bluebond (Chair) Anna Smith David Ben-Merre Collin Tierney Michael Nelson Cindy Jordano
Competition Response	Anna Smith (Chair) Johnathan Woodward (Tabulation Director) Ryan Seelau (Rules Committee Chair) Dan Haughey (Civil Case Committee Chair) Barry Langford (Ombudsperson) William Warihay (TAC Chair) Justin Bernstein (President)
Development	Toby Heytens (Chair) Neal Schuett Kyle Thomason Tom Parker Angela Minor Barry Langford Grant Keener Lauren Lutton Devon Holstad Mallory Schneider Brandon Harper Madeline Roche Zac Caldwell Michael Smith Jessica Bernhardt Adam Detsky Aaron Broder Nicholas Teleky Nicholas Zurakski
Disciplinary	Glen Halva-Neubauer (Past President) Georgie Weatherby (Appointment by President) At Large Member (elected by Board)
Ethics	Tom Parker (Chair) Georgie Weatherby Barry Langford

Committee	Members
Executive	Justin Bernstein (President) Glen Halva-Neubauer (Past President) _____ (President Elect) Michael Walsh (Secretary) Matthew Eslick (Treasurer) William Warihay (TAC Chair) Johnathan Woodward (Tabulation Director) Anna Smith (Competition Response Chair) Ryan Seelau (Rules Chair) DeLois Leapheart (Academics Chair) Toby Heytens (Development Director)
Human Resources	Michael Walsh (Secretary) _____ (President Elect) At Large Member (elected by Board)
Rules	Ryan Seelau (Chair) Neal Schuett John Vile Jim Wagoner Toby Heytens Nicholas Gowen Marissa Oxman
Strategic Planning	Glen Halva-Neubauer (Co-Chair) Sara Zeigler (Co-Chair) Grant Keener Ryan Seelau <u>Transition Subcommittee</u> Glen Halva-Neubauer (Co-Chair) Sara Zeigler (Co-Chair) Michael Walsh Mallory Schneider

Committee	Members
Tabulation Advisory	Johnathan Woodward (Chair) Alicia Hawley Monica Dorman Mark Fruehauf <u>Analysis Subcommittee</u> Annie Wang (Co-Chair) Ben Graham (Co-Chair) Sarah Sawtelle Michael Nelson
Technology	William Warihay (Chair) Diane Michalak Neal Schuett Mike Walsh Monica Dorman

Committee	Members
Tournament Administration	<p>William Warihay (Chair)</p> <p><u>Site Selection & Host Communication Subcommittee</u></p> <p>Josh Leckrone (Chair) Tom Parker Grant Keener Monica Dorman Michael Polovich Barry Langford Mark Fruehauf Justin Matarrese Sue Johnson Michael Koeltzow</p> <p><u>Team & Feeder Subcommittee</u></p> <p>Adam Detsky (Chair) Alicia Hawley Sarah Sawtelle Matthew Covert David Lichtenstein Johnathan Woodward</p> <p><u>AMTA Representative Assignment Subcommittee</u></p> <p>Melissa Pavely (Chair) Glen Halva-Neubauer Matthew Eslick (Treasurer) Michael Walsh</p> <p><u>Championship Selection and Planning Subcommittee</u></p> <p>Frank Guliuzza (Chair) Jackie Palmer Sarah Sawtelle Dan Haughey Justin Matarrese</p>

Position	Members
Counsel	David Cross / Crowell & Moring LLP
Insurance Coordinator	Adam Detsky
Newsletter Editors	Grant Keener (Editor in Chief), David Ben-Merre
Ombudsperson	Barry Langford

Parliamentarian	Frank Guliuzza
Trophy Coordinator	Adam Detsky
Website Manager	William Warihay

Appendix B: Tabled Motions

BUDGET-01: Motion by Racheter to increase the amounts allowed for AMTA representatives to spend per day on food and motel by \$26 and increase the amount you can spend for airplane or rental car without special approval by \$50 and henceforth tie amounts to increases in the consumer price index so it automatically adjusts. (We have been using the same amounts for many years, while costs continue to rise.)

DEVELOPMENT-02: Motion by Racheter to look into creating an AMTA lapel pin of our logo that would be available for purchase as a fundraiser.

EXECUTIVE COMMITTEE-01: Motion by Heytens to clarify the rules on students with, or depicting witnesses with, physical impairments
Replace current rules 7.10-7.12 with the following:

Rule 7.10: Witness’s ability to perform acts described in case materials
 Unless otherwise specified in the case materials, all witnesses were able to see, hear, and perform all acts described in the case materials at the time of the events in question. Witnesses must so acknowledge if asked.

Rule 7.11: Reasonable accommodation for students with impairments
 AMTA will make reasonable accommodations for students with physical impairments, including waiving otherwise applicable rules. The ultimate authority to grant an accommodation will be vested in the President, subject to later ratification by the Executive Committee.

Rationale:

- 1. The captions of current Rules 7.10-7.12 could be read to limit their applicability to students who actually have visual hearing, or other impairments. This revised Rule 7.10 would make clear that it applies all students, regardless of their current physical traits.*
- 2. The current accommodation rules (Rule 7.10(2)) is by its terms limited to visually impaired students and specifies a limited range of permissible accommodations.*

EXECUTIVE COMMITTEE-09: Motion by Heytens to amend the bylaws to provide that the term of a each new President shall begin two weeks following the conclusion of the relevant National Championship Tournament

Rationale: I understand that there sometimes are post-NCT matters that should be addressed by the outgoing administration. However, once time has been allotted for

those matters, it makes sense to empower the new administration to begin acting in a formal capacity as soon as possible.

NOTE: I do not believe that this would require a bylaws amendment. Section 5.06 of the Bylaws states that “[t]he term of each Officer shall begin at the time of his/her election or appointment, unless otherwise ordered by the Board of Directors or by the person or committee having authority to appoint the Officer. Approving this motion would seem to fall within the underlined phrase.

EXECUTIVE COMMITTEE-10: Motion by Heytens to provide that authority to extend open bids to particular ORCS sites under Rule 6.9(4), to reassign bids under Rule 6.7(2) or 6.7(4), and to designate “Stand By” teams under Rule 6.1 shall be vested in the chair of the chair of the Tournament Administration Committee (or, if the TAC chair so designates, the chair of the Team and Feeder subcommittee), subject to a duty to consult with the Tabulation Director about the timing for extending open bids.

Rationale: The current system of vesting authority over open bids, overbids, and bid swap requests for ORCS in the Tabulation Director may well have made sense in an earlier era. Nor is this motion motivated by any particular decisions that Tab Directors have made (or not made). I lack the information to opine on the vast majority of those decisions, and I think that most of the ones about which I do know anything have been sensible and wise.

At least two things have changed, however. First, under our current system, the question of which teams get offered open bids (and in what order) is now purely mechanical; the only question is where those bids go. Second, we now have a committee expressly charged with creating regionals and (presumptive ORCS) fields while balancing geographical convenience, power, and accommodation requests by teams. The discretionary decisions that remain at the open bid, overbid, and bid swap stages---which, again, seem to involve convenience, power, and accommodation requests by teams---seem largely to overlap with (if not duplicate) those made by TAC at the initial assignment phase.

*I’m aware that the current Tab Director is also a member of the Team and Feeder subcommittee. But our rules do not require that the Tab Director be on that committee and there doesn’t seem to be any reason why it should inevitably be required other than the circular argument that **if** the Tab Director is going to be in charge of handing out open bids and other pre-ORCS matters, it makes sense to have the Tab Director on Team and Feeder as well.*

I also recognize that administering this system is complicated and time-sensitive and probably needs to be vested in one person rather than in a committee. But, for the reasons I’ve given, I think it makes more sense for that person to be the person charged with chairing the committee that assigns teams to regionals in the first place as opposed to someone else.

TAC-AMTA REPRESENTATIVES-01: Motion by Detsky on behalf of Gelfand

to amend Rule 9.9 to add a new section 9.9(10) which states the following: AMTA REPRESENTATIVES (10) Procedures Explained During Opening Ceremonies. During the Opening Ceremony of any AMTA-sanctioned tournament, the AMTA representatives at that tournament shall explain the procedure for making a proper and timely request for an intervention under these rules. Among other things, the AMTA representatives shall state that: (a) intervention requests may only be made by students on a team's roster (except as provided in Rule 9.9(4)(b)); (b) before making an intervention request, a student must notify a student on the roster of the opposing team; and (c) an intervention request concerning any rule violation during a trial must be made no later than the first break in the trial after the violation occurs or is discovered.

Rationale: During this season alone, I have seen teams with long-tenured coaches and some of the top teams in the country make improper and untimely requests for tab room interventions. This has included requests that were made long after the alleged violation occurred, sometimes even after the ballots were turned in, and requests that were made by coaches instead of rostered students. The procedures for making an intervention request are clearly laid out in our rules. But teams are either not reading the rules or their coaches and leadership are not communicating the procedures to the students effectively. Normally, I would argue that students are fully responsible for knowing and properly utilizing our rules and procedures. But I believe that argument gives way when flagrant and egregious rule violations (and other situations worthy of intervention) go unreported and/or unremedied. When their intervention requests are denied on procedural grounds, students walk away from the competition feeling cheated and betrayed. Implementing this rule would not significantly lengthen opening ceremonies. It would likely take the AMTA representatives less than a minute to give the required explanation. And the result would likely be a fairer competition.

TAC-TEAM ASSIGNMENT-01: Motion by Bernstein to amend the Rulebook so that the two-teams-per-school-per-regional limit shall not apply to any of the following schools in a given season:

- schools without multiple teams in the top 150 of AMTA's bonus bid ranking; and
- schools that host an AMTA tournament in that given season and which are without multiple teams in the top 75 of AMTA's bonus bid rankings.

Rationale: (1) Reducing the number of teams subject to the limit would reduce the driving distance and travel costs for many teams. (2) Providing an additional host incentive might encourage more teams to host AMTA tournaments. This is one of our most vital needs. (3) The limit is not as crucial as it was when first enacted. The limit primarily aims to prevent pairing impurities at the top of a bracket caused by same school matchup constraints. In an age when more and more schools are qualifying for ORCS and NCT, fewer and fewer schools have the depth to disrupt the pairing purity at the top of a bracket. For example, the number of schools that qualify multiple teams for NCT is about half of what it was. For the first three years of ORCS (2009-11), a minimum of 9 schools per season earned multiple bids to NCT. In the last three seasons (2012-14), an average of 5 schools, and no more than 6, have earned multiple NCT bids in a season. This year only 4 schools qualified multiple teams to the National Championship Tournament -- the lowest number in recent AMTA history. Only one

school (Rhodes) qualified teams to NCT in each of the last two seasons. No schools have done it in each of the last three seasons. Our bonus bid rankings show the same parity: only one school has multiple teams ranked among the top 24, and only four schools have multiple teams in the top 48. In short, the major rationale for the limit is no longer true.

TAC-01: Motion by Detsky to create the following new rule, to be placed in the rulebook as the rules committee deems appropriate:

If a regional tournament selects the weekend of LSAT's to host, then no round may begin before noon on the day the LSAT is given.

Rationale: As drafter of this motion, I'm torn between the value of such a rule and the impracticality of it on our hosts, competitors, sites and volunteers. The issue giving rise to this motion is that many law school admissions counselors have been reporting that the way law schools view the LSAT has changed in the past five years.

Specifically, while it used to be that law schools average together your LSAT scores if you take the test more than once for the purposes of calculating their student body's average LSAT score - they are now allowed to use their student's highest LSAT score for the calculation. As a result, the February LSAT - which is a very common date for LSAT re-takers - has a heightened importance to the students and the school.

Additionally, since February is a common re-take date, many teams don't know that their members will be taking that exam until well after registration forms are submitted - and often don't realize it until the regional assignments are released.

Conversely, I recognize that having a competition go later into a Saturday evening would mean students would likely have to compete through ordinary dinner hours and could cause logistical problems with hosts.

Appendix C: December 2013 Mid-Year Board Meeting Minutes

I. Call to Order

Conference call attendance:

Members present (X): Bernstein, Detsky, Eslick, Guliuzza, Halva-Neubauer, Heytens, Langford, Leckrone, Nelmark, Olson, Racheter, Vile, Wagoner, Walsh, Weatherby, Woodward, Zeigler

Members not present (X): Butler, Creed, Haughey, Hawley, Kelly, Satler, Schuett, Seelau, Scott, Smith, Thomason, Warihay.

Candidate Members present (X): Keener, Leapheart, Parker, Pavey, Ben-Merre, Dorman, Gelfand, Kopko, Smith

Candidate Members not present (X): Minor, Winget ***Staff & Guests (X):***
Directors Emeritus (X):

Motions appear in bold. The decision of the respective committees follows each motion **IN BOLD, CAPITAL LETTERS AND UNDERLINED**. Final disposition of the motions appears in **BOLD, RED CAPITAL LETTERS**. Dispositions of motions to call previous question (end debate) appear in red. Secretary's notations appear in blue. Motions that have been recommended or advanced by committee do not need to be seconded at the meeting.

II. Welcome and Remarks (Halva-Neubauer)

- Condolences to Jim, Wagoner on the loss of his father, DeLois Leapheart on loss of her brother, and Georgie Weatherby on the loss of her mother.
- Congratulations to Kristofer Lyons (former Director) on birth of his second child and to David Ben-Merre on earning tenure.
- Holiday gift for Susan Ewing: If you would like to contribute to Susan's gift, please make your pledge to Glen Halva-Neubauer by Friday, December 21, 2013.
- Scholarships: An AMTA student from Yale, Vinay Nayak, received a Rhodes scholarship.
- Compliments to Grant Keener and David Ben-Merre on the newsletter, *Pretrial 1*

Matters. A commendation to Melissa Pavely for her work on new school mentoring project, as well as thanks to all of those who are mentoring schools. Thanks also to Adam Detsky on handling team assignments, and to Grant Keener and Sara Zeigler for negotiating the Kaplan contract for \$12,500. Thanks to Will Warihay and Josh Leckrone for their work on TAC.

Announcements:

- All candidate directors will receive an email asking for a paragraph on their AMTA service over the last year.
- All candidate directors will receive feedback on their work prior to January 1.
- A reminder on deadlines for director applications will be sent via email.
- Annual board meeting will be hosted by Justin and Michael in Newport Beach on

July 11-13, 2014.

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 WITHOUT OPPOSITION

V. Approval of 2013 Board of Directors Meeting minutes. Motion by Detsky to approve the minutes, seconded by Wagoner. APPROVED WITHOUT OPPOSITION

VII. Committee Reports

A. Audit Committee (M. Smith)

The Committee is working with Shirley Pepples, a CPA in Iowa, to review our books and ensure that we are following appropriate procedures. The Committee will institute a procedure for yearly audit.

B. Budget Committee Report (Eslick):

Please start making your travel arrangements for AMTA Rep assignments, bearing in mind the travel policy regulations that were distributed with the final assignments. The financials for month ending October 31, 2013 are available. AMTA is over budget for registration income (which is good) and a bit low on revenues regional fees. Send an e-mail to Mr. Eslick if you would like to the current financials and he will send them to you.

C. Criminal Case Committee (Parker):

Thanks to those who have provided feedback on the case, which has been very useful and has shaped the changes. Case changes will be out by Sunday, December 22, 5pm EST. Case balance is very good.

P 48.5%, D 47.7%, T 3.9%

Will address “playability” issues in the changes. Send suggestions via email or by phone to Parker. There will be no changes between December 22 and regional tournaments absent an unexpected issue or crisis.

D. Civil Case Committee (Heytens):

The Committee is pursuing an idea for a case. The DVD is still under review – the videographer was not as good as we had hoped and Susan Ewing is working with Tom Sawyer to see if the two DVD set produced by the videographers can be merged into a single DVD. The DVDs produced by the videographer contain footage of the speeches of Justice Kagan and Secretary Napolitano.

E. Development Committee (Olson):

The primary work has been the new school mentoring program led by Melissa Pavely. Eight mentors are working with eighty schools (total). The participants are primarily new schools, but also some that had dropped out to determine the reasons for the drops. Anyone interested in mentoring should contact Pavely. The

Committee is also working on the alumni database, especially with graduating seniors.

F. Ad Hoc Committee on Religious Accommodation (Leckrone for Koblasz):

One accommodation will be necessary. Washington Adventist has registered and paid all fees and will attend the regional in Richmond, and Josh will work with host on accommodating the school.

G. Rules Committee (Seelau):

No report.

H. Strategic Planning Committee (Halva-Neubauer):

The Committee is making good progress, having met in Indianapolis in mid-September, hosted by Johnny Pryor (former Director). The meeting was facilitated by Marilyn Kuhn and the members discussed mission, vision, and core values. The Committee began to work on the strategic goals. Committee work has focused on the mission statement, which emphasizes the educational value of the organization's primary activity. The members are currently refining the mission statement and will have more interaction with the remainder of the board prior to Newport Beach meeting, for which we will have a full document. The Board will vet the document prior to the issuing of the agenda. A special thanks to Kyle Kopko, who took notes for the meeting.

I. Tabulation Advisory Committee (Woodward):

The revised tab manual was issued on time with much help from Monica Dorman. This is the quiet time of year, and Johnathan Woodward will be in touch with reps shortly after the start of the year to review bid procedures and the new all-loss rule.

J. Tournament Administration Committee (Leckrone for Warihay):

25 Regionals are scheduled with a large number of new hosts this year. The AMTA Representative Committee has ensured that veteran reps go to the new tournaments. Leckrone has been working with the hosts on judge recruitment and to ensure that initial contacts with teams have been made. There was a late replacement of the Sacramento regional with Fresno. Thanks to Gordon Park for stepping in. ORCS sites are prepared as well. All teams that have registered have been assigned. Everything is going smoothly. 643 teams have been assigned.

K. Other Committee Reports:

IX. Motions:

BUD-01: Motion by Eslick to amend Rule 2.5 as follows:

Rule 2.5 Refunds and credits.

(1) WITHDRAWAL FROM REGIONAL COMPETITION. A school that withdraws one or more teams from regional competition after October 15 shall not receive any credit or refund. **A school that withdraws one or more teams from regional competition before October 15 shall receive a refund equal to the regional registration fee paid for the team(s) withdrawn.**

(2) NON-QUALIFICATION TO THE CHAMPIONSHIP SERIES. If a school competes at a regional tournament, has paid championship series registration fees, but fails to qualify to part or all of the championship series, the school shall receive a credit for the unqualified fees. The credit shall be applied to the school's registration the following year. Any school that does not **register use its credit the year following the acquisition date of the credit within two years after a credit is obtained** shall forfeit the credit. No refunds will be given.

(3) EXCEPTION FOR NEW PROGRAMS. A new school, **as defined in Rule 2.4(2)(B), school registering with AMTA for the first time that has paid fees of any kind but does not compete at a regional tournament the fee and is unable to compete** may roll **any fees paid the fee** over to the next year. **This applies to the first registration only and the fee may be rolled over only once.** This does not apply if the school withdraws from regional competition within 30 days of the start of the tournament.

(4) SCHOOLS THAT HAVE NOT COMPETED FOR FIVE OR MORE SEASONS. If a school has not registered in the previous five seasons (or longer), any fines or penalties owed by the program to AMTA are voided and the school can begin with a clean slate.

Rationale: The amendment to Rule 2.5(1) clarifies what happens when a school withdraws one or more teams from a regional competition before October 15. Previously, schools were given the option of a credit or a refund. The amendment to Rule 2.5(2) resolves a conflict in the rule concerning whether credits carry over for one year or two years. The amendments to Rule 2.5(3) resolve an ambiguity regarding what "the fee" is, and clarify that "new schools" (*i.e.*, those not registering with AMTA for five or more consecutive seasons) are eligible for the fee roll-over.

The formatting was incorrect in the issued agenda and is corrected here. The refunds are provided instead of credits as carrying over a credit creates a liability on AMTA's books that is challenging to track. This procedure was changed several years ago at the recommendation of AMTA's accountant.

APPROVED WITHOUT OPPOSITION

RULES-01: Motion by Eslick to amend Rule 1.1 as follows:

Rule 1.1. Applicability. These rules shall apply to all sanctioned tournaments. Invitational tournaments are not sanctioned tournaments. Although invitational tournaments often follow some or all of these rules, they are not obligated to do so. Participants are cautioned that the absence of enforcement of any rule at an invitational tournament does not mean the rule will not be enforced at a sanctioned tournament. Notwithstanding any provision in AMTA's bylaws to the contrary, in the event of a conflict between these Rules and any other materials published or made available by AMTA *other than* the Midlands Rules of Evidence and the AMTA Tabulation Manual, these rules shall govern *unless* the AMTA published materials expressly state that they contradict these Rules and that the contradiction is intentional.

Rationale: A conflict between the registration webpage and the rules arose this year. This amendment clarifies which set of published materials governs in the event of such a conflict.

Eslick noted that the motion arose out of a problem that came up due to inaccuracy on the web page – ensures that the rules govern in case of inconsistency.

APPROVED WITHOUT OPPOSITION

RULES-02: Motion by Heytens to add the following language to the rulebook defining "demonstrative aid" and to adjust terminology accordingly:

See Appendix A.

Rationale: Our rules currently use a wide variety of terms including "exhibits and demonstratives" (in the heading to Rule 4.12(3)), "exhibits, visual aids, or other enlargements" (body of Rule 4.12(3)), "demonstratives, visual aids, and exhibits" (header to Rule 8.5), "visual aids, posters, and enlargements" (header and text of subsection 8.5(1), "visual aids" (text of 8.5(1) and header to 8.5(2)), "aid" (text of Rule 8.5(2)), and "demonstrative," (text of 8.5(4)) and few if any of these terms are defined. This inconsistent terminology risks confusion about what must be shown in captains meeting and which objects are subject to the restrictions on demonstratives.

APPROVED WITHOUT OPPOSITION

RULES-03: Motion by Heytens to amend rule 8.9(6) by inserting the following between the header "Post-Tournament Review" and the words "If a team":

"Notwithstanding Rule 9.2(1), an AMTA Representative may not impose any tournament penalty for an alleged violation of this rule. However, ..."

Rationale: Underscores that AMTA representatives (who may not be familiar with the case materials and who have a million other things to be doing) do not have the authority to sanction teams for violating the egregious invention rule and that any sanctions for invention beyond those imposed by the judges in the round may be imposed exclusively by the CRC. Our rules previously provided that impeachment was

the sole remedy for invention, which made clear that AMTA reps could not impose additional sanctions. The addition of the post-tournament review system in the CRC removed this language, however, which could lead to the argument that AMTA reps may sanction invention pursuant to their general authority under 9.2(1). I believe this is an incorrect reading of our current rules given the specific sanctioning provision set forth in Rule 8.9(6), which expressly contemplate that reps may notify the CRC but not that they may impose sanctions themselves. That said, I think it would be wise to make this point clear before the start of the 2014 AMTA tournaments.

Woodward noted, in response to a question, that AMTA Representatives are not required to report allegations of egregious invention as the teams may report. Woodward asks the AMTA representatives to alert the Competition Response Committee of a likely complaint. AMTA Representatives are also free to report incidents independently of the teams.

APPROVED WITHOUT OPPOSITION

RULES-04: Motion by Zeigler on behalf of Parker to amend Midlands rule 804(a) as follows:

In Midlands Rule 804(a), regarding unavailable witnesses, replace "(5) omitted" with the following from the Federal Rules plus an additional comment:

"(5) is absent from the trial or hearing and the statement's proponent has not been able, by process or other reasonable means, to procure:

(A) the declarant's attendance, in the case of a hearsay exception under Rule 804(b)(1) or (6); or

(B) the declarant's attendance or testimony, in the case of a hearsay exception under Rule 804(b)(2), (3), or (4).

But this subdivision (a) does not apply if the statement's proponent procured or wrongfully caused the declarant's unavailability as a witness in order to prevent the declarant from attending or testifying."

(Comment: This rule may not be used at trial to assert that a team has "procured" the unavailability of a witness by choosing not to call that witness.)

Rationale: the absence of this rule forced the Criminal Case Committee to get creative in finding a way to allow an absent co-conspirator's testimony under 804. Inclusion of the rule comports with the Federal Rules and existing case law, which will reduce problems at trial and educate students properly about this hearsay exception.

Parker noted that this new rule will not replace the pre-trial order on motions in limine for the current case.

APPROVED WITHOUT OPPOSITION

X. Unfinished/New Business

NONE.

XI. Adjournment

Reminder: The 2014 Board Meeting will be held on July 11-13, 2014 at the University of California-Irvine.

Motion by Heytens to move into Executive Session; substitute offered by Guliuzza to move into Executive Session and adjourn immediately thereafter. Seconded by Wagoner.

APPROVED WITHOUT OPPOSITION

MEETING ADJOURNED AT 2:09 PM EST.

Appendix A: Consent Calendar

That Rule 1.2(i) be created as follows:

i. “Demonstrative aid” means any of the following:

1. Any enlargement of any portion of the case packet;
2. Any object that combines, omits, or otherwise alters any material included in the case packet;
3. Any tangible physical object or collection of objects that any attorney and/or witness intends to show to the jury during trial, regardless of whether the object is referenced in or contemplated by the case packet.

Notwithstanding the foregoing, “demonstrative aid” does not include any of the following:

- a. Easels, pointers, or similar objects used solely for the purpose of facilitating the use or display of a demonstrative aid;
- b. Furniture, fixtures, or other objects present in the trial room prior to the start of the tournament.

That Rule 4.12(3) be amended as follows:

(3) **EXHIBITS AND DDEMONSTRATIVES AIDS.** Each captain shall show their opponent any **each** exhibits, visual aids, or other enlargements **demonstrative aid** intended to be used during trial. Any disputes shall be brought to the AMTA Representative at the captains’ meeting for resolution prior to trial. The AMTA Representative shall make a determination pursuant to Rule 8.5. Failure to show an

opponent any exhibit, demonstrative, visual aid, or other enlargement **demonstrative aid** during the captains' meeting shall prohibit the use of said exhibit, demonstrative, visual aid, or other enlargement **demonstrative aid** during the round. This Rule does not apply to any unaltered materials that are part of the case packet (i.e. affidavits and exhibits supplied with the case do not need to be shown to opposing counsel if neither their size nor their content have been altered in any fashion).

That Rule 8.5 be amended as follows:

Rule 8.5 Demonstrative aids, visual aids, and exhibits.

(1) GENERAL RULE REGARDING DEMONSTRATIVE AIDS VISUAL AIDS, POSTERS, AND ENLARGEMENTS. The use of **demonstrative aids** visual aids, posters, and enlargements is permitted, subject to the other provisions of these Rules, and so long as such **demonstrative aids** are not hazardous or potentially damaging to persons or property. If used, a visual **demonstrative aid** must be made available to the opposing attorneys for subsequent use during examination of witnesses and closing argument.

(2) ELECTRONIC VISUAL DEMONSTRATIVE AIDS. The use of electronic or light projected **demonstrative aids** is prohibited.

(3) EVIDENCE RESTRICTED TO CASE PACKET. Only materials provided in the case packet may be offered into evidence during trial. Exhibits and documents provided in the case packet, and demonstratives **aids** deemed allowable under this Rule and Rule 4.12(3), are not automatically admissible at trial. Unless the admissibility of an item has been stipulated, all items remain subject to objection on evidentiary grounds including, but not limited to, improper foundation.

(4) RESTRICTION ON MATERIALS NOT INCLUDED IN CASE PACKET. No team may introduce material facts through a demonstrative **aid** that it would not be permitted to introduce through testimony or AMTA-provided documents. Nothing in this rule prevents a witness from creating a demonstrative illustration during the course of his or her examination. The fact that a demonstrative **aid** is not excluded by an AMTA Representative does not render it admissible at trial. Evidentiary objections may be made. Restrictions imposed on the use of a demonstrative **aid** by an AMTA Representative must be honored and the failure to honor such restrictions may be grounds for a tournament penalty or sanctions.

(5) DEFACING PROHIBITED. Permanently defacing an opponent's visual **demonstrative aids** is not permitted.

*Comment to rule 8.5(4): No photographs, pre-made maps, pre-made drawings, or pre-made depiction of a particular person/people, particular places, or particular things may be used as a demonstratives **aid** unless they have **it has** been provided with or are **is** specifically permitted by the case materials. By way of example, "a skull" is not a "particular thing," but "the victim's skull" is. Similarly, a photo of a station wagon is not a particular thing, but it would be if described as a photo of the defendant's vehicle or the particular make and/or model of the defendant's vehicle. Lists, charts, graphs, phrases, etc. are not considered "drawings" for the purposes of*

this rule, and may be used to summarize, combine or illustrate facts that are already present in the case packet.

Amend Rule 8.10 as follows:

Rule 8.10 Manner of examination. Whenever possible, counsel will stand when speaking to the court, to opposing counsel, or to a witness, and shall maintain a respectful demeanor. Participants should address a jury if there is a jury present and address the bench if there is no jury. Unless directed otherwise by the court, counsel will ask permission to approach the court or a witness or to use an exhibit **or demonstrative aid.**

Amend Rule 9.5(2)(c) as follows:

(c) Intentionally destroying or defacing property, including an opponent's exhibits **or demonstrative aid.**

Appendix B: Tabled Motions

Motion by **Guliuza** to amend Rule 4.1 as follows:

AMTA representatives are authorized to oversee the tabulation room at AMTA-sanctioned tournaments. Further, it is understood that the tabulation room should/will be "closed" after the representatives receive the first ballots in round four. **AMTA representatives, however, do not have the authority to remove, without cause, a member of the AMTA Board when tabulating or otherwise processing round 4 if said Board member has been helping regularly in the tabulation room throughout the tournament.**

Rationale: Last year at several important AMTA-sanctioned tournaments, the representatives closed the tabulation room to everyone – including those who had been regularly "staffing" the tab room throughout the tournament. My understanding that these representatives took this measure primarily because those working the tab room at previous tournaments had leaked the results prior to the awards ceremony.

I am not without sympathy for those who would close the tab room. I think it is a wonderful thing when folks attend the awards ceremony anticipating the results – when they can enjoy the drama that comes with the element of surprise. And, to that end, even though I value having additional sets of eyes on the tabulation process (especially at the end of the tournament), I would happily remove one helping in the tab room if the situation warrants such action. In fact, just last March, Will Warihay and I politely but firmly removed someone from the tab room at the ORCS in Philadelphia who had violated the confidentiality that we requested.

I am also mindful, however, of just how many things need to be accomplished at the conclusion of round 4 to tabulate the ballots accurately and do everything else that is necessary to prepare for the awards ceremony. Too, I know how many opportunities

there are to make mistakes at this most critical juncture of the tournament. I have made them when repping important tournaments, and have seen others make them – even some of AMTA's most talented and experienced representatives. Fortunately, there were experienced people in the tab room who helped catch my mistakes, just as I, when helping in the tab room, was often able to catch the mistakes made by the AMTA representatives. As important as it is to protect the element of surprise at the awards ceremony, it pales in comparison to an awards ceremony that is substantially later than planned (b/c, essentially, two people were trying to wrap up the tournament), or, even more consequential, should the results that were announced contain error(s).

The solution that I am proposing seems like a way to accomplish both the goal of protecting the secrecy of the awards ceremony and to maintain the goal of keeping more experienced eyes on the tabulation process during round 4. Board members are typically experienced in the tabulation room; each is expected to have served as representatives at other AMTA tournaments. Too, every member of the Board has taken a pledge to uphold the integrity and best interests of the organization (specifically all agree to: "Put the goals of AMTA ahead of his/her own program", "serve with a high degree of integrity", and "advance the educational mission of the association"). Given that pledge, it would be unthinkable for a member of the AMTA Board to violate the confidentiality of the closed tabulation room. If they have been helping the representatives out with the administration of the tournament, it simply doesn't make sense to remove them at the point where their service might be the most beneficial.

In anticipation of some questions: If the Board member doesn't help in the tab room throughout the tournament, then the rep is under no obligation to include him or her when tabulating round 4. If the Board member does disclose information, then he or she should be removed immediately, and the AMTA reps should report the offender to the President so that the Executive Committee might take action. There are other reasons I might offer in support of this motion, and I will be happy to discuss them if asked and/or at the 12/14 meeting. Thank you for your consideration.

Motion by Zeigler on behalf of Parker to amend Rule 10.3.2(3) as follows:

Add to 10.3.2(3) between first and second sentences: "To that end, the current year Case Committee will submit a completed draft of the case to the off-year Case Committee no later than two weeks before the Annual Board Meeting. The off-year Case Committee will review the completed draft and provide feedback to the on-year Case Committee in closed session at the Annual Meeting."

Rationale: The reason for this change is twofold.

First, the current Case Committee "firewall" effectively prevents the on-year committee from drawing upon the expertise of the off-year Committee members in troubleshooting and balancing the case prior to release. This modification would enable the use of that expertise in a limited window prior to case release, likely resulting in a better product upon release, without creating any significant

competitive advantage for members of the off-year committee in AMTA-sanctioned competition.

Second, setting a deadline for a draft prior to the Annual Meeting creates the potential for a meaningful vetting by another independent AMTA body early enough that any major issues can be resolved at the Annual Meeting and fully addressed prior to the initial case release on August 15.