



# **American Mock Trial Association 2016 Board Meeting Agenda July 15-17, 2016 Milwaukee, Wisconsin**

## **I. Call to Order**

### **Attendance:**

Members present (X): Ben-Merre; Bernstein; Bluebond; Gelfand; Guliuzza; Halva-Neubauer; Harper; Haughey; Heytens; Langford; Leapheart; Leckrone; Nelson; Olson; Parker; Pavely; Racheter; Seelau; Thomason; Walsh; Warihay; Woodward

Members not present (X): Detsky; Minor; Schuett, N.; Smith; Wagoner

Candidate Members present (X): Schuett, M.; Allison; Michalak; West

Candidate Members not present (X): Holstad; Bower Braunsberg; Roche

Executive Directors (X): Derfelt; Doss

Staff & Guests (X): Bowden

Directors Emeritus (X): Caulkins (Saturday only)

## **II. Welcome and Remarks (Guliuzza)**

## **III. Format of Agenda:**

Delivered by Assistant Secretary – Pavely

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 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** is the Human Resources Committee Work Plan for 2016-2017.

Appended to the Agenda as **Appendix D** are the minutes from the December 2015 mid-year conference call/board meeting.

#### **IV. Approval of Agenda**

Motion by Guliuzza to allow him to rearrange the agenda.

Motion by Warihay to approve the agenda with that caveat. Seconded. **Motion passes.**

#### **V. Approval of 2015 Mid-Year Board of Directors Meeting minutes.**

Motion by Woodward to approve the Mid-Year Minutes. Seconded. **Motion passes.**

#### **VI. Special Board Elections (At large members of Disciplinary and Human Resources Committees)**

Disciplinary Committee nominees: Haughey

**Haughey** elected to the Disciplinary Committee.

Human Resources Committee nominees: Warihay

**Warihay** elected to the Human Resources Committee.

## **VII. Consideration of Tabled Motions**

For procedure to “unable” a motion, please see discussion of Appendix B above. If a motion is “unable”, 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).

5 votes received to unable RULES-12. Motion to unable fails.

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

Request by Woodward to remove Rules-04 from the Consent Calendar.

**Consent Calendar adopted absent Rules-04.**

## **IX. Committee Reports**

- A. Academics Committee (Leapheart): Oral report delivered**
- B. Accommodations (Gulizza/Racheter): Oral report delivered**
- C. Audit Committee (Smith): No report**
- D. Budget Committee Report (Eslick): Written and oral report delivered**
- E. Civil Case Committee (Haughey): Oral report delivered**
- F. Criminal Case Committee (Bluebond): Oral report delivered**
- G. Competition Response Committee (Smith): No report**
- H. Development Committee (Heytens/Bernstein): Oral report delivered**
- I. Disciplinary Committee (Halva-Neubauer/Bernstein): Oral report delivered**
- J. Ethics Committee (Parker): Oral report delivered**
- K. Human Resources Committee (Walsh): Written and oral report delivered**
- L. Intellectual Property (Thomason): Oral report delivered**
- M. Rules Committee (Seelau): Oral report delivered**
- N. Strategic Planning Committee (Gulizza/Bernstein): Oral report delivered**
- O. Tabulation Advisory Committee (Woodward): Oral report delivered**
- P. Technology Committee (Warihay): Oral report delivered**
- Q. Tournament Administration Committee (Warihay): Oral report delivered**
- R. Other Committee Reports: (Leckrone) Oral Report delivered regarding Regional Qualifier and ORCS Sites/Hosts**

**X. Motions:**

**BUDGET-02: Motion by Eslick** to approve the 2016-2017 Budget.

*Rationale: None*

**ADVANCED WITH NO RECOMMENDATION**

Seconded.

Motion by Leapheart that unless a team affirmatively send the mailing instructions to send the credit that money within 30 days will be rolled over to cover the fees for next year, and that if you do not compete the following year it becomes ATMA's money.

**Motion fails for lack of a second.**

**Motion passes.**

**EXECUTIVE COMMITTEE-02: Motion by Haughey** as follows:

Each year, AMTA shall release an entirely new case for each National Championship Tournament.

*Rationale: Now that our organization has executed a new case for both a civil and criminal season, we can evaluate the success of the change. In short, student interest and investment is at an all-time high. One only need review the testimonials from last year's board meeting, or attend the National Championship to see it in person.*

*Case balance concerns have proven unfounded, thanks to the efforts of outstanding work on the part of our National Championship Case Committees.*

*The academic return on investment seems to be exhibited in the high-quality rounds that take place at Nationals, and the exceptional caliber of teams in our Championship Finals.*

*This system works to the benefit of our students and member organizations, and the process should remain in place for the foreseeable future.*

**ADVANCED WITH A POSITIVE RECOMMENDATION**

**Motion passes.**

**EXECUTIVE COMMITTEE-04: Motion by Eslick** to amend Bylaw section 5.13 as follows (new text in red):

Section 5.13. Contracts, Checks, Bank Accounts, Etc. The Board of Directors is authorized to delegate to the President and Treasurer the authority to select such banks or depositories s/he shall deem proper for the funds of the Corporation. The President ~~and or~~ Treasurer shall jointly sign all checks, ~~along with any other officer or person designated by the Board of Directors, shall be authorized to sign drafts,~~ or other orders for the payment of money. **The President and Treasurer shall jointly sign any acceptances, notes, loan agreements, mortgages or other evidences of indebtedness. Any expense in excess of \$5,000.00 that is not reflected in the budget approved by the Board of Directors must be approved in advance by the Executive Committee**

*Rationale: The first several amendments are designed to conform the bylaws to practice. The last sentence is to add a check on non-budgeted expenses.*

#### **ADVANCED WITH A POSITIVE RECOMMENDATION**

**Motion passes.**

**EXECUTIVE COMMITTEE-05: Motion by Bernstein** as follows:

Motion that, for the annual or midyear meetings, AMTA's executive director may bring motions, which shall be referred to committee and otherwise treated in the same fashion as motions from a member of the board of directors

#### **ADVANCED WITH A POSITIVE RECOMMENDATION**

Motion by Walsh to amend the motion to add that candidates may also make motions.

**Motion fails for lack of a second.**

Motion by Racheter to table the motion to Sunday to determine whether this requires an amendment of the Bylaws. Seconded. **Motion to table passes.**

Motion by Racheter to untable the motion. Seconded. **Motion passes.**

**Motion passes.**

**EXECUTIVE COMMITTEE-06: Motion by Leckrone** to add a new section 2 to Rule 6.8 as follows:

Rule 6.8 National championship bids.

(1) There shall be at least 48 bids to the national championship tournament, but no more than 56 bids. The number of bids to the national championship tournament shall

be announced by the Tournament Administration Committee no later than the beginning of the first Opening Round Championship Series Tournament, which shall be decided by the Tournament Administration Committee Chair in consultation with the National Tabulation Director and the National Championship Tournament Host.

*(2) Host Bid. The host institution at the National Championship Tournament, in the event that only one school is hosting, shall be guaranteed at least one bid to its own National Championship Tournament, provided that said host school had at least one team which qualified, by a Direct Bid (i.e. not an Open Bid) to an Opening Round Championship Series Tournament. In no event shall a host receive a second bid to the National Championship Tournament under this rule if it has already received one bid out of an Opening Round Championship Series Tournament to the National Championship Tournament. In the event that an uneven number of bids is earned to the National Championship Tournament as a result of this rule, a single Open Bid shall be allocated pursuant to Rule 6.09.*

(2) ALLOCATION OF BIDS TO THE OPENING ROUND SITES. Regular bids to the National Championship Tournament shall be allocated evenly to each of the opening round championship tournament sites, with any remaining bids becoming Open Bids and awarded based on Rule 6.9.

*Rationale: It has been many, many years since AMTA had multiple bids submitted for the NCT, wherein we get to choose between hosts for our biggest event. Moreover, we are at the point of having to actively recruit hosts for the NCT. This rule, most widely known as the "World Cup Rule", provides a huge incentive for current Regional and/or ORCS hosts, as well as Invitational hosts, to submit a bid. At most, it adds two teams to the field, and gives one lucky school a rare NCT open bid.*

### **ADVANCED WITH NO RECOMMENDATION**

**Motion passes.**

**EXECUTIVE COMMITTEE-07: Motion by Walsh** re Executive Director's Office

Motion to approve the Human Resources Committee's Work Plan for the Executive Director for 2016-17 and to discuss the performance of the Executive Director during 2015-16. Discussion to be held in Executive Session. The Work Plan is attached as **Appendix C**.

### **ADVANCED WITH A POSITIVE RECOMMENDATION**

**Motion by Walsh to go into Executive Session. Seconded. Motion passes.**

**Executive Session ended.**

**Motion passes.**

**INTELLECTUAL PROPERTY-01: Motion by Bernstein** as follows:

Motion that case use fees for invitational tournaments be simplified to \$1 per competing student per trial (\$24 per team per four-round tournament), due to AMTA within 30 days of the start of the tournament.

*Rationale: The board has already voted to charge fees to invitational hosts. This formula is simpler for teams and AMTA than our current formula.*

**ADVANCED WITH A POSITIVE RECOMMENDATION**

Motion by Racheter to amend to \$.20 per student per trial. Seconded. **Motion to amend fails.**

Motion by Warihay to amend to \$.50 per student per trial. Seconded. **Motion to amend passes.**

Motion by Racheter to amend the motion to make it take effect in the fall of 2017. **Motion fails for lack of a second.**

Motion by Warihay to amend the motion to direct the Rules Committee to implement this. Seconded. **Motion passes.**

Motion by Thomason to amend the motion to provide that any free tournament not have to pay the fee. Seconded. **Motion to amend fails.**

Motion by Leckrone to amend the motion to provide an exception for any invitational host that also hosts a sanctioned tournament on behalf of AMTA in that competitive season. Seconded. **Motion to amend passes.**

**Motion fails.**

**INTELLECTUAL PROPERTY-03: Motion by Eslick** as follows:

To renew the “INTERCOLLEGIATE ALL-AMERICAN” trademark owned by AMTA.

*Rationale: The mailing [that triggered this motion] itself is a scam – albeit likely a very profitable one. The “Patent and Trademark Bureau” is not the same thing as the “United States Patent and Trademark Office” and the fees listed for renewal are about 500% more than what the real USPTO charges (\$1,650.00 vs about \$300.00-\$400.00). Nevertheless, we need to make a decision regarding whether to renew this mark.*

**ADVANCED WITH A POSITIVE RECOMMENDATION**

**Motion passes.**

**INTELLECTUAL PROPERTY-04: Motion by Thomason as follows:**

**Definition of Gross Registration Fees for Invitational Royalty Payment:**

When determining “gross registration fees” for purposes of paying the royalty required by AMTA’s IP and Licensing Policy, the “gross registration fees” shall equal the total amount of mandatory entry fees paid by each team other than the host institution of the tournament.

1. Teams are required to use good faith in determining what constitutes a mandatory registration fee.
2. The host institution is defined as the entity who receives the license to host the invitational tournament.
3. To the extent that the host allows another institution to participate for a non-cash payment (such as in exchange for admission to the other school’s tournament), the “gross registration fee” shall be calculated as the lowest mandatory admission fee available to all teams entering the tournament (such as an early registration fee available to all teams).

*Example 1:* Midlands University hosts the Midlands Invitational. Teams are required to pay a mandatory registration fee of \$150 to enter before April 1 and \$200 thereafter. Midlands University agrees to let Midlands State attend for free in exchange for free admission to the Midlands State Invitational. For purposes of this rule, Midlands State shall be considered to have paid \$150 in registration fees.

*Example 2:* Midlands University hosts the Midlands Invitational. Midlands University provides free admission to the tournament, but strongly suggests that each team pay \$200 to buy a bag of chips or never be invited to the invitational again. For purposes of this rule, Midlands University shall be considered to have charged \$200 per team in registration fees.

*Rationale:* AMTA has no desire to be questioning the judgment of teams as to what amount of fees were collected for an invitational. This guidance should allow teams to easily determine what amount is due.

**ADVANCED WITH A POSTIVE RECOMMENDATION**

Motion by Leckrone to amend the motion to exempt any current season AMTA sanctioned tournament host from the license fee for invitational tournaments. Seconded. **Motion to amend passes.**

Motion by Warihay to amend the motion to direct the Rules Committee to determine the best way to develop an enforcement mechanism. Seconded. **Motion to amend passes.**

Motion by Seelau to amend the motion to provide that with the tab summary the host must provide the registration fee amount. Seconded. Motion by Leckrone to amend the amendment to put a timeframe on it of one month of the conclusion of the invitational. **Motion to amend the amendment passes. Motion to amend passes.**

**Motion passes.**

**INTELLECTUAL PROPERTY-05: Motion by Thomason as follows:**

**Bringing License Fees for Past Case Materials in Line with AMTA Fees:** The fees for Access and Use of Case Materials for non-members of AMTA shall be brought in line with the fees paid by AMTA's members for a license for an invitational tournament. At a minimum, each user of AMTA's cases shall pay as much to obtain a license as would be required of an AMTA member under the IP Policy. A recommended revision is below.

\$0 to \$4999 in total fees collected from all participants: \$100 (total \$250);  
\$5,000 to \$9,999 in total fees collected from all participants: \$350 (total \$500);  
\$10,000 to \$14,999 in total fees collected from all participants: \$450 (total \$600);  
\$15,000 to \$19,999 in total fees collected from all participants: \$550 (total \$700);  
\$20,000 to \$24,999 in total fees collected from all participants: \$650 (total \$800);  
\$25,000 to \$29,999 in total fees collected from all participants: \$750 (total \$900);  
\$30,000 or more in total fees collected from all participants: \$850 (total \$1,000).

*Rationale: Non-members of AMTA should not be allowed to use AMTA's IP at a rate less costly than AMTA's members. The difficulty here is that many non-members using the case have a broader scope (offering more than mock trial) or different fee structure (such as charging an all-in price that includes housing).*

**ADVANCED WITH A POSITIVE RECOMMENDATION**

Amendment by Leapheart to amend the motion to change \$0-999 to \$0 and \$1000-4999 to \$100. Seconded. **Motion to amend fails.**

**Motion passes.**

**RULES-01 - Motion by Detsky to create Rule 4.31(7)**

(7) Extension of time limits: Unless there is a discrepancy between the timekeepers, judges do not have the discretion to extend any individual time limits.

*Rationale: None.*

**ADVANCED WITH A POSITIVE RECOMMENDATION**

Motion by Parker to amend the motion to say a student may not request additional time. Seconded. **Motion to amend fails.**

**Motion fails.**

**RULES-02: Motion by Gelfand** to amend Rule 8.9(4)(a)(ii) to state:

ii. Any instance on direct or re-direct examination in which an attorney offers, via the testimony of a witness, material facts not included in *or reasonably inferred from* the witness's affidavit

*Rationale: This amendment corrects what I believe to be an oversight. As written, Rule 8.9(4)(a)(ii) would ban anything not included in the affidavit, even if it could be reasonably inferred. That does not appear to be the intent of the Rule. Notably, the rule defines "Reasonable Inference," but that term is not mentioned anywhere in the actual substantive sections of the rule. In addition, Rule 7.29(2) states that "Witnesses are limited to the information in their sworn affidavits and reasonable inferences*

### **ADVANCED WITH A POSITIVE RECOMMENDATION**

**Motion passes.**

**RULES-04 Motion by Bernstein** that, by September 15, 2016 and with the approval of the Board of Directors, the Rules Committee shall limit the Rulebook to rules that affects students (e.g., eligibility, registration deadlines, timekeeping procedures) and place other existing rules (e.g., case requirements, judge assignment guidelines) in the appropriate existing document (e.g., Tab Manual) or, if no such document exists, in a new document called AMTA Policy.

*Rationale: We ask our students, including those brand new to AMTA, to weed through many rules that are irrelevant to their experience.*

### **ADVANCED WITH A POSITIVE RECOMMENDATION**

**Motion by Woodward** to substitute the motion to direct the Rules Committee to reorganize the Rulebook so that rules that affect students are in one portion and other rules are in another and renumber accordingly. Seconded. **Motion to substitute passes.**

**Motion passes.**

**RULES-05: Motion by Bernstein** as follows: That the tab manual be amended to reflect AMTA policy concerning the scope of rep authority to intervene and impose tournament penalties. The tab manual shall (a) list the types of conduct for which reps may and may not intervene or impose penalties, and (b) specifically state that reps may not intervene or impose tournament penalties for factual invention (except insofar as reps have authority with respect to the content of demonstrative aids). The Board recommends that such policy should generally be part of rep training in the same way that tabulation procedures often is.

*Rationale: I've noticed confusion among reps regarding the scope of our authority to intervene and impose penalties and clarification would be helpful.*

### **ADVANCED WITH A POSITIVE RECOMMENDATION**

Motion by Parker to amend the motion to say may not intervene rather than may and may not. Seconded. **Motion to amend fails.**

**Motion passes.**

**RULES-06: Motion by Nelson** to amend Rule 8.2 regarding the Authenticity of Documents as follows (changes in red):

Amend Rule 8.2 (“Authenticity of documents”) to read:

Rule 8.2 Authenticity of documents. No witness may deny the authenticity of documents supplied by AMTA. **Absent a contrary indication in the case packet, witnesses must acknowledge authorship of any document that purports to be authored by them. A witness whose affidavit, report, or interrogation states that the witness is familiar with a particular document must acknowledge, if asked, that the witness is familiar with that document and that the document referenced in the affidavit, report, or interrogation is the same version as the corresponding document in the current case.** Proper foundation must be laid, and to the extent that the authenticity standard promulgated by Midlands Rule of Evidence 901 requires testimony sufficient to show that evidence is what it purports to be, such is still required. There are no restrictions as to how evidence is to be used in a trial beyond the requirement that participants acknowledge the legitimacy of the documents provided by AMTA. Arguing for hyper-technical interpretations of the rules shall be avoided. Witness affidavits cannot reasonably identify documents in a degree of detail sufficient to prevent witnesses from denying central case components clearly within their knowledge bases. Manipulating this reality in an effort to argue that AMTA-supplied documents are or are possibly not the real documents is being hyper-technical.

*Rationale: Recent Special Instructions have broadened Rule 8.2 by indicating that witnesses cannot deny authorship of documents purported to be authored by them and have incorporated language regarding how we tell witnesses what exhibits they must acknowledge. This rule change codifies this practice in an attempt to shorten future Special Instructions.*

### **ADVANCED WITH A POSITIVE RECOMMENDATION**

**Motion passes.**

**RULES-09: Motion by Nelson** regarding Pretrial Notice as follows:

Amend the “Notice of Intent to Offer Character Evidence” form to a more general “Pretrial Notice” form with an option for either team to provide pretrial notice under M.R.E 902(11).

*Rationale: Rule 902(11) requires pretrial notice, but we have no clear way for teams to provide pretrial notice. This solves the issue, doing so in a manner that is familiar to our students.*

### **ADVANCED WITH A POSITIVE RECOMMENDATION**

**Motion passes.**

**RULES-10: Motion by Heytens** as follows: To ban the use of evidence bags and gloves for any evidence.

*Rationale: None.*

### **ADVANCED WITH NO RECOMMENDATION**

Seconded.

Motion by Parker to amend the motion to say unless the case committee instructs otherwise in the special instructions. Seconded. **Motion to amend passes.**

Motion by Gelfand to substitute the motion to provide that they may be used but can't be used to prevent teams from opening or otherwise handling the evidence. **Motion to amend passes.**

**Motion fails.**

**RULES-11: Motion by Parker** to modify AMTA Rule 2.13 as follows (new language in RED):

*Rule 2.13 Sanctions for violation. Seeking, engaging in, providing, or facilitating unauthorized case access or case use is egregious conduct and is sanctionable under Rule 9.5.*

*Comment: For the purpose of this rule, “case” includes both officially issued cases and any version (whether final or draft) of a case prior to its release.*

*Rationale: The text of the current rule arguably does not cover seeking unauthorized case access (e.g., posting on a public forum requesting login credentials) if that access*

*is not actually obtained. In addition, a comment has been proposed to clarify that the rule encompasses case drafts prior to release.*

## **ADVANCED WITH A POSITIVE RECOMMENDATION**

**Motion passes.**

**TAC -01: Motion by Eslick and Derfelt** to add Rule 1.2(j) as follows:

**j. “New School” means any school that has not paid a regional tournament registration fee during the previous five academic years.**

*Rationale for Rule 1.2(j):*

*We have relatively poor records of schools that registered long ago, decided not to compete for a decade or two, and then decided to return. Under the current rules, there is a difference between how these schools and purely “new” schools are treated. These amendments eliminate the distinction to avoid problems determining whether a school is actually “new.” These amendments also encourage schools that competed years ago to return by offering a direct financial incentive.*

## **ADVANCED WITH A POSITIVE RECOMMENDATION**

**Motion passes.**

**TAC -02: Motion by Eslick and Derfelt** to amend Rule 2.4 as follows (additions and deletions **in red**):

Rule 2.4 Registration fees.

(1) ANNUAL MEMBERSHIP FEE PER SCHOOL. Each school shall pay an annual membership fee of \$450. Any school hosting an AMTA-sanctioned tournament shall have this fee waived for the academic year in which the school hosts.

(2) REGIONAL TOURNAMENT FEE PER TEAM.

(A) The first team from each school shall pay a regional tournament registration fee of \$125. Each additional team shall pay a registration fee which increases by \$25, so that the second team’s fee is \$150, the third team’s fee is \$175, etc.

(B) A **new school new to AMTA** shall pay no regional tournament registration fee for the first team it registers for Regionals. Additional teams from that school shall pay regional tournament fees consistent with the schedule in subsection 2(A) above; for example, a new school’s second team would pay a regional registration fee of \$150. ~~If a school has not registered in the previous five seasons (or longer), it is eligible to obtain the aforementioned new school discount. For example, a school registering for the 2012-13 season is eligible for the reduced fee if it has not registered since the 2006-07 season.~~

~~Once a new school registers for a regional tournament, it is no longer treated as a new school under this rule (for at least five seasons) and is no longer eligible for the aforementioned new school discount.~~

(3) OPENING ROUND CHAMPIONSHIP FEE PER TEAM. Each team participating in an opening round championship tournament shall pay a registration fee of \$250 **on or before the Monday before the start of the tournament**. If, after the tournament's field had been filled, and within 72 hours of a tournament's start time a team drops out for any reason and a replacement team is added, the newly added team is exempt from paying the registration fee for said tournament.

(4) NATIONAL CHAMPIONSHIP FEE PER TEAM. Each team participating in the national championship tournament shall pay a registration fee of \$300 **on or before the Monday before the start of the tournament**. If, after the tournament's field had been filled, and within 72 hours of a tournament's start time a team drops out for any reason and a replacement team is added, the newly added team is exempt from paying the registration fee for said tournament.

**(5) If a school has not paid a fee identified in Rule 2.4(3) or (4) by the time designated in those rules, that school shall be prohibited from competing at such tournament without advance approval from the Chairperson of the Tournament Administration Committee.**

~~(6)~~ (5) LATE REGISTRATION FEE PER TEAM. Each team that registers after October 15 shall pay a nonrefundable late fee of \$75.

~~(7)~~ (6) RULE FOR MULTIPLE CAMPUSES. If two campuses are treated as separate schools, as defined in Rule 1.2, each campus must pay a separate school membership fee.

*Rationale for Rules 2.4(2)(B), and 2.5(3) and (4):*

*We have relatively poor records of schools that registered long ago, decided not to compete for a decade or two, and then decided to return. Under the current rules, there is a difference between how these schools and purely "new" schools are treated. These amendments eliminate the distinction to avoid problems determining whether a school is actually "new." These amendments also encourage schools that competed years ago to return by offering a direct financial incentive.*

*Rationale for Rules 2.4(3) through 2.4(5):*

*These changes are to incentivize timely payment of ORCS and NCT fees.*

**ADVANCED WITH A POSITIVE RECOMMENDATION**

**Motion passes.**

**TAC -03: Motion by Eslick and Derfelt** to amend Rule 2.5 (additions and deletions in red)

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 on or 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 refund** for the unqualified fees. ~~The credit shall be applied to the school's registration the following year. Any school that does not use its credit the year following the acquisition date of the credit shall forfeit the credit. No refunds will be given. Refunds will issue within 2 weeks after the date of the last sanctioned tournament each year.~~

(3) EXCEPTION FOR NEW **SCHOOLS PROGRAMS.**

A new school, as defined in **Rule 1.2(j) 2.4(2)(B)** that has paid fees of any kind but does not compete at a regional tournament may roll any fees paid over to the next year. This does not apply if the school withdraws from regional competition within 30 days of the start of the tournament.

*Rationale for Rule 2.5(2):*

These changes are designed to eliminate administrative burden.

*Rationale for Rules 2.4(2)(B), and 2.5(3) and (4):*

We have relatively poor records of schools that registered long ago, decided not to compete for a decade or two, and then decided to return. Under the current rules, there is a difference between how these schools and purely “new” schools are treated. These amendments eliminate the distinction to avoid problems determining whether a school is actually “new.” These amendments also encourage schools that competed years ago to return by offering a direct financial incentive.

**ADVANCED WITH A POSITIVE RECOMMENDATION**

**Motion passes.**

**TAC – 04: Motion by Derfelt and Eslick** to Amend Rule 2.6

Rule 2.6

...

(2) Definition of “Start Time.” ~~For the purposes of assessing penalties under this Rule, the~~ **The** start time of a tournament is deemed to be the start of the check-

in/registration period. For example, if a regional tournament's check-in period begins at 2:00 pm Pacific time on February 14, a team would have to cancel by 2:00 pm Pacific time on January 14 to avoid any penalty.

*Rationale: This change is designed to provide a uniform definition of "start time" across the rules.*

### **ADVANCED WITH A POSITIVE RECOMMENDATION**

**Motion passes.**

**TAC – 05: Motion by Bernstein and Derfelt to Amend Rule 2.2 (additions in red)**

Rule 2.2 Primary contact person required.

(1) REQUIREMENT, ROLE.

Each school registering with AMTA shall designate a primary contact person. The primary contact person shall be a person with general day-to-day responsibility for all the school's mock trial teams. AMTA will only send official communications to and accept official communications from a school's primary contact person.

(2) CURRENT CONTACT INFORMATION REQUIRED.

Each school has the affirmative obligation to provide AMTA with the primary contact person's current e-mail address, telephone number(s), mailing address, and, if applicable, fax number.

(3) NO INTERVENTION IN LOCAL DISPUTES.

AMTA shall not intervene in local disputes and thus shall recognize only one primary contact person per school, even if the school has multiple teams operating under the auspices of different organizations, groups, or leaders. AMTA shall recognize as primary contact the person named as such on the first registration submitted by a school accompanied by full payment and authorization as set forth in Rule 2.3.

(4) CHANGE OF PRIMARY CONTACT

AMTA will only change the primary contact upon written instruction from the school in the same manner that the school submitted its Authorization Letter as described in Rule 2.3. Any request made pursuant to this rule must be dated and physically signed by the requestor.

*Rationale: None.*

### **ADVANCED WITH A POSITIVE RECOMMENDATION**

Motion by Derfelt to amend the motion to say that the letter must be from the original letter writer or his supervisor. Seconded. **Motion to amend passes.**

Motion by Parker to amend the motion to say the original letter writer or that person's supervisor or, if the original letter writer is no longer employed at the university, that person's replacement. **Motion to amend passes.**

**Motion passes.**

**TAC (Tournament Future) – 11: Motion by Harper** to amend the Budget for 2016-2017 as follows:

Any and all funds received during the 2016-2017 competition season as a result of the Invitational Tournament licensing fee will be evenly distributed to all 2016-2017 AMTA Regionals and ORCS hosts, as implemented by Budget in consultation with TAC. During the 2016-2017 year, Budget is directed to evaluate the revenues generated from the Invitational Tournament licensing fee during 2016-2017, and make a proposal at the 2017 Annual Board Meeting to increase the regionals/ORCS subsidy in a more systemic way based on same.

*Rationale: None.*

**ADVANCED WITH A POSITIVE RECOMMENDATION**

**Motion passes.**

Motion by Warihay to reconsider. Seconded. **Motion to reconsider passes.**

**Motion fails.**

**TAC (Tournament Future) – 12: Motion by Harper** to amend the first sentence of Rule 5.11 as follows (change in red):

Absent other arrangements, AMTA shall provide each regional tournament host with a minimum of \$40 times the number of teams assigned as of December 15 of the competition season, **and under no circumstances shall the regional tournament stipend be less than \$3,000.00 per regional tournament.**

*Rationale: None.*

Motion to table. **Motion to table passes.**

Motion by Woodward to untable. Seconded. **Motion to untable passes.**

Motion by Leckrone to substitute the motion to say that each regional host will get a flat fee of \$3,250. Seconded. Motion by Eslick to amend to say for the 2016-2017 fiscal year. Seconded. Motion to amend the substitute motion passes. **Motion to substitute passes.**

**Motion passes.**

**ADVANCED WITH A POSITIVE RECOMMENDATION**

**TAC (Tournament Future) – 13: Motion by Harper** to amend the Budget for 2016-2017 to provide that all ORCS hosts shall receive a minimum stipend of \$6,000.00 per tournament.

*Rationale: None.*

**ADVANCED WITH A POSITIVE RECOMMENDATION**

Motion to table. **Motion to table fails.**

Motion by Parker to amend the motion to say absent alternate arrangements. Seconded. **Motion to amend passes.**

**Motion passes.**

**XI. Presentation by Dick Caulkins regarding Mediation Program**

**XII. Unfinished/New Business**

Motion by Leapheart from the Academics Committee to authorize the Academics Committee to release into the public domain, as part of the New Team Handbook, the national championship video for up to one civil case and one criminal case from the 2006-2007 competition season or earlier.

Motion by Bernstein to amend to make the two cases Perry and Smith. Seconded. **Motion to amend passes.**

**Motion passes.**

Motion by Haughey from the Civil Case Committee that the Board authorize it to adjust the time limit for direct examination for the defense in the upcoming 2016-17 season.

Motion by Woodward to substitute the motion to amend Rule 4.31(1) for the 2016-17 season only by inserting the following language:

- (1) Time limits generally. *Except as otherwise provided in a Special Instruction,* time limits for each side shall be as follows:

**Motion to substitute passes.**

Motion by Parker to amend to say “Except as adjusted downward in a special instruction.” Seconded.

**Motion passes.**

Motion by Warihay on behalf of the Tournament Administration Committee to approve Hamline University in Minneapolis, MN as the National Championship Tournament host in 2017-18.

**Motion passes.**

Motion by Guliuzza to hold the Mid-Year meeting on December 10, 2016 at 2:00pm EST. Seconded. **Motion passes.**

Motion by Eslick to hold the Summer Board Meeting in 2017 in Des Moines, IA. Seconded. **Motion passes.**

Motion by Racheter to give commendation to Woodward for hosting the meeting. Seconded. Motion by Woodward to amend to also give commendation to Amber. **Motion to amend passes. Motion passes.**

### **XIII. Adjournment**

**Meeting adjourned.**

## **Appendix A: Consent Calendar**

### **Motion by Guliuzza to adopt proposed 2016-17 AMTA Committee Assignments** (forthcoming).

**RULES-03 Motion by Gelfand** to Amend Rule 1002 of the Midlands Rules of Evidence to include the following comment at the end:

No attorney may object under this Rule is the “original writing, recording, or photograph” in question is not among the documents contained in the case packet.

*Rationale:* This caveat has been included in the Special Instructions, but is not mentioned in the Rules of Evidence. I think it makes sense to include it in the Rules of Evidence, especially if judges ask students if the Rules expressly limit the Best Evidence Rule objection to documents in the case packet. Notably, Rules 106 and 803(18) have comments expressly limiting their application to material provided in the case packet. So amending Rule 1002 in this fashion would be consistent with other rules that limit their application in the same way

### **ADVANCED WITH A POSITIVE RECOMMENDATION**

#### **RULES-07 Motion by Nelson regarding Black-and-White Copies**

Create a new rule: “Unless otherwise indicated in the case materials, teams may use color or black-and-white copies of any case document. No objection may be raised to an exhibit or demonstrative on the ground that it has been altered by printing a color document in black-and-white.”

*Rationale:* The last few cases have included an instruction allowing black-and-white copies of exhibits. This rule codifies this practice, enabling future Special Instructions to be shortened.

### **ADVANCED WITH A POSITIVE RECOMMENDATION**

#### **RULES-08 Motion by Nelson regarding Electronic Devices:**

Amend Rule 7.2(2) as follows:

"WIRELESS DEVICES TO BE TURNED OFF. All student participants shall turn the power off on all pagers, cell phones, wireless communication devices, or computers during each trial **except where the usage of a device is expressly permitted in the case materials, such as to play an audio exhibit.**"

*Rationale: Audio exhibits have become a typical exhibit type in our fact patterns, yet our rules, as written, disallow their use (e.g. most jam boxes contain radio functionality, making them also wireless devices). This revision solves this problem by creating a limited exception to the wireless device rule for such exhibits.*

#### **ADVANCED WITH A POSITIVE RECOMMENDATION**

#### **TAC -06 Motion by Bernstein and Derfelt to Amend Rule 2.3**

Rule 2.3 School authorization letter required

(5) FILING, DURATION. Each school shall annually file its letter with the AMTA office by mail, facsimile, or by sending a scanned copy of the original via e-mail. *A new letter of authorization is required for each academic year.*

#### **ADVANCED WITH A POSITIVE RECOMMENDATION**

**TAC -10 Motion by Warihay** to direct the AMTA office to send all AMTA host stipend checks via a trackable shipping method to ensure confirmation of receipt. Relatedly, the Board directs the Treasurer and/or Budget to allocate the necessary funding to cover the costs of the increase in postage to send AMTA host stipend checks via this shipping method.

*Rationale: Each year, we send checks for thousands of dollars to our hosts via regular mail, which does not allow us to track the delivery and receipt of these checks. Inevitably, we have delivery and mailing issues with these checks to our hosts. Given the importance of this task and the amount of AMTA's money involved with same, this is an easy fix to help AMTA keep track of the funds we provide to our hosts.*

#### **ADVANCED WITH A POSITIVE RECOMMENDATION**

#### **Appendix B: Tabled Motions**

**BUDGET-01: Motion by Racheter** To increase *per diem* for reps, and allow combining from one day to another.

*Rationale: Jackie [Olsen] and I went to a moderate steak house one night on our trip to Idaho and went over the \$50.00 just at that meal, let alone with two other meals for the day, and all we had was a steak, salad, and side*

**EXECUTIVE COMMITTEE-01 Motion by Detsky** as follows: The respective case committees are welcome and encouraged to make the case challenging in new, original or creative ways. However, in no circumstance may the respective case committees issue a case where either side has the option of pursuing one of multiple, unrelated crimes,

claims or defenses with different elements (or prosecuting or suing one of multiple defendants with substantially different fact patterns), so as to require the opposing side without an option of having to prepare multiple cases-in-chief. While the case is free to allow for teams to take such action if they so choose, the case cannot be crafted in a manner as to require it.

*Rationale:*

*In short, this motion is premised on the author's belief that we are working our membership to death in the name of making the case more interesting for a small handful of teams or coaches. It is an unnecessary, unrealistic added challenge and disrespects the fact that 1000's of our members need to or want to prioritize academics and want to be involved in different activities as well as mock trial at their school.*

*The author is aware of younger programs striving to learn the very basics of the activity while the more experienced programs are churning out and refining their scripts to account for all decision trees and permutations. While I understand and agree with the goal of creating creative cases that lend themselves to rounds with different witness calls and arguments, there is a point where we reach diminishing returns and where the educational mission seems to be trumped by sheer mass memorization. Forcing teams to create multiple cases-in-chief with substantially different arguments and witness calls (especially when one of those may never be used) is an immense burden on the students, especially student-run teams and new programs. Remember: 2/3rds of our registered teams haven't been to ORCS in the past three years.*

**EXECUTIVE COMMITTEE-03: Motion by Racheter** as follows: To support the cost of travel of board members to the annual meeting.

*Rationale: I think we have enough money in our reserves that we should start supporting the travel of board members to the annual meeting. We have several who get no support from a college/university to attend.*

**INTELLECTUAL PROPERTY -02: Motion by Bernstein** as follows: That our IP Committee propose a revised fee schedule for case use by persons or members other than our member schools (1) increasing such fees and (2) eliminating dependence on users self-reporting their revenue.

*Rationale: AMTA writes the highest quality cases. Our current fees are too low and too hard for us to properly enforce.*

**INTELLECTUAL PROPERTY -06: Motion by Thomason** as follows:

Capping Invitational License Fee: The maximum amount of invitational fees that a team must pay under the AMTA IP and Licensing Policy for a single invitational tournament shall be set at \$20 per each team competing in the tournament (without excluding the host team or any other teams). If AMTA does not believe that a host is

calculating “gross registration fees” in good faith, then AMTA may, in its sole discretion, require a license fee equal to the maximum amount.

*Rationale: This motion has two primary purposes. First, it seems like at a certain point we should not be charging our members extra for hosting a tournament in a high-cost area (such as a place where renting a courthouse leads to an extravagant cost), which I believe accounts for most tournaments that have registration fees of over \$400 per team, which is when this rule will be triggered. Second, AMTA does not want to be in the business of forensic accounting to determine the gross invitational fee; if something seems awry, this allows AMTA to impose a flat fee that does not seem overly punitive.*

**RULES-12: Motion by Parker** as follows: to modify AMTA Rule 8.5.1 as follows (new language in **RED**):

**Rule 8.5.1 Trial order.** All trials shall proceed in the following manner:

**(1) OATH/AFFIRMATION BY PARTICIPANTS.** The presiding judge will ask all rostered participants for both teams to stand as a group and affirm the following: “Do you affirm that your conduct and testimony in this competition will comply with the rules of the American Mock Trial Association?”

**~~(1)~~(2) PRE-TRIAL MATTERS.** Within the confines of these Rules and any instructions expressly stated within the case packet, teams are permitted to conduct pre-trial matters, including but not limited to making appearances, introducing case materials for judicial reference, and asking the judge’s preference on courtroom etiquette and procedure.

**~~(2)~~(3) OPENING STATEMENTS.** Both plaintiff/prosecution and defense opening statements must occur at the beginning of the trial, with the plaintiff-prosecution team going first followed by the defense team. A defense team shall not forego or defer its opening statement until the beginning of its case-in-chief.

**~~(3)~~(4) PLAINTIFF/PROSECUTION CASE-IN-CHIEF.** The plaintiff/prosecution team shall conduct each direct examination (and any redirect examination(s)) of its three witnesses, with the defense team conducting its three cross examinations (and any recross examination(s)) of the plaintiff/prosecution witnesses. The plaintiff/prosecution team may present all other evidence as permitted by the case materials. No plaintiff/prosecution witness may be re-called later in the trial. No plaintiff/prosecution witness may be deferred until during or after the defense case-in-chief.

**~~(4)~~(5) BREAK.** Within the discretion of the judge and within the confines of Rule 4.33, teams may take a brief recess or break between the plaintiff/prosecution case-in-chief and the defense case-in-chief.

**~~(5)~~(6) DEFENSE CASE-IN-CHIEF.** The defense team shall conduct each direct

examination (and any re-direct examination(s)) of its three witnesses, with the plaintiff/prosecution team conducting their three cross examinations (and any recross examination(s)) of the defense witnesses. The defense team may present all other evidence as permitted by the case materials. No defense witness may be re-called later in the trial. No defense witness may be called prior to the conclusion of the plaintiff case-in-chief.

**(6)(7) BREAK.** Within the discretion of the judge and within the confines of Rule 4.33, teams may take a brief recess or break between the defense case-in-chief and the closing arguments.

**(7)(8) CLOSING ARGUMENTS.** Both plaintiff/prosecution and defense closing arguments must occur at the end of the trial, with the plaintiff-prosecution team going first followed by the defense team. The plaintiff/prosecution team may give a rebuttal if permitted in accordance with Rule 4.31(2).

*Rationale: Reminders to behave ethically are most effective when administered immediately before the activity in which a participant may be tempted to act unethically, rather than weeks or months before. In addition, this oath/affirmation (1) reminds judges that participating students are expected to behave ethically, and (2), by requiring all rostered participants to stand for the oath/affirmation, has the additional benefit of allowing teams to identify, prior to any potential violation, which people in the room are subject to the requirements of Rule 7.1 regarding communication during the round.*

**RULES-13: Motion by Smith** as follows:

Motion to amend the Rulebook to reflect the following policies:

**Definition of Scouting:** Scouting takes place when an individual affiliated with an AMTA institution is present at an AMTA sanctioned tournament where the individual's affiliated institution is present and competing or when the individual's affiliated institution has already earned bids to the next level of competition or still has teams to compete at the same level of competition and the individual is watching a mock trial round that does not involve his/her institution. Judges and other tournament administration personnel are exempt from this definition.

**Policy on Scouting:** AMTA prohibits scouting during all sanctioned tournaments with two exceptions: (a) Conduct that otherwise would be defined as scouting is permitted during rounds 3 and 4 of ORCS; and (b) Conduct that otherwise would be defined as scouting is permitted during rounds 3 and 4 of the National Championship Tournament, well as the National Championship Tournament final round. The CRC will make an initial determination as to whether scouting has taken place or not and will submit this conclusion along with any supporting evidence to the EC. The EC will have final determination on whether scouting took place and on imposing sanctions as defined in this section.

**Sanctions for Scouting:** When an individual is determined to have engaged in scouting at an AMTA sanctioned tournament, AMTA will hold the institution that individual is affiliated with responsible for the individual's conduct. At a minimum, the institution will be fined \$250 for each instance of scouting determined to have taken place, and the Executive Committee may impose additional sanctions--including additional fines--deemed necessary by the totality of the circumstances.

**Enforcement of Scouting Policy:** AMTA may take extra steps to enforce its policy against scouting during rounds 1 and 2 of the National Championship Tournament in order to ensure the NCT's competitive fairness. Specifically, AMTA may assign each institution at the NCT a color and corresponding bracelets of that color will be distributed to the team. Teams may request as many bracelets as necessary so that all competitors and spectators have a bracelet corresponding to their institution. All individuals watching any mock trial are required to wear a bracelet and individuals without bracelets will not be allowed into the courtrooms. Once the round begins, only individuals wearing bracelets matching the colors of the two teams in the round may be present in the room. To ensure that only individuals with the appropriate bracelets are present in the courtroom, AMTA may request that an AMTA representative, tournament official, tournament administrator, or judge check the bracelets in the room at any point during the trial.

*Rationale:*

*Definition of Scouting – We need a definition of scouting*

*Policy on Scouting - I don't think any anti-scouting policy is going to work unless AMTA comes out and says that it is prohibiting scouting. I honestly think that if ALL we did was add this policy, a lot of the scouting would disappear. I know that not all of it would, but I think most people try to respect our rules when we make them. I made exceptions at the suggestion of Neal as it eases enforcement and allows the motion to be against scouting while maintaining the ability of individuals to see other teams in furtherance of AMTA's educational mission. I would be content adding rounds 3 and 4 of the Regional Tournament to this section as well, but didn't do so because the changes from Regionals to ORCS are generally minimal and I was trying to protect the competition more, but we could skew the balance towards more openness in watching rounds.*

*Sanctions for Scouting - I went draconian here. I think for the motion to even possibly work in practice, the sanctions have to be severe. I tend to think that even if the enforcement section (below) were removed, that sanctions this severe coupled with a rule against scouting, would likely eliminate most scouting from taking place because the risks would just be too high.*

*Enforcement of Scouting Policy - This, of course, is the messiest part of this entire motion. I think this section could be eliminated and if the sanctions are severe enough and the process for determining sanctions is clear enough, then this would be unnecessary. I used "may" language so that this section isn't required. There will be some initial added expense on AMTA's part to carry out this type of enforcement, but I don't think it will be excessive. I also think that we can either pass the expense along to*

*teams or take steps -- such as collecting the bracelets after the tournament -- to keep recurring costs down. I stole the bracelet idea from high school national mock trial, although they use it very differently. I think the two colors per room is a simple yet elegant solution, in that it makes enforcement a lot easier and allows everyone in the room to be an enforcer. Now, even with ALL of these rules, could a program still figure out a way to scout if it wanted to? Yes, it could. But the same could be said of almost any of our rules. I think this combination of policies would be the most realistic way to end/curb scouting if that is the Board's will.*

**TAC -07 Motion by Bernstein and Derfelt** to Amend Rule 5.11 (additional language in red)

Rule 5.11 Compensation for regional tournament host. Absent other arrangements, AMTA shall provide each regional tournament host with a minimum of \$40 times the number of teams assigned as of December 15 of the competition season. No regional host may charge teams additional fees (above those paid to AMTA) to participate in a regional tournament. Regional hosts shall receive their stipend, in full, at least one month prior to the commencement of the regional tournament. *The regional host will confirm the correct mailing address for the recipient of the stipend by calling the AMTA program coordinator on or before December 15 of the prior year.* The Development Committee and Tournament Administration Committee may also enter into alternative hosting arrangements where a host would receive promotional or other consideration in addition to or in lieu of a direct subsidy from AMTA.

**TAC – 08 Motion by Bernstein and Derfelt** to Amend Rule 5.14 (additions and deletions in red)

Rule 5.14 Regional tournament individual awards. Each regional tournament shall award at least ten All-Region attorney and ten All-Region witness awards. Additional awards shall be given to students tied for tenth place. If ties create the need for additional individual plaques, the AMTA Representatives ~~shall contact the AMTA office within one week of the regional tournament with the name, address, and award needed~~ *will report the amounts needed to the AMTA office. The student needing an award will be given a certificate with the necessary information for them to complete an on-line form and their award will be mailed to that address.* When distributing the available plaques at the tournament, AMTA Representatives should withhold plaques from students whose teams are advancing to the championship series or from students whose teams are coached by an AMTA director.

**TAC – 09 Motion by Bernstein and Derfelt** to amend Rule 5.22 (additions and deletions in red)

Rule 5.22 Opening round championship tournament individual awards. Each opening round championship tournament shall award at least ten outstanding attorney and ten outstanding witness awards. Additional awards shall be given to students tied for tenth place. If ties create the need for additional individual plaques, the AMTA Representatives ~~shall contact the AMTA office within one week of the regional~~

~~tournament with the name, address, and award needed~~ will report the amounts needed to the AMTA office. The student needing an award will be given a certificate with the necessary information for them to complete an on-line form and their award will be mailed to that address. When distributing the available plaques at the tournament, AMTA Representatives should withhold plaques from students whose teams are advancing to the national championship tournament or from students whose teams are coached by an AMTA director or officer.

## **Appendix C: Human Resources Committee Work Plan for 2016-2017**

### **2016 Human Resources Committee Work Plan**

In competition year 2016-17, the Human Resources Committee (“HRC”) plans to take the following actions in conjunction with the Executive Director:

1. Implement a reporting system whereby the Executive Director and the Administrative Assistant provide the HRC with information about their day-to-day activities including, but not limited to, projects worked on, requests for assistance with projects, and time spent doing tasks.
2. Implement a written system by which tasks for which assistance by the Executive Director and/or the Administrative Assistant is sought are prioritized and, if possible, estimates of things like time needed to complete, benefit(s) to AMTA, and an estimate of the time/effort to be made by board members are captured and reported.
3. More fully involve the Executive Director in the activities of AMTA. These activities would include initiatives undertaken by the Development Committee to contact potential tournament hosts and sponsors; initiatives approved by the Board of Directors relating to the AMTA Store; and by more diligently including the Executive Director in Executive Committee conversations per the *ex officio* status discussed in bylaw 5.01. Additionally, the EC and HRC will help to centralize AMTA information and keep the ED abreast of projects being worked on by AMTA Committees so that her institutional knowledge is increased and so that she can timely respond to inquiries from board members and member institutions without having to consult other board members for information.
4. Involve the Executive Director in discussions and activity regarding fund raising, the AMTA Store, and technological innovations to our website and registration systems. Prioritization should be consistent with the Strategic Plan approved by the Board of Directors.
5. Re-launch the student survey by October 15, 2016, after revising same to account for students who are completing the survey for a second time and after making other, appropriate revisions to the survey instrument.
6. Launch the survey of coaches by November 15, 2016. Initially it is thought that this will be done in focus groups, but regardless of the manner in which it is implemented, it will be undertaken no later than November 15, 2016.

## **Appendix D: December 2015 Mid-Year Board Meeting Minutes**

### **I. Call to Order**

#### **Conference Call Attendance:**

Members present (X): Ben-Merre, Bernstein, Detsky, Eslick, Gelfand, Guliuzza, Halva-Neubauer, Heytens, Keener, Langford, Leapheart, Leckrone, Minor, Parker, Pavely, Racheter, Seelau, Smith, Thomason, Walsh, Warihay, Weatherby, Woodward

Members not present (X): Haughey, Olson, Schuett, N., Wagoner

Candidate Members present (X): Bluebond, Caldwell, Fruehauf, Harper, Holstad, Nelson, Schuett, M.

Candidate Members not present (X):

Staff & Guests (X):

Directors Emeritus (X):

Executive Directors (X): Derfelt, Nicolletti

### **II. Welcome and Remarks (Bernstein)**

### **III. Format of Agenda:**

Delivered by Assistant Secretary – Pavely

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 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.

**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 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 B** are the minutes from the 2015 Board Meeting.

#### **IV. Approval of Agenda**

**Motion to approve the agenda passes.**

Motion by Eslick to amend the agenda to approve opening a bank account in Joplin. Seconded. **Motion passes.**

Motion by Bernstein to take the motions in the order the President chooses. Seconded. **Motion passes.**

#### **V. Approval of 2015 Board of Directors Meeting minutes.**

**Motion to approve the 2015 annual meeting minutes passes.**

#### **VI. Consideration of Tabled Motions**

For procedure to “untable” a motion, please see discussion of Appendix A 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).

#### **VII. Committee Reports**

- A. Academics Committee (Leapheart):**
- B. Audit Committee (Smith): Oral report delivered by Bernstein**
- C. Budget Committee Report (Eslick): Oral report delivered**
- D. Civil Case Committee (Haughey):**
- E. Criminal Case Committee (Bluebond):**
- F. Competition Response Committee (Smith):**
- G. Development Committee (Heytens):**
- H. Ethics Committee (Parker):**
- I. Intellectual Property (Thomason): Oral report delivered.**
- J. Human Resources Committee (Bernstein):**
- K. Accommodation Committee (Gulizza):**
- L. Rules Committee (Seelau):**
- M. Strategic Planning Committee (Halva-Neubauer):**
- N. Tabulation Advisory Committee (Woodward): Oral report delivered.**
- O. Technology Committee (Warihay): Oral report delivered.**
- P. Tournament Administration Committee (Warihay): Oral report delivered.**
- Q. Executive Committee (Bernstein): Oral report delivered.**
- R. Other Committee Reports:**

## VIII. Motions:

**EXECUTIVE COMMITTEE-01: Motion by Leckrone** to amend the Rule 6.9(1) to read as follows:

Rule 6.9 **Open bids.** (CRITERIA FOR OPEN BIDS TO THE OPENING ROUND CHAMPIONSHIP. The following series of tiebreakers shall control the open bid list to the opening round championship:

- (a) Ballots won at the regional tournament
- (b) Whether the school hosts an AMTA sanctioned tournament (i.e. a Regional Tournament, Opening Round Championship Site or National Championship Tournament);**
- (c) Whether the school already has a team in the championship series, with those schools without a team in the championship series taking precedence
- (d) Combined strength at the regional tournament
- (e) The number of teams in the team's regional tournament, with the larger number taking precedence
- (f) Bonus bid ranking, with the better ranking taking precedence

*Rationale: While this may seem minor, and only rarely affect a team, I think it is yet another selling point to those teams considering hosting. I would also be open to submitting this change as the (c) tiebreaker, after whether the school already has a team in the championship series.*

### ADVANCED WITH NO RECOMMENDATION

Seconded by Warihay.

Friendly amendment to move criterion (b) to (c).

Motion by Parker to refer to the ad hoc committee dealing with hosting issues.

Seconded by Woodward. **Motion to refer passes.**

**EXECUTIVE COMMITTEE-02: Motion by Leckrone** to amend Rule 6.7(1) as follows:

Rule 6.7 **Bids to multiple opening round locations.**

(1) DIFFERENT OPENING ROUND SITES PERMITTED. A school with two bids to the opening round championship may send its two teams to different opening round tournament sites. **Where schools seek to have their two bids, originally assigned to different Opening Round sites, combined into one Opening Round site, priority should always be given to any school hosting an AMTA sanctioned tournament (i.e. a Regional Tournament, Opening Round Championship Site, or National Championship Tournament) over any school making the same request.**

*Rationale: Perhaps the biggest complaint received from hosts in the past few years is that, despite hosting, schools who don't host events get to consolidate and save time,*

*money, etc. at ORCS, while their teams are kept separate. This prohibits that and gives yet another incentive, a big one in my mind, to host an AMTA tournament, which would not affect competitive balance at a tournament.*

### **ADVANCED WITH POSITIVE RECOMMENDATION**

**Motion passes.**

**EXECUTIVE COMMITTEE-03: Motion by Leckrone** to Amend Rule 6.7(4) as follows:

#### **Rule 6.7 Bids to multiple opening round locations.**

(4) BID REASSIGNMENT. After consultation with the chair of the Tournament Administration Committee, the Tabulation Director shall have the authority to reassign any bid to a different opening round site, taking into account both the competitive balance of the opening round championship sites, and schedule conflicts approved by the Tournament Administration Committee. **The requests of any school hosting an AMTA sanctioned tournament (i.e. a Regional Tournament, Opening Round Championship Site, or National Championship Tournament) shall take priority over any other request, if similar requests are made.** No team's regular bid shall be reassigned to a different tournament without the consent of the team.

*Rationale: Where there is one spot open at an ORCS and multiple teams seek to have that spot for geographical or other reasons, the priority should go to the school that hosts on behalf of AMTA. This would be a very big incentive to host an AMTA tournament, which would not affect competitive balance within a tournament*

### **ADVANCED WITH POSITIVE RECOMMENDATION**

**Motion passes.**

**EXECUTIVE COMMITTEE-04: Motion by Eslick, as amended by Committee,** to amend Rule 3.6(1) and add a section (5) as follows:

(a) Is a qualified student **who on the first day of a sanctioned tournament is enrolled at a registered school and competes only for the school where the student is then enrolled.**

(5) **Timing. For purposes of evaluating the timing of any portions of this Rule and for purposes of student eligibility in general, the status of the student as of and on the first day of a sanctioned tournament shall control.**

*Rationale: The amendment clarifies when a student needs to be a “qualified student,” and prohibits a student from competing for a school other than the one where the student is enrolled at the time a sanctioned tournament begins.*

Adding a section (5) makes clearer that this timing provision applies to the analysis over all questions of student eligibility within this rule.

### **ADVANCED WITH POSITIVE RECOMMENDATION**

**Motion passes.**

**EXECUTIVE COMMITTEE-05:** Motion by **Bernstein:** To amend the bylaws to provide as follows:

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.

### **ADVANCED WITH POSITIVE RECOMMENDATION**

Motion by Racheter to amend the motion to reduce the presidency to one year. **Motion to amend fails for lack of a second.**

**Motion passes.**

**IP-01: Motion by Heytens:** to amend **Rule 4.27 Videotaping, photography, or recording by AMTA, permission granted.**

AMTA may videotape, photograph, or otherwise record any trial or any other portion of any sanctioned tournament. By competing in a sanctioned tournament, each participant grants AMTA the right to videotape, photograph, or record the participant’s likeness and performance and use the resulting material for any purpose.

*Rationale:* To clarify that the rule includes photography or audio recording as well as videography and that it includes all portions of all sanctioned tournaments, not just actual rounds.

### **ADVANCED WITH POSITIVE RECOMMENDATION**

#### **Motion passes.**

**IP-02: Motion by Eslick** to strike the second to last sentence of section 2.3 of the IP and Licensing Policy (beginning with “All revenue ...”) and create a new Rule 2.4(5) (and renumber subsequent sections as necessary) that reads as follows:

Each entity or person hosting an invitational tournament, as defined by Section 1.2(f) of the Intellectual Property and Licensing Policy, shall remit to AMTA a license fee equal to 5% of the gross registration fees collected for such tournament. The amount due shall convert into a fine for purposes of Rules 2.5(4) and 2.8(c) if it is not remitted by July 1 following the tournament. An entity or person failing to accurately report registration fees collected for an invitational tournament shall be subject to section 2.5 of the AMTA Intellectual Property and Licensing Policy

*Rationale: This rule is intended to take effect during the 2016-2017 academic year. This motion is designed to capture license fees related to the profitable use of AMTA's IP by schools hosting invitational tournaments. Placing this rule in the Rulebook ensures it is effective vis-à-vis any actual or perceived conflict with the IP Policy. Striking language from section 2.3 of the IP and Licensing Policy removed the unnecessary restriction that funds collected via this license be used for a particular purpose.*

### **ADVANCED WITH POSITIVE RECOMMENDATION**

#### **Motion passes.**

**TAB-01: By the Tab Committee:** That Rule 5.33 be amended by deleting the words "and no more than nine".

*Committee Rationale: Rather than change the arbitrary cap of 9 final round judges to an equally arbitrary cap of 15, we would prefer to simply eliminate the cap altogether. We note that final round judges may only be assigned after consultation with the TAC chair, so we are not concerned that increased quantity will cause quality to suffer.*

**Original Motion and Rationale from Halva-Neubauer** - Expand the number of possible members of the national championship panel to 15. At present, Furman is working on securing several sponsors for the championship panel; one of the pitches would include sponsors being able to designate a given number of members of the championship panel. Expanding the number of spots provides me with more opportunities to give wide latitude to sponsors while also meeting Furman's goals for the composition of the NCT final panel. Those goals include making the panel racially

and geographically diverse. Furman does not want to dilute its commitment to those goals, but it also needs to raise money. Philosophically, I believe that a national champion should have to convince a very diverse panel—former mockers, non-mockers, Southern judges, non-Southern judges, law school professors, trial ad coaches, prosecutors, public defenders, and so forth.

### **ADVANCED WITH POSITIVE RECOMMENDATION**

**Motion passes.**

**TAB-02: Motion by the Tab Committee: That Rule 5.25.1 be amended by changing each instance of the word "three" to "three, four, or five".**

Committee Rationale: We are advancing this motion with no recommendation because of concerns that the tabulation benefit of increased scoring judges per round is countered by the significant additional time necessary (a) to assign 5 scorers per round and track judge conflicts and (b) to add and double-check 5 blue ballots per round, especially after Round 4 when individual rank points must also be tabulated prior to the awards banquet. We believe the Board should debate whether the scheduling and workload challenges are an appropriate trade-off. If the Board does approve up to five blue scoring ballots, we believe the Board should also discuss whether funding for additional AMTA Representatives should be allocated to this year's NCT, both to handle the additional workload generated by four or five scoring ballots and given that three separate courthouse sites will be in use for one of the divisions.

**Original Motion and Rationale by Halva-Neubauer** - I'm endeavoring to have five-judge panels at the finals--with the presider scoring, my preference would to just give the presider a score sheet and a list of the names of the student presenters.

### **ADVANCED WITH NO RECOMMENDATION**

Seconded by Warihay. **Motion passes.**

#### **IX. Unfinished/New Business**

**Motion by Eslick to authorized the treasurer to take necessary steps to open a bank account in Joplin. Motion passes.**

#### **X. Adjournment**

**Meeting adjourned.**

## **Appendix A: Tabled Motions**

### **Rules-01: Motion by Smith** to prohibit scouting at the National Championship Tournament

*Rationale: We have supported the idea that a new case is necessary at the NCT in order to present our best competitors with a challenge on equal footing to analyze and present a unique case based on their own intellectual knowledge, and respond to unexpected interpretations of others' cases again based on their own talent. Scouting, while potentially educational and a means to level the playing field among teams that attend multiple tournaments in the invitational season, does not provide the same value at nationals. Instead, the ability to scout is predominantly one limited to programs with enough personnel and/or funding to fly additional people to the tournament to take notes on other teams' performances. Given the nature of nationals, we should prohibit this practice, consistent with what occurs at the high school tournaments.*

Technical application: at high school tournaments, teams are allowed to give badges to guests with their own team numbers. Guests wear those badges to indicate they are welcome guests of one of the teams in the round. We could easily provide similar items to allow for guests at the tournament.

**From the Rules Committee:** The committee discussed this motion and there was agreement that the motion wasn't specific enough in terms of how any procedure would work to curtail scouting, and what sanctions would be utilized if there were violations. There were also concerns that this motion would be very controversial and take up a lot of discussion time, and there was a recognition that this motion would also probably benefit from face-to-face debate. In response to all of these concerns, the committee has taken it on itself to craft a fully fleshed-out motion that would be designed to curtail scouting at NCT and will put that motion on the agenda this summer.

### **RULES-02: Motion by Smith**

Motion to prohibit pre-Nationals scrimmages during the tournament weekend

*Rationale: Similar to the motion above, if the goal of having a new nationals case is to see how teams perform based on their own merit, we should prohibit formal scrimmaging among teams prior to the start of the tournament. Again, this is a practice that traditionally benefits programs with the money to rent rooms, the flexibility to travel longer, and the connections to set up high profile judges in a way that is disproportionate to teams without those options. If the second case is designed to truly test the ability of a team to compete with new material based on their own ideas, we should prohibit the practice of allowing teams to have extra rounds against teams, judged by experienced board members and former coaches.*

**RULES-03: Motion by Halva-Neubauer:** For the national championship trial, both teams would conduct a voir dire of a jury pool made up of Greenvillians. Both teams would be given so many strikes, and the judges of the championship trial would evaluate the teams' skill at jury selection. It would add one additional function to the panel. Another take on this innovation would be for the finalists to select the actual jury that would evaluate them, but in this case, I cannot invite high-profile judges to sit on the championship trial, only to have them struck by the trial teams. One other possibility would be to poll the jurors at the end of the trial. The trial team that won a majority on the jury would receive an additional pre-determined # of points—perhaps two or possibly three.

**From the Rules Committee:** The committee did not think it was wise to make changes to the scoring system mid-season and without any testing. Again, this motion was likely to be very controversial and difficult to discuss over a mid-year call.

**RULES-04: Motion by Halva-Neubauer:** The logistics for the 2016 tournament are complex. Not only do we have two principal sites—downtown Greenville and the Furman campus (they are about seven miles apart)—but we also have multiple venues at the two sites. The trials in downtown Greenville will take place in the federal, county, and municipal courthouses, and we'll use five to six sites on campus. At present, the plan is to embed a person who is trained and knowledgeable about the tournament's logistics with each team. It may seem over-the-top, but there are so many moving parts to the tournament that I don't want any team to fall into the abyss. It would be poor hospitality on Furman's part, but it could potentially also have an impact on running the tournament on time. Hence, I would ask that a relaxation of the non-communication rule be granted so that team members would be allowed to speak to the embedded tournament designee. For the record, those volunteers who are embedded with the team will be instructed on the ethical precepts, for example, that they would not share any information about what is happening on their team with any other volunteer or another team. They are to be worker bees, not spies.

**From the Rules Committee:** The committee believes that the rules in place already allow for the behavior conceived by this motion, and thus, this motion seemed unnecessary.