



**2024 Board Meeting Agenda
Wilmington, North Carolina
July 20-21, 2024**



American Mock Trial Association

Meeting of Board of Directors

Wilmington, North Carolina

July 20-21, 2024

Agenda

- I. **Call to Order and Roll Call**
- II. **Welcome and Remarks** (Sohi)
- III. **Approval of Agenda**
See Appendix A for an explanation of the agenda.
- IV. **Committee Reports**
Most committees will deliver their reports to the Board via email prior to the meeting.
- V. **Tabled Motions**
See Appendix A for an explanation of tabled motions.
See Appendix D for a list of motions tabled by committee.
- VI. **Approval of Consent Calendar**
See Appendix C for the motions on the consent calendar.
- VII. **Motions**
The full text of motions advanced for debate appears in Appendix B. The shortened titles here are for reference only. Designations in **green** were advanced by the committee with a positive recommendation. Designations in **blue italic** were advanced by the committee with no recommendation.

CIC-01 Proposes three rule changes for CIC post-tournament review
CIC-03 Clarifies that a complaining team may not appeal a CIC determination on the basis that the CIC issued no penalty or an insufficient penalty.
CIC-04 Clarifies that in-tournament CIC review rules supersede more general appeals process rules.
CIC-05 Maintains CIC in-tournament review for 2024-2025 season.
CIC-06 Provides that penalties other than warnings can be imposed only if improper invention was egregious.
CIC-07 Clarifies that a Special Instruction violation is not an improper invention subject to CIC review, unless the pertinent Special Instruction states otherwise.
CIC-08 Provides comment defining “Permissible Inference.”

- EC-04** Increases “New Business” motion deliberation requirement from simple majority to two-thirds majority vote.
- EC-08** Imposes requirement that the EC review all CIC advisory opinions and provide feedback for CIC consideration prior to publication.
- EC-13** Provides an appeal mechanism for a team whose complaint to the CIC was denied.
- RULES-04** Amends “Guilty Portrayals Rule” to impose the responsibility to comply on defense witnesses (as opposed to defense teams).
- TAB-01** Eliminates general TPR tiebreaking; provides TPR tiebreaking procedure for NCT division draw based solely on that year’s ORCS performance.
- TAB-04** Reinstates 2018-2019 ORCS pairing procedure.
- TAC-04** Provides Host Bid for ORCS; requires host school to win at least 4.5 ballots at Regionals.

- VIII. Report of Treasurer/Budget Committee**
- IX. Approval of 2024-25 budget**
- X. Unfinished/New Business**
- XI. Adjournment**



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Explanation of Agenda

Pursuant to AMTA Rule 10.2.1, the Executive Committee referred each motion to a Board committee based on the subject matter of the motion. All motions are referenced numerically by the abbreviation of the committee to which the motion was referred (e.g., EC-02, TAB-03.)

Each committee had the option of (1) advancing the motion to the Board with a positive recommendation; (2) advancing the motion to the Board with no recommendation; or (3) tabling the motion. Further, each committee had the option to make amendments to each motion prior to advancing it to the Board.

Advanced Motions (Appendix B)

Motions advanced by committee with a positive recommendation do not require a second. These motions are indicated by a designation in green, e.g., **TAB-02**. Motions advanced by committee with no recommendation do require a second. These motions are indicated by a designation in blue italics, e.g., *TAC-01*.

Consent Calendar (Appendix C)

The Consent Calendar comprises motions advanced by committee that, in the determination of the Executive Committee, are of a technical or non-controversial nature such that they may be adopted by the Board without further debate. Three Board members may ask that a motion be removed from the consent calendar; such a motion would then be subject to separate debate and action.

Tabled Motions (Appendix D)

These motions are designated in red with underlining, e.g., TAC-09. No action will be taken on any tabled motion unless five Board members ask that that a vote be held to untable the motion and the Board subsequently votes to untable. If the vote to untable the motion is successful, the untabled motion would then be subject to debate on its merits and action.

Voting Standards

For a motion to be adopted, it must receive a majority of the votes cast at a meeting where quorum is present. AMTA Bylaw 4.10. Motions to amend the Bylaws require an affirmative vote of two-thirds of the Voting Directors. AMTA Bylaw 8.02.



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Appendix B: Full Text of Motions

SUMMARY OF ADVANCED MOTIONS

The full text of motions advanced are provided below. The shortened descriptions here are for reference only. Designations in **green** were advanced by the committee with a positive recommendation. Designations in **blue italic** were advanced by the committee with no recommendation.

In cases where existing rules are being amended, rule language to be deleted is shown ~~struck through~~ and new language to be created is shown **in red**.

Motion	Description	Page
CIC-01	Proposes three rule changes for CIC post-tournament review.	<u>3</u>
CIC-03	Clarifies that a complaining team may not appeal a CIC determination on the basis that the CIC issued no penalty or an insufficient penalty.	<u>6</u>
CIC-04	Clarifies that in-tournament CIC review rules supersede more general appeals process rules.	<u>8</u>
CIC-05	Maintains CIC in-tournament review for 2024-2025 season.	<u>9</u>
CIC-06	Provides that penalties other than warnings can be imposed only if improper invention was egregious.	<u>10</u>
CIC-07	Clarifies that a Special Instruction violation is not an improper invention subject to CIC review, unless the pertinent Special Instruction states otherwise.	<u>11</u>
CIC-08	Provides comment defining “Permissible Inference.”	<u>12</u>
EC-04	Increases “New Business” motion deliberation requirement from simple majority to two-thirds majority vote.	<u>13</u>
EC-08	Imposes requirement that the EC review all CIC advisory opinions and provide feedback for CIC consideration prior to publication.	<u>14</u>
EC-13	Provides an appeal mechanism for a team whose complaint to the CIC was denied.	<u>15</u>

<i>RULES-04</i>	Amends “Guilty Portrayals Rule” to impose the responsibility to comply on defense witnesses (as opposed to defense teams).	<u>16</u>
<i>TAB-01</i>	Eliminates general TPR tiebreaking; provides TPR tiebreaking procedure for NCT division draw based solely on that year’s ORCS performance.	<u>17</u>
<i>TAB-04</i>	Reinststitutes 2018-2019 ORCS pairing procedure.	<u>19</u>
<i>TAC-04</i>	Provides Host Bid for ORCS; requires host school to win at least 4.5 ballots at Regionals.	<u>24</u>

CIC-01: Advanced as amended¹ with a positive recommendation.

Motion by D'Ippolito (on behalf of M. Romano) to amend Rule 7.21(6) of the AMTA Rulebook as follows:

Rule 7.21 Invention of fact.

....

(6) POST-TOURNAMENT REVIEW

(b) Role of Competition Integrity Committee. In determining whether an Improper Invention is egregious, factors that may be considered include, but are not limited to, **whether the invention was or could have been effectively remedied in trial by impeachment**; the significance of the invented material fact(s) to the case at hand; use of the material fact(s) elicited through the Improper Invention in closing arguments; repeated use of the same or similar Improper Invention in multiple trials; and any other evidence of prior planning or premeditation by the attorney(s) and/or witness(es) to knowingly engage in an Improper Invention and use the material fact(s) introduced thereby to gain an unfair advantage at trial. The Competition Integrity Committee may refer potential ethical violations under Rule 1.5, 1.6, 6.1 and/or 6.9 to the Executive Committee. **If an alleged egregious Improper Invention occurred during witness testimony, any complaint about such alleged invention must include the following information: (1) if there was no attempt to impeach the witness, the complaint must explain why the team failed to impeach and why impeachment would not have been sufficient to remedy the matter; and (2) if there was an attempt to impeach the witness, the team must explain why the CIC should not treat any Improper Invention as adequately considered and scored in-trial by the judges. Absent such information, the CIC shall presume that the alleged Improper Invention is not egregious and, thus, is not eligible for post-tournament review.**

¹ CIC-01 originally included the following proposed Rule 7.21(6)(e):

(e) Counterclaims. Any team that is subject to a CIC complaint may file a counterclaim of rules violations against the team that filed the complaint. Any counterclaim shall be filed as part of the Response discussed in Rule 7.21(6)(c), above. A team against whom a counterclaim is filed must file a Reply through the online Competition Integrity Committee Form within 48 hours after the Response.

Rationale: *The proposed text of Rule 7.21(6)(e) closes a loophole. Under the current structure, it is entirely possible that, during a round, both teams engaged in conduct that the CIC would regard as an egregious improper invention. Yet if one team elects not to pursue a CIC complaint, and the other team does, only the conduct of the complained-about team is subject to consideration. But where both teams take similar liberties with the case materials, it is not fair that only the complained-about team may face punishment. Indeed, this imbalance could arise from the decision of one team to treat CIC complaints as extreme, and presumptively not to be made, while the other team treats CIC complaints as just another part of the game.*

....

- (d) Good Faith Arguments Expected.** CIC review of a competition round is meant to be an extraordinary remedy, and AMTA recognizes that frivolous and vexatious complaints fail to conform to the expectation of AMTA participants stated in Rule 1.5 and the ideals of mock trial stated in Rule 1.6. Accordingly, in reviewing AMTA expects that any team alleging an egregious Improper Invention will do so in good faith. In reviewing complaints, the CIC shall determine whether the complaint contains any allegations that are frivolous. The CIC may impose sanctions, including refusal to consider future requests, if it determines that any portion of a complaint was frivolous. See Rule 9.10.
- (e) Probation.** Any teams on probation may be subject to additional review by the Competition Integrity Committee for potential egregious Improper Invention. Details of the additional review, including the procedure for this additional review, shall be communicated to the affected teams.

Rationale: *This year, members of the AMTA community have been aware of such a high volume of CIC complaints that it appears the process is being abused. CIC complaints should not become simply “part of the game” or a de facto 5th round of a tournament; they should be an extraordinary remedy for matters that cannot be addressed in trial. Impeachment remains the sole trial remedy for an Improper Invention, after all (see Rule 7.21(5)) and, as a general matter, AMTA should prefer in-trial review by judges who observed the round in real time to CIC complaints.*

It is worth noting, too, that being forced to answer allegations of cheating within 48 hours after the conclusion of a tournament is often extremely trying, mentally and emotionally exhausting, can be very hard to square with conflicting obligations, and may be an unfair demand on student-run teams or teams with fewer resources. In short, if CIC complaints become an expected and commonplace procedure, there is a real risk that they will undermine the ideals of AMTA. Indeed, some members of the mock trial community have seen this, as competitors or coaches, at the law school level, where allegations of cheating and post-tournament review are common and, as a result, the culture of the activity is substantially different from the community that AMTA seeks to foster.

Accordingly, this proposal suggests three specific rules changes, all designed to allow teams to pursue legitimate complaints of egregious Improper Inventions while discouraging them from over-pursuing claims.

- *The proposed addition to Rule 7.21(6)(b) makes clear that, for matters occurring during witness testimony, impeachment is the primary remedy and that CIC review is not designed to be a second bite at the apple for matters that could have been addressed, or were addressed, through impeachment. Accordingly, teams should either demonstrate why they failed to impeach, and*

why impeachment would not have been a sufficient remedy, or should demonstrate why impeachment was not actually sufficient given the circumstances in trial. The proposed text is purposefully broad to give teams latitude in making such arguments, though I would recommend that the CIC reject arguments like “the witness was probably too good of an actor to be impeached” or “the judge did not think the impeachment landed.” On the other hand, without such justifications, the CIC should presumptively treat any alleged Improper Inventions as not egregious, and thus not subject to review. This rule change will also encourage teams to impeach if they see something that they think is a rules violation, rather than intentionally choose not to raise the point and then “sandbag” their opposition if the tournament results are not to their liking.

- *The proposed text of Rule 7.21(6)(d) recognizes that frivolous and vexatious arguments are utterly antithetical to the expectations of students competing within AMTA (Rule 1.5) and the ideals of mock trial (Rule 1.6). Just as frivolous and vexatious lawsuits, motions, and arguments are an abuse of process and create legitimate burdens on real-life litigants, so too do frivolous and vexatious CIC complaints do the same within AMTA. There should be no tolerance for any such complaints, and they should be firmly discouraged. And if we expect competitors and coaches to understand the Improper Invention rules, surely we can also expect them to understand when complaints are baseless. Indeed, AMTA already applies a similar standard to NCT in-tournament review, and portions of the language here mirror the language of that role.*

CIC-03: Advanced with a positive recommendation.

Motion by Woodward to amend Rules 7.21(6)(c) and 9.10(4) of the AMTA Rulebook as follows:

Rule 7.21 Invention of fact.

....

(6) POST-TOURNAMENT REVIEW.

(c) Review Procedure. Any allegations of an egregious Improper Invention must be brought to the attention of the Competition Integrity Committee by submitting the Competition Integrity Committee Form on the AMTA website by 4:00 p.m. Central time on the Monday immediately following the tournament. The Competition Integrity Committee may create a separate form for complainants to provide notice of intent to seek certain relief and may refuse to consider certain forms of relief if such is not submitted by the deadline prescribed on the form. If the allegation is raised timely, the Competition Integrity Committee shall investigate the allegation upon its collection of a complete investigative file. A complete investigative file shall include (i) the Complaint filed through the online Competition Integrity Committee Form; (ii) the Response filed through the online Competition Integrity Committee Form (and submitted no more than 48 hours after request, which may be extended upon request and for good cause); and (iii) any supplemental materials requested of the parties by the Committee Chair or the Chair's designee. The Chair or the Chair's designee shall have discretion to receive additional supplemental materials, including, but not limited to, trial recordings, ballots and comment sheets, statements from others including the AMTA Representatives, and amicus briefs. The parties shall work in good faith to provide any requested supplemental materials.

Any amicus briefs must be received by the relevant party's filing deadline and must total no more than 500 words. The Chair or the Chair's designee shall also have discretion to set word or page limits for any additional supplemental materials. If, after investigation, the Committee concludes that an egregious improper invention of fact did occur, the Committee will issue penalties pursuant to Rule 9.10. **A decision of the Committee that an egregious invention of fact did not occur is not appealable by the complainant.** If the CIC finds that a team committed an improper invention of fact, but the invention was not egregious, the CIC may issue a warning. Warnings may be considered by the CIC in determining whether future conduct by the same school constitutes an egregious invention of fact under Rule 7.21. Warnings are not appealable. The CIC may create a public version of the warning or penalty but shall not identify the warned or penalized school or individual by name.

Rule 9.10 Penalties for Invention of Fact.

....

(4) APPEALS PROCESS. Verbal or written warnings may not be appealed. Penalties of point deduction on ballots, ballot forfeiture, probation, loss of bids, or suspension may be appealed **only by the penalized team or individual** to the Executive Committee and will be reviewed under an abuse of discretion standard. Suspensions may be appealed to the AMTA board of directors. The appellate decision of those bodies regarding penalties is final.

Rationale: *These changes clarify that a complaining team may not appeal the CIC's determination to not issue a penalty, nor may a complaining team appeal on the basis that a penalty issued by the CIC was insufficient.*

CIC-04: Advanced with a positive recommendation.

Motion by Woodward to amend Rule 9.10(4) of the AMTA Rulebook as follows:

Rule 9.10 Penalties for Invention of Fact.

....

(4) APPEALS PROCESS. Verbal or written warnings may not be appealed. Penalties of point deduction on ballots, ballot forfeiture, probation, loss of bids, or suspension may be appealed to the Executive Committee and will be reviewed under an abuse of discretion standard. Suspensions may be appealed to the AMTA board of directors. The appellate decision of those bodies regarding penalties is final.

Notwithstanding this section, in-tournament penalties applied at the Championship under Rule 9.11 shall be subject to review or appeal only under the procedures specifically instituted for in-tournament review under Rule 9.11.

Rationale: This clarifies that the in-tournament CIC review rules supersede the more general rule set forth in 9.10(4).

CIC-05: Advanced as amended² without recommendation.

Motion by Harper to amend Rule 9.11 of the AMTA Rulebook as follows:

Rule 9.11 In-Tournament Investigation.

For the 2024-2025 season, the Competition Integrity Committee may in its discretion investigate allegations of invention of fact during the National Championship Tournament and, where appropriate, issue penalties in accordance with Rule 9.10. The committee need not be physically present at a tournament to issue an in-tournament finding and/or penalty. In-tournament investigations and penalties require participation from at least three committee members. Committee members are not disqualified from this process by serving as an AMTA Representative at the tournament in question. The Competition Integrity Committee may establish deadlines and procedures for submitting requests for in-tournament review, which must be publicly posted on AMTA’s website no later than the date on which the National Championship Tournament Case is released. The Competition Integrity Committee may impose sanctions, including refusal to consider future requests, if it determines that a request for in-tournament review was frivolous. See Rule 9.28. Nothing in this rule shall preclude other processes for investigating allegations of invention of fact that exist in the AMTA Rulebook.

Rationale: *This proposal maintains in tournament review for another season.*

² CIC-05 originally included the following proposed language immediately preceding “See Rule 9.28”:

The only in-tournament changes made to Round Four results (i.e. changes to team records after Round Four but before Round Five) shall be to results that alter the placement of the top ten teams in each division. Otherwise, changes that would result from in-tournament review after Round Four shall be made after the conclusion of the National Championship Tournament.

Rationale: *At the conclusion of Round Four of the 2024 NCT, a significant number of changes were made to records that altered the Honorable Mention teams. Although at least one change altered the top ten in one division, the overwhelming majority of changes made after Round Four altered Honorable Mention results. It is important to get this right and to make sure that the results accurately reflect the performance of teams according to AMTA’s rules. But, that should not be done at the expense of the smooth and efficient administration of the tournament. Because of the number of changes after Round Four, one division was delayed more than an hour after it had completed tabulation. To the extent that the Board views those changes as important, for the sake of all of the teams at NCT and the NCT hosts, changes that do not alter the top ten teams can be made at the conclusion of the tournament.*

CIC-06: Advanced with a positive recommendation.

Motion by Heytens (on behalf of the Committee) to amend Rule 7.21 of the AMTA Rulebook as follows:

Rule 7.21 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”). **Penalties for Improper Invention other than warnings can be imposed only upon a finding that an Improper Invention was egregious.**

CIC-07: Advanced with a positive recommendation.

Motion by Heytens (on behalf of the Committee) to amend Rule 7.21 of the AMTA Rulebook as follows:

Rule 7.21 Invention of fact.

(4) IMPROPER INVENTION.

(d) Special Instructions. Violations of special instructions in the case packet do not constitute Improper Inventions and, thus, are not subject to the Competition Integrity’s Post-Tournament Review as set forth in Section (6) below, unless the special instruction expressly states: “Violations of this special instruction may constitute an improper invention of material fact and are subject to the Competition Integrity Committee’s Post-Tournament Review procedure, as set forth in Rule 7.21(6).”

CIC-08: Advanced with a positive recommendation.

Motion by Heytens (on behalf of the Committee) to add the following comment to Rule 7.21(c)(ii) of the AMTA Rulebook that defines “Permissible inference.”

Comment: When a witness’s affidavit purports to include everything the witness knows that may be relevant to the witness’s testimony, a reasonable person generally would infer that if a fact would be relevant and that fact is not included in the witness’s affidavit, then the witness is not aware of that fact. Accordingly, in most circumstances, an affidavit-constrained witness may permissibly testify to their unawareness of relevant facts not mentioned in their affidavit. However, this general principle is not absolute. The non-occurrence of some events is so unusual or significant that a reasonable person would not infer their non-occurrence from their mere non-inclusion in an affidavit. For example, when an event occurs with such regularity or is so central to other testimony that its non-occurrence would be noteworthy, the event’s non-occurrence is not a conclusion a reasonable person would draw from the facts contained in the affidavit and a witness would violate AMTA’s rules by testifying to the non-occurrence. Take a case where the defendant’s DNA is used for identification. If the defendant’s affidavit claims that “the police have the wrong suspect” but does not suggest that the police did not take a sample of the defendant’s DNA, a student portraying the defendant may not testify that “the police have never taken a sample of my DNA” because such a fact, if true, would be expected to be included in a complete affidavit.

Rationale: The CIC has received numerous inquiries and complaints involving so-called “negative inferences.” The purpose of this motion is to make a concrete proposal while providing the Board with a mechanism to discuss these matters.

**EC-04: Advanced with a positive recommendation.
Motion by Harper to amend Rule 15.7(8) as follows:**

Rule 15.7 Meeting agendas.

....

(8) “NEW BUSINESS” MOTIONS. A ~~majority~~ vote **of 2/3 of the Voting Directors present at a Board Meeting** is required to allow a substantive motion before the Board for debate and deliberation under “new business” at a meeting. The Chair shall determine whether a motion offered as a new business item is “substantive.” Motions to set the date and/or location of a future Board meeting or to approve a tournament host or location shall not be subject to this rule.

Rationale: *Recent Board Meetings have featured incredibly substantive motions as New Business. By requiring a 2/3 vote, this amendment ensures that any New Business motions are viewed as significant by a substantial majority of the Board, thus finding that bypassing the usual process of committee review and recommendation is appropriate for consideration of any substantive New Business motion.*

EC-08: Advanced with a positive recommendation.

Motion by Harper to amend Rule 15.15 of the AMTA Rulebook as follows:

Rule 15.15 Competition Integrity Committee duties and procedures.

....

(2) CHARGE. The Competition Integrity Committee has the responsibility of applying and enforcing the AMTA Rules with regard to invention of fact, as outlined in this Rulebook.

(a) Advisory Opinions. The CIC shall permit an advisory opinion process for properly registered Member Schools to submit questions about the permissibility of certain testimony or demonstrative aids. The CIC is not required to answer every question it receives, and the failure to answer any particular question will not be a defense against a complaint seeking sanctions for an Improper Invention. The CIC may impose limits on the number of questions a Member School may submit, and it may respond to questions in any order it deems appropriate. **All advisory opinions shall be submitted to the President for review and consideration by the Executive Committee. The Executive Committee shall have at least 48 hours to review any proposed advisory opinions and within which to offer the Competition Integrity Committee feedback. The decision whether to consider or incorporate the feedback of the Executive Committee shall reset solely with the Competition Integrity Committee.** All advisory opinions shall be published to the AMTA community on a no-name basis. The submission of a request for an advisory opinion will constitute consent for sharing all, any part, or any edited form of the question with the entire AMTA Community.

Rationale: *This proposal permits another body with oversight to consider and review any advisory opinions that are to be shared with the entire AMTA community before they are published. At the same time, the motion recognizes the independence of the CIC and vests in the CIC the authority to consider, incorporate, or set aside any feedback received by the EC. The motion provides for another set of eyes on important issues but does not intend to interfere with the operation of the CIC or the Board's directive for that committee.*

EC-13: Advanced without recommendation.

Motion by Smiley and Jahangir to include in the AMTA Rulebook³ the following language allowing limited appeals of certain denials of complaints submitted to the CIC:

A team whose complaint to the CIC was denied has the ability to appeal this denial if (and only if) the complaint was one in which a response was requested from the CIC and the CIC did not deem the complaint to be frivolous. The timing and procedure for an appeal under this section must follow the same procedural requirements as any other permitted appeal of a CIC determination. This section does not alter the inability to appeal warnings.

Rationale: *One of the purposes of the CIC is to allow injured teams to get relief from egregious inventions that occur during our competitions. It seems out of step with that purpose to deny ostensibly harmed teams from appealing when their complaints are denied. That said, any ability for teams to appeal denied complaints needs to be balanced against the subsequent increased workload for the organization. This rule aims to strike that balance. This rule only allows teams to appeal denied complaints found to be nonfrivolous and where the CIC requested a response. Denials of frivolous complaints and/or unfounded CIC complaints remain unappealable. Warnings likewise remain unappealable. This rule would therefore limit any appeal rights to denied complaints only to those issues that the CIC considered strong enough to request a response but then later denied.*

³ Placement of this in a particular rule/section of the AMTA Rulebook to be determined based on other motions.

RULES-04: Advanced without recommendation.

Motion by Gelfand to amend Rule 6.11(2)(a) of the AMTA Rulebook as follows:

Rule 6.11 Testimony of witnesses.

....

(2) GUILTY PORTRAYALS RULE.

- (a) To prevent "guilty portrayals" by witnesses who are not the defendant in criminal or civil cases, ~~a defense team~~ **a witness called by the defense** may not ~~allege, argue, state,~~ imply, or suggest that ~~a witness called by the defense~~ **they have or** may have:
- i. Committed or is an alternate suspect for the crime, tort, or other claim at issue in the complaint or indictment;
 - ii. Acted wrongfully (whether through negligence, recklessness, intentional conduct or otherwise) in causing or contributing to the harm suffered by the plaintiff or victim; or
 - iii. Committed a crime, unless the criminal act is stated specifically and directly in the case materials.

In determining whether a team violated this rule, AMTA will consider the witness's testimony and performance, as well as the team's statements and conduct throughout trial. The cross-examiner is not permitted to raise an objection to the judge on the basis of "Guilty Portrayal."

Rationale: *Rule 6.11(4) states that violations of that rule "shall constitute a material invention of fact." It goes without saying that inventions of material fact are made by witnesses on the witness stand, not by counsel during arguments (though arguments may certainly be considered in determining whether a witness's invention was egregious). As currently written, however, the rule prohibits arguments by counsel that do not involve any inventions of material fact whatsoever. This has created a situation that is both counter-intuitive and needlessly confusing. The CIC received at least three requests for advisory opinions as to the scope and application of the rule, none of which involved a defense witness potentially inventing any material facts.*

TAB-01: Advanced with a positive recommendation.

Motion by Michalak to amend Rules 12.10 and 14.9(1) of the AMTA Rulebook as follows:

Rule 12.10 Team Power Rankings.

....

(3) EIGHT BALLOT EQUIVALENT AND ROUNDING REPEATING FRACTIONS. Whenever a tournament uses more than two scoring ballots per round, credit under this rule shall be expressed by the number of ballots that would comprise the same percentage of ballots won in a tournament with eight total ballots. When results comprise multiple repeating fractions, appropriate rounding shall apply.

Example: A team earns 9 wins in a 3-ballot per round tournament. The team earns 6 wins for TPR purposes ($9/12 = 75\% = 6/8$).

Example: A team whose raw point totals are 13.33 and 2.66 shall equal a sum of 16.

(4) RANKINGS AND RANKING TIES. ~~Teams shall be ranked by their total number of raw points, with the team with the most raw points having a rank of “1.” Whenever the foregoing calculations result in two or more teams tied at the same amount of raw points, the oldest year’s raw points shall be eliminated, with the team or teams with the highest remaining total receiving the higher ranking. If the tie is still not broken, the second oldest year’s points shall be eliminated. Teams shall remain tied if this procedure does not break the tie.~~ **Teams shall be ranked by their total number of raw points, with the team with the most raw points having a rank of 1. Whenever the foregoing calculations result in two or more teams tied at the same amount of raw points, those teams shall remain tied for the purposes of team rankings.**

Rule 14.9 Divisions at the national championship tournament.

(1) DIVISIONS. The national championship tournament will be run in two divisions.

(a) Distribution of team power ranks. Teams will be divided into twelve (12) groups of four teams based on each team’s Team Power Ranking. (Group A will consist of the 1st to 4th highest TPR ranking among the qualifying teams, Group B will consist of the 5th to 8th highest TPR ranking among the qualifying teams, etc.) **In the event of a tie for the final spot in any group, the Tabulation Director will break the tie on the basis of the following tiebreakers, in order: ORCS wins, ORCS CS, ORCS OCS, ORCS point differential.** Two teams from each group shall be placed in each division. If there is an uneven number of teams, a coin flip shall be conducted prior to the beginning of the draw to determine which division the lowest two ranked teams will be placed into.

Rationale: *Team Power Rankings are only used by AMTA in two places, ORCS groups (under the current system) and NCT division draw, otherwise they are for bragging rights. There is no reason to break ties for general TPR and when TPR counts, the best information to break the tie is the immediately preceding tournament (Regionals or ORCS) as opposed to historical data from prior season(s), involving people no longer*

on a given team. [The ORCS bracket tie break is written into the Tab Manual already as Regionals wins, Regionals CS, Regionals OCS, and Regionals PD]

As for the calculation example in (3), neither Johnathan nor I have been rounding the decimals up to whole numbers, we have rounded to 2 or 3 decimal places.

TAB-04: Advanced with a positive recommendation.

Motion by Michalak to amend the AMTA Tabulation Manual by reinstating the ORCS pairing procedures for the 2018-2019 season:

PAIRING PROCEDURES

Pairing Round 1

Round 1 may be paired by any random method. The most common random method is writing each team number on a piece of paper or index card, and then blindly drawing cards to create the pairings.

Do not intentionally assign both teams from a school to the same side of the case. Not only is such a procedure not random, but it has a negative impact on the pairings in later rounds.

There are no coin flips for sides, nor do the teams get to choose their own side. The draw itself determines the sides: the first team drawn will be Plaintiff/Prosecution, the second team drawn will be Defense, etc.

Occasionally, a team will approach the Representatives prior to the first round draw and ask to play a specific side in Round 1 of the case. Normally, such requests should not be granted. The Representatives have the discretion to allow such a request if good cause is shown, e.g., a student who is an attorney on the Defense side is unable to arrive until Round 2 due to a family emergency. If both Representatives find good cause and agree to the request, it will be granted. In this case, randomly pair the round as instructed above. If the team in question is randomly paired into the side it wanted, you need not take any further action. If the team in question is randomly paired into the opposite side, simply switch the side designations for that pairing only and announce the reason for doing so.

The Round 1 pairings must be conducted in public. It is typical to conduct the pairings at the opening ceremony or, if there is none, as the first item of business at the Round 1 captains' meeting.

Teams from the same school shall not meet. If a draw causes a same school match, the second team drawn should be returned to the pool of available teams. Draw another team to complete the pairing. If a same school match occurs in the final pairing, swap the last team drawn with the most recently drawn team that will resolve the same school match.

As the Round 1 pairings are conducted, at least one or two people should assist in writing down the pairings on a grid with room numbers. The tab room must retain one copy of the initial pairings for reference and for use in filling out the tabulation cards.

While it is technically possible to conduct the Round 1 pairings in advance of the tournament, it is discouraged for two important reasons: one, it reduces the chance teams will be present to see the draw take place, and two, the pairings would have to be re-done if one or more teams fail to arrive at the tournament for any reason.

Pairing Round 2

Round 2 is side-constrained; each team that was Plaintiff/Prosecution in Round 1 must be Defense in Round 2, and vice versa.

After tabulation, each team will be ranked P1 through P__ and D1 through D___, based on the side of the case they will be playing in Round 2. In other words, the team with the best ranking that just played Plaintiff in Round 1 will be ranked “D1” for Round 2 pairing purposes.

Once the pairing cards have been organized in ranked order and compared, both sets of cards should be dealt out onto a table. Dealing the cards for Round 2 is easy: simply lay out the cards in two columns in the following rank order:

P1 D1
P2 D2
P3 D3
...and so on.

Pairing Round 3

Round 3 is not side constrained. As a result, the entire field is ranked R1 through R_____ regardless of the side the team played in Round 2.

When it comes time to deal the cards, the cards shall be dealt in rank order in a “snake” format as shown:

R1 R2
R4 R3
R5 R6
R8 R7
...and so on.

After any and all impermissible matches have been resolved, one of the AMTA Representatives shall flip a coin. If the result of the coin flip is “heads,” then all teams that are in the left-hand column of pairing cards shall be Plaintiff/Prosecution in Round 3. If the result of the coin flip is “tails,” then all teams that are in the left-hand column of pairing cards shall be Defense in Round 3. In the latter case, it is common for the Representatives to physically switch the left hand and right-hand columns after the coin flip, so that the pairing cards physically appear on the table in the standard “P vs. D” format. After physically switching places, check to make sure that the “snake” order of the rankings is still in place, but in reverse of the above format: the first trial should be R2 vs R1, the second trial should be R3 vs R4, the third trial should be R6 vs R5, and so on.

Pairing Round 4 At Regional and Opening Round Championship Tournaments

Pairing Round 4 at Regional and ORCS level tournaments is perhaps the most intricate part of this Manual. When AMTA moved to the ORCS system in 2009, AMTA also

instituted this new system of pairing, designed to better serve the goal of finding the best group of teams at the tournament who should qualify to the next level of competition, rather than identifying a “winner” of the tournament.

Step One: Rankings

The first step of pairing Round 4 is to rank each team P1 through P___ and D1 through D___. The ranking part of the process is identical to the rankings done after Round 1 for pairing Round 2, except that Combined Strength (“CS”) is used after ballots won and before point differential.

Step Two: Brackets

The next step is to divide the teams into two groups: one group that is in the “Primary Bracket,” and another group that is in the “Secondary Bracket.” Sometimes, these are referred to as “Bracket 1” and “Bracket 2,” or the “Top Bracket” and the “Bottom Bracket.” Follow these steps to figure out the proper brackets:

2a. Determine the “First Out” record. ORCS tournaments typically have 6 bids to the Championship. The Tabulation Director will confirm the number of bids with the AMTA Representatives and tournament host prior to each tournament.

The “First Out” record is based on the number of bids at your tournament, plus one. In other words, it is always the sixth-best record at ORCS tournaments. It is the eighth-best record at regional tournaments with 7 bids, and the ninth best record at regional tournaments with 8 bids.

2b. Determine Which Teams Go Into The Secondary Bracket

1. All teams with a ballot record 2.5 wins (or more) greater than the First Out Record are placed into the Secondary Bracket. These teams are mathematically guaranteed to earn a bid to the next level of competition.
2. All teams with a ballot record of 2.0 wins (or more) less than the First Out Record are placed into the Secondary Bracket. Note that a team going into the Secondary Bracket does not make a team technically ineligible to earn a bid. It is simply a mathematical determination of which teams are unlikely to advance based on their record through three rounds.
3. If there are an uneven number of teams in the brackets, pull down the lowest ranked team(s) in the Primary Bracket to create an even number of teams in the Secondary Bracket, except as provided in the following caveat.

CAVEAT: Do not pull a team down from the Primary Bracket if the team you want to pull down is tied with, 0.5 ballot away from, or 1 ballot away from the “last in” record—if a tournament has x bids, the “last in” record is the xth best record. For example:

At ORCS with 6 bids: the 6th best record

Note that the determinative record for the “caveat” is different than the First Out Record you calculated earlier. The “caveat” is based on the record of the team in x place, where x is the number of bids available at your tournament. The First Out Record is the number of bids available plus one ($x+1$).

If this caveat applies to a team in the Primary Bracket, you should instead pull up the highest ranked team from the Secondary Bracket that was originally removed from the bottom of the Primary Bracket.

Step 3. “High-Low” the Needs Defense side in the Primary Bracket only. The term “High-Low” used to be used more frequently in AMTA pairing. Now, it is only used in the Round 4 pairing system.

Note that the “High-Low” swap occurs only in the Primary Bracket. The Secondary Bracket stays paired in a standard “High-High” format: the best ranked team in the P column matches against the best-ranked team in the D column, the second-best vs. the second-best, and so on.

Step 4. Resolve Impermissible Matches.

Resolving impermissible matches for Round 4 pairings uses the same rules and principles explained later in this Manual, but with some caveats.

First, you may not go outside a bracket to resolve an impermissible match. This system places a high emphasis on maintaining the two brackets. As such, if a card’s adjacent rank is in the other bracket, ignore it. Look only at the adjacent rank(s) in the same bracket.

Second, always begin resolving impermissible matches in the Secondary Bracket. Typically, this bracket is smaller. Start with the best-ranked team in the Secondary Bracket and move down. Once you have confirmed that all impermissibles have been resolved in the Secondary Bracket, then move on to resolve all impermissibles in the Primary Bracket.

In the rare event that an impermissible match cannot be resolved without invading the other bracket, then re-deal all the cards into a single bracket, P1 to the lowest ranked P team in the left-hand column, and “high-low” with the lowest-ranked D team at the top of the right hand column all the way down to D1 at the bottom. (In other words, in a 24-team tournament, prior to checking for impermissible matches, P1 faces D12, P2 faces D11, and so on.)

Rationale: *This is the 2018-2019 ORCS system. The current system has issues, some of which are indicated in the Romano motion. When the current system was pitched, one of the arguments was that it would help even out the strength of schedule so you wouldn’t end up with a team missing out on a bid because they had a very hard schedule and hit 3 or 4 of the top 6 teams and come up short. (5 wins CS of 23) .*

The problem with that is that it basically neuters the 1st tie breaker of CS because all the CSs are bunched together.

Another issue is that this system requires an even number of teams in each of four groups (16, 24, 32) because of the intragroup matchup and that doesn't lend itself to expansion. There have been a number of comments about how the ORCS are too stacked, but we couldn't expand to a 9th ORCS without adding 24 more teams to ORCS because we can't just spread the 192 out across 9 sites because the groups won't work.

The current system also, seemingly protects the A group teams by not having them face more than 1 other A group team while being the team benefitting from facing 3 (by TPR) teams that are "lesser" than them, sometime significantly (by TPR). The D teams, on paper, are having to face 3 teams, on paper, better than them. NCT is supposed to be the best of the best and you should have to earn your way there by beating the best not just by beating the best team in another TPR class.

TAC-04: Advanced without recommendation.

Motion by Holstad to amend Rule 12.2 of the AMTA Rulebook as follows:

Rule 12.2 Types of bids, how earned.

There are ~~three~~ **four** types of championship series bids:

(1) REGULAR BIDS. Regular bids to the opening round championship are strictly determined and earned by the final placement results at regional tournaments. Regular bids to the national championship are strictly determined and earned by the final placement results at opening round championship tournaments.

(2) HOST BIDS. Each school host shall be entitled to one bid to the Opening Round Championship Series which said school is hosting. If a host school earns a Regular Bid to any Opening Round Championship Series pursuant to Rule 12.2(1), or if the host bid recipient declines the bid or withdraws subsequent to accepting the bid, that school's host bid shall become an Open Bid. To be eligible for a Host Bid, the host school must have had at least one team that registered and competed at a Regional Tournament, and at least one team that won at least four and a half ballots (4.5) at a Regional Tournament. No more than two (2) host bids may be allocated to any one Opening Round Championship Series. If there are more than two (2) hosts at a single Opening Round Championship Series that are eligible for a host bid, the hosts must determine amongst themselves which two (2) hosts will use the host bids and inform the Tabulation Director no later than noon central time on Tuesday following the completion of the last Regional Tournament. Co-hosts shall be determined pursuant to the definition in Rule 12.7(2)(c).

(3) OPEN BIDS. Open bids consist of regular bids and host bids that have been declined or unreserved, and extra bids not allocated to a tournament as a regular bid. When available, open bids are awarded pursuant to Rule 12.8.

(4) ACT OF AMTA BIDS. Act of AMTA bids are awarded, when necessary, pursuant to Rule 12.9.

Rationale: This is different than the proposal submitted last year in that this proposal includes a requirement that any ORCS host needs to win 4.5 ballots at Regionals to be eligible.



American Mock Trial Association
 Meeting of Board of Directors
 Madison, Wisconsin
 July 15-16, 2023
Appendix C: Consent Calendar

SUMMARY OF CONSENT CALENDAR MOTIONS

The full text of motions advanced are provided below. The shortened descriptions here are for reference only.

In cases where existing rules are being amended, rule language to be deleted is shown ~~struck through~~ and new language to be created is shown **in red**.

Motion	Description	Page
CIC-11	Restyles Rule 7.21 - Invention of fact.	<u>2</u>
EC-02	Extends July Board meeting motion deadline by two weeks.	<u>7</u>
EC-03	Extends July Board Meeting committee assignment deadline by five days.	<u>8</u>
EC-05	Requires appointment of one DEI Committee member to Rules, TAC, and Case Committees.	<u>9</u>
EC-09	Modifies voting members for the Neal Smith Award.	<u>10</u>
EC-10	Extends EC deadline to provide Director recommendations from March 15 to April 1.	<u>11</u>
RULES-05	Clarifies that a student may speak with any rostered teammate during a round.	<u>12</u>
TAC-01	Codifies practice of determining whether a tournament may proceed with one AMTA Representative.	<u>13</u>
TAC-02	Clarifies that the penalty for a coach’s failure to comply with a request to judge relates solely to requests from AMTA Representatives.	<u>14</u>

CIC-11: Advance as amended¹ with a positive recommendation.

Motion by Smiley to amend Rule 7.21 of the AMTA Rulebook as follows:

Rule 7.21 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”~~). **Improper Invention of fact is not permitted. The Competition Integrity Committee has the responsibility of enforcing the rules related to Improper Invention.**

(2) IMPROPER INVENTION Definitions.

(a) Improper Invention. There are exactly two types of Improper Invention:

- i. Any instance (on direct, cross, re-direct, or re-cross examination) in which a witness introduces testimony or portrays/characterizes the witness in a way that contradicts the witness’s affidavit.
- 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 permissibly inferred from the witness’s affidavit as defined in Rule 7.21(4)(c)(ii).

~~**(b) Clarification concerning cross examination.** On cross examination, a witness commits no violation or Improper Invention when they testify to material facts not included in their affidavit so long as the witness’s answer is responsive to the question posed and does not contradict the witness’s affidavit. An answer is responsive to the question posed if, and only if, it responds directly to the content of the question. However, an answer is not responsive if it volunteers information on the same general subject as the question, but does not respond to the specific content of the question. 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.~~

~~*Comment: This rule prevents witnesses from volunteering invented material facts on cross-examination that exceed the scope of the question. Consider an eyewitness who states in their affidavit, “I need glasses to see distant objects, and I was not wearing glasses on the night in question” and states nothing else about the witness’s vision. If the witness is asked on cross examination, “You were not wearing glasses on the night in question?” it would be an invention of fact to respond “No, I was wearing contacts,” since the answer is not responsive (not contained in or necessarily inferred from the witness’s statement). To be clear, nothing in this rule prevents a witness from attempting to provide a complete answer to a question to the extent permitted by the Court by stating material facts contained within the witness’s affidavit. For example, if the eyewitness*~~

¹ CIC-11 originally maintained the following language in proposed Rule 7.21(6)(a):

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 Integrity Committee.

~~stated in their affidavit, “I was not wearing glasses on the night in question because I was wearing my new contacts,” then the above answer would be fully appropriate under the Improper Invention rule.~~

- (b) Materiality.** 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.
- (c) Permissible inference.** ~~A permissible inference must be a conclusion that a reasonable person would draw from a particular fact or set of facts contained in the affidavit.~~ A witness’s answer does not qualify as a “permissible inference” merely because it is consistent with (*i.e.*, does not contradict) statements in the witness’s affidavit. ~~Rather, a permissible inference must be a conclusion that a reasonable person would draw from a particular fact or set of facts contained in the affidavit.~~
- (d) Affidavit.** Unless otherwise indicated in the case packet, for the purposes of Rule 7.21, an “affidavit” includes not only a witness’s sworn statement, but also any document in which the witness has stated their beliefs, knowledge, opinions or conclusions (such as a deposition, interrogation, 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 their own conclusions. All statements made under oath remain subject to Rule 6.11(3).
- (e) Clarification concerning cross-examination.** On cross-examination, a witness commits no violation or Improper Invention when they testify to material facts not included in their affidavit so long as the witness’s answer is responsive to the question posed and does not contradict the witness’s affidavit. An answer is responsive to the question posed if, and only if, it responds directly to the content of the question. However, an answer is not responsive if it volunteers information on the same general subject as the question, but does not respond to the specific content of the question. 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.

Comment: This rule prevents witnesses from volunteering invented material facts on cross-examination that exceed the scope of the question. Consider an eyewitness who states in their affidavit, “I need glasses to see distant objects, and I was not wearing glasses on the night in question” and states nothing else about the witness’s vision. If the witness is asked on cross-examination, “You were not wearing glasses on the night in question?” it would be an invention of fact to respond “No, I was wearing contacts,” since the answer is not responsive (not contained in or necessarily inferred from the witness’s statement). To be clear, nothing in

this rule prevents a witness from attempting to provide a complete answer to a question to the extent permitted by the Court by stating material facts contained within the witness's affidavit. For example, if the eyewitness stated in their affidavit, "I was not wearing glasses on the night in question because I was wearing my new contacts," then the above answer would be fully appropriate under the Improper Invention rule.

(f) Egregiousness. In determining whether an Improper Invention is "egregious," factors that may be considered include, but are not limited to:

- i. the significance of the invented material fact(s) to the case at hand;
- ii. use of the material fact(s) elicited through the Improper Invention in closing arguments;
- iii. repeated use of the same or similar Improper Invention in multiple trials; and
- iv. any other evidence of prior planning or premeditation by the attorney(s) and/or witness(es) to knowingly engage in an Improper Invention and use the material fact(s) introduced thereby to gain an unfair advantage at trial.

(3) IN-TRIAL REMEDY FOR VIOLATIONS. If the cross-examiner believes the witness has made an Improper Invention, 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."

(4) 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.

(5) STUDENTS' OBLIGATIONS UNDER RULES 1.5, 1.6, 6.1, AND 6.9. Students should note that while the exclusive trial remedy for violating this rule is impeachment, 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 Rules 1.5, 1.6, 6.1, and 6.9. An Improper Invention is cheating regardless of whether an opponent is successful in demonstrating the violation.

(6) POST-TOURNAMENT REVIEW Remedy for Violations.

(a) ~~Role of the AMTA Representative.~~ Reporting Egregious Improper Inventions. If a team or AMTA Representative believes that a team has made an egregious Improper Invention, it may report that allegation to the Competition Integrity Committee. Notwithstanding Rule 9.3(1), an AMTA Representative may not impose any tournament penalty for an alleged violation of this rule.

(b) ~~Role of Competition Integrity Committee.~~ In determining whether an Improper Invention is egregious, factors that may be considered include, but are not limited to, the significance of the invented material fact(s) to the case at hand; use of the material fact(s) elicited through the Improper Invention in closing arguments; repeated use of the same or similar Improper Invention in multiple trials; and any other evidence of prior planning or premeditation by

~~the attorney(s) and/or witness(es) to knowingly engage in an Improper Invention and use the material fact(s) introduced thereby to gain an unfair advantage at trial. The Competition Integrity Committee may refer potential ethical violations under Rule 1.5, 1.6, 6.1 and/or 6.9 to the Executive Committee.~~

(b) Procedures for Filing and Responding to Improper Invention Complaints.

- i. **Deadline for Submission of Complaints.** Any allegations of an egregious Improper Invention must be brought to the attention of the Competition Integrity Committee by submitting the Competition Integrity Committee Form on the AMTA website by 4:00 p.m. Central time on the Monday immediately following the tournament. The Competition Integrity Committee may create a separate form for complainants to provide notice of intent to seek certain relief and may refuse to consider certain forms of relief if such is not submitted by the deadline prescribed on the form.
- ii. **Review of Complaints.** If the allegation is raised timely, the Competition Integrity Committee shall investigate the allegation upon its collection of a complete investigative file. A complete investigative file shall include (i) the Complaint filed through the online Competition Integrity Committee Form; (ii) the Response filed through the online Competition Integrity Committee Form (and submitted no more than 48 hours after request, which may be extended upon request and for good cause); and (iii) any supplemental materials requested of the parties by the Committee Chair or the Chair's designee. The Chair or the Chair's designee shall have discretion to receive additional supplemental materials, including, but not limited to, trial recordings, ballots and comment sheets, statements from others including the AMTA Representatives, and amicus briefs. The parties shall work in good faith to provide any requested supplemental materials. Any amicus briefs must be received by the relevant party's filing deadline and must total no more than 500 words. The Chair or the Chair's designee shall also have discretion to set word or page limits for any additional supplemental materials.
- iii. **Conclusion of Investigation.** If, after investigation, the Committee concludes that an egregious Improper Invention of fact did occur, the Committee will issue penalties pursuant to Rule 9.10. If the CIC finds that a team committed an improper invention of fact, but the invention was not egregious, the CIC may issue a warning. Warnings may be considered by the CIC in determining whether future conduct by the same school constitutes an egregious invention of fact under Rule 7.21. ~~Warnings are not appealable.~~ The CIC may create a public version of the warning or penalty but shall not identify the warned or penalized school or individual by name.
- iv. **Ethical Violations Not Determined.** While violations of the invention of fact rules can also be considered ethical violations under these rules, the Competition Integrity Committee does not make

conclusions regarding such rules during its investigation. The Competition Integrity Committee may refer potential ethical violations under Rule 1.5, 1.6, 6.1 and/or 6.9 to the Executive Committee for adjudication.

v. **Appeals of Penalties.** Any team that has penalties issued against it under Rule 9.10 pursuant to the conclusion of the CIC investigation has the ability to appeal that determination to the Executive Committee. Warnings are not appealable.

(c) **Probation.** Any teams on probation may be subject to additional review by the Competition Integrity Committee for potential egregious Improper Invention. Details of the additional review, including the procedure for this additional review, shall be communicated to the affected teams.

Rationale: This is a restyling with some added clarity for certain sections of this rule. The intent here is not to change the rule but to make it easier to understand for students (especially uncoached and newer programs). This rule has gone through many changes over the years, especially with changing the governing body from the CRC to the CIC. Some of the old section headings make no sense. For example, in section 6 (post-tournament review) the headings for the first two subsections are "Role of the AMTA Representative" and "Role of the CIC." However, the actual import of the "Role of the AMTA Representative" section is that teams can report egregious improper inventions after the tournament is over for adjudication by the CIC. And the second subsection called "Role of the CIC" is in actuality the definition of egregiousness. The biggest changes for clarity is stating at the beginning of the rule that Improper Invention is not allowed and that the CIC handles invention complaints. Also, some of the rule was reorganized and moved around. For example, the definition of egregiousness already included in the rule was moved to the definitions section so teams can more easily understand that it is a factor they must consider when making complaints. This restyling is an attempt to make the rule more clear and easier to understand on all fronts.

EC-02: Advanced with a positive recommendation.

Motion by Harper to amend Rule 15.7(1) of the AMTA Rulebook as follows:

Rule 15.7 Meeting agendas.

(1) FILING. A motion shall be filed with the Secretary no later than ~~May 1~~ **May 15**, for motions for the Summer meeting, or October 15, for motions for the Midyear meeting. Whenever possible, motions should contain the operative text to be added or amended as well as a statement of rationale for the motion. Motions may be filed only by a voting Director. A motion is deemed filed at the time it is emailed to the Secretary.

Rationale: *May 1 is always within a week or two of the conclusion of the National Championship Tournament, a tournament that substantial number of voting directors attend. Often, thoughts about potential motions are born out of conversations with other directors and members of the AMTA community during the NCT. Requiring Directors to file motions within such a short window creates difficulty for people balancing AMTA with their other professional and personal commitments. Adding two weeks will alleviate much of that burden without substantially burdening the Board's ability to consider motions by the July meeting.*

EC-03: Advanced with a positive recommendation.

Motion by D'Ippolito to amend Rule 15.7(2) of the AMTA Rulebook as follows:

Rule 15.7 Meeting agendas.

....

(2) EXECUTIVE COMMITTEE REFERENCE. Within **5 ten** days of the motion filing deadline, the Executive Committee shall review each motion and refer it to one committee that, in the Executive Committee's sole discretion, is best suited to review the motion. The Executive Committee may recommend that the assigned committee consult with one or more other committee(s) when it appears that a motion involves the work of multiple committees; however, only the assigned committee has authority to take formal action on the motion under this Rule.

Rationale: *Since 2021, the EC has received – on average – more than 42 motions per year to be heard at the July Board Meeting. The Secretary receives a large portion of these motions within 24 hours of the motion submission deadline. Five days is an unrealistic time frame for both (1) the Secretary to compile every motion for the EC's review; and (2) ten EC members to independently review each motion and collectively determine the proper committee for referral.*

EC-05: Advanced with a positive recommendation.

Motion by Harper to amend Rule 15.11 as follows:

Rule 15.11 Committee membership.

(1) **LIMITATIONS ON CHAIRS.** No Board member may chair more than one of the following committees: Rules, Tournament Administration, and Case.

(2) **LIMITATIONS ON MEMBERSHIP.** No Board member may serve on more than two of the following committees: Rules, Tournament Administration, and Case. No competing school may have a representative on both the criminal and civil case committees in consecutive years.

(3) **DIVERSITY AND INCLUSION COMMITTEE MEMBERSHIP.** A member of the Diversity and Inclusion Committee shall be appointed to each of the Rules, Tournament Administration, and Case committees.

(4) **NON-BOARD MEMBERS.** Non-board members shall be permitted to serve on committees and exercise full voting rights within the committee. Per the bylaws, they are not permitted to vote on motions before the full Board.

Rationale: *The Diversity & Inclusion Committee serves an important function on the Board. It ensures that diverse perspectives and views are considered in all of AMTA's decision-making. By requiring the President to appoint a member of the D&I Committee to these three significant Committees, AMTA will affirm its commitment to ensuring diversity and inclusion in all of its work on behalf of its students and community.*

EC-09: Advanced as amended with a positive recommendation.

Motion by Leapheart to amend Rule 15.17(3) of the AMTA Rulebook as follows:

Rule 15.17 The Neal Smith Award.

....

(3) VOTING MEMBERS. The voting members shall consist of the previous award winners who have ~~participated~~ **voted** in **two of** the previous ~~two~~ **three** Neal Smith Award elections, ~~the previous two winners of the Neal Smith Award,~~ **plus** the Academics Committee chair, and ~~two Board Member appointments made~~ **an appointee of** by the President. The Academics Committee Chair shall serve as the organizer annually **of the Neal Smith Award selection.**

EC-10: Advanced with a positive recommendation.

Motion by Sohi to amend Section 4.03.01(b) the AMTA By-Laws as follows:

Section 4.03.01. Director Selection Process

....

(b) RECOMMENDATION PROCEDURE. The Executive Committee, which serves as the nominating committee, will review the Director applications and issue either a positive, negative, or neutral recommendation on each application no later than ~~March 15~~ **April 1**. The Executive Committee will also consider the contents of any other information provided by Directors in assessing the Director applicant's performance and developing its recommendations. In order to give a positive or negative recommendation, a majority of the Executive Committee votes cast must be in favor of issuing such a recommendation, otherwise a neutral recommendation will be issued. The Executive Committee may also issue a neutral recommendation with a majority vote. Abstentions do not count as votes in this circumstance. Executive Committee members seeking to be Directors. Executive Committee members seeking to be Directors 12 on the upcoming year's Board of Directors must recuse themselves from all discussions of their nomination.

Rationale: *The current date of March 15 falls right during ORCs tournaments. Many of the EC members are serving as ORCs Reps / have teams competing at ORCs, and this timing makes it operationally difficult to find an easy opportunity to meet. Moving the date to April 1 provides time to reset after ORCs while having a gap prior to NCT and enabling applicants to know their standing with enough time to book July Board Meeting travel.*

RULES-05: Advanced with a positive recommendation.

Motion by Michalak to amend Rules 7.1 of the AMTA Rulebook as follows:

Rule 7.1 Communication during a round.

(1) GENERAL RULE. From the time a trial begins until it ends, each rostered student in the trial may communicate only with the following:

- (a) ~~other students on the roster of either team competing in that trial~~ **other students on your own roster;**
- (b) **students on the roster of your current round opponent;**
- (c) judges and tournament officials.

If anyone else, including any coach or spectator, attempts to communicate with a rostered student during a trial, it is the duty of the student to terminate the communication.

Rationale: Clarifying who students can speak to, to alleviate any confusion that only the 6 members with active roles in the round of participating teams can speak to one another. This became an issue at a regional where a rep interpreted it as only the 6 people with roles in the trial could speak and they could not speak to a rostered, but not competing in that round member of their own team.

TAC-01: Advanced with a positive recommendation.

Motion by Harper to amend Rule 5.1 of the AMTA Rulebook as follows:

Rule 5.1 AMTA Representatives at sanctioned tournaments.

Two AMTA Representatives shall be assigned to each sanctioned tournament. If a tournament has divisions, at least two AMTA Representatives shall be assigned to each division. More AMTA Representatives may be assigned to any given tournament at the discretion of the Tournament Administration Chair in consultation with the Treasurer. Each Representative shall be an AMTA director or officer, candidate director, or other individual approved by the Tournament Administration Committee. No Representative may have a team in competition at the tournament to which they are assigned. The AMTA Representatives shall oversee the tabulation room, resolve disputes, and insure compliance with all AMTA rules and procedures. A tournament may proceed with one AMTA Representative if necessary **as determined by the AMTA President, Tournament Administration Committee Char, Tabulation Director, or their designee.**

Rationale: *This is an important rule that has been put into effect as recently as 2024. This proposal codifies AMTA's practice, which is to consult one or some of the President, TAC Chair, or Tab Director in deciding whether, for whatever reason, proceeding with one AMTA Representative at any given tournament is appropriate.*

TAC-02: Advanced with a positive recommendation.

Motion by Harper to amend Rule 6.21 of the AMTA Rulebook as follows:

Rule 6.21 Coaches required to judge, penalty for failure to comply.

Whenever there is an insufficient number of volunteer judges, coaches must agree to judge. Coaches who act as judges shall set aside partisan interests and be fair and reasonable in presiding and scoring. The team(s) of any coach who refuses **an AMTA Representative's request** to judge will be removed from the competition. If the school has more than one team, the team with the best record at the time will be removed.

Rationale: *This rule codifies AMTA's practice. The spirit of this rule suggests that only refusal of an AMTA Representative's request to judge can result in a team being removed from the tournament. In other words, we should clarify that a refusal to a request to judge by, for example, a competitor or host, cannot necessarily result in a team being removed from AMTA competition.*



American Mock Trial Association

Meeting of Board of Directors

Wilmington, North Carolina

July 20-21, 2024

Appendix D: Tabled Motions

SUMMARY OF TABLED MOTIONS

The full text of motions advanced are provided below. The shortened descriptions here are for reference only.

In cases where existing rules are being amended, rule language to be deleted is shown ~~struck through~~ and new language to be created is shown **in red**.

Motion	Description	Page
<u>CIC-02</u>	Modifies “Improper Invention” definition to exclude a witness’s acknowledgment that they are unaware of a specific fact not in their affidavit.	3
<u>CIC-09</u>	Creates a Filter Team.	4
<u>CIC-10</u>	Proposes that the CIC may issue a penalty only if there is a finding of an egregious improper invention; eliminates power to warn for non-egregious improper invention.	5
<u>CIC-12</u>	Redefines “Improper Invention” by adding materiality component.	7
<u>EC-01</u>	Expands definition of “Early graduate” to include those that completed undergraduate in three or fewer years.	8
<u>EC-06</u>	Prohibits any case problem that offers the parties discretion to choose between or among defendant(s), charge(s) or claim(s), and counterclaim(s) or affirmative defense(s).	9
<u>EC-07</u>	Prohibits any case problem that requires either side to prepare two or more distinct cases or case theories.	11
<u>EC-11</u>	Extends EC deadline to provide Director recommendations from March 15 to seven days after final ORC.	12
<u>EC-12</u>	Directs implementation of mobile balloting.	13
<u>RULES-01</u>	Increases direct examination time limit to 28 minutes; reduces cross examination time limit to 22 minutes.	14
<u>RULES-02</u>	Mandates that a school that is recording its round must make	15

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	the recording available to the opponent school.	
<u>RULES-03</u>	Incorporates roles and duties of participants (Chapter 6 of AMTA Rulebook) into the Judges' Presentation.	17
<u>RULES-06</u>	Allows for Act of AMTA relief for egregiously unfair judge conduct.	18
<u>TAB-02</u>	Proposes "snake" NCT division draw; mandates at least two teams from each ORC in each division.	19
<u>TAB-03</u>	Mandates at least two teams from each ORC in each division.	21
<u>TAB-05</u>	Proposes maintaining ORCS pairing procedure for Round 1 and adopting Regionals pairing procedure for Rounds 2-4.	22
<u>TAB-06</u>	Proposes new ORCS pairing procedure that divides field into two (not four) TPR-based groups for Rounds 1-2; adopts Regionals pairing procedure for Rounds 3-4.	28
<u>TAC-03</u>	Prevents global oral feedback from judges at the end of the round.	29
<u>TAC-05</u>	Amends NCT Host Bid eligibility by requiring host school to (i) win at least 4.5 ballots at Regionals; and (ii) compete at ORCS.	30

CIC-02:

Motion by Holstad to amend Rule 7.21(4)(a) of the AMTA Rulebook as follows:

Rule 7.21 Invention of fact.

....

(4) IMPROPER INVENTION.

(a) Definition. There are exactly two types of Improper Invention:

- i. Any instance (on direct, cross, re-direct, or re-cross examination) in which a witness introduces testimony or portrays/characterizes the witness in a way that contradicts the witness's affidavit.
- 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 permissibly inferred from the witness's affidavit as defined in Rule 7.21(4)(c)(ii).
- iii. It shall not be an improper invention if a witness acknowledges that they are unaware of a specific fact if that fact is not mentioned in their affidavit, as long as the answer is consistent with the witness's affidavit. This rule shall not allow any witness to claim that the absence of a specific fact in their affidavit means that such fact does not exist.

Rationale: Revised from a proposal submitted last year to include the requirement that any denial of knowledge must be "consistent with the witness's affidavit." If an affidavit is silent on a fact, it should not be an improper invention for a witness to say they are not aware of that fact. An answer that is consistent with the material in the affidavit regarding lack of awareness - particularly where a witness states that they have included all relevant information - should not be penalized as an improper invention.

CIC-09:

Motion by Smiley and Jahangir (also on behalf of Yeomelakis) to add a “Filter Team” to help streamline CIC workload.¹

(A) **Filter Team.** Prior to the review by the CIC as a whole, a Filter Team will do an initial review of the complaints submitted. The Filter Team’s charge is to review complaints to determine if any of the complaints issued can be dismissed outright without further investigation. This review is to determine whether on its face a complaint constitutes sufficient grounds for a complaint under Rule 7.21. The purpose of the Filter Team is to aid the CIC in filtering out any non-invention complaints or any complaints that easily determined to be non-inventions (i.e., if the claimed invented material was in actuality written into the case).

1) **Composition.** This team must be composed of three members. One member must be from the Case Committee as designated by the Case Committee Chair. The second member must be the Case Committee Chair. The third member of the Filter Team must be a member of the CIC as designated by the CIC Chair. Should the Case Committee Chair be conflicted out of any particular complaint review, then the CIC Chair will designate another CIC member to fill that spot. The appointment of people to the filter teams can change as needed to avoid conflicts of interest.

2) **Procedure.** Filter Team review must be unanimous in order to be dismissed. If one of the voting members believes that a complaint should be forwarded to CIC for a more fulsome review, then the complaint must be referred to the CIC before any dismissal occurs.

Rationale: *The CIC is one of the busiest committees in our organization, and the amount of work they have to do has become unsustainable for the committee and the organization, requiring ways to streamline the process. This motion helps to streamline the process to reduce the number of complaints the CIC panel must interface with as well as eliminate some previous issues (e.g., where the CIC panel was unaware that a suspected invention was expressly written into the case packet by the Case Committee and therefore not an invention). The proposed “filter team” would include at all times include a majority of the CIC members but, unless there are conflicts, there would be representatives from the Case Committee to help avoid wasting CIC resources on issues known to the Case Committee to be non-invention. This rule would also allow for the CIC specific designee to be rotated to account for availability and spread the frontline review of complaints among CIC members.*

¹ Placement of this in a particular rule/section of the AMTA Rulebook to be determined based on other motions.

CIC-10:

Motion by Smiley to amend Rule 7.21 of the AMTA Rulebook as follows:

Rule 7.21 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”~~). **Egregious Improper Invention of fact is not permitted. The Competition Integrity Committee has the responsibility of enforcing the rules related to Improper Invention. Penalties can only be granted if there is a finding of egregious Improper Invention.**

....

(6) POST-TOURNAMENT REVIEW.

(c) Review Procedure. Any allegations of an egregious Improper Invention must be brought to the attention of the Competition Integrity Committee by submitting the Competition Integrity Committee Form on the AMTA website by 4:00 p.m. Central time on the Monday immediately following the tournament. The Competition Integrity Committee may create a separate form for complainants to provide notice of intent to seek certain relief and may refuse to consider certain forms of relief if such is not submitted by the deadline prescribed on the form. If the allegation is raised timely, the Competition Integrity Committee shall investigate the allegation upon its collection of a complete investigative file. A complete investigative file shall include (i) the Complaint filed through the online Competition Integrity Committee Form; (ii) the Response filed through the online Competition Integrity Committee Form (and submitted no more than 48 hours after request, which may be extended upon request and for good cause); and (iii) any supplemental materials requested of the parties by the Committee Chair or the Chair’s designee. The Chair or the Chair’s designee shall have discretion to receive additional supplemental materials, including, but not limited to, trial recordings, ballots and comment sheets, statements from others including the AMTA Representatives, and amicus briefs. The parties shall work in good faith to provide any requested supplemental materials.

Any amicus briefs must be received by the relevant party’s filing deadline and must total no more than 500 words. The Chair or the Chair’s designee shall also have discretion to set word or page limits for any additional supplemental materials. If, after investigation, the Committee concludes that an egregious improper invention of fact did occur, the Committee will issue penalties pursuant to Rule 9.10. ~~If the CIC finds that a team committed an improper invention of fact, but the invention was not egregious, the CIC may issue a warning.~~ Warnings may be considered by the CIC in determining whether future conduct by the same school constitutes an egregious invention of fact under Rule 7.21. Warnings are not appealable. The CIC may create a public version of the warning or penalty but shall not identify the warned or penalized school or individual by name.

Rationale: *The CIC has been dealing with an unprecedented number of complaints. This includes post tournament review and in-tournament review at NCT. Reducing the reportable offenses to only those that are egregious inventions of fact would limit the number of complaints that the CIC would have to fully adjudicate. While we want to be able to educate the students as to what is and is not invention, we also have to be able to function as an organization moving forward. At the rate that CIC is handling invention issues under the current standard, we are headed for burnout of the Board Members who are appointed to the CIC. For the sustainability of the organization, we should consider restricting complaints to only those that are egregious.*

CIC-12:

Motion by Smiley to amend Rule 7.21 of the AMTA Rulebook as follows:

(a) Improper Invention. There are exactly two types of Improper Invention:

- i. Any instance (on direct, cross, re-direct, or re-cross examination) in which a witness introduces **material** testimony or portrays/characterizes the witness in a way that **materially** contradicts the witness's affidavit

Rationale: *The first definition of improper invention is an overly sweeping definition that is not actually enforced. The current understanding is that witnesses are permitted to add character to their portrayals that has nothing to do with the case but is simply fun or entertaining. Our definition of materiality accounts for that. However, materiality is not a condition of this first definition of improper invention. So therefore, technically any addition of character bits could be called improper invention. Now, this is not to say that certain character bits could cross a line into creating facts improperly in the case. However, the materiality of that testimony or its portrayal is what should be considered. Materiality is the first line of analysis for all invention complaints. Therefore, it should be included in the definition. Also, requiring that this be material may help students pause before reporting issues that are not material that would otherwise violate this rule without "materiality" as a stated component.*

EC-01:

Motion by Holstad to amend Rule 3.6(2)(b) of the AMTA Rulebook as follows:

Rule 3.6 Student eligibility requirements.

....

(2) QUALIFIED STUDENT DEFINED. “Qualified students” include and are limited to the following:

....

- (b) Early graduate.** This includes an individual who
- i. was a “current undergraduate” as of October 15 in a given season, **or was a “current undergraduate” as of April 15 of the previous season and has been enrolled in the undergraduate division for three (3) or less years,**
 - ii. has ceased enrollment in the undergraduate division because they have completed the coursework necessary for obtaining their undergraduate degree,
 - iii. competes for a school that permits such continued participation, **and**
 - iv. the student has not matriculated in a graduate or professional school, **and**
 - v. **the student has not previously utilized a year of eligibility under Rule 3.6(2)(b).**

Rationale: *This amendment would slightly expand the eligibility of early graduates by allowing a traditional early graduate – i.e. a student who graduates from college in three years – to utilize a fourth year of eligibility. This expansion would only apply to students who were enrolled in college for three (or less) years; thus, it would not apply to a four-year college student who only competed in mock trial for three or less years. This expansion would be beneficial to AMTA because it would allow more students to maximize their time in this activity, and, particularly, it would allow students an additional year of competition prior to matriculating in a graduate institution. Studies reflect that the utilization of “gap years” is increasing. For students that graduate in three years, allowing competition during that gap year will increase students’ appreciation and commitment to AMTA, allow them to boost their resumes for applications to graduate institutions, and foster a strengthened connection between AMTA and its alumni community.*

The second part of this amendment would clarify that a student who graduates early and is eligible under this rule would only be able to utilize such year of eligibility once. I.e., a student could not graduate in December 2024 and be eligible for both the spring of 2025 and the next year. Their eligibility would be limited to the completion of the 2024-2025 season.

EC-06:

Motion by Gelfand to amend Rule 15.12 of the AMTA Rulebook as follows:

Rule 15.12 Case Committee duties and responsibilities.

....

(5) The Case Committee will choose and adapt the case so that it conforms to the following requirements:

....

- (i) The case shall be created and formatted so that any and all parties, charges, claims, and affirmative defenses to be litigated in each round are known to all sides prior to the tournament. Among other things, in no situation shall: (i) the plaintiff or prosecution be required or permitted to choose one (or more) of multiple defendants to prosecute/sue or one (or more) of multiple charges and/or claims to pursue at Captain's Meeting or otherwise; and/or (ii) the defense be permitted to choose one (or more) of multiple affirmative defenses to assert at Captain's Meeting or otherwise.

Rationale: *As the years have gone by, I have become more and more concerned that AMTA cases are getting too complex, especially when one side (usually the defense) is forced to prepare multiple cases that are substantively different. I strongly believe that such a setup is both too much from a workload standpoint and unfair from a competitive standpoint.*

The most recent case gave us two defendants with FIVE potential charges for each defendant (with a SIXTH charge added for Poe Cameron at ORCS) and was approximately 100 pages longer than any of the cases I helped write. The case had 30 (!!!) special instructions (not counting sub-parts) --with a 31st added for ORCS -- over six single-spaced pages. Some of those special instructions were so complex that it was unclear how violations thereof should be dealt with (in-round objections, post-tournament complaints to the CIC, etc.) how violations should be dealt with (tab intervention, CIC complaint, etc.). I can't even imagine how student-run programs who don't have the benefit of an attorney or coach are able to navigate all of it. It's very easy to lose sight of the fact that college students coming into this activity often have no idea what a complaint or indictment is, or what case law is and how it works, or what rules of evidence are.

There comes a point at which a case becomes inaccessible to less experienced and smaller programs. Many, if not most, teams can't even have the same student learn both defendant roles because the two defendants had such wildly different characters. My understanding is that at least 20 teams inquired if they could expand their rosters to 12 people because the permutations and workload were too much for 10 people.

I also believe that a case with a two-defendant setup is fundamentally unfair from a competitive standpoint. During fall invitationals, approximately 70 percent of rounds were DLP prosecutions. Thus, it was very easy for teams to face exclusively DLP prosecutions at invites (and regionals), but face a Poe prosecution at regionals or ORCS with their seasons on the line. Given the significant differences in both substance and side bias between the two defendants, that creates a major issue. A team's season should not be determined in large part on whether they have the good fortune of defending the same defendant at regionals or ORCS that they defended at most prior competitions.

EC-07:

Motion by Wilson to amend Rule 15.12 of the AMTA Rulebook as follows:

Rule 15.12 Case Committee duties and responsibilities.

....

(5) The Case Committee will choose and adapt the case so that it conforms to the following requirements:

....

- (i) While multiple witness calls and case theories should be permitted, the case shall not require either side to prepare two or more distinct cases or case theories.

Rationale: Bancroft/Covington and Cameron/DLP imposed an immense amount of work on defense teams. Three-sided cases like these are particularly challenging for programs without much institutional knowledge. Three-sided cases cater to elite teams who seek even more of a challenge than an average college-level case, but they leave new and developing programs – especially those without experienced coaches who can dedicate substantial time to the activity – behind. AMTA already devotes a substantial portion of its resources to providing high-level competition to elite teams; at regionals, AMTA’s educational mission should be at the forefront. While case authors can find and have found many ways to make cases complex and interesting for the whole season, three-sided cases should be banned. This motion is designed to accomplish that goal while giving the Case Committee leeway to use other methods to create rich, interesting fact patterns.

EC-11:

Motion by Harper to amend Section 4.03.01(b) the AMTA By-Laws as follows:

Section 4.03.01. Director Selection Process

....

(b) RECOMMENDATION PROCEDURE. The Executive Committee, which serves as the nominating committee, will review the Director applications and issue either a positive, negative, or neutral recommendation on each application no later than ~~March 15~~ **seven days after the conclusion of the final Opening Round Championship Series Tournament.** The Executive Committee will also consider the contents of any other information provided by Directors in assessing the Director applicant's performance and developing its recommendations. In order to give a positive or negative recommendation, a majority of the Executive Committee votes cast must be in favor of issuing such a recommendation, otherwise a neutral recommendation will be issued. The Executive Committee may also issue a neutral recommendation with a majority vote. Abstentions do not count as votes in this circumstance. Executive Committee members seeking to be Directors. Executive Committee members seeking to be Directors 12 on the upcoming year's Board of Directors must recuse themselves from all discussions of their nomination.

Rationale: *As drafted, the Bylaws require the Executive Committee to consider, deliberate, and provide to Directors and Candidates their recommendations for the following term in the middle of the ORCS season. The current deadline creates an unnecessary burden on the EC during an already very busy period in the calendar. By moving the deadline to no later than seven days after the conclusion of ORCS, the EC can both consider Director and Candidate performance during any ORCS tournaments and fully focus on their recommendations unburdened by the time pressure of also having to respond to ORCS-related issues in the weeks of the ORCS tournaments.*

EC-12:

Motion by Holstad to direct implementation of mobile balloting.

The Executive Committee shall be directed to work with the creator of the AMTA online Tournament Administration System (TAS) to develop a mobile version of the TAS which may be used for in-person AMTA tournaments. The Executive Committee shall have the goal of having development complete by the 2025-2026 AMTA season.

***Rationale:** Mobile scoring is possible. Many other forensics activities have already implemented mobile balloting. The burdens are minimal. Judges will be expected to have mobile devices (certainly almost all do), and hosts will be expected to have tournaments in locations with wi-fi. Mobile scoring can even require judges to "score as you go". AMTA can retain the ballot system as a back-up for those instances where mobile scoring cannot be implemented for one reason or another.*

RULES-01:

Motion by Gelfand (on behalf of A. Medvin) to amend Rule 5.4(1) of the AMTA Rulebook as follows:

Rule 5.4 Time limits.

Time limits for all trials in sanctioned tournaments shall be strictly observed.

(1) TIME LIMITS GENERALLY. Except as adjusted downward in a special instruction, time limits for each side shall be as follows:

Opening statement and closing argument (combined) – 14 total per side

Direct examinations of all three witnesses (combined) – ~~25~~ 28 minutes per side

Cross examination of all three witnesses (combined) – ~~25~~ 22 minutes per side

***Rationale:** Virtually every experienced trial attorney knows very well that the most effective cross examinations (with rare exceptions) should be relatively short and punchy. Get in and get out. In fact, according to the renowned late professor and lecturer Irving Younger, the first commandment in his legendary “The Ten Commandments of Cross Examination” is to be brief, short and succinct. This is as true in mock trial as it is in the real world, perhaps even more so.*

On the other hand, directs, by necessity, are very different, both as to subject matter and as to the nature of the answers. In directs, one must establish the witness's background, connection to the case, etc. and answers often are expository. This is even more true with experts, who have to establish the legal basis in order for them to be able to express opinions. A good direct tells a good story, and sometimes the stories during mock trial rounds get cut short, thus making it more difficult for judges to truly absorb what is often a very complicated fact pattern.

It is not unusual to see teams run up to the 25-minute limit for directs, often causing the direct of witness three to be rushed and truncated. On the other hand, it is less common for a team to run into a time problem for crosses. The goal of our rules should be to improve the quality of trials across the board. This change would be of significant benefit to trials in general.

RULES-02:

Motion by Schuett (on behalf of J. Spear) to amend Rule 5.15(2) of the AMTA Rulebook as follows:

Rule 5.15 Videotaping or recording by other parties.

(1) **BY NEWS MEDIA.** The news media may videotape, record, or photograph any trial at any sanctioned tournament. By competing in a sanctioned tournament, each student, coach, judge, and spectator grants the right to have their likeness and recording used for media purposes.

(2) **BY A SCHOOL COMPETING IN A TRIAL.** A school may videotape or record any trial in which the school is competing, so long as the recording does not interfere with the conduct of the trial. The use of any such recording is limited to the educational use of the school making the recording **and the school they are participating against.** Commercial use is prohibited without the permission of AMTA and all involved students, coaches, judges, and spectators. By competing in a sanctioned tournament, each rostered student and coach grants the schools they participate against the right to record their likeness and performance; **however, the school making the recording must, upon request, make the recording available to the school they participate against within a reasonable amount of time.**

***Rationale:** Rule 5.15(2) amendment proposal is needed because not all schools employ the common courtesy practice of making a recording of a given round available to their opponent school. Rule 5.15(2) gives schools the right to record the likeness and performance of the opposing school's students, but the proposed amendment would also require that the school making the recording provide a copy of said recording to their opponent school, upon request by the opponent school. Not all schools have the means to record their rounds, but should not otherwise be denied the opportunity to learn from the film for a given round if their opponent has recorded it. This proposal not only helps level the playing field for underprivileged schools, but also prevents schools from intentionally withholding in-round recordings from their competitors as a means of gaining a tactical advantage against that competitor should they compete again at a later tournament.*

Note: the language "within a reasonable amount of time" was left intentionally vague so as to not prescribe an explicit time frame by which schools must comply with a request to make a copy of a recording available to their opponent. However, if schools routinely violate the spirit of this proposed amendment to rule 5.15(2), e.g. if schools fail to make a copy of a recording available after 1 calendar month+, AMTA should consider setting an explicit, but reasonable, timeframe under rule 5.15(2) by which schools making the recording will be required to provide a copy of said recording to the opponent requesting the recording.

Note: AMTA should consider one further amendment to the original proposal language that outlines only electronic copies of the recording should be in-scope. In other words, a school should not be found in violation of rule 5.15(2) if their opponent has requested that they mail or otherwise provide a physical copy of a recording because the requesting school doesn't want to set up a free, electronic means of receiving the record.

RULES-03:

Motion by Harper to amend Chapter 6 of the AMTA Rulebook as follows:

Chapter 6: Roles and Duties of Participants

ALL PARTICIPANTS

Rule 6.0 Judge Presentation.

All of the principles cited in Chapter 6 of these Rules shall be incorporated into a Judges' Presentation that shall be given to any individual who judges any AMTA sanctioned tournament.

Rationale: *The rules in this chapter are the rules by which our competitors are judged. They should be incorporated into our Judges' Presentation. If we don't think they should be incorporated into the presentation, we should consider whether they should be in this chapter of the rule book.*

RULES-06:

Motion by Holstad to amend Rule 12.9(1) of the AMTA Rulebook as follows:

Rule 12.9 Act of AMTA Relief.

(1) ACT OF AMTA DEFINED. An Act of AMTA is an error, beyond a team's control, that appears to have prevented that team from earning a bid or placement on the Open Bid list that the team otherwise would have earned. Allegations of "bad judging" shall not be deemed acts of AMTA. **However, conduct of a judge which goes beyond "bad judging" and constitutes egregious conduct that prevents a team from fairly participating in a trial may constitute an act of AMTA for purposes of this rule.** Acts of God which are beyond the control of the teams, AMTA, and tournament hosts shall also be considered, but shall result in the awarding of bids only in rare circumstances.

Rationale: *This amendment would give teams that feel they are the recipient of egregiously unfair judge conduct a limited path to request relief. For example, if a team feels that they were the target of a judge's bias for any particular reason, they could request relief under this rule. Given the limits of Act of AMTA relief, and the limitation of relief related to judge conduct to "egregious conduct that prevents a team from fairly participating in a trial," the actual use of this rule would likely be scarce.*

TAB-02:

Motion by Holstad to amend Rule 14.9(1) of the AMTA Rulebook as follows and to strike Rule 14.9(2):

Rule 14.9 Divisions at the national championship tournament.

(1) DIVISIONS. The national championship tournament will be run in two divisions.

(a) Distribution of teams power ranks. Teams will be divided into twelve (12) groups of four teams based on each team’s Team Power Ranking. (Group A will consist of the 1st to 4th highest TPR ranking among the qualifying teams, Group B will consist of the 5th to 8th highest TPR ranking among the qualifying teams, etc.) Two teams from each group shall be placed in each division. If there is an uneven number of teams, a coin flip shall be conducted prior to the beginning of the draw to determine which division the lowest two ranked teams will be placed into. Teams shall be ranked in order of Team Power Rankings. Teams shall be distributed in a “snake” format as shown (with the TPR number reflecting the rank of the TPR among all teams, not necessarily the actual TPR):

Division 1	Division 2
TPR 1	TPR 2
TPR 4	TPR 3
TPR 5	TPR 6
TPR 8	TPR 7
... and so on.	

(b) Schools earning multiple bids. If two teams from a single school compete, they shall not be assigned to the same division. to the extent the distribution under Rule 14.9(1)(a) results in teams from the same school being assigned to the same division, the lower ranked team shall be swapped to the other division with the other team on its line of the “snake” (i.e. TPR 1 shall swap with TPR 2, TPR 4 shall swap with TPR 3, etc.).

(c) Distribution of teams from each ORCS. At least two teams from each ORCS shall be distributed to each division. To the extent the distribution under Rule 14.9(1)(a) results in less than two teams from a specific ORCS in one division, the lowest ranked team from said ORCS in the other division shall be swapped. Any swaps shall be of teams on the same line of the “snake” (i.e. TPR 1 shall swap with TPR 2, TPR 4 shall swap with TPR 3, etc.). If multiple ORCS have less than two teams distributed to any particular division, the Tabulation Director shall resolve the distribution issue for each ORCS before resolving the distribution issue for the next ORCS. The Tabulation Director shall start by resolving the distribution issue for the ORCS that has the lowest ranked team in the National Championship Tournament, and proceed to the ORCS with the next-lowest ranked team, etc.

~~(2) **RANDOM DRAW REQUIRED.** Division draws shall be done at random, taking steps as needed to implement the above rules. The division draw shall occur no sooner than the second Tuesday following the completion of the final ORC and, in any event, after the preliminary roster deadline.~~

Rationale: *This rule will increase the fairness of the distribution of teams to divisions at NCT. It will also lessen the burden on the Tabulation Director to conduct a draw – divisions can be determined and released as soon as all NCT teams have accepted their bids. This will allow teams to better coordinate scrimmages and NCT scheduling accordingly.*

TAB-03:

(Contingent on TAB-02 not passing): Motion by Holstad to amend Rule 14.9(1) of the AMTA Rulebook as follows:

Rule 14.9 Divisions at the national championship tournament.

(1) **DIVISIONS.** The national championship tournament will be run in two divisions.

....

(c) Distribution of teams from each ORCS. At least two teams from each ORCS shall be distributed to each division.

Rationale: This would ensure that each division at NCT has a mix of teams from each ORCS.

TAB-05:

Motion by Michalak² to amend Pages 29-33 of the AMTA Tabulation Manual as follows:

Page 29:

PAIRING PROCEDURES AT THE OPENING ROUND CHAMPIONSHIP

~~In 2020, AMTA began using a new pairing procedure at ORCS tournaments that is designed to ensure each team has a more equal strength of schedule. Many of the same basic principles that are used in Regional and Championship pairing apply, such as how to determine rankings and how to resolve impermissible matches. In many ways, pairing ORCS tournaments will now be easier because of the way this system is structured.~~

Seeding Round One Each Team Is Assigned a Group

For the purpose of seeding the first round of competition, each team at ORCS will be in one of four groups: A, B, C, or D. Group A comprises the six teams with the six best Team Power Rankings (or “TPR”) at the tournament, Group B comprises the teams with the 7th through 12th best TPR, Group C the 13th through 18th best TPR, and Group D the 19th through 24th best TPR. If two teams are tied at the same TPR and breaking the tie would be determinative of which Group a team falls into, the Tabulation Director will break the tie on the basis of the following tiebreakers, in order: Regional wins, Regional CS, Regional OCS, and Regional point differential.

The rankings which determine the Group designations may be changed up to the point of the Round 1 draw. For example, if the team with the 12th best TPR (by definition, in the B Group) drops out at the very last minute (but before the opening draw), all of the teams below the team that dropped out will move up one place— meaning one team that was previously in Group C will move up to Group B, and one team that was previously in Group D will move up to Group C. If a drop results in a Bye-Buster before the opening draw, the Bye-Buster will always be in Group D if the Bye-Buster exists from the beginning of the tournament. If a stand-by team or other actual replacement team is implemented prior to the Round 1 draw, the groups will be reassigned based on the TPR of the new team. However, once the Round 1 draw is conducted, the Group assignments are final. Any substitutions, such as a Bye-Buster team taking the place of a team that drops out, are done on the principle of stepping into the shoes of the departed team, including group designation.

After the ORCS fields are final (i.e., after all open bids have been accepted), the Tabulation Director will post a spreadsheet containing the groups at each ORCS tournament. This spreadsheet will then be updated as needed if there are any further changes. Note that this system requires schools with two bids to honestly designate their “A” and “B” teams. These designations will be indicated on the team rosters, which must be finalized prior to the

² D'Ippolito (on behalf of Romano) originally submitted this motion to be heard during the December 2023 mid-year meeting. Because any modification to AMTA's ORCS pairing system contemplated in December 2023 would not have been feasible to implement during the 2024 AMTA season, the Tabulation Committee tabled this motion, to be revisited at the July 2024 Board meeting.

opening round draw. The “A” team must carry the school’s lowest assigned team number, and the “B” team the second lowest. If there is any concern or allegation of a school with improper A/B designations, contact the Tabulation Director immediately.

Pages 30-33: Deleted and replaced with the following language:

Pairing Round 1:

In Round 1, each Group A team will face a Group D team, and each Group B team will face a Group C team.

The first step in the Round 1 pairing process is to conduct a single coin flip. The coin flip will determine the side assignment for the first Round 1 pairing. If the coin flip is heads, the first Group A and Group B teams to be drawn will be Plaintiff/Prosecution, and the first Group C and Group D teams to be drawn will be Defense. If the coin flip is tails, the first Group A and Group B teams to be drawn will be Defense, and the first Group C and Group D teams to be drawn will be Plaintiff/Prosecution.

Next, draw one Group A team and Group D team at random; they will be paired against each other based on the side determined by the coin flip. Then, draw another Group A and Group D team at random; they will be paired against each other, but on opposite sides as were assigned in the first draw. Repeating this process, alternating sides, until all Group A and Group D teams are paired against each other. Then, repeat the process until all Group B and Group C teams are paired against each other. This process will yield three teams from each group on each side of the case.

Pairing Rounds 2 and 3:

Rounds 2 and 3 are paired as at Regional Tournaments and the Championship tournament. See pages 18-19, above.

Pairing Round 4:

Round 4 is paired as at Regional Tournaments. See pages 19 through 28, above.

Rationale: *Before the new ORCS pairing system was put in place, random team assignments could create schedules of wildly varying difficulties at ORCS. This created both the perception and, sometimes, the reality that pairings mattered more than performance in determining which teams would secure bids from ORCS to Nationals. The current ORCS pairing system was put in place to create parity between each team’s schedule. In some respects, it has accomplished its goals. From a tab room perspective, it is also a very easy system to administer, as group designations completely eliminate prior-meeting-matchup impermissibles.*

Nevertheless, the current ORCS pairing system creates unintentional, structural issues that make this system less fair than a system in which teams are not constrained by groups throughout the entire tournament. I propose, instead, that AMTA use the current group system to seed the first round of the tournament. I believe this change will both (1) eliminate the effect of random first-round pairings on differing strengths of schedule while also (2) eliminating the structural problems with the current ORCS system by allowing the

standard pairing process, rather than group designations, to sort the field through rounds two and three. Because there are no tournament ranks at ORCS, and the system is meant to identify the six teams most deserving of advancement, I propose applying the power-protection pairing system from Regionals in Round 4 at ORCS.

Below, I have outlined the structural issues that I see with the ORCS pairing system. Before I address them, though, I want to address an anticipated criticism: that my proposal unfairly gives an advantage to Group A teams (and, to a lesser extent, to Group B teams): they are guaranteed to face Group D (or Group C) teams, but not to face each other; Group D (and C) teams are, in contrast, guaranteed to face tough opposition. But the point of my proposed seeding system is to force the field to sort itself going into round 2. Just as at a normal tournament, teams who win in Round 1 will face other teams who have won; teams that lose in round 1 will face other teams who have lost. A Group A / B team that wins in Round 1 will face a tough opponent in Round 2, then another in Round 3 if it wins again; a Group C / D team that loses in Round 1 likely will face a less challenging team in Round 2, and another if it loses again, but if it wins it can work its way back up to facing tougher opposition.

Structural Issues with the Current Pairing System

Please note: I'm not a statistician, and I don't have access to all of AMTA's data. The Tab Director, or a committee of AMTA, likely will be in a better position to study the issues below than I am, or at least to provide the data that will allow the issues to be studied.

Issue #1: The Current ORCS Pairing System Dramatically Reduces the Value of CS as a Pairing Tool and Tiebreaker

AMTA uses a Swiss-style pairing system, and within AMTA's system, CS is the primary tiebreaker. CS is immensely important, as it decides how teams are paired as the tournament progresses, and often decides who advances. In fact, in 2023, five of the eight ORCS used a tiebreaker for fifth or sixth place. In 2002, four of them did.

In a Swiss-style system, CS (or a similar metric) works for pairings, and for tiebreakers, because it allows a field to sort itself over the course of a tournament. Teams will draw other teams with a similar record, and the tournament dynamically evaluates who is winning, who is losing, and who's in the middle. Within AMTA, in particular, CS works for two reasons. First, teams earn CS by winning early and winning consistently. Win in the first round, and you'll likely face an opponent who won in their first round; win in the second, and you'll likely face another team at the top of the standings. Building to a higher CS is a mark of achievement throughout a tournament. Second, as a tiebreaker, CS is a hedge against the problem that a team can lose early, face a lighter schedule throughout a tournament, and then end up with the same record as a team that won early and lost a critical matchup against a high-ranked opponent. These two factors make CS a fair way to distinguish between teams that have the same amount of wins.

But for a Swiss-style system to function well, teams must be able to face teams with similar records. As we restrict which teams can hit other teams, CS will become less meaningful, and thus less fair, because other factors take priority in pairing the field. Under standard AMTA pairing rules, and ignoring same-school and prior-matchup

impermissibles, teams are eligible to hit half the field in rounds 2 and 4 (due to side constraints), and they are eligible to hit the entire field in round 3. This generally allows teams to be paired against other teams with comparable records. But under the current ORCS pairing rules, only a quarter of the field (six teams) is available to any given team in Rounds 2 and 3, and only an eighth of the field (three teams) is available in Round 4. This creates situations, which are likely to happen at every ORCS tournament, in which group designations force teams to face opponents records that are dramatically different from their own. And when this happens, it is difficult to see why CS remains fair to use as a tiebreaker for earning bids to Nationals.

Issue #2: *Between Rounds 1 and 2, the Current ORCS Pairing System Frequently Pairs Teams with Dramatically Different Records*

The problem of restricting the field is especially potent between Round 1 and Round 2. In Round 1, Group A teams face Group D teams, and Group B teams face Group C teams. Statistically, most Group A teams beat their Group D opponents, and most Group B teams beat their Group C opponents (though at a slightly lower rate). This result is predictable and expected. But it also means that most Group A and Group B teams—which have won—will be forced to face an opponent that hasn't. They will face an opponent with a record that's quite different from their own. And when teams are paired against teams with dissimilar records, a Swiss-system tournament doesn't work properly, the field isn't sorted properly, and a metric like CS becomes less fair in distinguishing between teams.

This system also harms teams that win, but that fail to do so decisively. If all (or most) Group A and Group B teams win both ballots, but only one (or two) can be paired in Round 2 against a Group C or D team that has done so, then only one (or two) can earn CS points and help themselves in a tiebreaker. The other two-win teams will face no-win teams. So, a team cannot ensure a good pairing merely by winning; they must run up the score and route the other team. A team that wins, but not decisively, or wins-and-ties, or splits, likely will be paired against a team near the bottom of the pack, and risks being put in a position—from Round 2!—where it cannot possibly earn a high enough CS to win a tiebreaker at the end of the tournament.

Issue #3: *The Current ORCS Pairing System Elevates the Significance of Any One Outlier Judge*

Issues 1 and 2, above, are especially significant when mixed with the problem of aberrant judges, especially in early rounds. I do not mean this as a criticism of judges' subjective scores: that is essential to mock trial. But we also all know that some judges are more qualified to evaluate teams than others, and some judges have outlier opinions. The ORCS pairing system magnifies the effects of that judge, especially between Rounds 1 and 2.

Example: *Imagine that a, after Round 1, a Group A team has secured a record of 1.5 wins with a +27 PD: the product of a +27, T result. This outcome is certainly the result of two judges who perceived the round very differently, but let us also imagine that the tied ballot came from a recently-graduated law school with no mock trial, courtroom, or litigation experience, who scored the round in unpredictable ways; in essence, that person got it wrong. At a normal tournament, and ignoring side constraints, the split would affect*

pairings, but not dramatically so. After accounting for side constraints, the team likely would face (1) the lowest-ranked two-win team; (2) another 1.5 win team; or (3) the highest-ranked one-win team. Thus, while the team would face a slightly lower- or slightly higher-ranked team than it would have with an outright win (or loss), it would not face a team with a fundamentally different record. Under the current ORCS pairing system, however, this outcome likely would set a team apart from others within Group A, leading this team to face a Round 2 opponent with a losing record and a large, negative PD. Thus, the ORCS system allowed this one, inexperienced judge to deal a major blow to the CS that this team can earn throughout the tournament.

Issue #4: The Current ORCS Pairing System Fails to Account for Underperforming Group A / B Teams and Overperforming Group C / D teams

So far, my examples have assumed that Group A and B teams will be top performers, and Group C and D won't. This is a fair assumption in the aggregate, but a poor assumption when it comes to specific teams. This is because TPR is a good aggregate predictor of future success: in any given year, most of the teams that qualify for Nationals (and ORCS) have done so in the recent past. But in any given year, there are always exceptions. Teams that competed at Nationals several years in a row might perform less well as key members graduate, coaches leave, or other regional powers rise. And teams which have not previously been strong contenders for Nationals might develop into such contenders. TPR, by its nature, won't capture those dynamics, because it can't: it only looks backwards.

This is a problem for the current ORCS pairing system because TPR is the primary method by which teams are sorted and pairings are determined. It is thought to be fair, under the current system, for each team to face one, and only one, team from each group. But if a team draws an under-performing Group A (or B) team, it gains a substantial benefit: the system prevents it from facing any other Group A (or B) team; there is no replacement. Similarly, if a team draws an over-performing Group D (or C) team, it faces a substantial cost: the system prevents it from facing any other Group D (or C) team; there is no replacement.

This is not a problem under the standard pairing system. A Group A (or B) that underperforms will draw lower-tier competition later in the tournament; it will be treated like any other team that isn't winning. By the same token, a Group D (or C) team that over-performs will be treated like any other team that is winning, and will draw higher-tier competition. It simply does not matter, within the standard pairing system, whether a team's record exceeds or falls short of expectations—and, in my view, this shouldn't matter, and it's good that it doesn't.

Issue #5: The Current ORCS Pairing System Does Not Allow Teams to Face their Ranked Opposition

Finally, by significantly constraining which teams can hit each other in each round, the current ORCS Pairing System will sometimes create parallel tracks to advancement. By that, I mean: teams which are on a path to advancement often won't go head-to-head, and are denied the opportunity to control their own destiny by winning. Instead, they are put in a position where their path to advancement depends on their victory and multiple other contingencies, sort of like an elaborate NFL Wildcard selection scenario.

This happens, to a degree, at many AMTA tournaments. Tiebreakers for 6th place, and thus for advancement, are common. But the problem is turbocharged at ORCS. Regionals has open bids, which can act as a safety valve; ORCS typically has none, or at most a very small number of them. And the new ORCS pairing system frequently produces logjam tiebreakers, tiebreakers at 6 wins, or both, as I illustrate below:

- *Cincinnati, OH, 2020: 6-way tie for 6th place*
- *Geneva, IL, 2020: 6-way tie for 5th place*
- *Lancaster, PA, 2020: 5-way tie for 4th place; two 6-win teams failed to earn bids*
- *ORCS 1-C, 2021: 6-way tie for 3rd place; two 8-win teams failed to earn bids*
- *ORCS 2-C, 2021: 4-way tie for 6th place; three 8-win teams failed to earn bids*
- *ORCS 2-D, 2021: 5-way tie for 5th place; three 8-win teams failed to earn bids.*
- *Cincinnati, OH 2022: 4-way tie for 6th place*
- *Geneva, IL, 2023: 4-way tie for 5th place; two 6-win teams failed to earn bids*
- *New Rochelle, NY, 2023: 3-way tie for 4th place; one 6-win team failed to earn a bid*
- *Santa Monica, CA, 2023: 3-way tie for 5th place; one 5.5-win team failed to earn a bid*
- *Washington, D.C., 2023: 6-way tie for 6th place*

While tiebreakers certainly happen at Regionals, it is extremely rare to see logjams this large, and it is also extremely rare to see six-win teams that fail to advance. In my view, a tournament where teams win six ballots, but fail to advance, are not paired correctly: teams that should hit each other, aren't. The same is true, in my experience, for eight wins at a three-judge tournament: under standard pairing practices, 8 wins typically wins a team trophy, and it should be enough to secure advancement from ORCS. That eight wins did not guarantee advancement, at three different 2021 ORCS, suggests to me that the system did not select the right teams to hit each other.

In any competitive activity, parity of schedule is important. But it is also important for teams to be able to face the opponents that matter. It is essential that teams who are competing for advancement can face other teams who are competing for advancement, so that they can be measured against each other and are given the opportunity to ascend by knocking each other out.

TAB-06:

Motion by Michalak (on behalf of R. Cannon) to amend the AMTA Tabulation Manual regarding the ORCS pairing procedure as follows:

Pairing Structure

Step One: Group the teams at ORCS into two groups: Group A is the top 12 ranked teams, and Group B is the bottom 12 ranked teams.

Step Two: In R1, randomly draw teams, pairing A teams against B teams, in a snake format. So there will be six A v. B rounds and six B v. A rounds.

Step Three: In R2, pair teams high-high within their groups. There will be six A v. A rounds and six B v. B rounds.

Step Four: Ignore the groups for R3 and R4. Pair R3 high-high and R4 in the modified high-low used in the pre-2020 ORCS structure.

Rationale:

- *This ensures that every team at ORCS will hit one team from the top half of the field and one team from the bottom half. While I'm as skeptical of TPR as a predictive metric as anyone, I think this reads more "fair" than Mike's proposal.*
- *This structure also makes it so that when the pairing structure reverts to traditional no-group, high-high pairing, the teams will have all had roughly similar schedules (at least from a TPR perspective). The high-high matchups in R3 will therefore be more meaningful: a team that is 4-0 needs to have won two ballots from an A-group team. This should eliminate lopsided R3 matchups at the top of the bracket, which is an improvement on the pre-2020 ORCS structure.*
- *Reducing to two groups and pairing R2 within-group will reduce the number of R2 pairings between teams with dramatically different records. (And, of course, R3 pairings will be evenly matched on their record, as they always were pre-2020.) This will have several benefits:*
 - *It will make CS more meaningful than under the current system, since a 2-0 B-group team in R2 will likely at least hit a 1-1 team and start to build its CS.*
 - *Using groups for two rounds will also mean fewer of the most extreme CS fluctuations (like the 5 win 23 CS example). I think my proposal is a good middle ground between the pre-2020 structure, which created significant outliers like that one, and the current structure, which has basically neutered CS as a useful tiebreaker.*
 - *It will mean that any underperforming A-group teams or overperforming B group teams will probably hit similarly situated teams in R2. Mike explained in his proposal the problems with teams underperforming or overperforming compared to their TPR, and this proposal would address that just as well as (if not better than) his.*

Not that this matters too much, but two groups will also be easier for AMTA reps to administer than four.

TAC-03:

Motion by Randels Schuette to amend Rule 6.34(2) of the AMTA Rulebook as follows:

Rule 6.34 Comment and critique by the court.

Judges' comments and critiques are important to students both to improve performance in subsequent rounds and to educate students. Judges are urged to share their insights and coaching tips in the following two ways:

(1) WRITTEN COMMENTS. To offer critique or comment to an individual student, judges are encouraged to write down their ideas in the section of the ballot below the student's name. It is a good idea to write such comments as the trial progresses, but judges should feel free to add to their comments after the trial, too. Each team will get one copy of the ballot.

(2) ORAL CRITIQUE. At the end of the trial, after the blue scoring ballot has been completed and submitted to a tournament official, the judging panel may **not** offer oral comment to the students ~~and answer questions as a whole~~. **Instead, students may individually approach judges for specific feedback.** Students are generally eager to get the impressions of the judges who have watched their trial. Each mock trial judge becomes a law-related educator for the students they are judging. AMTA stresses that the competitors are not law students, and harsh criticism is usually not appropriate. Positive observations, specific tips on improving performance in subsequent trials, and sharing insights and experiences are beneficial to the students. Time is important at mock trial events, so judges are urged to keep oral critiques short as well as positive in tone. ~~Comments should never exceed ten minutes per judge.~~

Rationale: *There are two big problems with oral commentary by judges. First, judges often tend to speak for an excessive amount of time, despite our admonishment otherwise. That can cause tournaments to run behind and students to be limited in their time to eat lunch. Second, oral commentary is where judges are most likely to say things that could be offensive or harmful to students, even unintentionally. This rule change would empower the students to seek feedback if they desire it, but also allow them the freedom to avoid listening to feedback if they do not wish to hear it.*

Of course there is no enforcement mechanism for this rule change, but the prior ten minute limit also had no enforcement mechanism. The idea is not to ban or admonish judges who do give feedback, but instead to empower students to make a choice about whether to seek feedback. This change also has a benefit to our judges as judges will no longer be forced to listen to the feedback from their co-judges.

TAC-05:

Motion by Holstad to amend Rule 12.7(2)(a) of the AMTA Rulebook as follows:

Rule 12.7 National championship bids.

....

(2) HOST BID.

(a) General rule for 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.~~ **To be eligible for a Host Bid, the host school must have had at least one team that registered and competed at a Regional Tournament, at least one team that won at least four and a half ballots (4.5) at a Regional Tournament, and at least one team that registered and competed at 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.

Rationale: Allow more schools to bid to host NCT with the knowledge that they will get to compete even if they don't qualify to ORCS. This will incentivize more NCT host applications.