

Correction Memo #3/1/16/14

This correction memo contains responses to questions that are of general interest. The answers are intended to be complete and no request for further clarification will be entertained.

Mock Trial Subcommittee

Question #1: Typically, and unlike a layperson, an expert can testify about anything they relied on in forming their opinion, including hearsay. The Simplified Rules of Evidence provided with the materials cover hearsay, and they roughly cover expert testimony, but the competition rules don't mention this distinction. The issue seems to be of critical importance to the case.

Response: Rule 502 covers opinion testimony by experts. An expert can provide opinion evidence based on otherwise inadmissible hearsay, so long as it can be demonstrated that the source of the hearsay is the type of material commonly relied on in the profession.

Question #2: Is the case summary considered stipulated facts and is available to use in the cross examination of a witness?

Response: The case summary is **NOT** stipulated facts. It cannot be referenced in opening or closing statements and cannot be used in the examination of a witness.

Question #3: Can a participant play the role of an attorney and a witness in the same match?

Response: No. A team in a particular match is six persons (3 attorneys and 3 witnesses). A team appearing with less than six members will forfeit the match.

Question #4: Does the new Redaction of Document rule permit an attorney to ask a judge to "ignore" a portion of a document?

Response: Yes. If the judge allows a portion of a document to be redacted, the redacted portion will not be used by the judge in rendering his or her decision.

Question #5: Which aquifer (deep or shallow) provides water to the McDonald farm and the Village of Molivar?

Response: The farm and village derive their water from the shallow aquifer. The shallow aquifer runs under the McDonald farm. The crack in the cement casing was in the shallow aquifer as denoted by the two horizontal arrows on the diagram.

Question #6: What specific section of the Safe Drinking Water Act are the defendants accused of violating?

Response: 42 USCA §300h. Pursuant to 6 NYCRR §360-1.3, the federal SDWA is recognized in New York State. ECL §71-4002 makes violation of the SDWA a violation of NYS law.

NOTE: ECL 71-4001 has been replaced with ECL 71-4002. Wherever there is a reference to 71-4001, change it to 71-4002.