Stanford Mock Trial
2008-2009

What is mock trial?

Mock Trial is a competition where law students simulate a civil or criminal trial. This includes opening statements, direct and cross examinations of witnesses, objections, closing arguments, and, in some tournaments, pretrial motions. A group of scoring judges then chooses a winning team based on 1) the content and quality of the team’s case and 2) the team’s public speaking and stylistic abilities.

Tournament sponsors prepare a “fact pattern” that includes witness depositions or affidavits, evidence, relevant law, sometimes jury instructions, etc. Each individual Mock Trial team works together to prepare both a plaintiff/prosecution and defendant/defense case. Generally, team members will play an attorney for one side and a witness for the other. For example, a team member who is a plaintiff attorney will be a defense witness, and vice versa.

No experience in Mock Trial is necessary or expected. All members will receive extensive training from experienced team members and guest lecturers.

How many people can join the mock trial team?

Anyone interested in learning how to be a trial lawyer may join the organization and participate in the events and trainings as a non-competing club member. The number of competing members, however, is limited to about thirty people, including alternates.

How will tryouts work?

Tryouts will take place on September 11-13. 2Ls and 3Ls will have priority for reserving time-slots on Thursday, September 11, and Friday, September 12, due to fly-backs.

Participants will give a 3-5 minute opening statement (for either the plaintiff or defendant) and a short cross-examination of the plaintiff based on the attached fact pattern. The use of notes during tryouts is allowed but discouraged. In addition, please complete a copy of the attached tryout application and bring it with you to the tryout. Your audience will be comprised of members of the Mock Trial Executive Board, and we will videotape your tryout so that we can carefully review your presentation. Please arrive to your tryout early!

We encourage you to use the materials provided in the Sample Packet as a guide while you write your opening statement and cross-examination of the plaintiff. Since you are not expected to be familiar with trial advocacy, don’t worry about being technically proficient – you won’t be judged on that. Tryouts are simply a chance to demonstrate public speaking ability, instincts, and poise.
What tournaments will the teams compete in this year?

**American Association for Justice (AAJ) Trial Advocacy Competition**
AAJ sponsors an annual mock trial competition using a civil case fact pattern. The Stanford Mock Trial will send two teams to the AAJ regional tournament, held from February 27-March 1, 2009.

**Sixth Annual Stanford Invitational Tournament**
For the past five years, Stanford has hosted an invitational tournament. With the exception of the two teams attending the TYLA tournament (see below), all of the Stanford teams compete at the tournament against one another and teams from surrounding law schools. This tournament usually takes place in late January. Last year, Stanford placed first and third in the tournament.

**Texas Young Lawyer’s Association National Trial Competition**
This year, the Mock Trial team will also send two teams to compete at the TYLA competition. The TYLA format is different from the regular mock trial format: teams consist only of attorneys and the witnesses are strangers who are given ten minutes to confer with the attorneys before the trial.

**American Bar Association National Criminal Justice Competition**
We also hope to send one team to the ABA criminal justice competition at the John Marshall Law School in Chicago. This tournament will not take place until late March/early April.

What is the time commitment?
The time commitment is manageable, although we do expect all members to put in the hours necessary to keep Stanford’s teams competitive. In the fall semester, we will hold weekly training sessions in October and November to help new and returning members develop their advocacy skills. In addition, each member will be assigned to a Training Team which will meet approximately once a week to prepare for the intra-squad scrimmages which will take place in November. In December, the case patterns become available, and teams will begin meeting regularly to prepare their cases. Upon return to campus in January, competing members should expect to meet at least 2-3 times a week for practices and scrimmages until the competitions occur. Specific practice schedules will be determined on a team-by-team basis and will be sensitive to the needs of team members. For example, we will not have mandatory meetings during flyback week, reading period, exams, and vacations.

If you have any further questions, feel free to contact any of the Mock Trial Team officers:
Amanda Bonn (President) at abonn@stanford.edu
Rachel Juarez (Vice President of Training) at rjuarez@stanford.edu
Elena Coyle (Vice President of Marketing and Finance) at emc4s@virginia.edu
Rakesh Kilaru (Vice President of Competitions) at rakeshkilaru@gmail.com
Blake Bailey (Director of the Invitational) at blakebailey@mail.com
Samantha Bateman (Judicial Liaison for the Invitational) at sam.bateman@gmail.com
STANFORD MOCK TRIAL TEAM
Application

Name: ________________________________ Year: 1L 2L 3L

Address: _____________________________________________________________

Phone: ________________________ Email: ________________________________

Of the options below, which best describes the average amount of time you’re willing to put in to Mock Trial? (Keep in mind that much of the time commitment will be in the early spring)

3-4 hours/wk (I want to participate in the fall training programs, but am not interested in being on a team). ______

5-10 hours/wk (I want to participate in the fall training programs and be on a competition team, but I want to be done by February and don’t mind not traveling to regional competitions) ______

10-20 hours/wk (I want to participate in the fall training programs and be on a competition team that will go to regional and potentially national competitions. I realize I might have to put in long hours until March or April). ______

Please list any prior experience with Mock Trial, Trial Advocacy, Public Speaking, Theater, or anything else you that you consider relevant (no experience is necessary):________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Please list other activities, clubs, and organizations that you are involved or plan to be involved in this year:________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Would you be willing to serve as a team captain? ________

Please list your other time commitments (class schedule, regular working hours, etc.)?
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

PLEASE BRING THIS FORM WITH YOU WHEN YOU TRY-OUT.
INSTRUCTIONS FOR TRY OUTS

For your try-out, please prepare a 3-5 minute opening statement, as well as a 3-5 minute cross-examination of the plaintiff, based on the enclosed Smarts v. McDougals fact pattern.

For your 3-5 minute opening statement, you may represent either the plaintiff (Dolores Smarts) or the defendant (McDougals)—the choice is yours. We are looking to see if you can tell an engaging story, not whether you already know how to write a perfect opening statement. Don’t worry about knowing all the legal issues—just entertain us, paint a picture of what happened, and give us a sense of what you will prove to the jury over the course of the trial.

For your cross-examination, you will represent McDouglas and will cross-examine the plaintiff, Dolores Smarts. Your cross-examination should focus on exposing holes or inconsistencies in her testimony, as well as bringing out good facts for your side of the case. A member of the Stanford Mock Trial Executive Board will play Dolores Smarts during your try-out.

A couple of rules of thumb for cross-examination are to keep it short (get straight to the juicy information, start with a strong point and end with a strong point) and to ask closed-ended, or “leading” questions that suggest the answer you want. So for example, don’t ask “Did you slam on the gas pedal?” but instead ask “You slammed on the gas pedal, didn’t you?”

Again, however, we are not looking to see whether you already have the perfect cross-examination technique—that is something that we can teach you throughout the course of a season. For both your opening statement and your cross-examination, we are looking for logical organization and a confident, compelling, and persuasive presentation. Public speaking ability is the most important prerequisite for success in mock trial, so please keep in mind that what you say is far, far less important than how you say it.

Here are some sample opening statements and a sample cross-examination of a victim, (all from the same criminal kidnapping case) to give you an idea of what to do. Keep in mind that these are the result of months of work—we don’t expect yours to look just like this after only one week.
1. Prosecution Opening—Criminal Kidnapping Case.

Perfectly planned. Carelessly concealed.

It’s October 22nd, 2004 just after 11:00 pm at 2201 Whispering Fir Drive, right here in Evanston. Police cars, their lights still flashing, are parked along the street leading up to the house. Inside, police officers are securing the scene, dusting for fingerprints, searching for evidence. Standing in the corner speaking with a detective are Ryan and Madison Reynolds. They live at 2201 Whispering Fir Drive with their three children. And right now, in the bedroom where their thirteen-year-old daughter should be sleeping is a ransom note demanding a quarter of a million dollars for her return.

The story you will hear today is about a heinous crime: the kidnapping of a thirteen-year-old child for ransom. Her name is Bailey Reynolds, and she spent three agonizing days chained to a pipe in a hotel bathroom before she was found.

Now, the defense has already agreed that Bailey Reynolds was taken from her home on the night of October 22nd, 2004, meaning that as the prosecution we have one task: to prove that it was the defendant, Tyler Perry, who took thirteen year-old Bailey Reynolds from her room and left that ransom note in her place. Now, as the state, we have a responsibility to prove that to you beyond any reasonable doubt. And that is exactly what we will do.

Today you’ll learn that in October of 2004, the defendant’s husband desperately needed money for a life-saving operation that cost least $250,000. That was money Tyler Perry did not have. And so you’ll discover that the defendant devised what she thought was the perfect plan: to kidnap Bailey Reynolds and hold her for ransom. We’re here today because she could not conceal the evidence of her crime.

In fact, as today’s trial unfolds it will become clear that the following facts are not in dispute: first, that Bailey Reynolds’ kidnapper drugged her, using a powerful sedative called chlorandromine. Second, that Bailey Reynolds was kidnapped between 8:30 and 11:00 PM on the night of October 22nd. And third, that Bailey Reynolds was confined by her kidnapper at the Hampton Hotel in Freeport. Today we will prove to you how each of those three facts points to the defendant’s guilt.

First, the drug – chlorandromine. The evidence will show that not only was that drug found on Bailey Reynolds pillowcase and in her bloodstream; it was also found inside the defendant’s car.

Second, the time that Bailey Reynolds was kidnapped. Today you’ll learn that the defendant was absent from her home for at least an hour during that same period. The defendant told the police that she only left her home to run an errand to the local liquor store. But today, you’ll hear today from the liquor store clerk, Francis Gustavo, who will tell you that his store is only twenty minutes from the defendant’s house, and that on the night October 22nd she rushed into his store, cut another customer in line, and rushed out. Today you’ll learn that an errand that should only have taken 40-50 minutes took the defendant over an hour the night Bailey was kidnapped.

Finally, the hotel where Bailey Reynolds was found. You’ll hear from an employee who works at that hotel – Micky Skogan, who will explain how she found Bailey Reynolds, blindfolded, gagged, and chained to a pipe in the bathroom of room 312. Ms. Skogan will explain that room 312 was rented under a false name, and that she saw Tyler Perry at the Hampton Hotel during the same weekend that Bailey Reynolds was confined there.

Three facts that are not in dispute. Three facts that will prove the defendant’s guilt. A perfect plan – but carelessly concealed. And that is why, at the conclusion of today’s trial we will ask you to find the defendant, Tyler Perry, guilty.

Someone. Someone kidnapped Bailey Reynolds from her room. Someone held her captive for three days. That’s all we have, your honor, just someone. But that someone could be anyone and not Tyler Perry. The prosecution’s case will leave a suspect without a motive, a crime without a witness, and a question without an answer: Someone kidnapped Bailey Reynolds, but who?

Good morning, my name is AAA, and I, along with co-counsel BBB and CCC, represent the Defendant Tyler Perry. Today, the Prosecution will have the burden of proving beyond a reasonable doubt that Tyler Perry kidnapped Bailey Reynolds on October 22, 2004. But while the Prosecution will show that someone committed this crime, they will be unable to prove who.

Because as the facts are presented today, we won’t hear anything about a real motive. Tyler Perry will take the stand and explain that she is a caring mother, a devoted wife, and a loyal friend to the Reynolds. And while the Prosecution will claim that she was desperate enough to risk everything she loved, the evidence will show otherwise. Tyler Perry will testify that four days before the kidnapping, she received another job offer, one that would pay for her husband’s surgery. Ladies and gentlemen, we will be left to question why Tyler Perry would have committed this crime in the first place.

But we can’t just question why, we must also question how. Because in order to meet its burden, the prosecution must prove that Tyler Perry entered the Reynolds home, dragged Bailey Reynolds down a flight of stairs, and shoved her in her car without anyone noticing. They must prove that she carried a blindfolded, unconscious child to the third floor of a hotel without anyone seeing. And they must prove that she kept Bailey Reynolds in that room for 3 days without leaving a trace of evidence behind.

But we will hear that someone was alone with Bailey Reynolds, someone with access to the crime scene, someone who left prints all over room 312 where the victim was found. Who was that someone? The victim’s babysitter, Peyton Bralow. Today, you’ll hear from Micky Skogan, the front desk manager of the Hampton Hotel. Ms. Skogan will testify that Peyton Bralow works at the hotel and has a key to room 312. Ms. Skogan will reveal that she saw Peyton Bralow at the hotel unexpectedly at the same time Bailey Reynolds was missing.

Yet the evidence will show that the police failed to investigate Ms. Bralow. Criminal Auditor Jordan Nathanson, will tell us about the holes in the state’s investigation. Standard procedure disregarded. Physical evidence mishandled. And alternate suspects ignored. And while the state will focus on the evidence they saw, Mr. Nathanson’s testimony will beg the question: “just how much evidence did they overlook?”

Because sometimes it’s more important to look for what’s missing than to see what is already there. And so today we will ask you to find Tyler Perry not guilty because of everything the prosecution overlooked: A suspect without a motive, a crime without a witness, and a question without an answer. Someone kidnapped Bailey Reynolds, but who?

Good afternoon, Ms. Reynolds. My name is AAA, and I need to ask you a few questions on behalf of Mrs. Perry. I know this is difficult for you, so if you need to take a break at any time, please just let the court know.

I’d like to start by asking you about what you do remember from that night.

1. You remember getting home around 8:45?
2. And you remember that the only person you saw in the house at that time was Peyton Bralow?
3. And after seeing Ms. Bralow, you walked upstairs and went to sleep.
4. And sometime after you fell asleep, you heard the door to your room open, didn’t you?
5. But Ms. Reynolds, you don’t know what time it was when the door opened, do you?
6. So at this point, you saw a figure in your doorway correct?
7. And at first, you thought this person was Peyton Bralow? (witness will most likely say something like I’m not sure, I just figured it was, so try to loop into next question)
8. But Ms. Reynolds, you couldn’t make out who it was clearly, could you?
9. So you didn’t actually see Tyler Perry standing in your doorway?
10. But then this person, whoever it was, put a cloth over your mouth?
11. And after that point, everything in your mind is pretty hazy, isn’t it?

Well then I’d like to talk to you about some of the things that you don’t remember clearly.

12. When this person put you in the car, you testified that you smelled something familiar?
13. But you aren’t sure what you smelled, are you?
14. You aren’t sure whose car you were in?
15. So you don’t know if you were in Tyler Perry’s car or not, do you?
16. You said you drove for about five minutes before the car stopped?
17. And at that point you remembered music playing correct?
18. But you can’t be sure that it was coming from outside the car, can you?
19. In fact, you can’t tell us where that music was coming from can you?
20. You can’t tell us what song was playing?

Now Ms. Reynolds, I’d like to ask you a few questions about the person who kidnapped you.

21. You never heard the kidnapper’s voice did you?
22. And you never saw the kidnapper’s face?
23. And Ms. Reynolds, you can’t tell us the person’s gender, can you?
24. You can’t tell us their ethnicity?
25. So, Ms. Reynolds, you can tell us that someone kidnapped you that night?
26. But you can’t tell us who?
Affidavit of Dolores Smarts

My name is Dolores Smarts. I live at 1425 Villanova Avenue, Sheboygan. I am married and I have two children. My daughter Maggie is six and my son Lester is almost eight. My husband and I had been talking about having another baby, but my doctors are not sure if that is even an option any more.

February 12, 2002 started out like a pretty normal day. I woke up early and got the kids ready for school. I made them breakfast, made their lunches, got them dressed, and walked them to the bus stop. Then I got myself ready for work.

I have been working as a paralegal at a law firm in Sheboygan since I graduated from Sheboygan Junior College twelve years ago. The firm has always done your usual mix for a small town law office – divorces, wills, real estate, that sort of thing. But just about when I started, this hotshot personal injury lawyer moved to town from New York. I think his mother was sick so he came back home to take care of her. Anyway, he brought quite a few of his cases with him and ever since our firm has started to specialize in that field. We are now the premier personal injury firm in the greater Sheboygan area and most of our profit comes from those cases. Actually, that’s how I met my husband, Lowell. He was rear-ended by a Pepsi delivery truck back in 1992. I was assigned to his case, and it was love at first sight. We went on the most amazing honeymoon to Bora Bora on the money that he got from that lawsuit. On my way to work on February 12, I stopped at MacDougal’s for a cup of coffee like I do every morning. I got in line at the drive-thru and put in my order. While I was waiting in line I checked my palm pilot and realized that I had a PTA meeting that night and I had signed up to bring cookies. I had completely forgotten and the meeting was right after work. So I figured I’d call my husband and he could run out to the store on his lunch hour and drop some cookies off at my office. When I pulled up to the window, I had my lipstick out in one hand and was digging in my purse for my phone. So I put the coffee cup in my lap while I tried to get my money. I guess I was taking too long because the jerk behind me laid on his horn. He really startled me and I must have pushed on the gas pedal a little too hard. The next thing I knew there was coffee all over my lap and I was screaming in pain. I have spilled coffee on myself before but I have never, in my life, felt pain like this. It was like my entire lap had been set on fire. I barely remember pulling the car over and putting it in park. I’m lucky that I managed to do that because I think I must have fainted pretty soon after that. The next thing I remember I was being tied to a gurney and lifted into an ambulance.

I spent a day in the emergency room and had to stay in the hospital for the next two weeks while I underwent skin graft operations. I didn’t have nearly that much sick time accumulated, so I had to take almost a week and a half without pay. And even after I got home there was still a lot of recovering to do. Sitting for more than a couple of hours at a time was really uncomfortable for about three months, so work was really hard. I cut back to part time from March until mid-July and the loss of pay was pretty hard for us to manage. Plus, well, things between my husband and I are still not the same. The burns did a lot of damage to my nerves endings and so, well, you understand.
I am still so furious that this happened to me. My entire life has changed because some idiot fast food manager was in a snit about some blue-hairs taking up his booth space. My doctor told me that the burns on my legs and groin were 3rd degree burns. Third degree burns are what people get when they’ve been stuck in a burning building! He said that for me to have gotten burns that bad that fast, the coffee had to have been almost 200 degrees. He said that most coffee is about 160-170 degrees and that even dropping 10 or 20 degrees would have had a huge impact. It would have taken a lot longer for 3rd degree burns to develop, it would have given me time to jump out of the car and rip off my skirt. I would have gladly accepted the embarrassment of standing half-naked in the MacDougal’s parking lot if it meant not going through the pain and misery that this whole ordeal has caused me.

And what makes me even more furious is that this enormous corporation is trying to dodge this whole lawsuit by putting the blame on me! They make a billion dollars in an hour, I don’t understand why they’re even fighting over a few million.

I hereby affirm that the preceding information is true. I have been given a chance to review the document and I understand that I have a duty to update the affidavit if I think of any additional relevant information.

Dolores Smarts
Affidavit of John Valdez

My name is John Valdez. I began working at the MacDougal’s in Sheboygan in 1995 when I turned 14. By the time I graduated high school I had worked my way up through the ranks and was assistant crew chief. After I got my associates degree in business in 2001, I was promoted to assistant manager. Normally, someone stays in this role for at least 4 years before becoming a manager but not me. I became the manager in January of 2002 after being the assistant for only six months. Some might say that I got the job only because I was dating the owner’s daughter, but that’s just jealousy talking.

Normally, I work weekdays from 11 to 7 so that I can oversee the lunch and dinner rushes. In February of 2002, however, I was working the “senior shift” of 5 am – 2pm. We call it the senior shift because the only people we get in the first few hours of business are card carrying members of the AARP. No one else is awake at that ungodly hour of the day. I certainly wouldn’t be if it wasn’t necessary. I had to work the shift in February because our whole morning drive up crew was raided by Red Castle. They offered them better hours and we were suddenly short handed.

Mornings were crazy in February. Besides being short staffed we were running a new promotion for something called the MacWaffle. It’s a great tasting product, but it is far more labor intensive that the MacBiscuit which is just thrown in a microwave. Thus it was difficult for those of us working to serve customers in the restaurant, cook the food and support the drive up window. If this wasn’t bad enough, a new mall opened across the street and we got a huge influx of old folks who wanted to sit and chat before beginning their mall walking. You might think that these people were good for business, but they’re not. They come in and buy coffee. The corporation requires us to give it to seniors for 25 cents. That would be fine if it wasn’t for the free refills. When each member of a group sits and drinks about 10 cups of coffee, it can start to hurt the bottom line. Especially since they rarely ordered any food to go along with it. Honestly, I don’t know think those folks ever did any walking except from our dining area to our restrooms.

Giving away all the free coffee would have only been a mild annoyance except for the fact that we were short staffed. Every time our cashier had to go refill the cups of the Geriatric Gang, it meant he or she was not able to take orders from people actually eating. Time is money in this business and an extra two minutes in line can mean a lost customer. I called the owner of the franchise about this problem and he didn’t have a lot of suggestions. Corporate required the free refills and asking the customers to leave would have clearly resulted in an age discrimination lawsuit. The owner said that as manager it was my problem. I was anxious to come up with a solution so that I could prove that I was worthy of that golden nametag. I thought of making bad coffee, but that would have hurt our drive up business as well. Instead, I decided we should make the coffee really, really hot. If it was scalding, the old people would have to wait a long time for it to cool and then they wouldn’t be after their refills as quick.

I tried turning up the temperature on our industrial java maker, but it still wasn’t hot enough. So, I instructed the staff to microwave each cup of coffee before serving it to
eat in customers. When it comes out of the microwave it’s practically boiling and should not be consumed for at least several minutes.

One of the new kids on staff was concerned about the new methods and told me he was afraid it might burn someone. I told him there was nothing to worry about. See, we have specially designed lids for the coffee which makes it nearly spillproof. Once a lid is on the Styrofoam cup, you can even knock it over on a table and the lid will stay attached. In fact, you need to squeeze in the cup from both sides for the lid to pop off so you can put in cream or sugar. Corporate engaged in extensive safety analysis before deciding to pay more for this particular lid. I know because as manager I read all of the monthly reports from headquarters. I tell you, Fourbucks down the street may have better tasting coffee, but they’ve got nothing on our cup construction.

I told the crew not to serve the microwaved coffee to drive-thru customers. I wasn’t worried about them getting hurt or anything, it just wasn’t necessary. I mean, no one takes a lap around the block and then comes back for another cup. Occasionally, a glass would get mixed up and go out the window, but it’s not a big deal. The lid keeps everyone safe from spills and it has a warning right on the lid to keep people from taking a swig right away.

The lids say Caution: Extremely Hot! The warning is imprinted into the plastic and I think it is easy to read, but it is not in a different color.

There are no warning signs posted outside the drive-thru (other than “Cash Only” and “Have a MacGreat Day”) but whenever we train a new drive-up window employee, we tell her to make sure to say, “Careful, it’s hot.” Whenever they hand out coffee, tea, or hot chocolate. I can’t be sure if every employee said it every time on Feb. 12, 2002, but I know that every time I was near the window, the policy was being followed.

Besides, it’s coffee. People expect it to be hot. In fact, if it’s not hot, people complain. I’m not a doctor, but I think Dolores is making a lot of fuss over nothing. Looks to me like she wants to win the MacDougal lottery. I do feel bad that she got a little burned. I mean, I never wanted to hurt anyone. But again, it’s coffee. What did she expect?

I hereby affirm that the preceding information is true. I have been given a chance to review the document and I understand that I have a duty to update the affidavit if I think of any additional relevant information.

John Valdez
Aden Abbott- Witness for the Plaintiff

Aden Abbott is a teenager who has worked at MacDougals in Sheboygan for the past 4 years. He harbors clear hatred for his boss, John Valdez. Abbott has any number of disparaging stories about how Valdez treats his customers, the corporate management, and, worst of all, his slaving employees.

Abbott’s affidavit will talk about Valdez’s devilish plan to super-heat the coffee served to the restaurant’s elderly customers and how Abbott made valiant attempts to put a stop to this “age-ist” practice. However, Valdez told Abbott that he could go along or get out and Abbott’s love for the retired community stopped just short of his love for his job (or rather his love for his paycheck and all-you-can-eat free fries).

Abbott will also tell you that, on more than one occasion, he spilled the microwaved coffee on his hands and was never burned at all. He’ll also tell you that he has yet to see the new coffee lids fail. He’s even dropped full (but lidded) coffee cups onto the floor and they didn’t spill. Finally, Abbott will admit that it was he who handed Mrs. Smarts the super-heated coffee by mistake, even though he knew that drive-thru customers were supposed to get regular temperature cups, but that he remembers saying “Careful, it’s hot” as he passed the cup to her.

Dr. Hiram Guns, MD- Witness for the Defense

Hiram Guns has an impeccable background. He went to a top medical school, is well published, and has all of the appropriate certifications. He also has greatly supplemented his income by testifying in personal injury and medical malpractice cases. He has testified in 113 trials in the last 8 years. He testified for the plaintiff in nine of those trials.

Guns was paid $250 per hour by MacDougals for reviewing the medical records in this case and receives $1000 per day, plus expenses, for testifying at trial. Guns has read all of Ms. Smarts’ medical records and personally examined her. The first time he personally saw Smarts was more than 6 months after the accident. Although he admits that Smarts was injured, he disagrees with the extent of those injuries. Specifically, he believes that Smarts’ claim of being unable to have another child is completely false as the coffee caused only external damage. Additionally, he believes that there is no long-term nerve damage. Guns acknowledges, however, that it is difficult to assess nerve damage in the genital area and that there is not way to prove or disprove whether such damages exists.

Guns will testify about the temperature the coffee must have been in order to cause the damages indicated in the medical records. He will explain that due to the area where the coffee was spilled, the coffee may not have had to have been extraordinarily hot to inflict a lot of pain. These conclusions involve speculation, however, as Dr. Guns has no specific expertise in the treatment of burns. Despite disagreeing with the extent of the current problems Smarts faces, Guns does believe that the initial treatments Smarts received, including skin grafts, were medically necessary.