

Defense Attorney Role Sheet (United States)

As a member of the team of defense attorneys for the United States, you represent the U.S. government, which is being sued by Japan. You need to argue the United States was within its rights to firebomb Japanese cities in 1945 and that raids like the fire-bombing of Tokyo did not violate international law to the extent that the United States should be found liable for civil damages (money).

The architect of the strategy, General Curtis LeMay, will testify. This allows you to argue that America had a strategic interest in conducting the raids. You will get multiple opportunities to do this. Divide your legal team into four groups, with each group focusing on a different role (Opening Statement, Questions on Direct, Closing Statement, or Objections).

Read General LeMay's role sheet so you can familiarize yourself with his career and the insights he has to offer. His testimony on what he saw and why he made the decisions that he did will be critical to building your case.

Opening Statement

Lawyer(s) Responsible: _____

You will have three minutes to present an opening statement to the court. Some tips to consider as you construct your opening statement:

- Begin with the following statement: "May it please the Court, the Japanese claim for damages against the United States in the firebombing of Tokyo is not a valid claim because..."
- Consider the following historical points:
 - American strategy needed to prioritize the saving of American lives;
 - B-29 raids at higher altitudes were not successful;
 - The Japanese had decentralized and diffused their industries into civilian neighborhoods;
 - Raids were a military success because they impacted vital Japanese war industries;
 - Civilian casualties in the raid were collateral to the military targets and unavoidable; and
 - Japan's refusal to surrender led the American government to consider options that were still less costly than an invasion of Japan.
- You are not limited to this evidence. Consider Japanese treatment of civilians and Allied prisoners of war (POWs).

Pre-Trial Assignment: Defense Attorney / Opening Statement

In preparation for the mock trial, you need to develop your opening argument. Bring in two copies of your homework – one to submit to your teacher and one to use for the trial.

Create for yourself a one-page outline of your major arguments. Use the materials provided and do a little research to develop your understanding at a deeper level.



Photograph, *International Court of Justice hearing in the case of "Application of the Interim Accord of 13 September 1995 (the former Yugoslav Republic of Macedonia v. Greece),"* March 23, 2011, International Court of Justice.

Defense Attorney Role Sheet (United States) cont.

Questions on Direct

Lawyer(s) Responsible: _____

You will have ten minutes to present your case by directly questioning the witness, General Curtis LeMay. Some tips to consider as you construct questions:

- You have two pieces of evidence to present as well as General LeMay's public record.
- Remember that you can only ask General LeMay questions. You cannot make statements during this time.
- You want General LeMay to tell the story of what happened, but in a way that proves your point.
 - Consider LeMay's military experience and leadership in the European Theater of Operations and as his successes in the China-Burma-India Campaign.
 - Consider the early attempts to bomb Japan and the problems with that strategy.
 - Consider presenting Defense Exhibit A to the court. This is the after action bombing report LeMay wrote.
 - Ask about the state of the war in the Pacific in early 1945.
 - Introduce Defense Exhibit B to emphasize the deep responsibility LeMay felt to save American lives.
- Remember that you cannot ask leading questions. A leading question is a question that is looking for a specific answer. To prevent your questions from being leading, ask general questions and let the witness respond.
 - Example of a leading question: "Isn't it true, General, that you saw burned out drill presses in the neighborhoods when you drove through them?"
 - Example of correct question: "What did you see then?"
- Talk with General LeMay in advance and plan out what you want him to say in response to your questions.
- When finished questioning the witness say, "Your honor, the defense rests."

Pre-Trial Assignment: Defense Attorney / Questions on Direct

In preparation for the mock trial, you need to develop a list of at least 20 questions you want to ask General LeMay. Bring in two copies of your homework – one to submit to your teacher and one to use for the trial.

Create for yourself a one-page list of your questions. Use the materials provided and do a little research to develop your understanding at a deeper level.

Defense Attorney Role Sheet (United States) cont.

Closing Statement

Lawyer(s) Responsible: _____

You will have up to five minutes to present a closing statement. Revisit each of the key points presented in your opening statement and explain how they were proven by the testimony before the court. You want to mention any major mistakes by the other side. Start with, "May it please the court...."

Pre-Trial Assignment: Defense Attorney / Closing Statement

In preparation for the mock trial, you need to develop your closing argument. Bring in two copies of your homework – one to submit to your teacher and one to use for the trial.

Create for yourself a one-page outline of your major arguments. Use the materials provided and do a little research to develop your understanding at a deeper level. Leave space on your page to add your notes on how to rebut the arguments made by the opposition.

Objections

Lawyer(s) Responsible: _____

You are responsible to keep the plaintiff's side playing by the rules of the court. You are encouraged to object to the other side as often as you can. Not only does this throw off their rhythm and get them flustered, but it can also destroy a line of questions.

Pre-Trial Assignment: Defense Attorney / Objections

In preparation for the mock trial, you need to understand the rules of objections.

Create for yourself a one-page "cheat sheet" reviewing the rules of objections. Use the materials provided and do a little research to develop your understanding at a deeper level. Then complete the Objections Practice Sheet to help prepare.

Hint: Use this to help the lawyers on your team avoid the common pitfalls that lead to objections.