

## Rules of the 1992 JOHN W. DAVIS MOOT COURT COMPETITION

The members of the Washington & Lee Law School Moot Court Board encourage all eligible students to participate in the John W. Davis Moot Court Competition. The Board runs this competition in order to provide students with an opportunity to do intense research into a particular topic as well as to provide them with a forum in which to participate in appellate-style oral advocacy.

### **I. BRIEFS:**

(a) A brief consisting of one (1) primary issue will be assigned to each individual participating in the competition. Each individual will be assigned as either petitioner or respondent for purposes of writing the brief. All assignments will be randomly selected. These assignments will be posted on the Moot Court Board Bulletin Board by Friday morning, September 4, 1992.

(b) Any individual who drops out of the competition after being assigned a side to brief MUST notify Doug Kilday and Lynn Watson as soon as possible. Such an individual MUST also remove his or her name from the list posted on the Moot Court Board Bulletin Board by marking through his or her name.

(c) Any individual who wishes to participate in the competition after the sign-up meeting on Thursday, September 3, 1992 MUST obtain special permission from both Doug Kilday and Lynn Watson. The names of any individuals who are permitted to enter late will be added to the list on the Moot Court Board Bulletin Board.

(d) Changing sides, for purposes of writing the brief, is permitted ONLY if another individual can be found who is willing to switch sides. The Moot Court Board MUST receive written notification of the change before Monday, September 7, 1992 at 5:00 p.m. The written notification must include the individuals' social security numbers and must indicate that both individuals agree to the switch. NO participant will be permitted to switch sides after Monday, September 7, 1992 at 5:00 p.m. Switching sides WILL NOT be permitted for oral arguments. All students will be required to argue both sides during the preliminary rounds.

(e) Each participant is personally responsible for writing the entire brief. THE W&L HONOR CODE IS FULLY APPLICABLE TO ALL ASPECTS OF THIS COMPETITION. See "HONOR CODE," Roman Numeral III, below.

(f) Each participant must submit his or her name, social security number, and carrel number when signing up for the competition. Briefs may NOT be identified by name. BRIEFS ARE TO BE IDENTIFIED BY SOCIAL SECURITY NUMBER ONLY. The participant's social security number should be placed on the brief's cover page, as well as at the end of the brief (i.e., "Respectfully submitted, 999-99-9999").

(g) Briefs SHALL be submitted on 8 1/2" by 11" paper. The briefs are to be typed, double-spaced and are limited to twenty pages in length. The type size character must be 10 letters to an inch (pica) or 12 letters to an inch (elite). No other size type will be permitted. The brief is to be printed on a Laser Printer. There will be a 25 point deduction for violation of this Brief Dimension Rule.

(h) The twenty page limitation INCLUDES the Title Page, Statement of the Case, Summary of the Argument, the Argument, and the Conclusion. The twenty page limitation does NOT include the Cover Page, Table of Contents, Table of Authorities, Questions Presented, and Appendix. There will be a 5 point per page deduction for this Brief Dimension Rule.

(i) The briefs MUST include the following:

- Cover Page (including participant's SS Number)
- Table of Contents
- Table of Authorities
- Title Page
- Questions Presented
- Statement of the Case
- Summary of the Argument
- Argument
- Conclusion

The briefs should generally follow the format prescribed for briefs presented to the U.S. Supreme Court. A handy reference is Supreme Court Practice<sup>1/</sup>, which is available on reserve. Additionally, copies of Best Brief Nominees from past Davis Moot Court Competitions are available on reserve at the circulation desk.

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1. Robert L. Stern, Supreme Court Practice, 6th ed. (1986). Note that we will NOT be using Supreme Court rules for page colors, etc.

Briefs may NOT contain the participant's name or any means of identifying the participant other than by social security number.

The briefs MAY include an appendix, but such determination is left open to each participant's discretion. An appendix is NOT required.

(j) All citations MUST be complete and in the form prescribed in the 15th edition of the "Blue Book."<sup>2/</sup>

(k) Each participant MUST deliver an original AND four (4) copies of the brief (total of five (5) copies) by 5:00 p.m. on Friday, September 25, 1992 to the Moot Court Board Room. No briefs should be submitted before 8:30 a.m. Friday, September 25, 1992. Each copy of the brief MUST be securely stapled in the upper left-hand corner. Penalty points will be assessed for late briefs as follows:

Briefs turned in after:

Friday, September 25, 1992:

5:00 p.m . . . . .	3 points
5:05 p.m. . . . .	6 points
5:10 p.m. . . . .	10 points
5:15 p.m. . . . .	15 points

Saturday, September 26, 1992:

5:00 p.m. . . . .	20 points
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Sunday, September 27, 1992:

5:00 p.m. . . . .	50 points
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No briefs will be accepted after 5:00 p.m., Monday, September 28, 1992.

(l) Those who wish to MAY submit a rough draft of a brief for review by members of the Moot Court Board. In order to be reviewed, rough drafts must be turned in at the Moot Court Board Office by Thursday, November 17, 1992 at Noon. This rough draft is entirely optional, and the quality of the draft will not be considered in scoring the participant's brief. Members of the Moot Court Board will meet with rough draft writers on Saturday, November 19 for comments and feedback.

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2. Harvard Law Review Association, A Uniform System of Citation (15th ed. 1991).

## II. ORAL ARGUMENTS:

(a) Individuals WILL argue both "on" and "off" brief during the preliminary rounds. Oral arguments shall be limited to a total of fifteen (15) minutes per person. This time limit includes the introductions, the time spent by the judges in posing questions and the time spent for participants' responses to the judges' questions.

(b) Rebuttal time is limited to a maximum of five (5) minutes and is subtracted from the total time allowed to the petitioner. Rebuttal is made only by the petitioner. Each individual petitioner may choose how much time is to be allotted for rebuttal. Rebuttal must be reserved in advance of the presentation of the petitioner's oral argument. (For example, the petitioner presenting the rebuttal may choose to designate three (3) minutes for rebuttal, leaving twelve (12) minutes for his/her argument.)

(c) Videotapes will be made of each round and placed on reserve at the circulation desk. Each participant MAY view his or her own rounds, in their entirety, at any time. As a general rule, NO participants may view any other oral argument until all participants have completed the particular round during which the videotape was made.

During preliminary rounds, NO ONE WILL BE ALLOWED TO VIEW ANY TAPE FROM PRELIMINARY ROUNDS (OCT. 5-24) EXCEPT MEMBERS OF THE MOOT COURT BOARD AND THE DAVIS COMPETITORS WHO PARTICIPATED IN THE ORAL ARGUMENT OF EACH PARTICULAR ROUND. After ALL preliminary rounds have been completed, any person MAY view any videotape of any preliminary round.

The quarterfinal, semifinal, and final rounds will be open to the public. However, PARTICIPANTS ADVANCING TO THE NEXT LEVEL OF COMPETITION ARE NOT PERMITTED TO VIEW ANY ROUNDS OR VIDEOTAPES OF THAT PARTICULAR LEVEL UNTIL THE ENTIRE ROUND HAS BEEN COMPLETED. As above, a participant may view the videotape of his or her own oral arguments from any round at any time. Again, once a round has been completed, any person may view any videotape of any oral argument from that round. The Honor Code applies to these rules. See "HONOR CODE," Roman Numeral III, below.

(d) All participants are STRICTLY PROHIBITED from discussing any questions or statements made during a round until that level of rounds has been completed. The Honor Code applies. See "HONOR CODE," Roman Numeral III, below.

### III. HONOR CODE:

(a) During the brief-writing period, participants may freely discuss the substantive issues of the problem with one another and with other students at W&L Law School. Participants are EXPRESSLY PROHIBITED from discussing the substantive issues of the problem with ANY PERSON WHO IS NOT A W&L LAW STUDENT (including faculty, members of the Moot Court Board, attorneys, students at other schools, faculty at other schools, etc.).

(b) Participants MAY utilize LEXIS and WESTLAW to research this problem. All participants are urged to comply with the library regulations involving this type of research.

(c) Participants MAY refer to any reporters, treatises, law reviews, casebooks, or any other printed materials available in the W&L Law Library or W&L Undergraduate Library.

(d) Written work by each participant MUST be that participant's own product. NO participant may show his or her written work to any other person prior to the brief due date. NO participant may view the written work of any other participant prior to the brief due date.

After all briefs have been turned in, participants MAY exchange briefs as they choose. However, a participant may NOT exchange another student's brief without that student's authorization.

(e) Participants MAY use word-processing; however, the use of "Cite-Check" or any other computer programs designed to correct citing errors is PROHIBITED.

(f) During quarterfinal, semifinal, and final rounds, participants who have not been eliminated may NOT observe oral arguments of other participants. (All participants do, of course, observe the arguments of their respective opponents while participating.)

(g) Participants may NOT view videotapes of preliminary round oral arguments until ALL preliminary rounds have been completed. The ONLY exception to this rule is that a participant MAY view a videotape of his or her own preliminary round in its entirety at any time. After BOTH preliminary rounds have been completed, ANY person may view videotapes of ANY oral argument.

In subsequent rounds, NO participant may view a videotape of quarterfinal rounds until ALL quarterfinal rounds have been completed. NO participant may view a videotape of semifinal rounds until ALL semifinal rounds have been completed. Again, the exception is that a participant MAY view a videotape of his or her own oral argument at any time.

(h) After a participant has completed an oral argument, that participant may NOT discuss any substantive factor about the questions asked, issues raised, arguments presented, or other matters discussed during his or her particular argument with any other participant until all participants have completed that round.

(i) If any participant has a question regarding the applicability of the Honor Code to any situation, IT IS THE DUTY OF THE PARTICIPANT TO INQUIRE.

(j) Questions regarding the applicability of the Honor Code or the moot court problem itself should be submitted in writing to the question box posted outside the Moot Court Board Room throughout the competition.

#### IV. SCORING:

(a) Each participant will receive an individual brief score which will make up 40% of the score used in determining advancement from the preliminary rounds to the quarterfinals. Oral argument scores will make up 60% of the score used in determining advancement from the preliminary rounds to the quarterfinals.

(b) Brief scores make up 25% of the score used in determining advancement from the quarterfinals to the semifinals. Oral argument scores make up 75% of the score used in determining advancement from the quarterfinals to the the semifinals.

(c) Brief scores make up 25% of the score used in determining advancement from the semifinals to the finals. Oral argument scores make up 75% of the score used in determining advancement from the semifinals to the finals.

(d) Oral scores alone will determine the rankings in the final round.

(e) Oral argument score sheets and brief score sheets are enclosed. However, absolutely no score sheets will be returned to any participant after the competition. Moot Court Board members will provide each participant with an oral critique of their argument after the first preliminary round.

**V. RESULTS:**

(a) BRIEFS:

(1) Between three and five briefs will be designated by the Moot Court Board as "Best Brief Nominees." These selections will be based on brief scores only. The "Best Brief" will be selected from the Nominees as judged by the Moot Court Board and designated faculty members.

(2) No more than five (5) briefs will be selected as Best Brief Nominees.

(3) Best Brief Nominees will be posted on the bulletin board outside the Moot Court Board Room following the end of the preliminary rounds. Best Brief Nominees will then be placed on reserve at the circulation desk.

(b) ORAL ARGUMENTS:

(1) Oral argument assignments and schedules for each round will be posted on the bulletin board outside the Moot Court Board Room. If any participant has a scheduling conflict, such participant MAY trade times with another participant who has been assigned to the SAME side. If scheduling conflicts cannot be worked out, Doug Kilday and Lynn Watson MUST be notified of the conflict as soon as possible. The Moot Court Board will try to accommodate requests for changes in the event of exigent circumstances, but reserves the right to enforce the schedule.

(2) The names of the advancing participants will be posted on the bulletin board outside the Moot Court Board office as soon as possible after the completion of each round of arguments. Those participants chosen to advance must initial their names as soon as the results are posted to signify that they wish to advance in the competition.

(3) Sixteen participants will be chosen to participate in the quarterfinal round. Eight quarterfinalists will be chosen to participate in the semifinal rounds. Four semifinalists will be designated for the final round. One alternate will be designated for the quarterfinal and semifinal rounds.

(4) Until the completion of the competition, no rankings will be made available. When the competition has been completed, quarterfinalists may find out their rankings from Doug Kilday or Lynn Watson in order to determine eligibility status for the National Appellate Advocacy Competition, the Holderness Competition, the National Competition, and the International Competition.

**VI. AWARDS:**

(a) The Best Brief Award shall be given to the individual who submits the most outstanding brief. Determination shall be made by the Moot Court Board and selected members of the faculty. Five hundred dollars (\$500.00) will be given to the individual submitting the Best Brief.

(b) The award for Best Oral Advocate shall be made by the judges of the final round and on the basis of the performance in the final round alone. Five hundred dollars (\$500.00) shall be awarded to the Best Oral Advocate.

(c) The awards for Best Brief and Best Oral Advocate will be announced following the completion of the final round.

**VII. JUDGES:**

(a) Selected members of the Moot Court Board will judge the preliminary rounds (October 5-24, 1992).

(b) Selected members of the Moot Court Board will judge the quarterfinal rounds (November 5-6, 1992).

(c) A faculty bench will judge the semifinal round (November 11-12, 1992).

(d) We are very privileged to have The Honorable Harry Carricco (Chief Judge of the Supreme Court of Virginia), The Honorable James Exxum (Chief Judge of the Supreme Court of North Carolina), and The Honorable Leander Shaw (Chief Judge of the Supreme Court of Florida) to judge the final round on Thursday, November 19, 1992.

**VIII. LIBRARY REGULATIONS:**

(a) Davis participants are requested to adhere to all library regulations involving shelf-slipping. Please shelf-slip when taking a book from the stacks or another's carrel, even if you only wish to use the book for copying purposes.

(b) No food or drinks are allowed in the computer cage.

**IX. QUALIFICATIONS FOR OTHER COMPETITIONS:**

(a) The finalists, semifinalists and quarterfinalists will be eligible for either:

1. the National Moot Court Team;
2. the Jessup International Moot Court Team;
3. the National Appellate Advocacy Competition Team; or
4. the Holderness Moot Court Competition Team.

Members of these teams receive one (1) ungraded academic credit for their participation.

**X. BOILERPLATE DISCLAIMER:**

(a) The Moot Court Board expressly reserves the right to make any alterations, amendments, additions, deletions, revisions or other changes to these rules as the Board deems necessary and proper. Notice of any such changes shall be posted on the Moot Court Board Bulletin Board as soon as such changes have been made.

THE JOHN W. DAVIS MOOT COURT COMPETITION  
WASHINGTON AND LEE UNIVERSITY SCHOOL OF LAW

BRIEF SCORING SHEET

Individual Number \_\_\_\_\_ Judge \_\_\_\_\_  
Petitioner \_\_\_\_\_  
Respondent \_\_\_\_\_

Part I - Substantive Preparation

- |                                        |       |        |
|----------------------------------------|-------|--------|
| 1. Organization of Argument            | _____ | (1-10) |
| 2. Thoroughness of Research            | _____ | (1-10) |
| 3. Analysis of Subject Matter          | _____ | (1-10) |
| 4. Persuasiveness and Use of Authority | _____ | (1-10) |
| 5. Overall Clarity and Style           | _____ | (1-10) |
|                                        | Total | _____  |

Part II - Technical Presentation

- |                                       |       |        |
|---------------------------------------|-------|--------|
| Overall Style and Appearance          | _____ | (1-25) |
| Grammar (-1/4 point for each error)   | _____ |        |
| Spelling (-1/4 point for each error)  | _____ |        |
| Blue book (-1/4 point for each error) | _____ |        |
|                                       | Total | _____  |

Part III - Composite Score

- |    |                                                                                                     |       |        |
|----|-----------------------------------------------------------------------------------------------------|-------|--------|
| 1. | Cohesiveness                                                                                        | _____ | (1-5)  |
| 2. | Persuasiveness of Presentation                                                                      | _____ | (1-10) |
| 3. | Technical Style and Appearance<br>(Deduct, as above, for grammar,<br>spelling and blue book errors) | _____ | (1-10) |
|    | Total                                                                                               | _____ |        |

Part IV - Penalty Points

- |    |                                                                                  |       |
|----|----------------------------------------------------------------------------------|-------|
| 1. | Lateness-After                                                                   |       |
|    | Oct. 1: 5:00 p.m. - 3 pts.                                                       | _____ |
|    | 5:05 p.m. - 6 pts.                                                               | _____ |
|    | 5:10 p.m. - 10 pts.                                                              | _____ |
|    | Oct. 3: 5:00 p.m. - 20 Pts.                                                      | _____ |
| 2. | Violation of Brief Dimension Rules                                               | _____ |
|    | 5 points per page                                                                |       |
|    | 10 points for incorrect type<br>size, page length, print<br>quality, and spacing |       |

Total Brief Score \_\_\_\_\_

THE JOHN W. DAVIS MOOT COURT COMPETITION  
WASHINGTON AND LEE UNIVERSITY SCHOOL OF LAW

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ORAL ARGUMENT SCORING SHEET

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Name of Counsel: \_\_\_\_\_

Name of Judge: \_\_\_\_\_

Date of argument: \_\_\_\_\_

TOTAL POINTS: \_\_\_\_\_ (Possible points = 100)

RATING AMONG THOSE ARGUING IN ROUND: \_\_\_\_\_ 1 2

- |                                                       |       |        |
|-------------------------------------------------------|-------|--------|
| 1. Organization of Presentation                       | _____ | (1-20) |
| 2. Substantive knowledge                              | _____ | (1-20) |
| 3. Responsiveness to questions                        | _____ | (1-20) |
| 4. Manner of presentation<br>(diction, posture, etc.) | _____ | (1-20) |
| 5. Overall effectiveness                              | _____ | (1-20) |

Total Oral Argument Score \_\_\_\_\_

SCHEDULE OF DAVIS ACTIVITIES

Thursday, Sept. 3, 1992	Meeting with all participants, and distribution of problem.
Sept. 3 - Nov. 19, 1992	Questions concerning moot court problem and applicability of the Honor Code may be submitted to Moot Court Board.
Monday, Sept. 7, 1992	<b>Q AND A SESSION ON HOW TO WRITE A BRIEF -- 7:00 p.m. - 8:00 p.m.</b>
Monday, Sept. 7, 1992	Last date for notifying Moot Court Board of switching sides for briefs.
Thursday, Sept. 17, 1992	<b>Optional Rough Drafts are Due</b>
Saturday, Sept. 19, 1992	Comments to Rough Draft Writers
Friday, Sept. 25, 1992	<b><u>BRIEFS DUE AT 5:00 P.M.!!!</u></b>
Monday, September 28, 1992	No late briefs accepted after 5:00 p.m.
Thursday, Oct. 1, 1992	<b>Q AND A SESSION ON HOW TO ARGUE</b>
October 5-24, 1992	Preliminary Rounds
Monday, Oct. 26, 1992	Announcement of Best Brief Nominees and Quarterfinalists (Best Brief Nominees Go On Reserve).
November 5-6, 1992	Quarterfinal Rounds
November 11-12, 1992	Semifinal Rounds
Thursday, Nov. 19, 1992	<b>FINAL ROUND (Announcement of Best Oral Advocate and Best Brief Award.) Banquet to follow for Quarterfinalists, Best Brief Nominees, Judges and Board Members.</b>