

RULES OF THE 1996 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 to provide students with an opportunity to further develop their research skills and to learn the art of appellate brief writing and appellate advocacy.

The W & L Honor Code is fully applicable to all aspects of this competition. See the section below entitled "Honor Code."

I. ADVISORS

- A. The Moot Court Board will randomly assign each participant a Davis Advisor. This year's advisors are Courtney Camp, Mary Eade, Rangi Garrett, Amy Smoyer, and Karen Tracy.
- B. Advisors provide guidance on brief writing and oral advocacy -- reviewing rough drafts, advising on oral advocacy skills, etc. Advisors are available to answer individual participant's questions. They are not, however, substitutes for the participants doing their own work.
- C. All questions regarding the "record" should be directed to a participant's advisor. Advisors will consult the Davis Administrators, Mary Eade and Karen Tracy, who will post the question and the answer on the Moot Court Bulletin Board, located next to the Moot Court Room.

II. BRIEFS

- A. For purposes of writing the brief, each participant will be assigned the role of either Petitioner or Respondent. Assignments will be posted on the Moot Court Bulletin Board by Thursday morning, August 29, 1996.
- B. Anyone who drops out of the competition **must** notify Mary Eade or Karen Tracy as soon as possible.
- C. Anyone who wishes to participate in the competition but who failed to sign-up at the meeting on Tuesday, August 27, 1996 **must** obtain special permission from Mary Eade or Karen Tracy. The names of those who are permitted to enter late will be added to the list of participants posted on the Moot Court Bulletin Board.
- D. The Board strongly encourages participants to remain, for purposes of writing the brief, on their assigned side as either Petitioner or Respondent. However, changes are allowed under these conditions:
 - 1. A participant may change sides **only** if another participant is willing to exchange places.
 - 2. The Board must receive written notification of the change before Thursday, September 5, 1996 at 5:00 p.m.
 - 3. The written notice must include the participants' social security numbers and must indicate that both participants agree to the switch. **No** participant will be permitted to switch sides after Thursday, September 5, 1996 at 5:00 p.m.
- E. Each participant is personally responsible for writing the entire brief, subject to the rules enumerated in the section below entitled "Honor Code."
- F. When registering for the competition, participants should submit their name, social security number, and carrel number. **Briefs, however, should be identified only by social security number.** Briefs may **not** contain a name or any other means of identifying the participant. The participant's social security number should appear on the cover page and at the end of the brief (Respectfully submitted, 999-99-9999).
- G. Technical Requirements:
 - 1. 8 1/2" by 11" white paper.
 - 2. Top, right, left, bottom margins 1".
 - 3. Typed, double-spaced. Type character must be 10 letters per inch. The font must be Courier. No other type size or font is permitted.
 - 4. 20 pages maximum.This page limit includes the title page, statement of the case, summary of the argument, and the conclusion. It does **not** include the cover page, table of contents, table of authorities, questions presented, and the appendix.

5. All citations **must be** included in the text. **Except:** lengthy law review or social study citations may appear in footnotes.
6. Laser or ink jet printers should be used. Dot matrix printers are not allowed. An additional ten points will be deducted for violation of this rule.

H. Content Requirements:

1. Cover page (including participant's SS Number)
2. Question(s) Presented
3. Table of Contents
4. Table of Authorities
5. Title Page
6. Statement of the Case
7. Summary of the Argument
8. Argument
9. Conclusion

Generally, briefs should follow the format prescribed for briefs presented to the United States Supreme Court. Supreme Court Practice¹ is a good reference. It is available on reserve. Also on reserve are copies of the Best Brief Nominees' briefs from past Davis competitions.

Briefs **may** include an appendix. Appendices are **not** required.

- I. All citations must be complete and must conform to the 15th Edition of the A Uniform System of Citation (the "Blue Book").
- J. Each participant should submit 5 copies (original + 4) of his or her brief by 7:00 p.m. on Saturday, September 21, 1996. Briefs should be turned at the Moot Court Board Room. Each copy should be securely stapled in the upper left-hand corner. Penalty points for lateness will be assessed as follows:

Briefs submitted after:

Saturday, September 21, 1996:

7:01 p.m.....	3 points
7:10 p.m.....	6 points
7:20 p.m.....	10 points
7:30 p.m.....	15 points

Sunday, September 22, 1996:

5:00 p.m.....	20 points
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Monday, September 23, 1996:

5:00 p.m.....	50 points
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No brief will be accepted after 5:00 p.m., Tuesday, September 24, 1996.

- K. Rough Drafts. Rough Drafts are **optional**. Participants may submit a rough draft of their brief for review by their advisors. Rough drafts must be submitted no later than Friday, September 13, 1996. Drafts will be returned by Monday, September 16, 1996 at which time participants may schedule meetings with their Advisors to discuss comments, etc.

III. ORAL ARGUMENTS

¹ Robert L. Stern, Supreme Court Practice (6th ed. 1986). Note that the technical requirements are not the same and that participants should conform to those requirements set forth in these rules.

- A. Preliminary round. This round is **optional**. It is designed to give those participants who wish to participate an additional opportunity to practice their oral advocacy strategies. A critique will be given, but it will **not** concern any substantive issues. **No questions** will be posed from the bench in this round. Instead, participants will merely have the opportunity to “run through” their arguments and get comfortable with being in front of a bench and in a court room.
- B. All participants argue “on” and “off” brief during rounds one and two. Oral arguments are limited to 15 minutes per person. This time limit includes introductions, time spent by judges in posing questions, and responses to questions.
- C. Rebuttal time is limited to 5 minutes. Only petitioners make rebuttal. Petitioners must use their own discretion and reserve their desired rebuttal time at the beginning of argument. The time reserved will be subtracted from the 15 minutes allowed for argument. Thus, if one reserves 3 minutes for rebuttal, he or she has 12 minutes for substantive argument.
- D. Videotaping. Tapes will be made of each round, except for the preliminary round. They will be placed on reserve at the circulation desk. Participants **may** watch their own rounds at any time. **No** participant may watch any other argument in a round until that round is complete.

In other words, **during round one and round two**, no participant may watch any tape except his or her own. After the completion of round one, participants may watch as many round one tapes as they wish. The same conditions apply to each round.

Quarterfinals, semifinals, and finals. These rounds are open to the public. Again, participants may watch their argument during the pendency of that round of competition, but **may not** watch any other argument. After all participants in a round have argued and the round is complete, participants may watch any and all tapes from that round.

- E. Prohibited conduct. All participants are **strictly barred** from discussing any questions posed or statements made during an argument until that round of arguments has been completed.

IV. HONOR CODE

- A. Brief-writing period. Participants may freely discuss the substantive issues of the problem with one another and with other Washington and Lee law students. Participants are **strictly prohibited** from discussing the substantive issues of the problem with **any person who is not a W & L law student**. Such persons include faculty, attorneys, students at other schools, faculty at other schools, etc. Participants are **strictly prohibited** from consulting any materials prepared for the New York or Philadelphia cases which concern the constitutionality of the Telecommunications Act. Such material includes any transcripts, briefs, etc. but does not include the court opinions. However, participants may **not** cite to those opinions in their briefs, i.e. may not rely on these opinions for authority.
- B. Computer assisted research. LEXIS and WESTLAW may be used to research this problem. Participants should comply with 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 the undergraduate library.
- D. “Help from friends.” Written work **must** be each participant’s own product. Review of drafts may be conducted **only** by participants’ advisors. Other students may **not** read briefs or supply commentary in any form. After all briefs are submitted, participants may exchange briefs as they wish. No brief may be given to a participant without the author’s express permission.
- E. “Mechanical help.” Citecheck or any other computerized program designed to check for citation errors is **strictly prohibited**. Grammar check programs are also **strictly prohibited**. Spellcheck programs are allowed.
- F. **Quarterfinals, Semifinals, Finals.** Although these rounds are open to the public, participants in these rounds are not allowed to watch other participants’ arguments, except, of course, each participant will witness his or

her opponent's argument.

- G. Again, participants may **not** discuss with anyone any substantive factor about questions posed, issues raised, arguments presented, or other matters until the entire round has been completed.
- H. 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.**

V. SCORING

- A. Each participant will receive an individual brief score which will comprise 40% of the score used in determining advancement from rounds one and two to the quarterfinals. Oral argument scores will comprise 60% of the score used in determining advancement from rounds one and two to the quarterfinals.
- B. Brief scores comprise 25% of the score used in determining advancement from the quarterfinals to the semifinals. Oral argument scores comprise 75% of the score used in determining advancement from the quarterfinals to the semifinals.
- C. Brief scores comprise 15% of the score used in determining advancement from the semifinals to the finals. Oral argument scores comprise 85% of the score used in determining advancement from the semifinals to the finals.
- D. Oral argument scores alone will determine rankings in the final round.
- E. Oral argument score sheets and brief score sheets are enclosed. Moot Court Board members will provide each participant with an oral critique of their argument after the optional preliminary round and round one. Again, participants are reminded that no substantive tips or advice will follow the preliminary round. Additionally, participants may ask their Moot Court Board Advisor to review their score sheets and provide additional feedback. However, absolutely no score sheets will be returned to any participant after the competition.

VI. RESULTS:

A. Briefs:

- 1. The Moot Court Board will nominate between three and five briefs for the Best Brief Award. These selections will be based on brief scores only. A panel of professors will select the "Best Brief" from the briefs nominated by the Moot Court Board.
- 2. Best Brief Nominees will be posted on the Moot Court Board Bulletin Board following the end of round two. 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 Moot Court Board Bulletin Board. If any participant has a scheduling conflict, such participant may trade times with another participant who has been assigned to the **same** side. If participants trade times, they must notify Mary Eade or Karen Tracy of the change as soon as possible. If scheduling conflicts cannot be worked out, Mary Eade or Karen Tracy 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 the Board reserves the right to enforce the schedule.
- 2. The names of advancing participants will be posted on the Moot Court Board Bulletin Board 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. Eighteen participants will be chosen to participate in the quarterfinal round. Eight quarterfinalists will be chosen to participate in the semifinal round. Four semifinalists will be chosen to participate in the final round.

VI. AWARDS:

- A. The Moot Court Board shall give the Best Brief Award to the individual who submits the most outstanding brief. The Moot Court Board intends to award five hundred dollars (\$500.00) to the individual submitting the Best Brief.
- B. The Moot Court Board shall give the award for Best Oral Advocate to the individual who performs the best in the final round. The judges in the final round shall make the determination of which individual in the final round performs the best in the final round. The Moot Court Board intends to award five hundred dollars (\$500.00) to the Best Oral Advocate.
- C. The winners of the Best Brief and Best Oral Advocate will be announced following the completion of the final round.
- D. The Moot Court Board will give certificates to all individuals advancing to the quarterfinals round and will host a banquet in their honor on November 14, 1996.

VII. JUDGES:

- A. Selected members of the Moot Court Board will judge the preliminary round and rounds one and two (Sept. 30-Oct. 4, 1996).
- B. Courtney Camp, Mary Eade, and Karen Tracy will judge the quarterfinal rounds (Oct. 28-29, 1996).
- C. Three faculty members will judge the semifinal rounds (Nov. 7, 1996). They will be announced as soon as possible and their names will be posted on the Moot Court Bulletin Board.
- D. Honorable John T. Noonan of the Ninth Circuit Court of Appeals, Honorable Sam J. Ervin, III of the Fourth Circuit Court of Appeals, and Honorable Phyllis A. Kravitch of the Eleventh Circuit Court of Appeals will judge the final round on Thursday, November 14, 1996.

VIII. LIBRARY

Davis participants must adhere to all library regulations involving shelf-slipping. Participants must shelf-slip when taking a book from the stacks or another's carrel, even if they only wish to use the book for copying purposes.

IX. QUALIFICATIONS FOR NATIONAL COMPETITIONS

- A. The finalists, semifinalists, and quarterfinalists will be eligible for one of three national competitions to be held in the spring and fall of 1997.
- B. Members of these teams will receive one (1) ungraded academic credit for their participation in the national competitions.

XI. DISCLAIMER:

The Moot Court Board reserves the right to make any alterations, amendments, additions, deletions, 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.