

## **THE 1999 JOHN W. DAVIS MOOT COURT COMPETITION: GENERAL INFORMATION**

### **I. HONOR CODE**

**THE WASHINGTON AND LEE HONOR CODE IS FULLY APPLICABLE TO ALL ASPECTS OF THIS COMPETITION.**

### **II. MOOT COURT ADMINISTRATORS**

- A. The Moot Court Administrators for the 1999 John W. Davis Moot Court Competition are Adrienne E. Maddox (carrel 427, maddoxa@wlu.edu) and J. Duncan Pitchford (carrel 414, pitchfordj@wlu.edu).
- B. All questions regarding the problem should be directed to one of the Administrators. The Administrators will post the question and the answer on the Moot Court Bulletin Board, which is located next to the Moot Court Board Office.

### **III. OVERALL SCORING**

- A. Each participant must obtain an exam number from the admissions office. The exam numbers are used during the competition to keep the participants anonymous during brief scoring.
- B. 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.
- C. 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.
- D. 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.
- E. Oral argument scores alone will determine rankings in the final round.

### **IV. JUDGES FOR THE FINALS**

- A. Honorable Richard S. Arnold  
Eighth Circuit Court of Appeals
- B. Honorable Dolores K. Sloviter  
Third Circuit Court of Appeals

- C. To be announced

## **V. AWARDS**

- A. The Moot Court Board shall give the Best Brief Award to the individual who submits the most outstanding brief. A cash prize will be awarded to the individual submitting the Best Brief. The award is made possible by contributions from Mead Data, Inc. and from the Martin P. Burks Memorial Fund.
- B. Benjamin R. and Philip G. Gardner will give the Gardner Brothers Award to the Best Oral Advocate. This is the individual who receives the highest score in the final round. The judges in the final round shall make the determination of which individual should receive the Best Oral Advocate award. The other finalists may also receive a cash award.
- C. The winners of the Best Brief and Best Oral Advocate awards 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 and will host a banquet in their honor.

## **VI. QUALIFICATIONS FOR NATIONAL COMPETITIONS**

- A. The finalists, semifinalists, and quarterfinalists will be eligible for one of the national competitions to be held in the spring and fall of 2000.
- B. Members of these teams may receive one (1) ungraded academic credit for their participation in the national competition.

## **VII. DISCLAIMER**

The Moot Court Board reserves the right to make any alterations, amendments, additions, deletions, or other changes to these guidelines as the Board deems necessary and proper. Notice of these changes, if any, will be posted on the Moot Court Bulletin Board as soon as they are made.

## THE 1999 JOHN W. DAVIS MOOT COURT COMPETITION: RULES FOR BRIEFS SUBMITTED

### I. HONOR CODE

**THE WASHINGTON AND LEE HONOR CODE IS FULLY APPLICABLE TO ALL ASPECTS OF THIS COMPETITION.**

### II. BRIEF ASSIGNMENTS

- A. For purposes of writing the brief, each participant will be assigned the role of either Petitioner or Respondent. Assignments will be posed on the Moot Court Bulletin Board on September 3, 1999 at 3:00 p.m.
- B. Anyone who drops out of the competition must notify Adrienne E. Maddox or J. Duncan Pitchford as soon as possible.
- C. Anyone who wishes to participate in the competition but failed to sign up at the meeting on Tuesday, August 31, 1999, must obtain special permission from Adrienne E. Maddox and J. Duncan Pitchford. Only the most exceptional circumstances will be given consideration. 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 Administrators strongly encourage participants to remain, for purposes of writing the brief, on their assigned side as either Petitioner or Respondent. However, changes are allowed under the following conditions:
  - 1. A participant may change sides only if another participant is willing to exchange places.
  - 2. The Administrators must receive written notification of the change before September 10, 1999, at 5 p.m.
  - 3. The written notice must include participants' competition numbers and must indicate that both participants agree to the switch. The written notification must not compromise the anonymity of the participants changing sides. No participant will be permitted to switch sides after September 10, 1999, at 5 p.m.
  - 4. Remember, the problem is designed so that the Petitioner and Respondent face equally difficult tasks in preparing the brief, so no tactical advantage will be gained by switching to the "easier side."
- E. Participants are permitted and encouraged to discuss the problem and share research results, but each participant is personally responsible for writing his or her entire brief.

- F. When registering for the competition, participants should submit their names and carrel numbers.
- G. When submitting briefs, an individual should be identified only by that individual's competition number. Briefs may not contain names or any other means of identifying the participant. The participant's competition number should appear on the cover page at the end of the brief (Respectfully submitted, 123).

### III. CONTENT REQUIREMENTS

- A. Required sections of the brief:
  - 1. Cover page (including the participant's competition number)
  - 2. Question(s) Presented
  - 3. Table of Contents
  - 4. Table of Authorities
  - 5. Statement of the Case
  - 6. Summary of the Argument
  - 7. Argument
  - 8. Conclusion

Generally, briefs should follow the format prescribed for briefs presented in the United States Supreme Court. *Supreme Court Practice* is a good reference. This book is available on reserve, as are the current Supreme Court rules. Also on reserve are copies of the Best Briefs from past Davis competitions.

- B. Briefs may NOT include an appendix.
- C. All citations must be complete, and must conform to the 16th edition of *A Uniform System of Citation* (the "Blue Book").

### IV. TECHNICAL REQUIREMENTS

- A. 8.5 inch by 11 inch white paper.
- B. Top, right, left and bottom margins one inch.
- C. Typed, double spaced. The font must be Courier New. The font size must be 12 point. NO other font or font size is permitted.
- D. 20 pages maximum.

(This page limit includes the Statement of the Case, Summary of the Argument, and the Conclusion. It does NOT include the Cover Page, Questions Presented, Table of Contents and Table of Authorities.)

- E. With the exception of lengthy law review or social study citations, all citations must be included in the text. Footnote citations must be in 12 point type.
- F. Laser or ink jet printers must be used. Dot matrix printers are not permitted.
- G. When citing Supreme Court decisions, cite to the United States Reports unless the case has not yet been reported in that series. If the decision is not reported in United States Reports, cite ONLY to West's Supreme Court Reporter.
- H. Use ONLY italics and ordinary Courier New font in citations. Do not use underline or small caps.

## **V. SUBMISSION OF BRIEFS**

### **A. Rough Drafts**

1. Rough drafts are optional
2. Participants may submit a rough draft of their brief for review. Rough drafts must be submitted no later than Friday, September 17, 1999 at noon. Drafts will be returned by Monday, September 20, 1999, at which time participants may schedule meetings with the Moot Court Board Members who have read their briefs. Participants should not expect specific editing of their brief, only general guidance.

### **B. Final Drafts**

1. Each participant should submit five copies (original plus four) of his or her brief by 6:00 p.m. on Friday, September 24, 1999. Briefs should be turned in at the Moot Court Board Room. Each copy should be securely stapled in the upper left-hand corner. A large stapler is available at the law library for stapling.
2. The clock outside the Moot Court Board Room will be the official clock for determining whether a brief was submitted on time.

## **VI. BRIEF SCORING**

- A. Briefs will be graded by members of the Moot Court Board.
- B. Each participant will be given a brief score out of a total possible 100 points. The participant's score will be based on three components: content and organization, blue booking, and grammar. Content and organization will account for 80 percent of the brief score, while blue booking and grammar will each account for 10 percent of the brief score.

C. Brief penalty points listed in Section VII, *infra*, will be deducted from the Participant's overall brief score.

**VII. BRIEF PENALTY POINTS**

A. Late filing of brief:

- 1. Friday, September 24, 1999, 6:01 p.m.....3 points
- 2. Friday, September 24, 1999, 6:10 p.m.....6 points
- 3. Friday, September 24, 1999, 6:20 p.m.....10 points
- 4. Friday, September 24, 1999, 6:30 p.m.....15 points
- 5. Saturday, September 25, 1999, 5:00 p.m. ....25 points
- 6. Sunday, September 26, 1999, 5:00 p.m. ....50 points
  
- 7. NO briefs will be accepted after Sunday, September 26, 1999, at 5:00 p.m.

B. Incorrect font.....5 points

C. Incorrect font size.....5 points

D. Failure to include any of the following sections..... 2 points each:

Cover Page, Question(s) Presented, Table of Contents, Table of Authorities, Statement of the Case, Summary of the Argument, Argument or Conclusion

(Participants should be aware that an omission of any of these sections may also affect the overall brief score awarded to the participant)

E. Misnumbering of pages.....2 points

F. Failure to adhere to the margin requirements ..... 7 points

G. Page limit

- 1. For the first page (or part thereof) exceeding the page limit.....4 points
- 2. For the second page (or part thereof) exceeding the page limit.....3 points
- 3. For each additional page (or part thereof) exceeding the page limit. 1 point each

(Participants should be aware that exceeding the page limit may also affect the overall brief score awarded to the participant).

H. Compromising your anonymity ..... 10 points

- I. Failure to comply with printing requirements ..... 10 points
- J. Failure to serve the appropriate number of copies of your brief .. 5 points

**VIII. RESULTS**

- A. The Moot Court Board will nominate three to five briefs for the Best Brief Award. These selections will be based solely on the participant's brief score. A panel of professors will select the "Best Brief" from the briefs nominated by the Moot Court Board.
- B. The names of the nominees for the Best Brief Award will be posted on the Moot Court Bulletin Board following the end of Round Two. The briefs nominated for the Best Brief award will then be placed on reserve at the circulation desk.

**IX. DISCLAIMER**

The Moot Court Board reserves the right to make any alterations, amendments, additions, deletions, or other changes to these guidelines as the Board deems necessary and proper. Notice of these changes, if any, will be posted on the Moot Court Bulletin Board as soon as they are made.

## THE 1999 JOHN W. DAVIS MOOT COURT COMPETITION: RESEARCH RULES

### I. HONOR CODE

THE WASHINGTON AND LEE HONOR CODE IS FULLY APPLICABLE TO ALL ASPECTS OF THIS COMPETITION.

### II. RESEARCH RULES

A. The problem is based closely on three lower court decisions: *Brzonkala v. Virginia Polytechnic and State University*, 935 F. Supp. 779 (W. D. Va. 1996); *Brzonkala v. Virginia Polytechnic Institute and State University*, 132 F.3d 949 (4th Cir. 1997) and *Brzonkala v. Virginia Polytechnic Institute and State University*, 169 F.3d 820 (4th Cir. 1999). You are permitted to read these cases. We encourage you to base your arguments on those articulated in the decisions, but you may not cite to these cases. In addition, you **MAY NOT READ** any brief that was submitted at any stage in the cases, any amicus brief connected to the cases or the transcript of any oral argument. If you are unsure whether you can read something, ask Adrienne E. Maddox or J. Duncan Pitchford **before** reading it.

B. The issue to be addressed is that listed in the Writ of Certiorari. **NO OTHER ISSUES ARE TO BE DISCUSSED.** The following are issues which we do NOT want you to brief or argue even if you believe the facts of the problem raise the issues:

- WHETHER THE PLAINTIFF PROPERLY ALLEGED A CRIME MOTIVATED BY GENDER
- WHETHER THE PROPER STANDARD OF REVIEW IS RATIONAL BASIS

If you are unsure whether an issue should be discussed, ask Adrienne E. Maddox or J. Duncan Pitchford. We will not tell you what you should argue, but we will tell you if we intend for an issue to be left out. Although this competition is meant to be challenging, it is not meant to be a game of hide-the-ball.

C. 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, but are not limited to, faculty, attorneys, students at other law schools and faculty at other law schools.

D. LEXIS and Westlaw may be used to research this problem. Participants should comply with library regulations involving computer research. Participants are advised that the *en banc* Fourth Circuit opinion listed above (169 F.3d 820) is extremely lengthy, and participants are strongly discouraged from printing or

copying this case.

- E. Participants may refer to any reporters, treatises, law reviews, casebooks and materials available in the W&L law library, the undergraduate library, or on Westlaw or LEXIS. This includes Internet materials. However, participants cannot use these research tools to access prohibited information listed under heading (A), *supra*.
- F. Written work **MUST** be each participant's own product. Review of drafts may be conducted only by submission to the Moot Court Board on or before September 17, 1999. Other students may not read briefs or supply commentary in any form. After all the briefs have been submitted, participants may exchange briefs as they wish, but no brief may be given to a participant without the author's express permission.
- G. Use of WestCheck or any other computerized program designed to check for citation errors is **strictly prohibited**. Use of grammar check programs is also **strictly prohibited**, but the use of spellcheck programs is allowed.

### **III. DISCLAIMER**

The Moot Court Board reserves the right to make any alterations, amendments, additions, deletions, or other changes to these guidelines as the Board deems necessary and proper. Notice of these changes, if any, will be posted on the Moot Court Bulletin Board as soon as they are made.

# 1999 DAVIS MOOT COURT COMPETITION SCHEDULE

---

## BRIEF SCHEDULE

**31 AUGUST AT 7 P.M.**

PROBLEM DISTRIBUTION

**01 SEPTEMBER - 03 SEPTEMBER AT NOON**

PICK UP COMPETITION NUMBER

**03 SEPTEMBER AT 3 P.M.**

BRIEF ASSIGNMENTS POSTED

**17 SEPTEMBER AT NOON**

**(OPTIONAL)** TURN IN ROUGH DRAFTS

**20 SEPTEMBER**

ROUGH DRAFTS RETURNED

**24 SEPTEMBER**

**(MANDATORY)** TURN IN BRIEFS

# 1999 DAVIS MOOT COURT COMPETITION SCHEDULE

---

## ORAL ARGUMENT SCHEDULE

**20 SEPTEMBER AT 7 P.M. .... ORAL ARGUMENT MEETING**

**27, 28 & 30 SEPTEMBER..... PRELIMINARY ROUNDS  
(OPTIONAL)**

**04, 05, 07 & 08 OCTOBER..... ROUND ONE**

**11, 12, 14 & 15 OCTOBER..... ROUND TWO**

**21 OCTOBER..... POSTING OF QUAR~~A~~TERFINALISTS**

**25 & 26 OCTOBER..... QUARTERFINALS *16 people***

**27 OCTOBER..... POSTING OF SEMIFINALISTS**

**04 NOVEMBER..... SEMIFINALS**

**05 NOVEMBER..... POSTING OF FINALISTS**

**11 NOVEMBER..... FINAL ROUND AND BANQUET**