

COMPETITION RULES

29TH ANNUAL JOHN W. DAVIS MOOT COURT COMPETITION, FALL 2008

I. HONOR SYSTEM

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

II. MOOT COURT ADMINISTRATORS

The Administrators of the 2008 John W. Davis Moot Court Competition are Arif Noorani (noorania@wlu.edu) and Crystal Doyle (doylec@wlu.edu).

III. QUESTIONS ABOUT THE COMPETITION

All questions regarding the problem or rules should be directed to one of the Administrators. Competitors may e-mail either of the Administrators. After the informational meeting, questions about the competition should only be submitted by this method.

IV. SIGN-UPS

All competitors must sign up for the Davis Moot Court Competition by 5 P.M. on Friday, August 29th, 2008. The sign-up sheet will be posted on the Moot Court Bulletin Board, which is located on the second floor of Sydney Lewis Hall near the stairs leading to the main reading room. Competitors wishing to work in pairs must sign up as pairs on the sign-up sheet.

V. SCORING

- A. Each participant or team must obtain a competition number from the Registrar's office. The competition numbers are used during the competition to protect each participant's anonymity during brief scoring. As a reminder, participants may only work in teams on the brief writing section of the competition. All oral argument rounds will be done individually. See the Rules for Brief Submissions for further details.
- B. Each participant will receive an individual brief score that will comprise 50% of the score used in determining advancement from Rounds One and Two to the Quarterfinals. Oral argument scores will comprise 50% of the score used in determining advancement from Rounds One and Two to the Quarterfinals.

- C. Oral Argument Scores alone will determine rankings in the Quarterfinals and Semifinals. In the event of a tie, brief scores will be used as a tie breaker.
- D. Oral Argument Scores alone will determine rankings in the Final Round.

VI. JUDGES

The Moot Court Administrators will be the Chief Judges for Rounds One and Two of the competition, as well as the Quarterfinal Round. The remaining judges for these rounds have been drawn from the members of the Moot Court Board, Finalists and Semifinalists from the 2007 Competition, and participants in the 2008 ABA and Phillip Jessup national moot court competitions. A panel of professors will judge the Semifinal Round (as well as the Best Brief nominations), and judges from the Federal Court System will preside over the Final Round.

VII. AWARDS

The Moot Court Board will give the Best Brief Award (First Place) and First Runner-Up to the individuals or teams that submit the two most outstanding briefs. In the final round, the judges will select the individual who will receive the Best Oralist Award (First Place) and the First Runner-Up. The winners of the Best Brief and Best Oralist awards will be announced following the completion of the Final Round.

VIII. QUALIFICATIONS FOR NATIONAL COMPETITIONS

- A. Davis Finalists, Semifinalists, and Quarterfinalists will be eligible to participate in the national moot court competitions held in the fall of 2008 and spring of 2009. Eligible students who desire to enter interschool moot court competitions apply in late fall 2008, and teams for each competition are selected by the Moot Court Board member(s) coaching the competition.
- B. Members of national moot court teams may receive one (1) un-graded academic credit for their participation in a national competition.
- C. Students **must** complete the Davis Competition in order to participate in any external moot court competition.

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 any changes will be posted on the Moot Court web site as soon as they are made.

X. GRIEVANCES

The actions of the Moot Court competitors and the Moot Court Administrators will be governed by the Moot Court Board's Grievance Procedures at all times during the 2008 Moot Court Competition. These procedures may be found on the bulletin board outside the Moot Court Boardroom and on the web site. As described in these Procedures, Moot Court Board decisions are final.

RESEARCH RULES

29TH ANNUAL JOHN W. DAVIS MOOT COURT COMPETITION, FALL 2008

I. HONOR SYSTEM

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

II. RESEARCH RULES

- A. The 2008 Moot Court Problem is based upon an unsettled area of Fourth Amendment law. Competitors are free to refer to any judicial decisions, treatises, law reviews, journals, casebooks, or other legal materials available in the law library, **with the exception of the materials discussed in subsection (B) below.**
- B. **Prior to Monday, September 15, 2008, competitors may NOT access any briefs connected to any cases currently before the Supreme Court, or cases that were previously before the Supreme Court.** This problem is designed for the competitors to showcase their OWN brief writing skills, not to copy those previously researched by actual attorneys in cases pertinent to the problem.
- C. The issues to be addressed are the Fourth Amendment issues raised by the fact pattern. **No other issues are to be discussed.** If you have any concern over whether or not an issue needs to be raised, please contact the Davis Administrators.
- D. Competitors 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 problem with any person who is **not** a Washington and Lee law student. Such persons include, but are not limited to, faculty members, attorneys, students at other law schools, and faculty at other law schools and other institutions.
- E. LEXIS and Westlaw may be used to research this problem. However, **these databases cannot be used to access the prohibited information discussed in subsection (B) above.** Participants should comply with library regulations involving computer research.
- F. **Individual or team participants must do their own written work. Team participants may only consult with their designated partners regarding the**

written work. Once competitors begin writing individually or as a team, they are not allowed to submit briefs in any other capacity.

- G. Any questions concerning ambiguities in the problem or rules must be addressed only to the Davis Administrators. See the procedures described in **Competition Rules, III, Questions About The Competition.**
- H. By submitting a brief, each participant automatically pledges to employ **good faith and professionalism** in brief submissions and oral arguments.
- I. Use of WestCheck or any other computerized program designed to check for citation errors is **strictly prohibited.** Use of a grammar check program is acceptable so long as the program is part of a spell-check program on a word processor.

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RULES FOR BRIEF SUBMISSIONS

29TH ANNUAL JOHN W. DAVIS MOOT COURT COMPETITION, FALL 2008

I. HONOR SYSTEM

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II. BRIEF ASSIGNMENTS

- A. Admission into the Davis Moot Court requires the completion and submission of a brief for judging. Briefs may be completed individually or in teams of two. Each participant or team will be given the opportunity to select a brief assignment, i.e., Petitioner or Respondent. Sign-up sheets will be available beginning on Monday, August 25, 2008 at the close of the informational meeting until 5 P.M. on Friday, August 29, 2008.
- B. **Participants may not drop out of the competition after 5 P.M. on Friday, August 29, 2008 without demonstrating a compelling reason to the Davis Administrators, such as serious illness.**
- C. Anyone who wishes to participate in the competition but failed to sign up by 5 P.M. on August 29, 2008 must request permission from the Davis Administrators. Those permitted to participate will be assigned to a side.
- D. No team switching or side switching will be allowed after 5 P.M. on August 29, 2008.
- E. Individual and team participants may discuss the problem with other participants and share research results, but each participant or team is wholly responsible for writing the brief that they will submit.
- F. Each participant or team should collect a single competition number. **When submitting a brief, each participant or team must be identified only by that single competition number.** In the event that two competitors who have both picked up an exam number decide to work together, only one competitor number may appear on the brief. Briefs submitted with more than one exam number so that it is apparent that they worked together as a team will lose points for breach of anonymity. Briefs may not contain names or any other means of identifying the participant. The competition number should appear on the cover page and at the end of the brief (e.g. - Respectfully submitted, 123). The Moot Court Administrators reserve the right to assess penalty points in accordance with

Section VII, *infra*, and/or disqualify any competitor that has irreparably compromised his/her anonymity.

III. CONTENT REQUIREMENTS

A. Content Restriction

This year's problem is a Fourth Amendment problem. Consequently, participants should limit the arguments in both their briefs and oral arguments to **ONLY** Fourth Amendment issues. Failure to do so will result in a lower score.

B. 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

Helpful Resources: 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, the current Supreme Court rules, and other recommended resources will be available on reserve after August 29, 2008. Competitors may also access the current Supreme Court rules online at <http://www.supremecourtus.gov/ctrules/rulesofthecourt.pdf>. Copies of the Best Briefs from past Davis competitions may be downloaded from the Moot Court web site.

C. Briefs may NOT include an appendix.

D. All citations must be complete, and must conform to the Practitioner's Notes found in the 18th edition of *A Uniform System of Citation* (the "Blue Book").

IV. TECHNICAL REQUIREMENTS

A. Only 8.5" x 11" white paper is acceptable.

B. Top, bottom, right, and left margins must be 1" each.

- C. Briefs must be typed, double-spaced. The font must be Times New Roman. The font size must be 12 point. NO other font or font size is permitted.
- D. The brief may be a **maximum of 15 pages long**. Participants are not required to write 15 pages. (Note: 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 of the brief. 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.

V. SUBMISSION OF BRIEFS

A. Final Drafts

1. Each participant should submit **three** copies of his/her brief by **4:59 p.m. on Sunday, September 14, 2008**. Briefs should be turned in at the Moot Court Board Room on the Fourth Floor. Each copy should be securely stapled in the upper left-hand corner. A large stapler is available in 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. Should the clock be unavailable, the Moot Court Administrators will make the final decision as to the appropriate deadline 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. The brief penalty points listed in Section VII, *infra*, may be deducted from the participant's overall brief score at the discretion of the Moot Court Administrators.

VII. BRIEF PENALTY POINTS

A. **Late filing of brief will cause the deduction of points as follows:**

1. Sunday, September 14, 5:00 p.m.....3 points
2. Sunday, September 14, 5:10 p.m.....6 points
3. Sunday, September 14, 5:30 p.m.....10 points
4. Sunday, September 14, 8:00 p.m.....25 points
6. **NO briefs will be accepted after Sunday, September 14, at 8:00 p.m.**

B. **Incorrect font:** 5 points

C. **Incorrect font size:**5 points

- D. **Failure to include any of the following:**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
(Note: Participants should be aware that an omission of any of these sections may also affect the overall brief score awarded.)

E. **Misnumbering of pages:** 2 points

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

G. **Improper line spacing:**10 points

H. **Page limit:**

1. For the first page (or part thereof) exceeding the limit4 points
2. For the second page (or part thereof) exceeding the limit.....3 points
3. For each additional page (or part thereof) exceeding the limit...1 point

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

I. **Compromising your anonymity:**50 points

J. **Failure to comply with printing requirements:** 10 points

K. **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 and First Runner Up. 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 at the same time that the names of the Finalists are announced.

IX. DISCLAIMER

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ORAL ARGUMENT RULES

29TH ANNUAL JOHN W. DAVIS MOOT COURT COMPETITION, FALL 2008

I. HONOR SYSTEM

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

II. All competitors will compete individually at oral arguments.

III. Parties should dress in the manner customary for attorneys appearing before a court of record.

IV. THE PROCESS

A. Scheduling of rounds.

1. Blank oral argument schedules for Rounds One and Two will be posted on the Moot Court Bulletin Board at 8:50 a.m. on Monday, September 8. Competitors will have until 5 p.m. on Friday, September 12 to select their argument times for Rounds One and Two. Each competitor will sign up for ONE slot for Round One and ONE slot for Round Two. For Round One, competitors must sign up for an on-brief time slot. For Round Two, competitors must sign up for an off-brief time slot. (i.e. If a competitor wrote her brief for the Petitioner, she will sign up to argue for Petitioner for Round One and for Respondent for Round Two.) **REMEMBER**—the first round may begin on the evening of September 15, 2008, depending on the number of participants.
2. If any participant has a scheduling conflict, such participant may trade times with another participant who has been assigned to the same side.
3. **Trading of times will only be honored if a written note regarding the change is delivered to the Moot Court Board Room twenty-four hours in advance of both scheduled arguments.** This rule will not apply to those arguments scheduled for the first two days of Round One and the first day of Round Two.
4. If scheduling conflicts cannot be resolved, notify the Administrators of the conflict as soon as possible. The Administrators will try to accommodate requests for changes in the event of exigent circumstances, but reserve the right to enforce the schedule.

- B. During the first week of oral arguments (September 15), each participant will, if possible, argue the side which was argued in his or her brief. During the second week of rounds (September 22), each participant will argue the opposing side. However, the Moot Court Administrators reserve the right to assign an individual to an alternate side of the argument if necessary.
- C. The names of advancing participants will be posted on the bulletin board outside the Moot Court Board Room as soon as possible after the completion of each round of arguments.
- D. The number of participants advancing past the first two rounds will depend on the overall number of participants.

III. THE ARGUMENTS

- A. As noted above, only arguments concerning Fourth Amendment issues will be entertained.
- B. **Oral arguments are limited to a total of 15 minutes per person.** This time limit includes the introduction, the time spent on questioning by the judges, and the time spent for each participant's responses to the judges' questions.
- C. **Petitioners may reserve time for rebuttal.** Rebuttal time is limited to a **maximum of five minutes** and is subtracted from the total time allowed to the petitioner. Each individual Petitioner may choose how much time is to be allowed for rebuttal. The rebuttal must be reserved in advance of the petitioner's oral argument by asking the Chief Justice (e.g., "Your Honor, I respectfully request to reserve three minutes of my time for rebuttal.").
- D. Participants must observe the following rules of decorum when arguing:
 - 1. Facing the bench, Petitioners are seated on the left and the Respondents are seated on the right.
 - 2. Participants are asked to stand up when the judges enter the courtroom and sit when the Chief Justice so indicates.
 - 3. When the Chief Justice asks if each side is ready, participants are to stand up and say, "Yes, Your Honor, the Petitioner is ready," or "Yes, Your Honor, the Respondent is ready."
 - 4. Participants should address each judge as "Your Honor."

5. Participants should open arguments with, “Chief Justice and may it please the court. I represent [PARTY], the Petitioner/Respondent in this matter. Your Honors, . . .”
 6. Participants should always refer to cases as “Party AGAINST Party” and not as “Party versus Party” or “Party v. Party.”
 7. **Participants should stop immediately when they see the “STOP” card,** and should ask for more time if they wish to continue. Granting of additional time is completely within the discretion of the judges. If additional time is granted, participants should complete their argument as quickly as possible. Failure to adhere to the STOP card may result in a deduction of your oral argument score.
 8. Participants should thank the Court for its time at the completion of their arguments.
- E. **During each week of rounds, no participant who has already argued may discuss his or her round in any way with a participant who has not yet argued.**
- F. The first two rounds are closed. The Quarterfinals, the Semifinals, and the Final Round will be open to the public.
- G. Videotapes will be made of each round and placed on reserve at the circulation desk. **Participants are not permitted to view any videotapes of a particular argument until the entire round of arguments at that level has been completed,** except that a participant may view the videotape of his or her own oral arguments of any round at any time. Once a round has been completed, any person may view any videotape of any oral argument from that round.
- H. Davis Moot Court Semifinal and Final rounds from previous years are on reserve. We encourage participants to watch these in preparation for their oral arguments.

IV. SCORING

- A. No score sheets will be returned to any participant after the competition. **Moot Court judges will provide each participant with a non-substantive oral critique of their argument at the end of each round.**
- B. **Within each individual round, the two participants will NOT be graded against each other.** No participant will “win” or “lose” a round. Each person receives an independent score, which will be compared with the scores of all other

participants at that level of the competition to determine advancing.

- C. The judges before whom each participant is arguing do not have the arguing participant's briefs before them and will not knowingly have read the participants' briefs. (Some of the judges are grading briefs and may have read a participant's anonymous brief). **Each participant is not limited to the arguments that were presented in the participant's brief, but the rules that limited the issues that could be argued in the briefs remain applicable.**
- D. Each participant's oral argument score will be comprised of two equally weighted scores, **one for the content** of the participant's argument and **one for the form** in which it was presented.
- E. In grading the content of each participant's argument, the judges will be considering the quality of the participant's argument based on the following guidelines:
 - 1. Communication of the argument:
 - a. Did the participant simplify and explain the issues and arguments in the case?
 - b. Did the participant use simple and comprehensible sentences?
 - c. Did the participant reach the heart of the case quickly?
 - 2. Organization:
 - a. Did the participant lead with his or her most persuasive point?
 - b. Did the participant make persuasive use of authority?
 - c. Did the participant employ sound reasoning?
 - d. Was the progression of the participant's argument logical?
 - 3. Control of the Argument:
 - a. Did the participant unnecessarily concede points?
 - b. Did the participant answer quickly and concisely?
 - c. Did the participant quickly and smoothly continue argument following questioning?
 - 4. Responsiveness:
 - a. Was the participant evasive?
 - b. Did the participant respond to questions with a question?
 - c. Was the participant asked the same question several times before giving a satisfactory answer?
 - 5. Accuracy:
 - a. Did the participant make arguments based on facts not in the case?
 - b. Was the participant honest in her statement of the facts and case

law?

F. In grading the form of each participant's argument, the judges will be considering the quality of the participant's presentation based on the following guidelines:

1. Decorum:

- a. Did the participant address the judges as "Mr./Ms. Justice" or "Your Honor"?
- b. Did the participant properly state case names ("Party against Party")?
- c. Did the participant respond immediately to the stop card?
- d. Did the participant provide a clear and simple opening statement?

2. Deference:

- a. Was the participant deferential and courteous to the judges?
- b. Did the participant interrupt the judges or refuse to stop for the judges' questioning?
- c. Did the participant postpone answers to questions?

3. Speech:

- a. Did the participant frequently use oral pauses?
- b. Did the participant effectively use the microphone?
- c. Was the participant's volume too loud or too soft?
- d. Was the participant's tone varied?
- e. Was the participant's speed too fast or too slow?

4. Style:

- a. Was the participant overly argumentative or confrontational?
- b. Was the participant overly dramatic?
- c. Did the participant make irrelevant emotional appeals?
- d. Did the participant appear confident?
- e. Did the participant appear sincere?
- f. Did the participant appear too stiff or too casual?
- g. Did the participant maintain composure when faced with difficult questions?
- h. Was the participant able to deal with an absence of questions?

5. Appearance:

- a. Did the participant use distracting mannerisms or exaggerated gesturing?
- b. Did the participant maintain eye contact?
- c. Did the participant bring minimal paper to the podium?
- d. Did the participant read extensively from the material?

6. Extra points will be deducted for gross disregard of the above guidelines.

COMPETITION SCHEDULE

29TH ANNUAL JOHN W. DAVIS MOOT COURT COMPETITION, FALL 2008

August 29, 5 P.M.: deadline to sign up to participate in the Davis Competition; Participation Agreements due.

August 30: participants will receive an e-mail assigning them to write the brief for Petitioner or Respondent

September 8, 8:50 A.M. - September 12, 5 P.M.: participants sign up for Round One and Round Two oral argument slots (on Moot Court Bulletin Board near the Brief Stop)

September 14, 4:59 P.M.: Davis briefs due outside Moot Court Board Room on Fourth Floor

September 15-19: First Round of oral arguments

September 22-26: Second Round of oral arguments

September 29-30: Oral Argument Quarterfinals

October 6-7: Oral Argument Semifinals

October 17: Oral Argument Finals, Best Brief winner and first runner-up announced

NOTE: The Moot Court Board and the Davis Competition Administrators reserve the right to change this schedule if necessary.