

THE 2010 JUDGE JOHN R. BROWN ADMIRALTY MOOT COURT COMPETITION

RULES

Rule 1. THE COMPETITION

(A) The Judge John R. Brown Admiralty Moot Court Competition is an interscholastic appellate moot court competition sponsored each year by The University of Texas School of Law, and co-sponsored in 2010 by The Tulane University Law School, in memory of Judge John R. Brown, a judge on the United States Court of Appeals for the Fifth Circuit from 1955 to 1993, and one of the nation's most prominent admiralty judges.

(B) The competition is governed by these Rules, and the procedures established under these Rules, by the Competition Directors with the approval of the Competition Committee.

The 2010 Competition Director for the University of Texas is:

QUINN MARTINDALE
Board of Advocates
University of Texas School of Law
727 East Dean Keeton Street
Austin, TX 78705-3299
Tel.: (512) 232 - 3680
Fax: (512) 471 - 8585
qtmartindale@gmail.com

The 2010 Competition Directions for Tulane University is:

IAN M. FURMAN
Moot Court Office
AJ for Competitions
6329 Freret Street
New Orleans, LA 70115
Tel: 415.422.6307
Fax: 415.422.6433
ifurman@tulane.edu

(C) The Competition will be held in New Orleans, Louisiana, February 25-27, 2010. The Competition Directors will send each team detailed information on the program and schedule for the Competition by February 1, 2009.

Rule 2. TEAMS

(A) Each participating law school may enter up to two teams in the Competition. Teams will be enrolled in the Competition in the order that their registration is received.

Registration fees will be returned promptly if a team is unable to participate because of limited space.

(B) A team is composed of two or three students, all of whom must be enrolled in a full or part-time (day or night) program in the law school they represent. No team member may hold a law degree, except that full-time law students who are candidates for an advanced degree (such as the LL.M. degree) are eligible to compete.

(C) There may be no substitution of team members, except with the written consent of the Texas Competition Director.

Rule 3. BRIEFS

(A) The Texas Competition Director will assign each team to write its brief for either the petitioner or the respondent. Brief assignments will be announced when the Competition Packet is distributed. If a law school enters two teams in the Competition, the two teams will be assigned opposite sides of the case.

(B) Each team must submit two print copies of its brief with the appropriate cover. The name of the law school, the names of the team members, and the team letter must appear on the cover of one brief (the original brief). The additional print copy of the brief (the anonymous brief) may NOT include any identifying information, and instead must include only the team letter. Each team must also file with the Texas Competition Director an electronic copy of the anonymous brief in both pdf and Microsoft Word format, sent via e-mail attachment AND on a floppy disk or CDROM.

(C) The brief must be prepared using Microsoft Word to ensure that the document is accessible. The style, font, and pitch must be uniform throughout the brief, including footnotes but excluding the cover. *Italicized*, underlined, and **bold** type is permitted when appropriate. Normal text must be double-spaced. The brief must include page numbers at the top of each page. Briefs may not exceed twelve thousand words, exclusive of the following specific elements: the cover, questions presented, the table of contents, the table of authorities, and the appendix. The original brief and additional print copy must be printed, on one side of the page only, on 8^{1/2}-by-11 inch paper. The original brief and anonymous brief must be stapled with two (2) or three (3) staples evenly spaced along the left margin.

(D) Except as noted in Rule 3 (B) and Rule 3 (E), all other copies of the anonymous brief must be identical to the original brief in both content and form.

(E) Subject to any inconsistent provisions in these Rules, briefs should be in the format used in the United States Supreme Court.¹ All citations should be complete and in the

¹ Briefs must comply with Supreme Court Rule 24 (2005) to the extent that it is relevant. (The Rules are available online at <<http://www.supremecourtus.gov/ctrules/rulesofthecourt.pdf>>.) Notwithstanding Rule 24.2, a brief for the respondent should include all the material specified in Rule 24.1. Briefs should comply with Rule 24.1(f) only to the extent of citation to the constitutional provisions, etc., that the case involves. If any of the provisions governed by Rule 24.1(f) are not generally accessible, they should be reproduced in the appendix. Briefs should comply with Supreme Court Rule 33 only to the extent that Rule 33.1(g)(v)-(vi) governs the color of the cover. (*Every* copy of a brief that is filed or served must comply with Rule 33.1(g)(v)-(vi) to the extent that this rule governs the color of the cover.) Supreme Court Rule 34.1(a)-(f) governs the preparation of the cover (except to the extent that it is inconsistent with Rule 3(E) of these Rules) and Supreme Court Rule 34.2 governs the preparation of the tables of contents and authorities.

form prescribed in *A Uniform System of Citation* (17th ed. 2000). In addition, cases reported in American Maritime Cases (AMC) should include the parallel citations to AMC (as well as the citation otherwise required). The name of the law school, the names of the team members, and the team letter (*e.g.*, Team A) must be printed in the lower right corner on the cover of the original brief only. (The team number, *e.g.*, Team 1, is used only to identify teams during oral argument, and may *not* appear on the brief.) The anonymous brief and electronic copies of the brief filed with the Texas Competition Director may *not* include the name of the law school or the names of the team members, but the team letter must be printed in the lower right corner on the cover. Briefs may not be signed, and no matter serving to identify the law school, a team, or the team members may appear within the brief itself.

(F) An appendix may be used to reproduce the text of material that is not generally accessible. The appendix may not contain any argumentative material. Prohibited argumentative material includes, but is not limited to, a compilation of authorities and any material designed directly to support the argument made in the brief. The appendix may include (without violation of the argumentative material prohibition): constitutional provisions, treaties, statutes, ordinances, regulations, and any quasi-statutory materials.

(G) (i) Electronic copies of the anonymous brief in both pdf and Microsoft Word format must be filed with the Texas Competition Director via e-mail by 9 p.m. CST Tuesday, January 26th, 2010. These files are to be attached to an e-mail directed to Quinn Martindale at qtmartindale@gmail.com. The original brief, additional print copy, and additional electronic copies on either CD-ROM or floppy disk must be filed with the Texas Competition Director by overnight delivery service or hand delivery. For timely filing by overnight delivery service, a team must deliver its brief and accompanying electronic copies to a reputable overnight delivery service, properly packaged and with appropriate charges prepaid, before the deadline established by the service to guarantee delivery to the Texas Competition Director on Wednesday morning, January 27th, 2010. For timely filing by hand delivery, a team must deliver all copies of its brief to the Texas Competition Director by 9:00 p.m. CST Tuesday, January 26th, 2010.

(ii) Service on other teams is not required. Instead, all briefs will be posted to a password protected website. All competitors will be informed of the website address and password no later than 11:59 p.m. CST on Friday, January 29th, 2010.

(H) (i) The Texas Competition Director reviews all briefs to determine if there have been any violations of these Rules. Penalties for violations are governed by Rule 8.

(ii) To protest another team's brief, a team should: (1) state its protest in letter form with sufficient particularity to identify the exact violation, its location within the brief, and the Rule alleged to be violated and (2) file the protest with the Texas Competition Director. The deadline for filing is February 9th, 2010.

(iii) The Texas Competition Director will notify any team whose brief is believed to be in violation of these Rules, and that team will have an opportunity to reply prior to the commencement of the Competition.

Students may wish to consult actual briefs filed in Supreme Court cases (which are readily available online). The format used in the Supreme Court often differs from the format used in lower courts. For example, no certificate of service is included in the brief and no physical signature is included.

Rule 4. FILING

(A) Each team must file its original brief and electronic copies of its brief with the Texas Competition Director as specified in Rule 3(G)(i).

(B) Except for the filing of the briefs (which is governed by Rule 3(G)(i)), filing with the Texas Competition Director may be effected by overnight delivery, hand delivery, or email to the Texas Competition Director at the address listed in Rule 1(B).

Rule 5. SCORING OF BRIEFS

A judging committee selected by the Competition Committee scores all of the briefs. Separate panels of the judging committee score the petitioners' briefs and the respondents' briefs. Each brief judge independently evaluates briefs using the criteria listed on the Brief Score Grading Sheet and assigns grades not exceeding 100 points. The highest grade and the lowest grade for each brief are disregarded. The remaining grades are averaged to produce the raw score for each brief. The final brief score is determined by statistically standardizing the raw scores awarded by the separate panels. The brief with the highest standardized score is named the best brief in the Competition. *See* Rule 15.

Rule 6. ARGUMENT

(A) The three preliminary rounds of oral argument, on Thursday and Friday, February 25th and 26th, 2010 are run on a round-robin basis. Advancement to the quarterfinal round is determined on the basis of a team's win-loss record. Two-way ties are decided on the record in head-to-head competition, if any. Ties among a greater number of teams are decided on the record in rounds involving tied teams, if possible. Ties that cannot be broken on the basis of wins and losses are decided on the basis of the overall point differential in the three preliminary rounds. Any remaining ties are decided in favor of the team with the better average counsel ranks. The quarterfinals, semifinals, and championship round are run on an elimination basis.

(B) The Texas Competition Director will announce pairings and byes for the first two rounds of oral argument prior to the commencement of the Competition. To the extent possible, teams argue on the side they briefed in the first round and on the opposite side in the second round. Pairings and byes for the third round are announced after the conclusion of the second round. Sides for the third round are determined by a coin toss, with the team that wins the toss choosing its side. The eight highest placed teams advance to the quarterfinal round. If two teams from the same school advance to the quarterfinals, they are placed on opposite sides of the draw to ensure that they do not meet prior to the championship round. Subject to this constraint, the quarterfinal seedings are determined by the standings at the end of the preliminary rounds. Sides in each elimination round are determined by a coin toss, with the team that wins the toss choosing its side.

(C) Two members of a team speak in each round of oral argument. Any two members of a three-member team may speak in each round of oral argument.

- (D) Oral argument is limited to a total of thirty (30) minutes per team. Judges, in their discretion, may interrupt arguments to ask questions and may allow additional time. Petitioners, by advance arrangement, may reserve up to five (5) minutes for rebuttal. In dividing the oral argument time between the two participating team members, neither member may speak for more than twenty (20) minutes.
- (E) The winner of each argument will be determined in accordance with Rule 10.

Rule 7. FACULTY OR OTHER ASSISTANCE

- (A) The Competition exists to develop the art of appellate advocacy through the work of the participating team members. After receiving the Competition Packet and prior to the filing of its brief, *no team may receive any assistance of any kind from any faculty member or any other person*, including any assistance from, or sharing or comparison of research or work product with, members of another competing team from the same school. This Rule does not prohibit the use of computerized researching or word processing software (including automated cite-checking or spell-checking systems). Librarians may provide the sort of routine assistance that is regularly offered to law students using the library to complete assignments in conjunction with a law school course.
- (B) No team member, coach, or faculty advisor of any school still participating in the Competition may attend the argument of any other school or receive information from any person who has attended an argument of any other school. This Rule does not prohibit a person from attending an argument involving a team from his or her own school.
- (C) There is no limitation on the number of practices that a team may hold. Once a team's brief is filed, a person other than a team member may judge a practice round and may critique the team's performance.

Rule 8. PENALTIES

- (A) The Competition Directors may assess such penalties, including disqualification, as they deem reasonable and appropriate in their discretion for failure to comply with these Rules, deadlines set pursuant to these Rules, and other perceived violations that may arise.
- (B) All briefs will be subject to uniform penalties for each type of violation, although mitigating circumstances may be considered to reduce a penalty. Penalties may be levied in whole or fractional points.
- (C) If the Texas Competition Director determines the following brief violations have occurred, then the following specific penalties will be levied:
- (i) A five (5) point brief penalty for including matter within the brief that tends to identify a team, its law school, or the members. This penalty does not apply to the information required to be included on the cover of the original brief under Rule 3(E), but does apply to any identifying information on the cover section of the electronic copies.
 - (ii) A five point penalty for each 24-hour period, or part thereof, for late filing of the electronic copies that must be e-mailed to the Texas Competition Director. If the Texas Competition Director does not receive a team's electronic copies by 9 p.m. CST on

January 26th, 2009, the burden is on the team to prove compliance with Rule 3(G)(i).

(iii) A two (2) point brief penalty for each 24-hour period, or part thereof, for late delivery to an overnight delivery service or to the Texas Competition Director by hand under Rule 3(G)(i). If the Texas Competition Director does not receive a team's original briefs and floppy disk or CD-ROM by Tuesday morning, January 27th, 2009, the burden is on the team to prove compliance with Rule 3(G)(i).

(iv) A one one-hundredth (.01) point penalty will be assessed for each word over the word limit.

(v) A two (2) point brief penalty for failing to include the correct team letter on the cover of the electronic briefs filed with the Texas Competition Director as required by Rule 3(E). In addition, a one (1) point brief penalty for including the team number on the cover of the electronic briefs filed with the Texas Competition Director.

(vi) A three (3) point brief penalty for including argumentative material in the appendix in violation of Rule 3(F). In addition, any argumentative material in the appendix is treated as though it had been included in the brief for the purpose of applying Rule 8(C)(iv).

(vii) A one-tenth (.1) point brief penalty for mis-numbering the brief pages.

(viii) A two (2) point brief penalty for failure to include any of the following elements: question presented, table of contents, table of authorities, opinions below, jurisdictional statement, constitutional or statutory provisions, statement of the case, summary of argument. If two or more of these required elements are missing, the penalty is one (1) point for each missing element after the first. (Omission of any of these elements may also affect the score awarded by the brief judges.)

Assessment of all other penalties will be by the Competition Directors. Penalties will be discussed at the coaches' meeting before the first round and prior to formal assessment by the Competition Directors.

Rule 9. INTERPRETATION OF THE RULES

(A) Requests for interpretation of these Rules should be addressed to the Texas Competition Director at the address given in Rule 1(B). Teams should request interpretations at the earliest date possible, and not later than December 14th, 2009. All interpretations of these Rules and any waivers, assessments of penalties, or other action taken is within the discretion of the Texas Competition Director with the advice and guidance of the Competition Committee. Such actions are final, and all participants are bound thereby. The Texas Competition Director will notify all schools of any responses to rule interpretation requests, protests, and other substantive communications.

(B) The Texas Competition Director will notify each competing school of any substantive change or clarification in the problem.

Rule 10. ROUND SCORING

(A) Brief scores are determined in accordance with Rule 5. The FINAL BRIEF SCORE is weighted forty percent (40%) in determining the TOTAL ROUND SCORE.

(B) To the extent possible, each round of oral argument is scored by a panel of at least three (3) judges. Each oral argument judge independently evaluates each counsel under

the criteria listed on the Judge's Scoring Sheet and assigns a total score not exceeding 100 points for each counsel. In addition, each oral argument judge ranks each counsel from first to fourth.

(C) The bailiff in each round reports each counsel's oral scores and ranks to the Competition headquarters. Oral scores are averaged the scores to determine a FINAL ORAL SCORE. This FINAL ORAL SCORE is weighted sixty percent (60%) in determining the TOTAL ROUND SCORE.

(D) The team with the higher TOTAL ROUND SCORE, based sixty percent (60%) on the FINAL ORAL SCORE and forty percent (40%) on the FINAL BRIEF SCORE, is the winner of the round. If the teams are tied with the same TOTAL ROUND SCORE, then the winner is the team with the better average counsel ranks. If this is also tied, the winner is the team chosen as the winning team by a majority of the oral argument judges. In the unlikely event of a tie in the vote of the oral argument judges, the team with the higher brief score is the winner.

Rule 11. ANONYMITY

(A) The identity of the teams' schools may not be disclosed to the brief judges or the oral argument judges before the end of the Competition. Briefs are identified to the judges solely by team letter (*e.g.*, Team A) and teams are identified in oral argument solely by team number (*e.g.*, Team 1).

(B) A team may not identify its school to a judge by any method, including at the conclusion of a round, in the event that a judge is used in a later round. A team may not identify its team letter to an oral argument judge or its team number to a brief judge, in the event that a judge serves in both capacities. The Local Competition Director will, to the extent possible, avoid assigning a judge to a round involving a law school with which the judge is affiliated or a team that the judge has seen in an earlier round.

Rule 12. ORAL ARGUMENT PROCEDURES

(A) Prior to the round, each oral argument judge receives a copy of the brief problem and a bench memorandum prepared by the Competition Committee. Oral argument judges will not receive copies of the briefs of any school. The Local Competition Director will furnish bailiffs a copy of the oral argument instructions. Each oral argument judge also receives a copy of the —Judging Instructions and Judge's Scoring Sheet. Each judge casts his or her vote on the oral arguments by independently grading each counsel on the Judge's Scoring Sheet. The bailiff collects the ballots, records the votes on the tabulation form, and delivers the ballots and the tabulation form to the Texas Competition Director. The oral argument and brief scores are combined to determine the winner of the round.

(B) Oral arguments are limited to thirty (30) minutes per side, and extensions of time are allowed only at the discretion of the Court. No counsel may speak for a total of more than twenty (20) minutes. Counsel may not ask for time extensions or invite additional questions at the end of the argument, but if a question is asked as time expires, counsel may inform the Court that time has expired and request instruction from the Court on answering the question. Judges are encouraged to ask questions, and they are instructed

in advance that they may extend time on their own initiative. The bailiff will stand briefly when the time has expired.

Rule 13. BEST ORAL ADVOCATE IN THE COMPETITION

The Best Oral Advocate in the Competition is selected on the basis of performance in the preliminary rounds. To be eligible for consideration, an advocate must argue in each round in which his or her team competes. The Best Oral Advocate will be the person with the best average counsel rank in the preliminary rounds. In the event of a tie, the point differentials from each round will be calculated, and the advocate with the highest point differential from among those tied will be declared the Best Oral Advocate in the Competition. The Best Oral Advocate in the Competition will receive The Royston, Rayzor, Vickery & Williams Award, which is sponsored by and named for the Houston law firm of Royston, Rayzor, Vickery & Williams, L.L.P., where Judge Brown was a lawyer for over twenty years before his elevation to the bench in 1955.

Rule 14. BEST ORAL ADVOCATE IN THE CHAMPIONSHIP ROUND

The championship round judges select the Best Oral Advocate in the Championship Round from among the counsel speaking in the championship round. The Judge's Scoring Sheet for the championship round provides a space to vote for the Best Oral Advocate. The Best Oral Advocate is the counsel who receives the most Best Oral Advocate votes from the judges in the championship round. In the event of a tie among counsel in the Best Oral Advocate votes, the counsel, as between those tied, who receives the best average counsel rank will be named Best Oral Advocate in the Championship Round. If this is also a tie, the counsel, as between those tied, who receives the highest total of speaker points from all the judges in the championship round will be named Best Oral Advocate in the Championship Round.

Rule 15. AWARDS

The following awards will be presented at the end of the Competition:

CHAMPIONSHIP TROPHY - awarded to the winner of the championship round.

FINALIST AWARD - awarded to the team competing in the championship round that does not win the Championship Trophy.

SEMI-FINALIST AWARDS - awarded to the two teams competing in the semifinal rounds that do not compete in the championship round.

THE MARITIME LAW ASSOCIATION OF THE UNITED STATES AWARD FOR THE BEST BRIEF - awarded to the team that writes the best brief in the Competition as determined under Rule 5.

AWARD FOR BEST [PETITIONER'S or RESPONDENT'S] BRIEF - awarded to the team that writes the petitioner's brief that receives the highest score as determined under Rule 5 if a respondent's brief is named the best brief in the Competition; awarded to the team that writes the respondent's brief that receives the highest score as determined under Rule 5 if a petitioner's brief is named the best brief in the Competition.

THE ROYSTON, RAYZOR, VICKERY & WILLIAMS AWARD FOR BEST ORAL ADVOCATE IN THE COMPETITION - awarded to the Best Oral Advocate in the Competition as determined under Rule 13.

AWARD FOR BEST ORAL ADVOCATE IN THE CHAMPIONSHIP ROUND awarded to the Best Oral Advocate in the Championship Round as determined under Rule 14. Additional awards (*e.g.*, for quarter-finalists) may be presented if the Competition Committee determines that such additional awards would be appropriate.