



NEW YORK
CITY BAR

ANNUAL NATIONAL MOOT COURT

COMPETITION RULES

2008 – 2009

Background

The New York City Bar's National Moot Court Competition is an annual inter-law school event designed to promote the art of appellate advocacy. It is sponsored by the New York City Bar's Young Lawyers Committee ("Committee") and the American College of Trial Lawyers.

The Competition consists of Regional and National Final rounds. It divides the United States into 14 regions. Within each region, a Committee-designated regional sponsor conducts oral arguments for the law school teams located in that region. The winner and second place team in each region may enter the National Finals in New York City.

These Rules govern the Competition. And the Committee is the final authority on interpreting these Rules. Those interpretations and any decisions on how to administer this Competition are binding on all competitors. Although regional sponsors may supplement these rules with local procedures, those procedures must be approved annually by the Committee and be consistent with these Rules. Any Rule interpretation requests should be sent to the Young Lawyers Committee at ylc@nycbar.org.

Finally, the Committee holds the copyrights to all Competition materials. By entering this Competition, all agree to get the Committee's express written permission before using these materials for any purpose unrelated to actually competing in this event. Competitors also grant the Committee nonexclusive worldwide rights to reproduce and distribute any materials submitted or recorded throughout the Competition.

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Rule 1 – Competition’s Mission

The purpose of this Competition is to benefit our profession by helping law students develop the art of appellate advocacy. It is about promoting a sense of integrity, advocacy, and esteem in our noble profession. Accordingly, everyone is expected to follow the letter – as well as the spirit – of these Rules, and maintain the highest levels of professionalism throughout the Competition.

Rule 2 – Teams

- 2.1 **Teams Generally.** The Committee (or Regional Sponsor) determines how many teams may enter the regional rounds. Each team may have up to 3 full-time (day or evening) law students. Competitors graduating after the regional rounds may still participate in the National Finals.
- 2.2 **Team Substitution.** Teams may not substitute competitors after certification and service of the briefs, except with the Committee’s written consent. The Committee will not grant competitor substitution requests **after** oral argument in the regional rounds begins. The only exception is when number of competitors falls below two.
- 2.3 **Team Selection.** Law schools may not use this year’s Problem to select that law school’s competitors for the Annual National Moot Court Competition. But law schools may use old copies of our materials by first obtaining the Committee’s express written consent.

Rule 3 – Briefs

- 3.1 **General.** A team may submit a brief on behalf of either petitioner or respondent. Teams from the same law school must brief opposite sides of the issues. Teams entering the National Finals must use the same brief submitted for the regional rounds.
- 3.2 **Format.** Brief format generally follows the one used by the United States Supreme Court, unless otherwise directed by these Rules. No formal statement of jurisdiction is needed. Briefs must use citations as prescribed by the current edition of Harvard Law Review Association, *A Uniform System of Citation*. All briefs must:
 - 3.2.1 Be printed on 8½ x11 inch paper.
 - 3.2.2 Use uniform style and 12-point Arial font for all brief contents, including footnotes.

- 3.2.3 Have at least one-inch margins on all sides. Page numbers, however, may be put outside these parameters.
- 3.2.4 Use only double-spaced text. Footnotes, however, may be single-spaced.
- 3.2.5 Be firmly bound at left margin (e.g., spiral, stapled, perfect binding).
- 3.2.6 Be 35 pages or less in length. Any partially-filled page will count as a full page. This limit does not include the questions presented, subject index, table of authorities, or appendix. Appendices may only be used to recite relevant statutory text (e.g., constitutional provisions, regulations) or other material not generally available.
- 3.3 **Copies.** All brief copies submitted must be identical. Briefs may be copied using any process producing a clear black image on white paper. Briefs may be duplicated on one or both sides of a page. The copying process, however, may not reduce the character size.
- 3.4 **Identification.** Competitor and law school names only appear once: in the lower right corner of the brief's cover. For electronic brief submissions, however, only a team's officially-designated number may appear in the lower right corner of the brief's cover, **not** the law school name. Briefs must **not** be signed or in any other way identify a team or its members.
- 3.5 **Certification.** Competitors must certify that they prepared their brief in accordance with these Rules, and that it represents the work product solely of those Competitors. The certification must accompany the brief, but not bound or otherwise inserted to violate Rule 3.4. The certification states:

We certify that York University School of Law's brief is solely our work product, and that we have not received any assistance in writing it.	
_____	_____
Tom Sawyer	Huckleberry Finn

- 3.6 **No Revisions.** Once a team submits its brief, it may not revise it.
- 3.7 **Regional Brief Grading.** Regional Sponsors blind-grade all properly submitted briefs, and select the "best" overall brief in that region. Regional sponsors remove identifying information before submitting briefs for scoring, and assess appropriate penalties.
- 3.8 **National Finals Brief Grading.** The Committee blind-grades all properly submitted briefs, and selects the "best" brief in the Competition. The Committee removes identifying information before submitting briefs for scoring, and assesses appropriate penalties.

Rule 4 – Service and Certifications

- 4.1 **Service on the Regional Sponsor.** Teams must serve briefs on the Regional Sponsor by October 17, 2008. Number of brief copies (hard or electronic) should comply with the Regional Sponsor's specific instructions. If the Regional Sponsor does not have specific instructions, teams must serve 10 hard copies of its brief consistent with Rule 4.4 below.
- 4.2 **Service on Committee.** Committee service procedures vary depending on 3 situations.
- 4.2.1 **Regional Rounds.** Teams competing outside Region 2 must only serve the Committee with 1 hard copy of brief (with original Rule 3.5 certificate) in a single package on the Committee by **October 17, 2008**.
- 4.2.2 **Region 2 Competitors.** Teams competing in Region 2 must serve the Committee with 10 hard copies (with original Rule 3.5 certificate) plus 1 electronic copy of brief to:
- Young Lawyers Committee
Attn.: National Moot Court Competition
New York City Bar
42 West 44th Street
New York, New York 10036-6689
- 4.2.3 **National Finals.** Teams competing in the National Finals must follow Rule 4.2.2 Committee service procedures, and serve briefs by close of business on 10th day after regional rounds ends.
- 4.2.4 **Electronic Copy Described.** Send electronic briefs to the Committee at: ylcbrief@nycbar.org. Use only PDF format. E-mail subject line must state: "[Your School Name and Team Number] Brief." E-mail body must only contain your school name, competitor names, and team representative's complete contact information. Attach brief only as a single document.
- 4.3 **Service on Opposing Teams.** Teams may serve opposing teams by hard or electronic copy using PDF format:
- 4.3.1 By **October 17, 2008** – at the regional rounds. Unless regional sponsors have other specific instructions, teams will serve 1 copy of their brief on each team competing in that region.
- 4.3.2 By **December 15, 2008** – at the National Finals. Teams at this round must serve 1 copy of their brief on all other National Finals teams.
- 4.4 **Method and Timing of Service.** Service under these Rules occurs by depositing materials by the deadline in the U.S. mail first-class postage prepaid. The postmark date operates as the official date of mailing for briefs served by U.S.

mail. Service may also occur by an overnight delivery service with delivery charges paid by the sender. Materials must be sent to the proper Regional Sponsor (or Committee), and any authorized representative of opposing teams. Coaches act as official team representatives, unless specifically stated otherwise.

Rule 5 – Proof of Service

Teams entering the National Finals must serve on the Committee a Certificate of Compliance by **December 19, 2008**. The Certificate of Compliance must be sent under separate cover from briefs. The form of the Certificate will state:

<p>I certify that on [Insert Date], my team caused 1 copy of our brief to be served in accordance with Rule 4 of the New York City Bar’s National Moot Court Competition. My team served the following schools:</p> <p>York University School of Law 42 West 44th Street New York, NY 10036</p> <p>_____</p> <p>Horatio Hornblower</p>
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Rule 6 – Law Clerks

- 6.1 **General.** Each team (or law school) is ultimately responsible for supplying their own law clerk for oral argument. As a courtesy, however, Regional Sponsors may elect to provide law clerks. During argument, law clerks track time and visibly display time cards showing remaining time to judges and competitors.
- 6.2 **Eligibility.** Anyone may serve as law clerk, except a competitor arguing in that round.
- 6.3 **Duties.** Law clerks are responsible for ensuring arguments proceed consistent with these rules. Specifically:
 - 6.3.1 Petitioner’s clerk escorts judges to the courtroom.
 - 6.3.2 Petitioner’s clerk calls the Court to order with the Supreme Court’s traditional “call for silence.”
 - 6.3.3 Petitioner’s clerk tracks petitioner’s time.
 - 6.3.4 Respondent’s clerk tracks respondent’s time.
 - 6.3.5 Respondent’s clerk instructs everyone (including clerks) to exit while judges deliberate.

- 6.3.6 A panel of judges decides the oral argument's winner and assigns a score. Then, **both** clerks deliver the score to Competition officials to calculate the total score. Only that round's clerks may enter the official Competition grading room.
- 6.3.7 After Competition officials determine the winner, clerks carry scoring results to judges. Judges then announce the winner.

Rule 7 – Regional and National Final Rounds

- 7.1 **Number of Participants.** Two competitors represent each team in every argument.
- 7.2 **Time Allowed for Argument.** Each team receives up to **30** minutes for oral argument. Judges may grant additional time. Petitioner may reserve up to 5 minutes in advance for rebuttal. Only one competitor may argue rebuttal.
- 7.3. **Oral Argument Scoring.** A panel of judges determines oral argument score. Judges are **never** informed of the team's brief grade before oral argument. Overall score is computed by weighing the oral arguments 60 percent, and the brief 40 percent (*Oral Argument* x .60 + *Brief Score* x .40 = *Final Score*). Scores are computed to the nearest hundredth decimal (e.g., 92.75).
- 7.4 **Ties.** Occasionally, a draw (or tie) may occur after computing scores. In those instances, the criteria used to determine the winner depend on the circumstances.
- 7.4.1 **Argument Ties.** If a tie results *after* combining the oral argument and brief scores, then the team with the higher oral argument score prevails.
- 7.4.2 **Ranking Ties.** If 2 teams are equally ranked because both have the same win-loss record, then tie is broken in favor of the team with the higher aggregate point differential. If those teams have identical win-loss record *and* aggregate point differentials, then tie is broken in favor of the team with higher brief score.
- 7.4.3 **Miscellaneous.** Ultimately, if an unanticipated draw scenario results, the Regional Sponsor (or Committee during the National Finals) will be the final authority on how to determine the winner.
- 7.5 **Recordkeeping.** Regional Sponsors maintain records of the oral and brief scores throughout each round of the competition.
- 7.6 **Judicial Conflicts.** Conflicts arise when judges teach or coach at a particular law school. If a conflict occurs, the judge is reassigned, unless judge and members of both teams unanimously agree to waive conflict.

Rule 8 – Regional Rounds

The goal of the Regional Rounds is to determine the first and second place team from each region. Eligible teams then advance to the National Finals in New York City. Only a total of 28 teams may compete in the National Finals.

- 8.1 **Time and Place.** Regional Sponsors determine time and place for each argument. Teams receive at least 30 days advanced notice of the oral argument's time and place. All regional rounds must end by December 5, 2008.
- 8.2 **Team Pairings.** Regional sponsors must notify teams of pairings for the first 2 preliminary rounds at the same time as the Rule 8.1 notice.
- 8.2.1 **Preliminary Rounds.** Pairings for first 2 preliminary rounds are randomly scheduled. In making that schedule, no team argues the same side of the case in the first 2 preliminary rounds. (In regions allowing 2 teams from each school, no 2 teams from the same school may argue against each other.) Also, the same 2 teams are not paired together twice during the preliminary rounds.
- 8.2.2 **Semi-Final Rounds.** Semi-final argument pairing is determined by seeding. This means that the top seeded team argues against the last place team, the second place team argues against the second-to-last team. (See Rule 8.7).
- 8.3 **Byes.** A bye round may be necessary if an odd number of teams compete in a regional competition. In that case, the Regional Sponsor may randomly select 2 teams to receive "byes" in each of the 2 preliminary rounds. These teams will then be paired against each other, and will argue at a time decided by the Regional Sponsor.
- 8.4 **Preliminary Rounds.** Teams argue at least twice before being eliminated (preliminary rounds). All teams still undefeated after the preliminary rounds advance to either the Semi-Final or "tie-breaker" rounds. If 4 or fewer teams are undefeated after the preliminary rounds, those undefeated teams advance to the Semi-Final round. If fewer than 4 teams are undefeated, the necessary number of teams with the next highest win-loss record, ranked in order of highest point differential, also advance. The goal is to narrow the group of teams to 4 for the Semi-Final round.
- 8.5 **Tie-Breaker Rounds.** "Tie-breaker" rounds occur only if more than 4 teams are undefeated during the preliminary rounds. In that case, a "tie-breaker" round is held among all undefeated teams, and any additional teams necessary to evenly complete the bracket. For example, if 5 undefeated teams initially result, then 6 must compete at the tie-breaker. In that case, the sixth team is the next highest seeded team (see Rule 8.7). After this round, all teams still undefeated advance to the Semi-Final round – along with the necessary number of extra teams with the

highest point differential. Again, the goal of the “tie-breaker” round is to narrow the group of teams to 4 for the Semi-Final round.

- 8.6 **Final Round.** The 2 prevailing teams of the Semi-Final round advance to the Final Round. The winner here wins the Regional Competition.
- 8.7 **Seeding Explained.** Once preliminary rounds end, teams are paired by seeding. Seeding is established according to a team’s win-loss record during the preliminary rounds. If any teams have the same win-loss record, the team with the highest point differential ranks higher. (See also Rule 7.4).
- 8.8 **Aggregate Point Differential.** Aggregate point differential plays a key role in determining who advances during the preliminary round. For example, if *Team A* defeated its first round opponent by a score of 80 to 75, and lost its second argument with a 78 to 80 score, its aggregate point difference for the 2 rounds is +3 points (i.e., the net of the +5 point difference in its first argument and the -2 point difference in its second argument). Ties in win-loss record are broken in favor of the team with the highest aggregate point differences over its opponents during the preliminary rounds.
- 8.9 **Double Coin Toss.** During Semi-Final and Final rounds, Competition officials assign case side by a double coin toss. This means that a Competition official tosses a coin and asks one team representative to call the result. The winner of the first coin toss earns the right to call the outcome of a second coin toss. The winner of the second coin toss may choose the side it will represent in the next argument.
- 8.10 **Objections.** Regional Sponsors must include in their Rule 8.1 notice other procedures to be used in that contest. Any objections must be promptly forwarded to the Regional Sponsor and the Committee within 10 days after Rule 8.1 notice is sent.
- 8.11 **Committee Notice.** Regional Sponsors must notify the Committee of prevailing teams and competitors eligible to enter the National Finals within 7 days after the end of the regional rounds.
- 8.12 **Local Rules.** Regional Sponsors may modify Rule 8 procedures for conducting regional rounds (e.g., adding a quarter-final round before advancing to the semi-finals) with the Committee’s express written consent. To do so, however, Regional Sponsors must seek Committee approval annually by submitting proposed revisions (i.e., local rules) in writing at least 60 days before oral arguments begin. Local rules must always use a plain-English format, and be made available to competitors 30 days before arguments begin (See Rule 8.1).

Rule 9 – National Final Rounds

- 9.1 **General.** The National Finals are at the New York City Bar in late January or early February. Once the Committee knows all the teams entering the National Final rounds, it will announce program details.
- 9.2. **Eligibility.** The first and second place teams from each region are eligible to enter the National Finals. But only one team from each school may compete. So if both the first and second place team are from the same school, then the third place regional team will replace the second place team as eligible to enter the National Finals.
- 9.3 **Teams Pairings.** The Committee randomly schedules the first 2 preliminary rounds.
- 9.3.1 **Preliminary Rounds.** In making the schedule, no team argues the same side of the case in the first 2 preliminary rounds. Also, no team from the same region may be paired against each other. Finally, the same 2 teams are not paired together twice during the preliminary rounds.
- 9.3.2 **Top 16 Teams.** After every team argues twice, the goal is to narrow the pool to 16 teams. Pairing for this “Octo-Final” Round is determined by seeding. The top seeded team argues against the 16th seeded team, the 2nd seeded team arguing against the 15th seeded, and so on. Teams that have argued against each other in the preliminary rounds may be paired against one another in later rounds.
- 9.4 **Seeding Explained.** Again, seeding is based on a team’s win-loss record during the preliminary rounds. If any teams have the same win-loss record, the team with the highest aggregate point differential ranks higher. If any teams have identical win-loss records and point differentials, brief score determines ranking. Teams will not be re-seeded after the “Octo-Final” Round. Instead, all subsequent pairings follow an elimination ladder.
- 9.5 **Argument Procedures.** After preliminary rounds end, only 16 teams advance to the Octo-Final round. Subsequent arguments proceed on a winner-advances basis. All teams undefeated after preliminary rounds advance to the Octo-Finals – along with the necessary number of teams with the highest aggregate point differential.
- 9.6 **Double Coin Toss.** During these elimination rounds, a double coin toss determines the side competitors will represent. (Double-coin toss process is fully described in Rule 8.9.)
- 9.7 **Objections.** Any objections must be promptly forwarded to the Committee within 10 days after the Rule 9.1 notice is sent.

Rule 10 – Assistance Throughout Competition

- 10.1 **No Faculty Assistance.** Teams may not receive any help in writing briefs. Teams within the same school may not share or compare work product. Teams may, however, generally discuss case issues with other students, and use any widely available research tools.
- 10.2 **Preparing For Oral Argument.** Once a brief is filed, competitors may receive help in preparing for oral argument. Schools entering 2 teams may hold up to 3 practice arguments between those 2 teams **after** filing briefs.
- 10.3 **Counsel’s Table.** Up to 3 competitors may sit at counsel’s table. Once a round begins, competitors sitting at counsel’s table may not communicate with non-competitors.

Rule 11 – No Scouting

Scouting rival teams is strictly prohibited. No competitor or coach still participating may attend oral arguments of rival teams or otherwise obtain information about other competitors. Regional Sponsors may waive this prohibition, however, to accommodate administrative concerns.

Rule 12 – Penalties

- 12.1 The Committee or Regional Sponsors may impose **any** penalty deemed reasonable and appropriate for failure to comply with these Rules.
- 12.2 All briefs within a single region will receive uniform penalties for each type of violation. Penalties may be levied in whole or fractional points.
- 12.3 Regional Sponsors must keep records of any penalty imposed under these Rules for at least 6 months. The Committee may obtain copies of those records.