

**2009 JULIUS H. MINER MOOT COURT RULES**

**I. BRIEF**

**A. ORGANIZATION**

1. Each team is responsible for preparing a brief. There are two main issues in the problem and we suggest that each team member be primarily responsible for one issue. However, you are free to ignore this advice and divide the work for the brief in whatever manner you choose. Regardless of your method, each brief must contain the following sections in the following order. Failure to include any section will result in the penalty indicated:

<u>Section:</u>	<u>Penalty if Missing:</u>
a. Title Page	2 points
b. Question(s) Presented	5 points
c. Index	5 points
d. Table of Authorities	5 points
e. Condensed Title Page	2 points
f. Opinions Below	2 points
g. Relevant Statutes and Constitutional Provisions	2 points
h. Statement of the Case	Disqualification
i. Summary of the Argument	Disqualification
j. Argument	Disqualification
k. Conclusion	5 points
l. Appendix	2 points

2. The title page must include the Student ID numbers of both team members. **The appearance of either participant's name anywhere on the brief will result in the disqualification of that team.**
3. The table of authorities should contain the appropriate subdivisions, *e.g.*, Cases, Constitutional Provisions, Statutes, and Other Authorities.
4. The term *passim* should be used in the Table of Authorities only if you cite a particular case or statute more than five times throughout the brief. In all other instances, use specific page numbers for citations.
5. The Opinions Below section must contain citations to the fictitious opinion included in the problem.
6. You may cite to the statement of facts and the fictitious opinion below in your argument section. Please cite to the statement of facts using the page numbers at the bottom of the problem packet (*e.g.* R, 4.) and cite to the opinion below using the F.5d cites (*e.g.* 191 F.5d 1000, 1005).

7. Do not include a jurisdictional statement.
8. The Relevant Statutes and Constitutional Provisions section should consist of a statement that the full text of the provisions is set forth in the Appendix. The full text in the Appendix may be typed or photocopied.
9. All citations must conform to the Bluebook: A Uniform System of Citation (18<sup>th</sup> ed.). Copies of the Bluebook can be found in the law school library.
10. Argument headings must be in ALL CAPITAL LETTERS. Subheadings must be in ordinary type and indented. For example:  
  
I. MOOT COURT IS GOOD FOR YOU.  
    A. Moot Court is good for your social life.  
        1. Moot Court will give you something to talk about at Bar Review.
11. Two of the top briefs from last year's competition will be available for review on the Miner Moot Court website and on reserve in the law school library a day or two after the problem is released. Any variation in format between these briefs and the rules will be resolved in favor of the rules.

## **B. LENGTH**

1. The typeface must be 12-point Courier, or Courier-style (including Courier New). The font must also be a fixed-pitch font, measuring no less than 10 characters-per-inch. ("C.P.I.") Do not print your brief on a printer with proportional spacing. If you are uncertain whether your printer and font will comply with the rules, be sure to measure the number of characters per inch before you begin writing. Violations of the typeface rule result in disqualification.

This is an example of a 12-point, fixed-pitch, 10 C.P.I. Courier New typeface.

2. The brief is limited to 30 double-spaced pages.
3. The following brief sections are included in the page limit:
  - a. Question(s) Presented
  - b. Condensed Title Page
  - c. Opinions Below
  - d. Relevant Statutes and Constitutional Provisions
  - e. Statement of the Case
  - f. Summary of the Argument
  - g. Argument
  - h. Conclusion

4. The following brief sections are not included in the page limit:
  - a. Title Page
  - b. Index
  - c. Table of Authorities
  - d. Appendix
5. Briefs must be double-spaced (25-27 lines per page) on 8-1/2 x 11-inch white paper. Any briefs not double-spaced will result in disqualification. Penalties of 0.25 points will be assessed for each line over the 27 lines per page and 30 page maximums.
6. Footnotes are permitted, but they must be double-spaced and must appear at the bottom of the corresponding page of text. Bluebook citations should be included within the text of your argument.
7. The only places single spacing is permitted are the Index, the argument headings, and block quotations pursuant to Bluebook rules.
8. Margins must be one inch on all sides – top, bottom, left, and right. A penalty of 0.25 points will be assessed for each margin – left, right, top, or bottom – that violates these rules. Thus, it is possible to lose one point per page.

### **C. BRIEF GRADING**

1. Two or three graders will score each brief on a 100-point scale. The graders will consist of law school faculty members and select 3L Moot Court Board members. Graders will follow rules and procedures contained in the Brief Scoring Sheet (below). The two scores will be averaged into a base brief score.
2. If one grader's score is 25 points higher or lower than the other grader's score, a third person will grade the brief. The three scores will then be averaged into a base brief score.
3. The final brief score is determined by subtracting penalty points from the base brief score. Penalty points may result from organization violations, length violations, Bluebook errors, or late turn-in.
4. The penalty points for organization violations are detailed in section I.A.1 of these rules.
5. The penalty points for length violations are detailed in section I.B of these rules.

- The penalty points for Bluebook errors are shown below. Once a Bluebook error is assessed, repetitions of that error will not be counted toward the total number of errors.

<u># Of Errors</u>	<u>Points Deducted</u>
0-5	0
6-10	1
11-15	2
16-20	3
21-25	4
26-30	5
31-35	6
36-40	7
41-45	8
46-50	9
>50	10

- The penalty points for late turn-in are described in Sections II.A.4.
- These are the complete rules for the brief. Any conflict between these rules and other rules, *e.g.*, those for the Supreme Court of the United States, will be resolved in favor of these rules. For example, the United States Supreme Court Rules require that each brief have a colored cover - our rules do not.

## II. COMPETITION PROCEDURES

### A. BRIEF DEADLINES

- Each team must turn in **five** copies of its brief to the Moot Court Office (LM B-2) **between 1:00 PM and 5:00 PM on Wednesday, January 28, 2009.**
- If a team is without the requisite five copies of its brief when turning it in, late penalties will be assessed up until the time all five copies are received.
- Penalties for late turn-in will be assessed as follows:

<u>Time of Turn-in:</u>	<u>Points Deducted:</u>
5:00 p.m. - 5:30 p.m. (1/28/09)	2 points
5:30 p.m. - 6:00 p.m. (1/28/09)	4 points
6:00 p.m. - 1:00 p.m. (1/29/09)	10 points

- Briefs will not be accepted after 1:00 p.m. on Tuesday January 29, 2009.

## **B. ORAL ROUNDS**

1. Each team will argue in four preliminary rounds (unless a bye needs to be given due to an odd number of teams). The first two preliminary round pairings will be selected at random. The final two preliminary round pairings will be selected based on “power-protection” (teams with similar records facing each other). Every effort will be made to insure that each team argues both sides of the problem two times in the preliminary rounds, but this is not always possible. If it is not possible, random selection will determine which side teams argue.
2. Opposing team assignments will be emailed to participants as soon as possible following each round of oral arguments. Room assignments will be emailed to participants the day of each competition.
3. A copy of your opponent’s brief will be placed in your mailbox at least one day before oral argument. All briefs must be returned in their original condition to the bailiff at the close of each round. You may not write on your opponents’ brief. You may make a copy of their brief.
4. Judges will read a bench memo before each round. They will not receive a copy of your brief. Teams are not required to make all of the arguments they used in the written brief. As the competition progresses, it is expected that teams will refine their oral arguments.
5. Each team will have 30 minutes for oral argument in each round, which it may divide in any manner it chooses, provided that each competitor present argues for at least 10 minutes total. In the extraordinary event that one team member is unable to argue on a particular evening, the other member may argue both issues. This arrangement must be cleared with the Co-Chairs before the event. On no occasion may both teammates be unavailable to compete. In such an event, the team will be disqualified from the competition.
6. Should members of one team believe an opponent has misstated the law or facts during oral argument, that team should point out the misstatement during oral arguments. Respondents will then have the opportunity during rebuttal to respond. The bench memo will contain concise summaries of the relevant facts and law, and the Judges will receive instructions to make specific point deductions for misstatements even if not pointed out by the opposition. Therefore, please be careful in stating law and facts. Please note, it is not necessarily a mistake to admit that you are unfamiliar with the holdings of a particular case, especially if it is obscure. Judges will respect honesty much more than obfuscation or misrepresentation, and will score accordingly.
7. Petitioners may reserve up to five minutes for rebuttal by requesting rebuttal time at the beginning of each round. Rebuttal time is included in the team’s 30

minutes. The rebuttal time may not be split among team members – one team member will handle the rebuttal. Rebuttal is limited to arguments addressing topics raised by the Respondents or the Judges. No new topics may be introduced during rebuttal.

8. The judges will submit scores for oral arguments. The winner of each round will be determined by weighing the scores in the following percentages per round.

	Brief Score Weight*	Oral Score Weight
Preliminary Rounds	40 %	60 %
Sweet Sixteen	30 %	70 %
Elite Eight	20 %	80 %
Final Four	10 %	90 %
Finals	0 %	100 %

\* The Briefs shall serve as the tie-breaker in the final round in case of a tie.

9. The 16 teams with the best win/loss record at the end of the four preliminary rounds will advance to the Sweet 16. Ties in win/loss record will be broken by strength of schedule and brief scores, in that order.
10. Sweet 16 teams will be ranked in order of win/loss records. Teams with the same win/loss record will be ranked in order of strength of schedule and brief score, in that order.
11. Sweet 16 teams compete in a single elimination tournament. Only the winning team advances in each round for the remainder of the competition.
12. During the elimination rounds, the team with the better ranking chooses the side they wish to argue.

### C. OTHER GUIDELINES

1. This competition is administered subject to the provisions of the Northwestern University School of Law Honor Code. Competitors must adhere to these rules.
2. Participants are reminded to cite all sources carefully. Any failure to attribute words or ideas to their proper sources is plagiarism and may result in disqualification and honor code action.

3. Materials in the library are for the use of all competitors. Hoarding or stealing any materials is a violation of the SBA Honor Code and of these rules and will result in **IMMEDIATE DISQUALIFICATION**.
4. Competitors may prepare for oral argument rounds with any person, with the following exceptions: members of the Julius H. Miner Moot Court Board, National Moot Court Team Members, and Faculty Members.
5. You may not charge copying costs to student publications or other groups, e.g., SBA or Miner Moot Court Board.
6. You may discuss the problem with other students. However, we can not emphasize enough that the briefs need to be **YOUR WORK**. Also, your partner can certainly look over your portion of the brief, but do not swap briefs with other teams for proofreading or critiquing purposes. Swapping briefs after the brief due date in order to prepare for oral arguments is permissible.
7. You do not need to discuss the standard of review in your brief - it is de novo. Your brief should focus on your substantive legal positions and arguments. You can discuss the standard of review and legal burdens in your oral argument if you deem them important to your position.

#### **D. AWARDS**

1. **Brief:**  
**The Adlai Ewing Stevenson Award** will be presented to the team with the best brief. To determine the winner of the award, the five highest scoring briefs are re-scored by a committee composed of the Moot Court Co-Chairs, Moot Court Problem Committee, and three Law School Faculty Members.
2. **Final Round:**  
All finalists receive the **Lowden-Wigmore Prizes**. The team winning the final round receives the **William Jennings Bryan Award**. The Outstanding Speaker in the final round receives the **International Academy of Trial Lawyers Award**.
3. **National Moot Court Team:**  
The Co-Chairs, with the assistance of the entire Moot Court Board, will select the eight members of the 2009-2010 National Moot Court Team. These selections will be based on performance during the entire competition. A competitor need not advance to the elimination rounds to be considered for the National Team.
4. **The 2009-2010 Julius H. Miner Moot Court Board:**

All competitors will be asked to complete a survey regarding this year's competition and their interests in a position on next year's board. The current Co-Chairs will select the new Co-Chairs from interested participants. The new Co-Chairs will then select the remainder of the incoming board.

**JULIUS H. MINER MOOT COURT COMPETITION – *Sample* Brief Scoring Sheet**

	<u>Points Available</u>	<u>Brief Points</u>
<b>I. <u>INTRODUCTORY SECTIONS</u></b>		
<b>A. Questions Presented</b>	<b>5</b>	_____
- Combine legal principles with key facts		
- Are persuasive but not conclusory		
- Are clear and succinct		
<b>B. Statement of Facts</b>	<b>10</b>	_____
- Provides easy-to-follow narrative		
- Accurately includes all relevant facts		
- Emphasizes favorable facts and avoids overemphasizing unfavorable facts		
- Cites to (but does not merely repeat) the record		
- Provides procedural background for the appeal		
<b>C. Summary of the Argument</b>	<b>5</b>	_____
- Answers the Questions Presented		
- Provides concise summary of reasons for answer		
- Can be understood on its own, ie, without reference to other parts of brief		
<b>II. <u>ARGUMENT</u></b>		
<b>A. Organization</b>	<b>10</b>	_____
- Cogently identifies and sequences grounds for relief		
- Effectively uses thesis paragraphs		
- Logically develops issues and uses genuine transitions		
<b>B. Point Headings</b>	<b>10</b>	_____
- Provide sound structure for the arguments		
- Combine favorable legal contentions supported by reasons and relevant facts		
- Are clear, concise, and presented in single sentences		
<b>C. Analysis</b>		
<u>1. Use of Facts</u>	<b>10</b>	_____
-- Uses the record to the client's advantage		
<u>2. Use of Authority</u>	<b>15</b>	_____
-- Clearly and affirmatively states relevant authorities		
-- Persuasively analogizes facts and holdings of similar cases to client's case		
-- Distinguishes or explains unfavorable cases		
-- Effectively supports or criticizes the opinion(s) below		
<u>3. Use of Policy Arguments</u>	<b>10</b>	_____
-- Makes effective policy arguments to support the client		
<u>4. Adversarial Effectiveness</u>	<b>10</b>	_____

- Anticipates and refutes the opponent's arguments
- Avoids overly defensive response to opponent's arguments

**II. WRITING STYLE** **10** \_\_\_\_\_

- Uses clear, concise, and persuasive language
- Avoids grammatical, spelling, and typographical errors

**IV. OVERALL EFFECTIVENESS OF BRIEF** **5** \_\_\_\_\_

**TOTAL SCORE** \_\_\_\_\_

**BRIEF NUMBER:** \_\_\_\_\_ **GRADER:** \_\_\_\_\_