

The Henry G. Manne Moot Court Competition for Law & Economics.

Rules

**HENRY G. MANNE MOOT COURT COMPETITION FOR LAW AND ECONOMICS
GEORGE MASON LAW AND ECONOMICS CENTER
AND THE
GEORGE MASON UNIVERSITY SCHOOL OF LAW MOOT COURT BOARD
RULES AND PROCEDURES**

ARTICLE 1. INTRODUCTION

The Henry G. Manne Moot Court Competition for Law and Economics (the “Law and Economics Competition”) is sponsored by George Mason University School of Law’s Moot Court Board (“Moot Court Board”) and the Law and Economics Center. The Law and Economics Competition is open to all law students at ABA-accredited law schools.

The Law and Economics Competition provides law students across the country with an opportunity to test their oral advocacy skills using a Law and Economics approach to problem solving. Competition problems and arguments focus on government regulation and the preservation of competition in free and fair markets.

The Law and Economics Competition is named for Henry G. Manne, who was Dean of the George Mason Law School and responsible for establishing George Mason’s academic specialization in economics.

The Law and Economics Competition is supervised, and the rules are interpreted by, the George Mason University School of Law Moot Court Board.

Additional information and periodic updates will be posted on the “Competition Web Site” at: <http://www.gmu.edu/org/mootcourt/competitions/manne/>

1.1 Legal Problem.

The Competition Problem (the “Problem”) is prepared by the Law and Economics Competition Committee of the Moot Court Board (the “Committee”), and may involve either an actual case or an entirely fictionalized case.

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1.2 Competition Dates.

<u>December 1, 2008</u>	Registration Deadline
<u>December 5, 2008</u>	Competition Problem posted on Competition Website.
<u>January 9, 2009</u>	Final Date for Requests for Clarification of Problem and Interpretation of Competition Rules.
<u>January 21, 2009</u>	Brief Due Date. Briefs Must be Postmarked and electronic copy must be submitted by this date.
<u>February 6, 2009</u>	Welcome Reception for competitors and judges
<u>February 7, 2009</u>	Oral Argument; Evening Reception and Presentation of Awards for Best Team, Best Oralist, and Best Brief.

1.3 Argument Dates.

Oral arguments will be heard on February 7, 2009. All teams will argue in two Preliminary Rounds. Oral arguments shall start promptly at the time designated by the Committee. The Competition will consist of at least two preliminary rounds and a final round. Additional intermediate rounds may be added at the discretion of the Committee depending on number of teams competing.

1.4 The Complete Record.

The fact record designated in the Problem is the complete exclusive adjudicative fact record for the Problem. At their discretion, the Competition Co-Chairs may supplement the adjudicative facts that are contained in the designated record from the cited competition decision(s) with additional facts at any time prior to the due date of the brief. Such facts might include, but not necessarily be limited to, transcripts of testimony, trial exhibits, brief appendices or other pertinent documents. They might also be contained in a supplemental synthesized statement of appropriate additional facts.

1.5 Use of Adjudicative Facts.

- (a) If the Problem involves an actual case, competitors may not cite adjudicative facts that are not contained in the designated record, i.e. facts pertaining to the immediate parties of the nature described in Rule 1.5(d) that are not contained in the record designated in the Problem or included in additional facts identified as supplementing that record, as facts pertinent to the competition case.
- (b) Use of adjudicative facts that are not part of the Competition record that is designated by the Committee or included in additional facts identified, as supplementing that record will result in a 10-point technical penalty off of the brief score.

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- (c) This prohibition includes the use of facts contained in testimony, exhibits or other evidence from the actual case that has not been designated by the Committee as part of the record for the purpose of the competition.
- (d) Adjudicative Facts Defined. “Adjudicative facts” are facts pertaining to the immediate parties to the action with regard to such matters as who did what, where, when, how, under what circumstances and/or background conditions and with what motive or intent. “Adjudicative facts” are those facts that cannot be raised upon appeal unless they were admitted into evidence during the proceedings below and, as a result, were available to the trier of fact as part of the record.

1.6 Use of Legislative Facts and Other Resources.

- (a) Competitors may use legislative facts, if relevant, when making a policy argument or when arguing what the law should be
- (b) If the Problem involves an actual case, competitors may use any lower court opinions involving the case, as well as any statutes, rules, regulations, and legislative history from the appropriate jurisdiction.
- (c) If the Problem is fictional, the State of Mason (the fictional jurisdiction from which the Problem arises) has no precedent, statutes, rules, regulations, or legislative history of its own aside from what is cited in the Problem. Competitors are free to rely upon precedent, statutes, rules, regulations, legislative history, and other such resources from other jurisdictions in crafting their arguments.
- (d) Legislative Facts Defined. “Legislative facts” are general facts that do not concern the immediate parties. They are the type of facts that an appellate court might receive through judicial notice to inform it as to how it should develop the law. Examples of legislative facts include: science; empirical studies; social and psychological theory; social science research; history, including legislative history; scholarly works; and current events.

1.7 Prohibition on Use of Other Information.

- (a) If the Problem involves an actual case, competitors may *not* obtain, access or view the briefs of actual parties or amici from the cited competition decision(s). In addition, competitors may not obtain the petition for certiorari from the cited competition decision(s) or any verbatim or other reports of oral arguments before the Supreme Court or lower courts concerning the cited Competition decision(s).
- (b) Participants may not obtain, seek to obtain nor inquire concerning the content of any materials that are provided to the judges by the competition administration to assist them in presiding over the written or oral arguments, including but not limited to the bench memo. Violation of this rule may result in sanctions including but not limited to

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disqualification. This prohibition is not applicable to the scoring documents, or any other documents, which the Competition Co-Chairs determine are appropriate for distribution to all competitors.

- (c) Violation of Rule 1.7 shall result in a minimum of a 10-point technical penalty off the offending competitor's brief score and additional sanctions determined by the Competition Co-Chairs, including disqualification, as appropriate.

ARTICLE 2. TEAMS

2.1 Number and Composition of Teams.

There is no limit to the number of teams a school may enter. Each team may consist of 2 or 3 students. Each student must be, at the time of oral arguments, a law student pursuing a Juris Doctor degree. All members must be students at the same law school. No student may be a member of more than 1 team in the Competition. Members may not be substituted once the briefs are submitted unless there is good cause as determined by the Committee.

2.2 Designation of School Contact.

Each school will designate either a student or faculty member from each team to receive all correspondence and other competition materials.

2.3 Designation of Teams as Counsel for Petitioner or Respondent.

By random lot, the Competition Co-Chairs will designate which party, either petitioner or respondent, each competing team should represent for purposes of the brief. The designation will occur on the date the problem is posted on the Competition Web Site, or when the team registers for the competition, whichever is later. If a participating law school enters two teams, the teams will be designated to represent opposing sides.

2.4 Designation of Teams Random Number.

Each team will receive a randomly assigned number designation for purposes of brief and team identification. The designation will occur on the date the problem is posted on the Competition Web Site, or when the team registers for the competition, whichever is later. This number will be used as a method for identifying the team throughout the tournament.

ARTICLE 3. BRIEFS

3.1 Length and Form of Briefs.

- (a) Format. Except as otherwise provided in these Rules, briefs shall follow either the format specified in Rule 24 of the Rules of the Supreme Court of the United States, except that no formal statement of jurisdiction or list of parties is required. All citations shall follow

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the format prescribed in *A Uniform System of Citation*, 18th ed., published by the Harvard Law Review Association.

- (b) Typography. Each brief shall be either typewritten or prepared by word processing equipment. The style, font, and pitch of each brief shall be uniform for the entire brief, including footnotes but excluding covers. Each page shall be printed on one side only using black ink.
- (c) Type Size & Line Spacing. The font used shall be 12 point Times New Roman. All text shall be double spaced except footnotes and long quotations, which may properly be single-spaced according to the guidelines set forth in *A Uniform System of Citation*, 18th ed., published by the Harvard Law Review Association.
- (d) Page Numbering & Size. Pages shall be numbered. Each page shall be 8 1/2 inches by 11 inches and have top, bottom, left and right margins of at least 1 inch, excluding page numbers.
- (e) Length. Briefs shall not exceed 35 pages in length; excluding covers, Questions Presented, Index or Table of Contents, Table of Authorities, and Appendices. Arguments and substantive material included in the Appendix that should be included in the Argument section of the brief will be counted toward the page limit.
- (f) Cover Page. Notwithstanding rule 3.1(a), the cover of the brief must include the team's assigned designation number in the lower right corner.

3.2 Anonymity, Certification, Copies, and Scoring of Brief.

- (a) Certification. Each team shall prepare a 1-page statement certifying that its brief has been prepared in accordance with these Rules and is the work product solely of the team members. The Statement will indicate (1) the name of the team's law school, (2) the side that the team represents (Petitioner/Respondent), (3) the names of the team members. The Statement must be signed by all team members.
- (b) Notwithstanding Rule 3.1(a), the certification statement shall be attached as the last page of all briefs submitted by the team.
- (c) Other than the Certification page and the number designation required by rule 3.1(f), the brief may not be signed, nor may any marks identifying the team, its members, or its school appear anywhere in the brief.
- (d) Number of Copies. Each team shall submit 6 copies of the brief to the Committee.
- (e) Scoring of Briefs - Each brief will be evaluated by a panel of judges selected by the Committee. In order to maintain anonymity, the Committee will remove the Certification page from any copy provided to a competition judge. Each brief judge will

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independently evaluate the briefs using the Brief Score Grading Sheet and assign a score from 0-100 points. The Committee will normalize each brief score based on the each judge's score on a randomly selected standard brief and the standard deviation of all scores given by the judge.

3.3 Service of Briefs.

- (a) Service of Briefs. Briefs must be postmarked by no later than January 24, 2008 (the "Cutoff Date"). By the Cutoff Date, each team will submit 6 hard copies of the Scoring Brief and the original signed Certification Statement in a single package to the Committee via Registered First-Class Mail at the following address:

**Law and Economics Moot Court Competition
c/o Moot Court Board
George Mason University School of Law
3301 N. Fairfax Drive
Arlington, VA 22201**

Teams must also submit a copy of the brief via email, as an attachment in Microsoft Word or PDF format, to the Committee at lec@gmu.edu.

A brief may not be corrected, revised, or supplemented after it has been submitted to the Committee.

- (b) Service on Other Teams: The Committee will post the emailed copy of each team's brief on the Competition's Web Site. The Committee's receipt of a readable emailed copy of the brief will constitute effective service.
- (c) Late Postmark. Any package postmarked after the Cutoff Date will be assessed a penalty of five points per day, which will be deducted from the overall score of the brief. Briefs filed more than seven days late will NOT be accepted. A penalty of two points will be deducted from the total brief score for failure to comply with the submission procedures in this rule.

ARTICLE 4. ORAL ARGUMENT

4.1 Organization.

- (a) Structure. The Oral Argument portion of the Competition will consist of at least 4 rounds: 2 Preliminary Rounds, a Semi-Final Round, and 1 Final Round. Depending on the number of teams in the Competition additional preliminary and/or intermediate rounds may be added at the discretion of the Committee.
- (b) Ranking and Seeding. To the extent practicable, the following principles will be observed:

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- a. No team will argue against the same team more than once in the Preliminary Round.
- b. No teams from the same school will be paired against each other in the Preliminary Rounds.
- c. No team will appear before a judge known personally by any team member.

In the event a team member becomes aware that a judge is known personally by that or any other team member, a Committee member is to be promptly and discretely contacted so that arrangements can be made to recuse the known judge and, if possible, reappoint a new judge. Failure to notify a Committee member of a competitor's personal knowledge of a judge prior to the start of argument before that judge may result in disqualification.

- (c) Posting of Dockets. The times and team pairings for each docket for the Preliminary Rounds will be posted at the Information table on the morning of the Competition.
- (d) Location. The location of oral arguments will be at the U.S. Court of Appeals for the District of Columbia Circuit Courthouse, 333 Constitution Ave. N.W. Washington, D.C. 20001. All rounds of the Competition will take place on Saturday, February 7, 2009.
- (e) Scouting. No person affiliated with any team or school still participating in the Competition may watch or listen to any oral argument other than one involving the team or school with which he or she is affiliated. If any person violates this rule, all teams with which that person is affiliated may be disqualified. The Committee may impose additional restrictions or penalties, as they may deem appropriate.
- (f) Byes. The Committee may grant byes as it deems necessary for administration of the Competition.

4.2 Procedure for Oral Argument

- (a) Oralists. Any 2 members of a team may participate in any round of oral argument, and 2 members must participate in each round.
- (b) Each team will argue "on brief" in at least one Preliminary Round and for the opposite side during at least one other Preliminary Round. For example, Team A submits a brief on behalf of the Petitioner (pursuant to Rule 2.3). In the first Preliminary Round they will argue for the Petitioner. In the second Preliminary Round they will argue for the respondent.
- (c) Time Limits. Each team will be allotted 30 minutes for its oral argument. The division of argument time among team members is left to the discretion of the team. The Petitioner may, by informing the judges before the beginning of the Petitioner's oral argument,

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reserve up to five minutes of its argument time for rebuttal. Only 1 member of Petitioner may speak in rebuttal. The Committee will assign a Bailiff to keep time.

- (d) Order of Speaking. The order of speaking in each round of oral argument will be in the following order: Petitioner 1, Petitioner 2, Respondent 1, Respondent 2, Petitioner rebuttal (if properly reserved). There will be no intermission or recess from the beginning of the argument until its conclusion, and the order of issues need not be the same as the order presented in the Problem.
- (e) Critique. The judges may present a short oral critique following the conclusion of a brief recess and submission of the oral argument score sheets.

4.3 Judging.

- (a) Judges. Each oral argument will be heard by a judge or panel of judges selected by the Committee. The judge(s) will evaluate the oral arguments independently of the briefs and without knowledge of the brief scores or schools of the competitors.
- (b) Scoring of Oral Argument. In each round,
 - a. Each judge will give the each oralist an oral score, on a scale of 0 to 50, using the Oral Argument Score Sheet.
 - b. For the preliminary rounds, the Competition will normalize each oralists' score based on the judge's average and standard deviation of all scores given by the judge.
 - c. The team's score for the round will be the average of the two oralists' normalized scores for the preliminary round and the raw scores for the advancing rounds.
- (c) Interpolation. If a team is judged by fewer judges than are other teams competing in the same round, or if an oralist argues in fewer rounds than do other oralists, Individual and Team Oral Scores and Ranks will be interpolated (or averaged) as necessary to determine team rankings, team advancement or oralist awards.

ARTICLE 5. PRELIMINARY ROUNDS

5.1 Advancement to Semi-Final Round.

- (a) Eligibility. Each team will compete in all Preliminary Rounds in order to be eligible to advance to the Semi-Final Round, unless granted a bye by the Committee.

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- (b) Composite Team Score. At the end of the Preliminary Rounds, each team will be given a Team Composite Score that will be based upon 40% of the normalized Team Brief Score and 60% of the combined normalized Team Oral Scores for the preliminary rounds.
- (c) Advancement. The 4 teams with the highest Team Composite Score will argue against each other.
- (d) Ties. Any ties that affect seeding or advancement will be broken as follows:
 - a. The team with the best normalized Team Oral Scores will advance.
 - b. If the teams remain tied, the tie will be broken by coin toss.

ARTICLE 6. SEMI-FINAL ROUNDS

6.1 Structure.

The Semi-Final Rounds will be conducted on a single elimination basis. The winners of the Semi-Final rounds will advance to the Final Round.

6.2 Advancement to Final Round.

- (a) Composite Team Score. At the end of the Semi-Final Rounds, each team will receive a Team Composite Score that will be based upon 25% of the normalized Team Brief Score and 75% of the Team Oral Score for the Semi-Final Round.
- (b) Advancement. The team with the higher Team Composite Score within their respective Semi-Final Round will be the winner of the Semi-Final Round.
- (c) Ties. If two teams have the same Composite Team Score within the same Semi-Final Round, the tie between the teams will be broken as follows:
 - a. The team with the better Team Oral Score for the Semi-Final Round will advance.
 - b. If the teams remain tied, the team with the higher Composite Team Score from the preliminary rounds will advance.

6.3 Modification of Rounds.

The Committee reserves the right to add additional rounds or to eliminate the semi-final round should competition fairness so require.

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ARTICLE 7. FINAL ROUND

7.1 Structure.

- (a) Side for Oral Argument. The Committee will randomly assign which side, Petitioner and Respondent, each team will argue.
- (b) Winner. The Final Round will be conducted on a single elimination basis, and the winning team will be based solely upon the oral arguments as determined by the panel of judges.
- (c) Ties. No ties are permitted. The panel of judges, in conjunction with the Committee, will determine the winner if necessary.

ARTICLE 8. AWARDS

8.1 Best Oralist.

- (a) Scoring. A Best Oralist award will be given to the competitor with the highest average normalized Individual Oral Score from the Preliminary Rounds.
- (b) Eligibility. Participants must argue in at least 2 Preliminary Rounds to be eligible for consideration.

8.2 Best Brief.

A Best Brief award will be given to the team with the highest normalized Team Brief Score.

8.3 Team Awards.

The following awards will be given to for overall excellence in the Competition:

The winner of the Final Round will be awarded at least \$1,000;

Second Place awarded to the runner-up of the Final Round.

8.4 Presentation of Awards.

All awards will be presented on Saturday, February 7, 2009. Best Oralist and Best Brief will be awarded at the completion of the preliminary rounds. Team awards will be presented, upon completion of the Final Round.

ARTICLE 9. PENALTIES, COMPLAINTS, AND APPEALS

9.1 Penalties.

The Committee may assess such penalties, including disqualification, as it deems reasonable and appropriate in its sole discretion for failure to comply with these Rules, other Rules established by the Committee, or the spirit of the Competition.

9.2 Faculty or Other Assistance.

Teams may generally consult with faculty members regarding basic economic principles before submission of the brief. No team, however, may receive assistance in drafting the brief, reviewing the brief, or proofreading the brief from faculty members or other persons. Additionally, no team may receive assistance from, share or compare research or work product with, members of another team from the same school. This Rule does not prohibit the use of computerized researching or word processing software. A brief that is not the work product solely of the team submitting the brief will result in the team's disqualification from the Competition.

9.3 Power of the Committee.

The Co-Chairs of the Committee may amend these Rules as necessary in order to ensure a fair and proper Competition. When time permits, the school contact designated by each school will be notified of rule changes in writing. The Co-Chairs have the power to interpret these Rules and resolve disputes as they arise.

9.4 Acceptance of Rules.

The entry of a team in this Competition constitutes an acceptance of these Rules.

9.5 Requirement of Ethical Conduct.

It is expected and required that every team, team member, Committee member, Competition judge, and all other Competition participants will conduct themselves in accordance with the ABA Model Rules of Professional Conduct.

9.6 Complaints and Appeals.

Any complaint or appeal concerning the Competition shall be made in a timely fashion directly to either of the Co-Chairs of the Committee. Complaints and appeals do not lie as a matter of right but at the discretion of the Committee. Complaints will be resolved by the Committee or by a body designated by the Co-Chairs of the Committee.

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9.7 Committee Co-Chairs.

Erica Marshall
George Mason School of Law
Moot Court Board
3301 N. Fairfax Drive
Arlington, VA 22201
lec@gmu.edu

Timothy Johnson
George Mason School of Law
Moot Court Board
3301 N. Fairfax Drive
Arlington, VA 22201
lec@gmu.edu

9.8 Interpretations and Clarifications.

All requests for interpretation of these Rules or clarification of the Problem can be made by submitting an email to: lec@gmu.edu

Each request should state clearly the issue on which an interpretation or clarification is requested. All requests for clarifications of the problem or interpretations of the rules relating to the Brief must be received no later than January 9, 2009 at 4:00 p.m. Eastern Standard Time.

Questions regarding hotel arrangements, directions, and other administrative items, should also be addressed to the Competition Administrator at lec@gmu.edu.

The Committee has sole discretion to issue any interpretations or clarifications. Any such interpretations or clarifications will be issued only via email to a school's designated point of contact, and will be posted on the Competition Web Site.