



## **Official Rules – Fall 2020**

The following represent the official rules of the Billings, Exum & Frye National Moot Court Competition (“the Rules”).

### **I. Organization and Administration of Competition**

Elon University School of Law in Greensboro, North Carolina, sponsors the annual Billings, Exum & Frye National Moot Court Competition. The competition seeks to provide law students with the opportunity to advance and showcase their written and oral advocacy skills. It honors three of North Carolina's most distinguished lawyers, Rhoda Billings, Jim Exum, and Henry Frye, who have each served as Chief Justice of the Supreme Court of North Carolina, in a variety of leadership positions within the legal profession and in public life, and as founding members of the Elon University Law School Advisory Board. The competition is conducted under the supervision of the Moot Court Board's National Competition Committee (“Competition Committee”) and the Director of the Moot Court Program.

Due to the COVID-19 pandemic, the oral argument rounds for the Fall 2020 Competition will be conducted in a virtual format via “Zoom.”

### **II. Teams**

#### **A. Registration**

The competition is open to teams from law schools fully or provisionally approved by the American Bar Association (schools which can establish that they are actively seeking ABA approval are also eligible to participate). Registration forms are available online at [www.law.elon.edu/mootcourt](http://www.law.elon.edu/mootcourt).

#### **B. Number and Composition**

Law schools may enter up to two teams consisting of two or three members. Teams will generally consist of second and third-year students. If a law school allows first-year students to compete on interscholastic teams, it may request permission to have first-year students compete. Competitors must be registered law students seeking the Juris Doctor degree and in good standing at their home institution. No team member may have completed the Juris

Doctor degree prior to August 24, 2020.

#### C. Identification of Team Members and Primary Contact

Teams may identify their members on their registration forms. In addition, the Competition Committee will send each registered team an electronic form on which to confirm each team member's name and email address. The team members' names must be submitted by September 8, 2020.

Each team must designate one representative, who can be a team member or coach, to whom information may be sent and with whom questions and concerns may be discussed and provide contact information for the representative, including email address and cell phone number. This designation must occur at the same time that team members are identified as noted above.

#### D. Substitution of Team Members and Team Withdrawal

If a team member is unable to compete in an oral argument round, then the remaining members of a three-person team must fill the gap left by the member not participating, but in all instances, at least two members of a team must argue in a given round.

Due to the COVID-19 situation, each team may designate one additional alternate team member. This alternate may stay informed of the team's progress but, as long as the member remains an alternate, may not contribute to brief writing. The alternate also must be explicitly listed as "alternate" in the list of team members.

The alternate may assume team member status only for good cause, such as severe illness or other similar extenuating circumstances. A team must obtain approval from the Competition Committee to substitute a team member after the problem is released. The alternate may not assist the team in its preparation of the brief unless substituted for a team member. No substitutions are allowed once the oral argument rounds begin. If a substitution is made before the brief is turned in, the substituted team member may not provide any further assistance on the brief.

Should any team decide to withdraw prior to the competition's final registration deadline, it will receive a refund of one-half of its registration fee. No refund will be issued for withdrawals after the final registration deadline.

#### E. Team Identification

Each team will be randomly assigned a number designation for the competition. These numbers will be disseminated to the team contacts via email approximately two weeks before the written briefs are due. This number will be the sole method of identifying the team on its brief and during the oral argument phase of the competition. No one affiliated with a team, including team members, coaches, and observers, may directly or indirectly (e.g., displaying the school name on a bag, pen, folder, poster or other items; disclosing the location of the school; etc.) divulge their law school's identity to the judges. Violation of this rule shall result in a penalty, up to and including disqualification.

### **III. The Problem**

#### **A. Release of Problem and Requests for Clarifications**

The problem will be released on or around August 24, 2020. Requests for clarifications will be entertained through September 14, 2020. These requests should be submitted via e-mail to Associate Dean Alan Woodlief, Director of the Moot Court Program, at [awoodlief@elon.edu](mailto:awoodlief@elon.edu). Any clarifications will be posted to the competition web site after the deadline for submission.

#### **B. Copyright**

The copyright to the problem is held by the Elon University School of Law Moot Court Board. Audio, visual or written versions may not be posted online or distributed in any manner or format without express written permission from the Moot Court Board. The problem may not be used for intra-school or intramural competitions designed to select a law school's competitors for this competition. Requests to use the problem for other internal law school competitions or other purposes may be submitted to Associate Dean Woodlief at [awoodlief@elon.edu](mailto:awoodlief@elon.edu).

### **IV. Briefs**

#### **A. Side Argued**

A team may choose to write its brief on behalf of the Petitioner or the Respondent. If two teams from the same school enter the competition, one team will submit a Petitioner's Brief and one team will submit a Respondent's Brief (to be determined among the teams and/or their coaches).

#### **B. Format, Length and Specifications**

1. Briefs shall conform to the Rules of the United States Supreme Court except that teams should omit a formal statement of jurisdiction. All citations should conform to the most recent edition of The Bluebook: A Uniform System of Citation.
2. A brief shall not exceed 40 pages. This page limit does not include pages containing the cover page, questions presented, table of contents, table of authorities, or the appendices. Any partially filled page shall be counted as a full page.
3. All text shall be in Times New Roman, 12-point font. Smaller fonts and the use of compacted or otherwise compressed printing features will be grounds for a penalty. Footnotes, argument headings, and single-spaced quotations must appear in the same size font as the rest of the text.
4. Any process that produces a clear, black image on white may be used for the brief. All briefs must be bound on the left. The paper size must be 8 1/2" x 11".
5. Each page of text shall contain no more than 28 lines of double-spaced text. Typed matter shall not exceed 6 1/2" x 9" per page, i.e., a minimum one-inch margin on all sides. The page number is not included in this measurement.

6. Typed matter must be double-spaced. Footnotes, argument headings, and extended quotations may be single-spaced.
7. A team shall print its team identification number in the lower right corner of the cover page of its brief. Briefs shall not be signed, and no other material serving to identify a team or its members shall appear anywhere within or on the brief.
8. A team may not revise its brief after its submission.

### C. Service of Briefs

1. Each team must submit its brief electronically as a PDF file **and** as a Microsoft Word document. These electronic copies must be sent as an email attachment to Associate Dean Woodlief at [awoodlief@elon.edu](mailto:awoodlief@elon.edu). Teams are not required to submit printed copies of their brief.
2. Deadlines for Service - The electronic copy of the brief must be received by the competition by **5:00 p.m. (Eastern Time) on Friday, September 25, 2020**. Any team whose brief is received later than 5:00 p.m. on September 25, 2020, shall be assessed a late penalty of 10 points per day the brief submission is late, which will be deducted from the overall score of the brief.
3. Teams are not required to serve printed copies of their brief on other teams. All briefs will be posted to the competition website by Monday, September 28, 2020.

### D. Certification

By submitting a brief, each team member certifies that the brief has been prepared in accordance with these Rules, particularly the rule regarding assistance (Rule IX.A.).

### V. **Oral Argument Rounds**

- A. The oral argument rounds will be conducted in a virtual format via “Zoom.” All teams are responsible for their own Internet and video conferencing capabilities.

Competitors will connect to the round by the Internet. However, each competitor must also be prepared to connect by the call-in function as a backup in the event of an internet service disruption. A competitor must not be connected by more than one device at a time.

- B. The oral argument rounds will be held from Thursday through Saturday, October 22-24.

The competition reserves the option to schedule preliminary rounds on the evening of Wednesday, October 21, if the number of team registrations and efficient administration of the competition warrants.

A more detailed schedule of oral argument rounds and other meetings will be distributed to teams approximately two weeks before the competition. However, teams should be prepared to argue on the evenings of Wednesday, October 21 and Thursday, October 22 (likely between 5 p.m. and 10 p.m. ET), and throughout the day on Friday, October 23 (likely between 11 a.m. and 10 p.m. ET) and on Saturday, October 24 (likely between 11 a.m. and 5 p.m. ET).

Teams will not learn the exact time of their preliminary oral argument rounds until the week of the competition.

Before oral argument rounds commence, likely on Tuesday, October 20 or Wednesday, October 21, each team will check-in during a scheduled Zoom session. All team members must participate in the check-in. This check-in will allow teams to confirm their Internet connection and ask questions about the administration of the competition.

- C. Each team will argue two times in the preliminary rounds. The competition consists of two preliminary rounds, an octofinal round (if needed), a quarterfinal round, a semifinal round and the championship round.
- D. Two team members will argue in each round of oral argument. A team may vary which members will argue from round to round. Only those team members who are arguing may participate in a round, though all team members may attend a round.
- E. Competitors should report to their Zoom courtroom for a round at least 20 minutes before the scheduled start time. If a team is more than 10 minutes late for a scheduled round, then the team will forfeit the round. See section VI.A. for the scoring of such situations in the preliminary rounds.

Competitors will be sent information about logging into the Zoom courtroom. Once all competitors and judges have joined the session and are properly connected, at the judges' discretion, the round may start if everyone is ready to proceed.

- F. Competitors should keep their name visible on the Zoom window and introduce themselves by name to the judges. They should not identify their school.
- G. Oral argument is limited to a total of 30 minutes per team.
  - 1. Although a team may divide its allotted time as it chooses, no team may allocate more than 17 minutes to one advocate (including rebuttal time).
  - 2. The petitioner may reserve up to a maximum of five minutes for rebuttal. Only one advocate may argue rebuttal. Petitioner will inform the bailiff which team member will rebut prior to the round and the amount of time reserved. Petitioner should also request rebuttal from the Chief Justice on the panel, and if it does not do so, the Chief Justice may dispense with rebuttal.
  - 3. The judges may, in their sole discretion, extend any speaker's time.
- H. Each oral advocate is expected to be dressed in full court room attire for each argument.
- I. In the virtual format, oral advocates may choose whether to sit or stand while arguing.
- J. The use of virtual "backgrounds" will not be permitted during the argument, except the competition may provide a uniform background for all teams and judges. If such a virtual background is provided, competitors who choose to use this background must have a dark (preferably green) backdrop for the background to function properly. In any event, competitors should ensure that the room in which they are arguing looks professional, is free

of distractions, and includes nothing that could identify the competitor's school.

- K. No team member, coach or guest shall record any portion of any round. The Competition Committee may decide to record the final round and other rounds of the competition. A student's decision to enter and participate in the competition constitutes consent to videotaping, photography or other recording of any and all rounds. Videos, photographs and audio recordings may be posted to the Elon website, used in print publications and otherwise distributed by the school.
- L. Only the two or three team members and one coach may attend a round. Other guests are not allowed, except for the final round which will be livestreamed.
- M. Team members arguing together during a round may communicate by handwritten notes or electronic devices. Competitors may not otherwise communicate with a third team member who is not arguing in that round, a coach, or anyone else other than a judge or Elon competition bailiff or Moot Court Board member administering the competition.
- N. Oral advocates may have copies of the problem, rules, briefs and research in hard copy or electronic form with them during the argument, but they may not access electronic devices for any other reason, except to participate in the oral argument via Zoom and to communicate with co-counsel as permitted by these Rules.

The Competition Committee will likely supplement these Rules with additional guidelines related to the virtual format of the competition on Zoom, which will have the same force as these Rules.

## **VI. Round Scoring and Advancement**

### **A. Preliminary Rounds**

Each team will argue in two preliminary rounds, once for each side (on brief and off brief).

In the preliminary rounds, pairings will be determined by brief scores, with the teams power seeded based on their brief score. Teams in the top half of the brief scores will be randomly paired against teams in the bottom half of the brief scores. Sides (i.e., Petitioner or Respondent) in the first two preliminary rounds will be assigned randomly, and each team will argue once on brief and once off brief.

The foregoing is subject to the following exception: No team during the preliminary rounds will face a team from the same school, nor will they face the same team twice.

In the preliminary rounds, a team's score for the round will be computed by weighing the oral argument 60 percent and the brief 40 percent.

If a team forfeits an assigned round, the team's scheduled opponent will be the winner of that round and their margin of victory will be one point, unless the opponent's reduced brief score is more than one point higher than the forfeiting team's brief score, in which case the

margin of victory for the opponent shall be the difference between the brief scores.

In the event of ties in the win-loss record in the preliminary rounds, the ties will be resolved in the following order:

- (1) Aggregate point differential from the preliminary rounds (calculated by subtracting the losing team's point total from the winning team's point total for the round); then
- (2) Oral argument scores from the preliminary rounds; then
- (3) Brief scores; then
- (4) Coin toss.

#### B. Octofinal Round

If 32 or more teams compete in the preliminary rounds, then the field will be narrowed to 16 teams after the preliminary rounds, and these 16 teams will compete in an octofinal round. If fewer than 32 teams compete in the oral argument rounds, then the field will be narrowed to eight teams after the preliminary rounds, and these eight teams will compete in the quarterfinal round.

The 16 teams with the best win-loss records in the preliminary rounds will advance to the octofinal round. From the octofinal round forward, the competition is single, head-to-head elimination. Teams will be placed into brackets before the octofinal round and will not be reseeded after the octofinal round. The sixteen teams advancing to the octofinal round will be seeded in order of their win-loss record in the preliminary rounds (with ties resolved as noted in VI.A. above), with the highest seed arguing against the lowest seeded team, etc. (i.e., 1 vs. 16, 2 vs. 15, 3 vs. 14, and 4 vs. 13, etc.). Unlike the preliminary rounds, teams from the same school may face each other in the octofinal round. Teams will be randomly assigned a side to argue in the octofinal round.

In the octofinal round, a team's score for the round will be computed by weighing the oral argument 70 percent and the brief 30 percent. The team with the highest score in a round will advance to the quarterfinals. In the event of a tie in an octofinal round, the winner of the round will be the team with the highest total oral argument score in that round.

#### C. Quarterfinal Round

If there is an octofinal round, the eight teams winning their rounds in the octofinals will advance to the quarterfinals. In the event there is not an octofinal round, then the eight teams with the best win-loss records in the preliminary rounds will advance to the quarterfinal round.

If there was an octofinal round, then the seeding from that round carries through for the remainder of the competition. If there was not an octofinal round, then the eight teams advancing to the quarterfinal round will be seeded in order of their win-loss record in the preliminary rounds (with ties resolved as noted in VI.A. above), with the highest seeded team arguing against the lowest seeded team, etc. (i.e., 1 vs. 8, 2 vs. 7, 3 vs. 6, and 4 vs. 5). Unlike the preliminary rounds, teams from the same school may face each other in the quarterfinal round. Teams will be randomly assigned a side to argue in the quarterfinal

round.

In the quarterfinal round, a team's score for the round will be computed by weighing the oral argument 70 percent and the brief 30 percent. The team with the highest score in a courtroom will advance to the semifinals. In the event of a tie in a quarterfinal round, the winner of the round will be the team with the highest total oral argument score in that courtroom.

#### D. Semifinal Round

The four teams winning their rounds in the quarterfinals will advance to the semifinals. The seeding from the quarterfinal round continues. If there was no first elimination round, then the winner of 1 vs. 8 will face the winner of 4 vs. 5, while the winner of 2 vs. 7 will face the winner of 3 vs. 6. If there has been a first elimination round, then the winner of 1 vs. 8 or 9 will face the winner of 4 vs. 5 or 12, and the winner of 2 vs. 7 or 10 will face the winner of 3 vs. 6 or 11. Teams will be randomly assigned a side to argue in the semifinal round.

The winner of a semifinal round will be the team that receives the highest total oral argument score from the judges in that courtroom.

#### E. Championship (Final) Round

The two teams winning their rounds in the semifinals will advance to the championship round. Teams will be randomly assigned a side to argue in the final round.

In the final round, the winner will be the team that receives the highest total oral argument score from the judges in that courtroom.

### **VII. Scoring**

#### A. Brief Scoring

1. Briefs will be scored by members of the Elon Law faculty and/or administration, experienced members of the local bench and bar, and/or members of the Moot Court Board. Brief graders will be provided with the problem, a bench memorandum, and a copy of these Rules. Grading will be anonymous, with each brief identified only by its team number.
2. Each judge will evaluate the briefs based upon a 100-point scale. Thoroughness of research, knowledge of the law, depth of analysis, and persuasiveness will be the primary standards in grading, but form, style, and appearance, including citation, spelling, punctuation and capitalization, will also be considered. Teams will be informed of their brief scores and the median brief score for the competition prior to its first preliminary round. Teams will not be provided score sheets from the brief graders.



## B. Oral Argument Scoring

1. Oral argument rounds will be judged and scored by members of the bench and bar, as well as Elon Law faculty and/or administration. If necessary, members of the Moot Court Board, who are not serving on the Competition Committee, may serve as judges. Oral argument judges will be provided with the problem, a bench memorandum, a copy of these Rules and guidelines for judging virtual oral arguments.
2. The competition strives to obtain a wide range of judges and attempts to have teams not argue before the same judge more than once. However, at times, it will be necessary for judges to hear the same team more than once, and it is not a valid basis for complaint that the team has already argued in front of the same judge. Teams should not delay or interrupt a round because it is appearing before the same judge.
3. Each judge will evaluate each advocate upon a 100-point scale, considering substantive content of the argument, knowledge of the record, ability to address questions, courtroom demeanor and professionalism.
4. Given the virtual format of the competition, competitors and coaches will not be informed of oral argument scores during the competition. Score sheets will not be provided. The Competition Committee will announce final results of each round after its completion. After the competition is over, teams or coaches may email the Competition Committee and request oral argument scores.

## C. Round Scoring

See Section VI. above.

## **VIII. Awards**

### A. Chief Justices' Cup and Team Awards

The championship team's name will be engraved on the Chief Justices' Cup which is permanently displayed at Elon University School of Law. The winning law school will also receive a replica of the Chief Justices' Cup that it may keep and display at its own school. Each member of the championship team will also receive a plaque commemorating this achievement. Team awards will be presented to all teams reaching the Quarterfinals and later rounds.

### B. Brief Writing Awards

Brief writing awards will be presented to the teams writing the best three Petitioner briefs and the best three Respondent briefs.

### C. Oral Advocacy Awards

Oral advocacy awards will be presented to the best advocate in the final round, as well as the top five advocates in the preliminary rounds (based on highest average scores in the preliminary rounds). To be eligible for an individual oral advocacy award for the preliminary rounds, a competitor must argue two times during the preliminary rounds.

#### D. Awards Ceremony

Competitors, coaches and guests are invited to attend the Awards Ceremony at the end of the competition. A link for the Awards Ceremony will be distributed to each team.

### **IX. Assistance and Scouting**

#### A. Assistance

1. Because the purpose of this competition is educational, teams may receive limited faculty assistance in the preparation of their briefs. Permissible assistance is limited to discussion of the issues with the students. No one other than a student team member may review or comment upon a draft of the brief until it is served. This rule also bars any research done by any person other than a team member. Service of the brief as required by these Rules constitutes certification that the team has not received impermissible assistance in preparation of the team's brief and has complied with this rule.
2. After the brief is submitted, participants may receive assistance in preparation for oral arguments. If a team registers two or more teams, it is permissible for these teams to practice together.
3. During oral argument rounds at the competition, a speaker may receive assistance only from a teammate arguing in that round.

#### B. Scouting

1. Scouting is prohibited. No team member or faculty coach still participating shall attend the argument of any other team or receive information from any person who has attended an argument of any other team.
2. Notwithstanding paragraph 1 above, if a school sends two or more teams, faculty coaches may attend the arguments of each of their teams. However, a coach may not discuss one team's rounds with another team.
3. Non-participant guests may observe the oral argument rounds. A team is responsible for the conduct of its guests and should inform them of all rules, e.g., silencing cell phones, non-disclosure of school name, etc.

### **X. Conduct**

Team members, coaches and their guests will conduct themselves in accordance with these Rules and in a responsible and professional manner in all respects.

### **XI. Challenges**

Teams may not challenge their brief score. A challenge to an oral argument round may be made only for rules violations or serious misconduct or unprofessional behavior by a judge (e.g. falling asleep or not paying attention during a round, comments evidencing inappropriate bias

towards a competitor, etc.) and must be made by a competitor or coach to the Competition Committee within 10 minutes of the conclusion of the round. Any challenge submitted after 10 minutes of the conclusion of the round is waived. Disagreement with the scoring or result of a round are not a basis for challenges. A judge's rigorous question, probing of a competitor's argument or disagreement with a competitor's position will not be considered inappropriate bias and is not a basis for challenge. Likewise, a competitor's disagreement with a judge's reading of the Record or understanding of the legal arguments is not a basis for challenge. Finally, as noted earlier in the Rules, it is not a valid basis for challenge that a team has already argued in front of the same judge.

The Competition Committee will notify competing teams how to submit challenges. A challenge will not delay the start of any subsequent rounds. Further, the remedy for any challenge is at the sole discretion of the Competition Committee.

## **XII. Interpretation and Supplementation/Amendment of the Rules**

The Elon University School of Law Moot Court Board, the National Competition Committee, and the Director of the Moot Court Program reserve the right to make decisions regarding any aspect of the competition. They also reserve the right to supplement these Rules to address situations not presently covered by these Rules and to amend these Rules at any time before or during the competition. Decisions of the Moot Court Board, National Competition Committee, and/or Director of the Moot Court Program are final.

Please address questions about the Billings, Exum & Frye National Moot Court Competition and these Rules to Sr. Assoc. Dean Alan Woodlief at ([awoodlief@elon.edu](mailto:awoodlief@elon.edu)).