

2020–21 Rules of the McGee National Civil Rights Moot Court Competition

Rule 1. ELIGIBILITY.

Rule 1.01. A law school must be accredited by the ABA to participate in the competition.

Rule 1.02. All team members shall be full or part-time students at the law school that they represent. No team member shall hold a U.S. Juris Doctor degree.

Rule 2. TEAMS.

Rule 2.01. Each participating law school may enter one or two teams.

Rule 2.02. Each team may consist of two or three members.

Rule 2.03. All team members must argue in the competition, but only two members may argue in any single round.

Subd. 1. If a team consists of two people, those two people will argue in each round.

Subd. 2. If a team consists of three people, that team will be responsible for dividing its oral argument so that each team member will argue at least once during the two preliminary rounds. Violation of this subdivision will result in the forfeiture of that team's last Preliminary Round victory.

Subd. 3 During the advanced rounds, a three-person team may choose which two team members will argue in each round.

Rule 2.04. There shall be no substitution of team members after submission of the briefs, except for good cause and with the prior approval of the competition administration. Out of fairness to other teams, the competition administration may allow substitution of a team member to enable a team to argue in the competition but preclude that team from advancing past the Preliminary Rounds.

Rule 3. SELECTION OF SIDES.

Rule 3.01. Except when a law school is sending two teams to the competition, it is the prerogative of each team to choose whether to present its brief on behalf of either the Petitioner/Appellant or the Respondent/Appellee. A team may not submit a brief on behalf of both parties.

Rule 3.02. When a law school sends two teams to the competition, one team must submit its brief on behalf of the Petitioner/Appellant and the other team must present its brief on behalf of the Respondent/Appellee. Violation of Rule 3.02 shall result in the deduction of one (1) point from the final brief score of each team of that law school.

Rule 3.03. Each team will be required to change sides in arguing the questions presented during the two preliminary oral rounds. Each team may be required to change sides one or more times during the advanced oral rounds depending upon the outcome of the draw, see Rule 9.04, Subd. 6.

Rule 4. FACULTY OR OTHER OUTSIDE ASSISTANCE.

Rule 4.01 Accessing/Viewing Materials from the Actual Trial or Appeal is Prohibited. The 2020-21 competition is not based on an actual trial. This subdivision is therefore inapplicable for this 2020-21 competition.

Rule 4.02. Accessing/Viewing Materials Provided to Judges is Prohibited. With the exception of the scoring sheets contained in the appendices to these rules, 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 the judges in presiding over the written or oral arguments, including but not limited to the bench memo. Violation of this rule may result in sanctions which, depending upon nature, circumstances, severity of the violation(s) could result in penalties ranging from the loss of points from the

team's final brief score to disqualification from a round or the competition.

Rule 4.03 Pre-Brief Discussions. Prior to commencing writing the brief, but after distribution of the problem, members of the faculty (including library faculty and staff), members of the administration and/or non-faculty coaches shall not have any discussions with team members regarding the issues in the case, research sources, etc. Assistance may only be provided after the team has submitted its final brief.

Rule 4.04. Assistance in Writing/Editing Brief Prohibited. A team may not seek or receive assistance in writing or editing its brief.

Subd. 1. Only a team member may assist another member of the same team in writing, editing or reviewing the brief.

Subd. 2. Review of the brief by any person other than a team member (including review for typographical errors, citation checking or "general flow") is prohibited.

Subd. 3. If two teams represent a single school, the members of one team may not assist the members of the other team in writing, editing, or reviewing its brief.

Rule 4.05. Permitted and Prohibited Assistance Regarding Oral Arguments. Except as stated herein, a team may not seek or receive assistance in developing or revising its oral arguments.

Subd. 1. The members of a team may hold practice oral argument sessions before filing their brief but may only use their own team members as judges for such sessions. Faculty, coaches, and other non-team members may not be present at these "pre-brief filing" practice arguments.

Subd. 2. If two teams represent a single school, the members of one team may not assist the members of the other team in developing or revising their oral arguments. However, such teams may participate in practice oral arguments

against one another once both teams' briefs have been filed.

Subd. 3. Once a team has filed its brief, members of the faculty (including library faculty and staff), members of the administration, non-faculty coaches and volunteer judges may preside over and critique the team's practice oral arguments.

a. Such critiques may include analysis and evaluations of the effectiveness of the substantive arguments and their organizational components as well as suggestions regarding principals of effective oral advocacy and style.

b. Such assistance, however, must not comprise developing or constructing an argument for the team or any of its members.

Subd. 4. Critiques or suggestions given by competition judges as feedback for oral arguments over which they preside shall not be considered outside assistance in violation of Rule 4.

Subd. 5. Any volunteer judge who presides over a team's practice round may not judge that team in a competition round.

Rule 4.06. Declarations of Compliance.

Subd. 1. Prior to the mandatory team meeting on **March 1, 2021**, each team member must sign the declaration in Appendix G, which certifies that they and, to the best of their knowledge, their teammates have not received any assistance in (1) the preparation of their brief that is contrary to Rule 4.04 and in (2) the preparation of their oral argument that is contrary to the provisions of Rule 4.05. Declarations need not be notarized.

Rule 4.07. Penalties for Violations.

Subd. 1. Violation of Rules 4.01 – 4.05 may result in sanctions which, depending upon the nature, circumstances, or severity of the violation(s) could result in penalties ranging from

(a) 2 to 5 points for each violation off the team's final brief score to (b) possible disqualification.

Subd. 2. A team’s brief will not be considered until executed Appendix G declarations have been received for each team member pursuant to Rule 4.06 Subd. 1. The late submission of executed Appendix G declarations shall result in a one half (.5) point penalty per day for each declaration that is late for a maximum penalty of ten (10) points off a team’s final brief score. The failure to submit Appendix G declarations for each team member within twenty days of the brief filing deadline shall result in the disqualification of the team.

Subd. 3. A team will not be permitted to participate in oral arguments at the competition until executed Appendix J declarations have been received for each team member pursuant to Rule 4.06 Subd. 2. Each argument that a team misses because a team member has not submitted an Appendix J declaration shall be considered a forfeit by that team.

science, empirical studies, social and psychological theory, social science research, history, including legislative history, and current events.ⁱⁱ

Rule 5.02. Permissible and Impermissible Use of Facts. The fact record designated by the competition’s administration is the complete exclusive adjudicative fact record of the competition problem.

Subd. 1.
The 2020-21 competition is not based on an actual trial. This subdivision is therefore inapplicable for this 2020-21 competition.

Subd. 2. At its discretion, the competition administration may supplement the adjudicative facts that are contained in the designated fact record with additional facts at any time prior to the due date of the brief.

Subd. 3. Limitations concerning use of adjudicative facts.

The 2020-21 competition is not based on an actual trial. This subdivision is therefore inapplicable for this 2020-21 competition.

Subd. 4. Use of Legislative Facts and Other Resources.

a. Competitors may use legislative facts, if relevant, when making a policy argument or when arguing about the effect of the law, policy or practice in question or what the law, policy or practice should be.

b. Except as specifically prohibited by these rules, competitors are free to utilize precedent, statutes, rules, regulations, legislative history, scholarly works in a manner in which such resources would typically be used in crafting appellate arguments.

Subd. 5. Except as otherwise provided herein, each violation of Rule 5 is subject up to a 10-point technical penalty off the offending competitor’s brief score. Violations of Rule 5 will be determined solely pursuant to challenges submitted

Rule 5. THE FACT RECORD.

Rule 5.01. Definitions.

Subd. 1. Adjudicative facts. “Adjudicative facts” are facts pertaining to the immediate parties to the action.

a. “Adjudicative facts” are facts concerning the immediate parties 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 on matters pertinent to the case.

b. “Adjudicative facts” are those facts that cannot be raised on 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.

Subd. 2. Legislative Facts. “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.ⁱ Examples of legislative facts include:

under Rule 8.02.

Rule 6. BRIEF TECHNICAL REQUIREMENTS.

Rule 6.01. Anonymity.

Subd. 1. Except as otherwise provided herein, the brief shall not in any way reveal the identity of the team's school or the individual team members or include any information from which such might be surmised.

Subd. 2. Team identifying brief letter. Each team will be assigned brief identifying letter(s) from the alphabet. The letter(s) will be the **ONLY** reference to the team on the cover of or at any place in the brief. The identifying letter(s) shall be included on the brief cover in a manner consistent with Rule 6.03 Subd. 3. The identifying letter(s) shall be assigned by a completely random drawing held by the competition administration. These identifying letters will be e-mailed and posted in the shared Google Drive on or before **December 3, 2020**.

Subd. 3. A violation of Rule 6.01 shall result in a deduction of three (3) points from the final brief score.

Rule 6.02. Brief Parameters.

Subd. 1. Word limit and Certificate of Compliance.

a. The brief shall consist of not more than 7,500 words.

b. The 7,500 word limitation does not include pages devoted to the cover, Questions Presented, Table of Contents, Table of Authorities, Opinions Below, Statement of Jurisdictionⁱⁱⁱ, Constitutional Provisions and Statutes Involved, Appendices, or Certificate of Compliance.

c. All other aspects of the brief, including but not limited to the Statement of the Case, Summary of the Argument, Argument and Conclusion shall be counted toward the word limit.

d. Teams shall submit a Certificate of Compliance contemporaneous with the filing of their brief. The certificate must be signed by a team member stating that the brief complies with the word limitations. The person preparing the certificate may rely on the word count of the word-processing system used to prepare the document. The word-processing system must be set to include footnotes in the word count. The certificate must state the number of words in the document. The certificate shall accompany the brief when the brief is filed.

Subd. 2. Margins and spacing.

a. Margins shall be not less than 1 inch excluding page numbers.

b. The printing or typewriting process used must produce a clear black image.

c. Except as indicated in Rule 6.03 Subd. 4, the type size for text shall be no smaller than 12 point. The type size for footnotes, including superscripted footnote numbers shall be no smaller than 10 point.

d. The main text^{iv} shall be double-spaced. Footnotes may be single-spaced. Headings and indented quotations may be single-spaced.

Subd. 3. Penalties.

a. Violation of the Rule 6.02 Subd. 1 word limit restriction shall result in a deduction of one (1) point from the final brief score for the first word in excess of the word limit. An additional point shall be deducted, up to a maximum penalty of five (5) points, for each additional 100 words in excess of the word count.

b. Violations of Rule 6.02 Subd. 2a shall result in a deduction of one (1) point from the final brief score. Violation of Rule 6.02 Subd. 2b, 2c, and/or 2d shall result in a

deduction of up to two (2) points per Subdivision violated, not to exceed 6 points.

Rule 6.03. The Brief Cover.

Subd. 1. Color of cover. The cover of a Petitioner’s brief shall be blue, which may be noted electronically by inserting the words [Blue Cover] on the cover page. The cover of a Respondent’s brief shall be red, which may be noted electronically by inserting the words [Red Cover] on the cover page.

Subd. 2. Content of cover. The brief shall bear on its cover, in the order indicated, from the top of the page:

- a. the docket number of the case;
- b. the name of the Court that is presiding over the appeal, e.g. the Supreme Court of the United States;
- c. the caption of the case;
- d. the nature of the proceeding and the name of the court from which the action is brought (e.g., “On Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit”; or, for a merits brief, “on Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit”);
- e. the title of the document (e.g., “Brief for Respondent”);
- f. the team-identifying letter(s) (see Rule 6.01 Subd. 2).

Subd. 4. A team, at its discretion, may vary the font and size of the type that it uses on the cover of its brief.

Subd. 5. Penalties.

- a. Violation of Rule 6.03 Subd. 1 shall result in a deduction of not more than one (1) point each from the final brief score.

- b. Violation of Rule 6.03 Subd. 2 shall result in a deduction of one (1) point from the final brief score.

Rule 6.04. Content and Order of Required Brief Sections.

Subd. 1. Petitioner and respondents’ briefs shall contain the following sections in the following order:

- a. The questions presented for review. The questions shall be set out on the first page following the cover, and no other information may appear on that page;
- b. A table of contents;
- c. A table of cited authorities;
- d. Citation(s) to the opinion(s) below;
- e. The constitutional provisions, treaties, statutes, ordinances, and regulations involved in the case, set out word for word, i.e. no ellipses, with appropriate citation. If the provisions involved are lengthy, their citation alone suffices at this point, and their pertinent text shall be set out in an appendix to the brief;
- f. A concise statement of the case entitled “Statement of the Case,” setting out the procedural history and the facts material to the consideration of the questions presented.
- g. A summary of the argument, suitably paragraphed. The summary should be a clear and concise condensation of the argument made in the body of the brief; mere repetition of the headings under which the argument is arranged is not sufficient;
- h. The argument, exhibiting clearly the points of fact and of law presented and citing the authorities and statutes relied on;
- i. A conclusion specifying with particularity the relief the party seeks.
- j. The signature block at the close of the

brief shall indicate simply:

Respectfully submitted,

Petitioner or

Respectfully submitted,

Respondent

or words of similar effect, the key being that the information shall not reveal either the identity of the team's school or any of its team members.

k. A team, at its option, may include its team-identifying letter in the signature block (see Rule 6.01).

Subd. 2. A team, at its option may include a concise statement of the basis for jurisdiction in the court that is presiding over the appeal, including the statutory provisions and time factors on which jurisdiction rests, after the table of cited authorities and before listing of constitutional provisions, treatise, statutes, etc. A jurisdictional statement, however, is not required.

Subd. 3. The failure to include a required section in the brief shall result in a deduction of one (1) point from the final brief score. The failure to put the required sections in the order specified above shall result in a deduction of one (1) point from the final brief score.

Rule 6.05. Form of Citations.

Subd. 1. Except with regard to brief headings, all citations contained in the table of authorities, the section that sets forth jurisdiction, constitutional provisions, treaties, statutes, ordinances, and regulations, the section that sets forth citation(s) to the opinion(s) below, the statement of the case, the summary of the argument, the argument and/or the conclusion shall be in the form prescribed by the **Twenty-First Edition** of The Bluebook: A Uniform System of Citation (hereinafter, "The Bluebook").

Subd. 2. Where the Bluepages contained in The

Bluebook differ from the rules of citation and style contained in other sections of The Bluebook, the Bluepages must be followed.

Subd. 3. Each team is responsible for citing accurately in accordance with The Bluebook. The competition's administration does not deduct penalty points under Rule 8.01 for failure to accurately cite in accordance with The Bluebook. The judges who review the briefs, however, may deduct points for failure to accurately cite in accordance with The Bluebook. See Appendix A for scoring criteria.

Rule 6.06. Appendix to the Brief.

Subd. 1. A team, at its discretion, may include with its brief an appendix containing materials that are relevant to their argument. Teams are cautioned not to include in an appendix arguments or citations that properly belong in the body of the brief.

Subd. 2. A team should not include as part of an appendix fact statements, decisions or other documents that are already included in the designated record of the competition or a supplement to that record.

Rule 7. FILING AND SERVICE OF BRIEFS.

Rule 7.01. Filing of Brief.

Subd. 1. Filing deadline. Each team shall file its brief and the signed Appendix G declaration for each team member with the competition office **by Electronic Mail on or before January 21, 2021.**

The filed materials shall be addressed to:

Debbie Nelson, Program Admin. Wm. E. McGee
National Civil Rights
Moot Court Competition
Mitchell Hamline School of Law
875 Summit Avenue
St. Paul, MN 55105
Debra.nelson@mitchellhamline.edu

Subd. 2. Filing deadline penalty. The failure of a team to file its brief with the competition administration by the filing deadline shall result in a two (2) point penalty per day for a maximum penalty of twenty (20) points off the final brief score. In addition, untimely submission of Appendix G Declarations along with the brief will result in a .5 pts/day per declaration (10 pt max).

Subd. 3. No revisions after filing. No team shall revise or correct its brief after it has been filed with the competition administration. Corrected briefs will not be accepted.

Rule 7.02. Electronic Service of Brief. Teams will accomplish service by the procedures set forth below.

Subd. 1 Service Deadline. On or before January 21, 2021, each team shall submit one (1) virus free electronic copy of its brief as an attachment to a virus free e-mail message directed to debra.nelson@mitchellhamline.edu with *McGee Brief Submission "Team Letter"* in the subject line. This copy shall be in Adobe Acrobat [pdf] format. If a team does not have access to Adobe Acrobat writing software, it may submit the e- mailed copy in Word format. A team must receive the prior approval of the competition administration to submit these copies in a different format. The file name of the electronic copies should include "Team" followed by the team's assigned brief identifying letter(s), e.g. "Team A". The name of the school should not be included in the file name.

Subd. 2. E-mailed copy deadline penalties. Failure to submit the e-mailed copy of the brief in a timely manner shall result in a one (1) point penalty per day for a maximum penalty of ten (10) points off the final brief score.

Subd. 3. Briefs posted in the shared Google Drive Folder. The e-mailed copies of briefs submitted pursuant to Rules 7.01 and 7.02 will be posted in the shared Google Drive Folder where they will be accessible to all teams by **January 25, 2021.**

Rule 7.03. Unspecified Filing and Service Penalties. Any violations of Rule 7 for which there is not a specified penalty will result in a one (1) point deduction per violation that will be deducted from the final brief score.

Rule 8. JUDGING THE BRIEF.

Rule 8.01 Technical Error Checking. The competition administration shall examine each brief for compliance with the technical requirements.

Rule 8.02 Challenging Technical Penalties

Subd. 1. The competition administration will post each team's Technical Score Sheet (see Appendix B) in the shared Google Drive folder by **February 11, 2021.**

Subd. 2. Any and all challenges to the Technical Score Sheet of a team's own brief must be received by the competition administrator, Debbie Nelson, by email directed to debra.nelson@mitchellhamline.edu and by **4:30 p.m. (CST) February 18, 2021.** The competition administration will confirm receipt of challenges via e-mail. It is the responsibility of the team submitting a challenge to make sure that its challenge has been received by the competition administration.

Subd. 3. A challenge of a Technical Score Sheet mark must clearly identify the mark in question and include a detailed explanation of the basis for the challenge including pertinent documentation, if any.

Subd. 4. The competition administration will review and determine the merits of each challenge. The competition administration will post each team's final Technical Score Sheet in the shared Google Drive folder by **February 25, 2021.** This determination will be final and non-appealable.

Subd. 5. The failure to submit a challenge so that it is received by the program administrator to the competition by **4:30 p.m. (CST) February 18, 2021** or to include the documentation and information required in Rule 8.03, Subd. 3, will void the challenge and the original Technical Score

Sheet determinations will stand. Challenges of the Technical Score Sheet will not be accepted or considered if received after 4:30 p.m. (CST) **February 18, 2020.**

Rule 8.04. Brief Review Judges.

Subd. 1. Copies of each team's brief will be distributed to the brief review judges.

Subd. 2. Five judges^v will read each brief and score them on a scale of zero (0) to one hundred (100). See Appendix A for scoring criteria.

Subd. 3. The raw brief score will be determined by excluding the highest and lowest scores and averaging the remaining three scores. The final brief score will be determined by deducting the technical error penalty points, if any, from the raw score. If this process results in two or more teams having the same net score, for ranking purposes, the team with the higher raw score will be ranked ahead of the team(s) with which it was tied. In the event that there is still a tie, the tie will be broken using a random draw of the tied teams to determine the order of distribution.

Rule 8.05. Best Brief Award. The Best Brief Award will be awarded to the team that has the brief with the highest final score. It will be posted on the McGee Competition website and the award will be mailed to the winning team following the final round of the competition on **Saturday, March 6, 2021.** Competition Directors may, in their discretion award additional Best Brief Awards to recognize Best Petitioner/Appellant Brief and Best Respondent/Appellee Brief.

Rule 9. ORAL ROUNDS' FORMAT. The preliminary and advanced oral argument rounds will be held virtually, over Zoom, on **March 5 and 6, 2021,** at the times and locations to be designated by the competition administration. The designated host school is Mitchell Hamline School of Law, 875 Summit Avenue, Saint Paul, MN 55105, but all rounds will take place over Zoom.

Rule 9.01. Distribution of Teams into The Preliminary Round Oral Argument Brackets Based on Final Brief Score.

Subd. 1. The Preliminary Round oral argument brackets will be set to the number and size of registered teams. For the purpose of the Preliminary Rounds, a team will compete only against other teams in its own bracket unless a different configuration is required due to a lack of symmetry in the number of teams.

Subd. 2. The assignment of teams to the Preliminary Round oral argument brackets will be in serpentine fashion determined by their final brief score. The team with the highest final brief score will be assigned to Bracket A. The team with the next highest final brief score will be assigned to Bracket B, the next to Bracket C and so on and so forth until a team has been assigned to each bracket. The next team will be assigned to the last bracket in which a team was assigned (increasing the total in that bracket to two) after which second teams will be assigned to the brackets in reverse order until a second team is added to Bracket A. Third teams will then be assigned to Brackets A, B, C, etc. until all brackets have three teams. The process will be repeated until all teams have been distributed.

- a. Tournament administrators will separate two teams representing a single school into different brackets, if possible, and even if that separation results in change to the preliminary relative ranking.
- b. In the event of final brief score ties, the team with the higher brief score before the deduction of technical error penalty points shall be the distributed to the brackets first. If a tie remains, the tie will be broken using a random draw of the tied teams to determine the order of distribution.

Subd. 3. Once the brackets are determined, a random draw will be used to assign an identification number to each team within each bracket. This number will determine each team's adversaries and the side it will argue during each Preliminary Round. In the event that a school is randomly matched against the other team from that school, the competition administration shall redraw that pairing. In the event the last drawing matches

a team against the other team from that school, the competition administration shall start the process of random drawing again. The goal of this rule is to prevent teams arguing against teams from their own school in the Preliminary Rounds. The bracket, team number assignments, and Final Brief Scores will be e-mailed and/or posted on the shared Google Drive folder by **February 25, 2021**.

Rule 9.02. General Meeting. All teams and team members shall meet virtually over Zoom at **6:00 pm Central Time on Monday, March 1, 2021** for a general meeting.

Rule 9.03. Preliminary Rounds.

Subd. 1. There shall be two Preliminary Rounds during which each team will argue against a different team within its bracket determined by random drawing referred to in Rule 9.01 Subd. 3.

Subd. 2. Each team will argue the side that is assigned to them according to their team number. Team numbers, sides & brackets will be sent to teams on **February 25, 2021**. No team shall argue the same side of the case in both Preliminary Rounds.

Subd. 3. In the event that the number of competing teams changes prior to the distribution of teams to the brackets or there is an odd number of teams, the competition administration reserves the right to revise the preliminary round pairings or system or implement other measures to ensure that each team will argue against two different teams and on both sides of the questions during the preliminary rounds.^{vi} If after the distribution of teams to the brackets, a team fails to compete in any Preliminary Round, its adversary will be determined the winner of that round by forfeit. The winner-by-forfeit team will argue before the panel without an opponent and receive oralist scores for purposes of the individual oralist awards and for purposes of the tie-breakers in Subdivision 10 of Rule 10.08.

Rule 9.04. Semifinal and Final Rounds.

Subd. 1. There will be two advanced rounds after

the Preliminary Rounds, i.e. the Semifinal Round and the Final Round. These rounds will be tournament style, i.e. single- elimination with the winning team advancing to the next round until a winner of the competition is determined. See Appendices E and I.

Subd. 2. The four teams with the best records at the culmination of the Preliminary Rounds will advance to the Semifinal Round. The determination regarding which teams have the best records will be made by first comparing relative won/loss records and then applying the tie-breakers set forth in Rule 10.08, Subd. 10. This method will also determine the respective seeding of the advancing teams.

Subd. 3. Advancing teams will keep the same number that was assigned to them for the preliminary round throughout the advanced rounds.

Subd. 4. The announcement of the four teams that will advance to the Semifinal Round, their respective seeds and pairings will be made over Zoom following the preliminary rounds on **Friday, March 5, 2021**. All teams must be represented at this meeting. At that time, a drawing will be conducted in accordance with the procedure set forth in Rule 9.04 Subd. 6 to determine the side that each advancing team will argue.

Subd. 5. The drawings to determine which sides the teams in subsequent advanced rounds will argue will take place following each completed round over Zoom in accordance with the procedures set forth in Rule 9.04 Subd. 6. Representatives from each advancing team must attend.

Subd. 6. Determining sides during advanced rounds. Which team shall argue Petitioner and which team shall argue Respondent in each advanced round pairing will be determined by a drawing administered by the competition administration.

Subd. 7. The First, Second, & Third Place Teams, Best Brief(s), and awards for Oral Advocacy will

be posted on the McGee competition website and awards will be mailed to winning teams as soon as possible following the final round of the competition on **Saturday, March 6, 2021**.

Rule 9.05. Oral Argument Panels. Each Preliminary Round, Semifinal and Final Round oral argument will be heard by a minimum of two or a maximum of three judges.^{vii}

Rule 9.06. Closed and Open Courtrooms.

Subd. 1. The Preliminary Rounds are closed to the public. Only members of the teams that are arguing in that virtual courtroom (i.e. the Zoom meeting room), coaches affiliated with those teams, presiding judges and competition personnel may be present in that virtual courtroom. Exceptions will be granted only if all members of each team agree.

Subd. 2. The Semifinal Round is open to the public and to all competition participants except persons affiliated with a team that is arguing in the other courtroom unless a school has teams arguing in both courtrooms. Refer to Rule 10.03, Subd. 2. The Final Round oral arguments are open to the public and to all competition participants.

Rule 10. ORAL ARGUMENT PROCEDURE.

Rule 10.01. Permissible Interaction with Judges.

While at the competition, no participant may have knowing prior interaction with persons who are scheduled to hear their oral arguments.

Rule 10.02. Judge Conflicts.

Subd. 1. No participant shall be allowed to argue before a judge whom he or she knows i.e. has reason to believe that the judge either has knowledge as to their identity or school affiliation. A check for potential judge conflicts shall take place via email on **February 28, 2021** and at the **March 1, 2021** General Meeting.

Subd. 2. If at any time during the Competition, a participant discovers that a panel that is

scheduled to preside over their argument includes a judge whom he or she knows, i.e. has reason to believe that the judge has knowledge as to their identity or school affiliation, he or she shall immediately notify the bailiff or competition administration so that appropriate action may be taken to remedy the potential conflict.

Subd. 3. If at any time during the Competition, a Coach or faculty advisor discovers that a panel that is scheduled to preside over the argument of their team includes a judge whom they know, i.e. has reason to believe that the judge either has knowledge as to their identity or school affiliation, they shall either sit in a location in the courtroom that will not reveal the team to which they are affiliated, remove themselves from the courtroom or immediately notify the bailiff or competition administration so that appropriate action may be taken to remedy the potential conflict.

Rule 10.03. Role of Coaches and Faculty Advisors at Oral Arguments.

Subd. 1. Coaches and faculty advisors attending the competition may attend the oral arguments of their team(s) and may, outside the courtroom, provide analysis and evaluations of the effectiveness of the substantive arguments and their organizational components as well as suggestions regarding principals of effective oral advocacy and style.

Subd. 2. A coach or faculty advisor who has two teams arguing in separate courtrooms at the same time must choose which argument he or she will attend. The coach/faculty advisor may not move from one courtroom to the other during the arguments.

Subd. 3. Coaches and faculty advisors may not communicate with their team while a round is in progress.

Rule 10.04. Seating and Permissible Courtroom Interaction.

Subd. 1. Each virtual courtroom will consist of a

separate Zoom meeting. Each competitor will log on separately to the Zoom meeting. Competitors may sit or stand to present their argument.

Subd. 2. Team members may be in the same physical space while logged on to the virtual courtroom. Team coaches must not be in the same physical space as the competitors.

Subd. 3. If a team has three members, the team member who is not participating in a particular oral argument may attend the argument and may share the same physical space as their teammates. Such team member may not offer any oral or written suggestions or comments to or communicate in anyway with their teammates once the argument is underway.

Subd. 4. Team members who are participating in an oral argument may confer with each other during the oral argument but may only do so while neither is arguing. A team member not currently arguing may not communicate with a team member while that team member is engaged in argument before the panel.

Subd. 5. Coaches, faculty advisors, non-arguing team members and non-team members who are permitted to attend an oral argument may not communicate in any way with participating teams while the oral argument is in progress.

Subd. 6. Arguing team members may use technology, such as computers, tablets, and phones, during arguments.

Rule 10.05. Identifying Team and Team Members.

Subd. 1. At the beginning of each team's argument, the team member who leads off shall announce their team number, the party or parties that they represent, the name of each team member who will argue and the issue(s) that they each will address.

Subd. 2. At the beginning of each individual's argument, they shall state their name.^{viii}

Subd. 3. At no time before, during or after an

argument shall a team member reveal the name of their law school to a judge, even if requested to do so by a judge except that following the submission of scoresheets and the announcement of the prevailing team in the Final Round, the competitors may reveal their schools.

Subd. 4. Teams must ensure that nothing in the competitor's online video background could identify a competitor's school.

Rule 10.06. Allotted Time. Each team shall be allotted thirty (30) minutes for argument in each round. The judges may, at their sole discretion, interrupt the arguments to ask questions. No team member shall argue more than twenty (20) minutes of the allotted thirty (30) minutes. Petitioner's team may reserve up to five (5) minutes of their time for rebuttal.

Subd. 1. In the event of a technical problem with the online platform for a team member, a team's allotted time will stop running. The bailiff will start a three-minute timer for the team member to rejoin the meeting. If the competitor is unable to rejoin the meeting within three minutes, the other team member (or the non-arguing team member in the event of a three-person team) may finish the argument.

Subd. 2. In the event of a technical problem with the online platform for a panel judge, a team's allotted time will stop running. The bailiff will start a three-minute timer for the judge to rejoin the meeting. If the judge is unable to rejoin the meeting within three minutes, the other judges will finish the argument. In the event the judge rejoins the meeting after the three-minute time expires, that judge may still consider the argument and vote on the result, provided that the judge was able to view a substantial portion of the argument, as determined by the panel as a whole and the competition administration, if necessary.

Subd. 3. In the event of a technical problem with the online platform for more than one competitor or panel judge, the round timer will stop and the bailiff will set a ten-minute timer for the parties to rejoin the meeting. If the parties are not able to rejoin the meeting within that time, the round will be rescheduled, under direction from the competition

administrators. Any rescheduled round may occur with fewer than three judges, and may be judged by competition administrators and/or team judges, properly screened for conflicts.

Rule 10.07. Allocation of Time.

Subd. 1. In advance of each argument, team members shall notify the bailiff as to how the two team members wish to divide their thirty (30) minutes.

Subd. 2. The bailiff shall log on to the virtual courtroom independently and use flash cards to notify the virtual courtroom when five (5) minutes remain, when two (2) minutes remain, when one (1) minute remains, and when to stop.

Subd. 3. If the first team member argues beyond their allotted time, either by an extension from the judge or otherwise, such additional time will be subtracted from the second team member's time. If the second team member on the Petitioner team argues beyond their allotted time, such additional time will be subtracted from the team's rebuttal time. If any team member uses less than their allotted time, the unused time will be lost and not added to the time allotted to the other team member for rebuttal.

Subd. 4. A judge may, at their sole discretion, allow a time extension for the second team member on the Respondent team or the member of the Petitioner team arguing rebuttal. However, such extensions shall not exceed five (5) minutes. In such an instance, the bailiff shall notify the second team member when the five (5) minute extension has ended.^{ix}

Rule 10.08. Scoring.

Subd. 1. Each team shall be scored on a scale of zero (0) to one hundred (100) points, of which zero (0) to fifty (50) points shall be allocated to each team member. See Appendix F for oral argument judging criteria.

Subd. 2. Weight of brief score. A team's final brief score will constitute forty-five percent (45%) of the total oral argument score for each

Preliminary Round, twenty-five percent (25%) of the total oral argument score for the Semifinal Round and fifteen percent (15%) of the total oral argument score for the Final Round.

Subd. 3. In scoring the oral argument, the judges shall not take into consideration the merits of the case but shall consider only the effectiveness of each team's argument and oral advocacy skills.

Subd. 4. Each judge's score shall be entered on the appropriate form and delivered electronically to the bailiff who will deliver them to the official scorekeeper.

Subd. 5. While the scores are tallied, the judges may comment on the performance of the teams. Teams are not penalized should judges make comments or suggestions, during these conversations, regarding the substantive aspects of their arguments.

Subd. 6. The bailiff shall deliver electronically the forms to the official scorekeeper.

Subd. 7. The scorekeeper will determine the total oral argument score by calculating the weighted average for all of the judge's scores and the brief score.^x The winner of the oral argument shall be the team with the higher total oral argument score.

Subd. 8. Tie-breakers for determining winners of oral argument rounds. In the event of a tie in determining the winner of an oral argument round, the team with the higher brief score before the deduction of any technical error penalty points shall be the winner. In the event that there is still a tie, the team with the higher brief score after the deduction of any technical error penalty points shall be the winner. In the event that there is still a tie, the cumulative average oral argument score for each team shall be calculated by adding their total oral argument scores from all prior rounds and dividing the sum by the number of prior rounds. The team with the highest cumulative average oral argument score shall be the winner. In the event that there is still a tie, the team with the best overall won/loss record prior to that round shall be the winner. In the event that there is still a tie, the tie shall be broken by a coin toss with the winner of the coin toss winning the round except

in the case of the Final Round. If after applying all other tiebreakers there is still a tie between the participants in the Final Round, the argument shall be considered a tie and the two teams shall be declared co-winners of the round.

Subd. 9. The official scorekeeper shall indicate the winner of the oral argument on the appropriate form and give the form to the bailiff. The official scorekeeper shall retain the judges' score sheets.^{xi} The bailiff shall deliver the form to the judges. One judge shall then announce the winner of that argument. In the event that there is a tie that must be broken by a coin toss, the coin toss shall take place before the judges and representatives of the teams.

Subd. 10. Tie-breakers for determining which teams advance to the Semifinal Round. The first factor in determining which teams advance to the Semifinal Round or receive particular seeds, see Rule 9.04, Subd. 2, is won/loss record. A team with a higher won/loss record advances before a team with a lower won/loss record. In the event that there is a tie the team(s) with the higher brief score(s) before the deduction of any technical error penalty points shall advance or receive the better seed(s). In the event that there is still a tie, where possible, a team that beat another team during one of the preliminary rounds shall advance before or receive a better seed than the team that it beat.^{xii} In the event that there is still a tie, the team(s) with the higher brief score(s) after the deduction of any technical error penalty points shall advance or receive the better seed(s). In the event that there is still a tie, the cumulative average oral argument score for each team shall be calculated by adding their total oral argument scores^{xiii} from all prior rounds and dividing the sum by the number of prior rounds. The team with the highest cumulative average oral argument score shall advance or receive the better seed(s). In the event that there is still a tie, the tie shall be broken by coin toss with the winner(s) of the coin toss advancing or receiving the better seed(s).

Rule 11. Best Oral Advocate Competitions.

Rule 11.01. Eligibility. Individual members of participating teams may compete for four Best Oral

Advocate awards, **Best First Round Advocate, Best Second Round Advocation, Best Oral Advocate of the Preliminary Rounds, and the Overall Best Oral Advocate.**

Subd. 1. To be considered for the Best First Round Advocate or Best Second Round Advocate, a participant must have argued only one time in the first two Preliminary Rounds. The participant's team need not advance to the Semifinal Round to be eligible.

Subd. 2. To be considered for the Best Oral Advocate of the Preliminary Rounds award, a participant must argue two times during the first two rounds. The first two rounds consist of Preliminary Rounds. The participant's team need not advance to the Semifinal Round to be eligible.

Subd. 3. To be considered for the Overall Best Oral Advocate award, a participant must be a member of a team that advances at least to the Semifinal Round. If the participant is the member of a three-person team, the participant must argue at least three times to be eligible. Members of teams that advance to the Semifinal Round or beyond are eligible to be considered for both the Best Oral Advocate of the Preliminary Rounds and the Overall Best Oral Advocate awards.

Rule 11.02. Method for Determining the Best Oral Advocates.

Subd. 1. The First Round Best Advocate, the Second Round Best Advocate, and the Best Oral Advocate of the Preliminary Rounds award is based upon scores that are achieved during the first two Preliminary Rounds. The Best Oral Advocate award is based upon scores that are achieved during all rounds of the competition as long as the individual's team has advanced at least to the Semifinal Round. The winner of Best Oral Advocate shall not also be awarded First Round Best Advocate, Second Round Best Advocate, or Preliminary Round Best Advocate. Similarly, Preliminary Round Best Advocate shall not also be awarded First Round Best Advocate or Second Round Best Advocate.

Subd. 2. The scorekeeper shall rank the four

individuals who argue in a particular round 1, 2, 3, or 4, corresponding with the individual total oral scores^{xiv} that they received from each judge, with one (1) being the highest ranking and four (4) being the lowest. If two (2) or more individuals receive the same individual total oral

score from a judge, they will each receive the same ranking from that judge. If such a tie occurs, the next rank(s) will be skipped. For example, if there is a tie for second, then the third- place rank will be skipped and the remaining individual will be ranked fourth. If there is a three-way tie for first, then the second and third place ranks will be skipped and the remaining individual will be ranked fourth.

Subd. 3. With regard to all awards, the winner shall be determined by calculating each individual's per judge average ranking, i.e. adding each individual's rankings and dividing that sum by the number of judges that the individual appeared before.^{xv} The participant with the lowest per judge average ranking wins.

Subd. 4. For all awards, individuals who score within .10 or better of the winning score shall receive Honorable Mention.

Subd. 5. If possible, Oral Advocate awards shall be announced and awarded following the final round of the competition on **Saturday, March 6, 2021**. Delays in calculating might necessitate a later announcement.

Rule 12. INTERPRETATION OF THE RULES.

Rule 12.01. All requests for interpretation of the rules or the problem before or during the competition will be made directly to the Competition Coordinator at debra.nelson@mitchellhamline.edu. A decision will then be made by the Competition Committee, which consists of three persons. The decision of the Competition Committee will be final. Requests for interpretation of and/or application of the rules must be made with due diligence and in a timely manner. What constitutes due diligence and timeliness shall be determined by the urgency of the circumstances. For example, a request for an interpretation or application of the rules during the oral argument rounds that will

affect the determination as to which team advances must be made immediately. Once a team in question commences argument in the next round, the result in the round in question stands.

GOOD LUCK!

- i For the purpose of this competition, teams are not required to formally request that Judicial Notice be taken of legislative facts.
- ii For additional discussion concerning the distinction between adjudicative and legislative facts, see "Beyond Brandeis: Exploring the Uses of Non-Legal Materials

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- in Appellate Briefs", Elie Margolis, University of San Francisco Law Review, Winter 2000, 34 U.S.F.L. Rev. 197 and Kenneth Culp Davis, Judicial Notice, 55 Colum. L. Rev. 945,95 (1955).
- iii As provided in Rule 6.04 Subd. 2, a formal Statement of Jurisdiction is optional.
- iv "Main text", includes the statement of the case, the summary of the argument, the argument and conclusion.
- v The brief judges will be chosen by the competition administration and will hold J.D. degrees or law degrees comparable to a J.D. degree.
- vi If the competition administration recruits a team to do a volunteer argument against a team that has no opponent due to the lack of symmetry in the number of teams, an argument would not count for the volunteer team but would for the other team. The volunteer team's brief score will be the average brief score of the teams in the other team's bracket.
- vii The oral argument judges will be chosen by the competition administration and will hold J.D. degrees or law degrees comparable to a J.D. degree.
- viii This is to ensure that the judges can accurately complete the Oral Argument Score sheets.
- ix The judges presiding over the oral arguments will be aware of these time restrictions. A joint effort by judges and participants is necessary to stay on schedule.
- x For example, if there are 2 judges, Judge A and Judge B, for a Preliminary round in which the brief score constitutes 45% of the total oral argument score, then the weighted average would be calculated as follows: $\text{Weighted Avg.} = (55/2)\%$ of score from Judge A + $(55/2)\%$ of score from Judge B + 45% of Brief Score. If there are three judges then the weighted average would be calculated as follows:
 $\text{Weighted Avg.} = (55/3)\%$ of score from Judge A + $(55/3)\%$ of score from Judge B + $(55/3)\%$ of score from Judge C + 45% of Brief Score.
The number 55 is obtained by removing the brief score weight from the total weight, that is, $100 - 45 = 55$.
The number 2 or 3 dividing 55 is the number of judges. This is done to give equal weight to all the judge scores. The same approach will be used in calculating the weighted averages for the Quarterfinal Round in which the brief will constitute 25% of the total oral argument

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- score and the Semifinal and Final Rounds in which the brief will constitute 15% of the total score.
 - xi These score sheets will be made available for review by teams at various intervals throughout the Competition.
 - xii It will not be possible to use this tie-breaker if, for example, there are three teams that are tied, each of which have beaten a different one of the other two.
 - xiii See Rule 10.08 Subd. 7.
 - xiv This is the oral score only. It does not include the brief score.
 - xv For example, "Jane Smith" argued 2 times during the first two rounds and received oral argument rankings of 3, 2, 3, 1, 1, and 2 from the 3 judge panels during those rounds. In the quarterfinal round, her team was eliminated but Ms. Smith was ranked 3 and a 1 by that 2-judge panel. Her per judge average ranking would be 2, i.e. $[(3+2+3+1+1+2+3+1) \text{ divided by } 8, \text{ the number of judges that she appeared before}]$. Ms. Smith would be eligible to be considered for the Best Oral Advocate of the Preliminary Rounds award. If her team had continued to advance to the quarterfinal round or beyond, Ms. Smith's other score[s] would be added on and then divided by the appropriate number of judges and she would be eligible to also be considered for the Overall Best Oral Advocate award.