

MOOT COURT HONOR BOARD
2019 1L MOCK TRIAL COMPETITION RULES
November 4th – 7th, 12th, 2019

I. GENERAL RULES

A. COMPETITION COMMITTEE—The Moot Court Honor Board (MCHB) selects a Competition Committee to run each competition. The members of the Mock Trial Competition Committee are as follows:

- Competition Co-Chair:** Austin Neff, aneff@uw.edu
- Competition Co-Chair:** Drew Lombardi, dvl12@uw.edu
- Competition Co-Chair:** David Wang, wangdav@uw.edu
- Competition Committee Member:** Alexandra Bartos-O’Neill, aebo@uw.edu
- Competition Committee Member:** Hannah Parman, hparman@uw.edu
- Competition Committee Member:** Arielle Roter, aroter@uw.edu
- Competition Committee Member:** Conor McCauley, conor.f.mccauley@gmail.com
- Vice President of In-House Competitions:** Kayvon Behroozian, mchbinhc@uw.edu

B. QUESTIONS — Questions regarding the competition should be directed to the Competition Co-Chairs, who can be reached at uwmchb1lmock@gmail.com. Do not rely on answers from other MCHB members or competitors.

C. UPDATE NOTICES—The 1L Mock Trial Chairs will post notices outside the MCHB office on the first floor and online at <https://www.uwmchb.com/floyd-pflueger--ringer-1l-mock-trial.html>. Teams are responsible for checking these locations regularly. The 1L Mock Trial Chairs will also send periodic announcements out via email, but **you are responsible for knowing the content of notices posted outside the MCHB office or online.**

D. IMPORTANT DATES

Information Session/Problem becomes available	Monday, October 14 th
Registration closes	Monday, October 21 st
Mandatory Training Week	<ul style="list-style-type: none"> • Opening/Closing Statement Training with Professor Bailey: 12:30pm at Room 133 (10/21) • Direct/Cross-Examination with Professor Howard: 3:30pm at Room 117 (10/22) • Evidence/Objections with MCHB: 12:30pm at Room 133 (10/25)
Committee Office Hours	Monday, October 21 st – Friday, November 1 st during lunch in the MCHB Office
Drop Deadline Checks Due to MCHB Office (Gates 129)	Monday, October 28th at 5:00 p.m.
Competition begins	Monday, November 4 th
Final Round	Monday, November 12 th
Competition Dates	11/4 –11/8 & 11/12 (teams must check in by 5:45PM each night)

E. PENALTY FOR DROPPING OUT OF THE COMPETITION AT A LATE DATE—

Any member or team that drops out of the competition **after 5:00 p.m. on October 28, 2019**, without good cause (such as a death in the family, severe personal illness, or other emergency situation) **will be barred from competing in any MCHB-sponsored, in-house competition for twelve months, in accordance with MCHB bylaws. A competitor or team will not be deemed to have dropped out of the competition until an email or other writing that states the team is withdrawing from the competition is received by a Competition Co-Chair, or until the Committee decides that their absence from a round warrants their**

removal from the competition. Whether or not the standard for “good cause” has been met is within the sole discretion of the MCHB Executive Board. **The Executive Board reserves the right to request a doctor’s letter or other relevant documentation as evidence of an emergency.**

F. HONOR CODE—Each competitor shall follow the MCHB Competition Honor Code, set forth at Rule 306 of the MCHB Bylaws. Each competitor is also always bound by the UW School of Law’s Honor Code. Competitors may discuss the problem with others within the parameters discussed below.

Generally, students may receive non-substantive feedback from anybody. With the exception of feedback given at official MCHB Sponsored practice rounds, teams should prepare all substantive elements of their case alone, without any help from professors, attorneys, staff, or other students. Substantive and Non-Substantive feedback are defined below. Competitors, may not receive written work-product/edits from any student, faculty, staff, attorney, or MCHB member, except those which may be provided by the competition chairs as examples. This includes openings/closings, questions, etc.

Definitions of Substantive and Non-Substantive Feedback

- **Non-substantive feedback** is feedback that pertains to style, demeanor, and presentation.
- **Substantive feedback** relates to a team’s theory of the case, strategic decisions regarding questioning, testimony, objections, admission of evidence, etc.

If competitors have questions regarding what type of advice and counsel is appropriate to receive from another student, faculty members, attorney, or other person, you should consult with the competition co-chairs **prior** to receiving such advice or counsel.

MCHB Sponsored Practice Rounds

MCHB will hold official practice rounds where competitors may receive non-substantive *and* substantive feedback from MCHB members and national competition team members.

Feedback Outside of MCHB Sponsored Practice Rounds

Outside of official MCHB sponsored practice rounds, Competitors may only receive critique and feedback as to **non-substantive matters**. They may receive such feedback from each other, students, staff, professors, attorneys, and MCHB members.

G. RULES OF EVIDENCE AND PROCEDURE—Students should prepare their cases as if the Federal Rules of Evidence and Federal Rules of Criminal Procedure were controlling. **However, competitors are limited to only the objections specified in section III E 3. Use of other objections, such as evidentiary objections, may be penalized.** A judge’s decision during rounds is final and not appealable.

II. THE PROBLEM

The problem for this competition was prepared by Tracy Leduc for the 2005 Texas Young Lawyer’s Association (“TYLA”) National Trial Competition.

III. THE ORAL MOCK TRIAL COMPETITION

A. FORMAT OF THE COMPETITION

1. Schedule — Each team member and each bailiff must check in by 5:45. Competition rounds begin at 6:30 p.m. each night. **THIS TIME IS SUBJECT TO CHANGE DUE TO ROOM SCHEDULING CONFLICTS.**

2. Check-in Times—Bailiffs and competitors must check-in together at least forty-five (45) minutes before the start time of oral rounds. Check-in for all rounds will take place from 5:00 p.m. to 5:45 p.m. The check-in table will be outside the MCHB Office. **The Prosecution/Plaintiff is responsible for providing a bailiff.**

Any team that does not arrive and have both team members (and their bailiff, if applicable) sign-in before 5:45p.m. may be disqualified from that round at the discretion of the Competition Chairs. A team arriving late enough to cancel a round may also be considered to have dropped out of the competition, subjecting them to the procedures outlined in Section I (E) above.

3. Phases and Competitor Participation—All teams will compete in two preliminary rounds on Monday and Tuesday night (or, in the case of an odd-number of teams, a bye will be given to one team—to be determined by random selection—each night). Quarterfinal, semifinal, and final rounds are conducted on Wednesday (11/6/19), Thursday (11/7/19), and Monday (11/12/19).

4. Allocation of Time—You may choose to reserve a specific portion of your allotted direct examination time or simply request that “any remaining” time be reserved for redirect examination of witnesses. The Prosecution/Plaintiff may also choose to reserve a portion of his/her closing statement time or simply request that “any remaining” time be reserved for rebuttal. You must give proper notice to the court and bailiff to reserve time. However, judges have the authority to pause or allow extra time at their discretion.

5. Bailiffs—The Prosecution/Plaintiff must provide a bailiff to keep time. While time limits are strictly enforced, you do not need to use all of your allotted time. MCHB will provide your bailiff with instructions and time cards. **If you fail to provide a bailiff, two points will be deducted from BOTH competitor's oral scores from EACH judge.**

6. Structure and Time Limits—Listed below are the maximum permissible times that shall be allocated to each phase of the trial. Note that time does not stop for objections unless a judge exercises discretion in this matter.

- a. Opening Statements
 - Plaintiff 10 minutes
 - Defense 10 minutes
- b. Plaintiff's Case
 - 1) First Witness
 - Direct 10 minutes (out of which competitors may reserve time for redirect)
 - Cross-Examination 7 minutes
 - Redirect Remainder of 10 minutes allocated for direct
 - 2) Second Witness
 - Direct 10 minutes (out of which competitors may reserve time for redirect)
 - Cross-Examination 7 minutes
 - Redirect Remainder of 10 minutes allocated for direct
- c. Defense's Case
 - 1) First Witness
 - Direct 10 minutes (out of which competitors may reserve time for redirect)
 - Cross-Examination 7 minutes
 - Redirect Remainder of 10 minutes allocated for direct
 - 2) Second Witness
 - Direct 10 minutes (out of which competitors may reserve time for redirect)
 - Cross-Examination 7 minutes
 - Redirect Remainder of 10 minutes allocated for direct

d. <u>Closing Arguments</u>	
Plaintiff	10 minutes (out of which Plaintiff may reserve time for rebuttal)
Defense	10 minutes
Plaintiff Rebuttal	Remainder of 10 minutes allocated to Plaintiff's Closing

Each team member must participate in either the opening or closing argument, one direct examination, and one cross examination. In other words, each team member must give one speech, do one direct examination, and do one cross examination each round.

Only the team member who conducts the direct or cross-examination of a witness is allowed to make objections when opposing counsel conducts his/her direct or cross-examination of that witness. Team members may consult with each other to decide when to object.

Please note that no Motions *in Limine* will be entertained by the judges.

7. After the Argument—Once the entire trial is completed, you must leave the room to allow the judges to complete their ballots. The bailiff will collect the ballots and take them to the scoring room. The bailiff will notify you to return to the room for oral critique by the judges.

8. Clean-Up—Competitors are **required to clean up the room** that was used during the competition and **return it to the condition in which they found it**. This includes returning furniture, podiums, or any other materials taken from other areas to their original place and clearing the room of cups, exhibits, or other items that you or the opposing team brought in.

Please **DO NOT** move the smart podiums for any reason.

B. WITNESSES

1. General Information—Each team must prepare and bring with them two witnesses to each round. You must call both witnesses each round. Teams may use different people throughout the week for witnesses. Teams will **NOT** use as witnesses any attorney, any UW Law employees (including professors), any current members of the MCHB, or *any* person who has competed in this year's 2L/3L Mock Trial Competition.

2. Qualifications—Witnesses are considered part of your team and therefore must abide by the Competition Rules.

3. Materials—Witnesses may only bring an unmarked copy of their deposition from the packet to the stand. No scripts or summaries are allowed to be brought to the stand.

3. Scope of Witnesses' Testimony and Impeachment—Your packet contains testimony for each witness. The witnesses should know only the facts contained in the applicable testimony but may invent additional, non-material information that can be reasonably inferred from information provided in the packet. (Information is non-material if it has no effect on the outcome of the case, e.g., "I had just bought cheese-puffs at the seven-eleven," "Blue is my favorite color," etc.) All witness testimony is subject to impeachment and objections.

Competitors will inevitably ask witnesses questions that go beyond the facts contained in the problem. This allows the competition to go beyond a stale rehashing of the record and ensures that unexpected testimony will occur. **Witnesses and competitors may only testify to facts that may be reasonably inferred from the 1L Mock Trial Materials.** If a question calls for facts not reasonably inferred from the record, the witness must answer, "I don't know."

If a witness makes a statement of material fact not contained in the problem, the witness must admit to doing so if questioned on the subject. In addition, if the witness testifies to a fact supplied by a competitor that is outside the record, the witness must also admit to that on cross examination if asked. Judges will be instructed not to consider any testimony that may not be reasonably inferred from the record.

Any complaints should be addressed only to VP of Development, Lulu Anderson (mchbdev@uw.edu), or MCHB President Mallory Barnes (mchbpres@uw.edu). They will then make an appropriate determination on how to proceed based on these rules and the MCHB bylaws.

C. EVIDENCE—Teams may use only demonstrative evidence provided in the fact pattern and demonstrative evidence that may be reasonably inferred from the fact pattern. You may enlarge any diagram, document, statement, exhibit, or portion of the fact pattern. You and your witness may also make simple charts and drawings **IN COURT** for the purpose of illustrating the direct and cross-examination of the argument. However, you and your witnesses may not create any demonstrative evidence outside of court or outside the given facts. **All exhibits are authentic, genuine, and unaltered. This means you do not need to authenticate evidence before admitting it.**

D. JURY INSTRUCTIONS—Although no jury will be provided, all trials will be conducted as if a jury was present. Competitors may present their opening and closing statements to the judges as if they were the jury. There will be no ruling by a judge that precludes the trial from being presented to conclusion. Assume that the jury instructions provided in the fact pattern are the only instructions to be given and are not subject to motion or modification. The statutes and jury instructions contained in the problem are the only statements of the applicable substantive law. **No additional jury instructions may be tendered.** There is no need to number the jury instructions.

E. OBJECTIONS

1. Judges' Rulings—Judges' rulings on all objections are final for that round, and you must continue with the trial once the ruling is made.

2. Testimony and Evidence Outside the Scope of the Problem—The court will entertain an objection based on the ground that the witness's testimony is outside the scope of the problem. This objection creates a rebuttable presumption that the testimony offered cannot be reasonably inferred from the problem: once raised, it is up to the team attempting to offer the evidence to show how this information is reasonably inferred from the packet provided. Cross-examination and closing argument also provide an adequate opportunity for competitors to show that the witness strayed from the record. The choice to either object or point out these inconsistencies on cross-examination and in closing argument is a strategic choice left to the teams.

3. Permitted Objections—A complete list of objections that may be used at trial is as follows:

During Opening/Closing Statements:

- Argumentative (opening).
- Improper argument (opening and closing).
- Arguing facts not in evidence (closing).
- Outside the Scope of the Problem (opening and closing).

Objections to Questions During Direct and Cross Examination:

- Leading.
- Asked and answered/Cumulative.
- Compound question.
- Argumentative.

- Confusing/Misleading/Ambiguous/Vague/Unintelligible.
- Mistakes evidence/Misquotes witness.
- Lawyer is testifying.
- Calls for narrative.
- Assumes facts not in evidence.
- Improper characterization.
- Speculative.
- Outside the Scope of the Problem

Objections to Answers Given by Witnesses:

- Narrative.
- Unresponsive/Volunteered.
- Improper characterization.
- Outside the Scope of the Problem

Additional Information:

- For a helpful explanation of these objections, see Trial Techniques, by Thomas A. Mauet, Chapter 10, in the Law Library.

4. Speaking Objections Prohibited

The competition does not permit speaking objections. A speaking objection is when a lawyer states the basis for their objection in addition to making the objection itself. For example, “Objection, they’re leading the witness” or “Objection, leading” are objections. While, “Objection, Your Honor, they’re leading the witness. That question suggests to the witness that the answer is ‘left’” would be a speaking objection.

Judges will be instructed not to permit or ask for speaking objections. However, if a judge does ask you to state the grounds for your objection, do so to the best of your ability.

F. SIDE OF ARGUMENT

1. General Rule—The 1L Mock Trial Chairs determine participant argument side randomly. Teams may not switch sides in any round.

2. Qualifying Rounds—Sides of argument for Monday evening will be determined randomly. On Tuesday night, you will argue for the other side against a different team.

3. Elimination Rounds—After the two qualifying rounds, the 1L Mock Trial Chairs will determine advancement and pairing of teams by using Rule 302 of the MCHB Bylaws. Eight teams will advance to each of two brackets, for a total of sixteen teams advancing to the quarterfinal round. Depending upon the number of teams competing, even undefeated teams may not advance to the quarterfinals. The four quarterfinal winners in each bracket will advance to the semifinals, and the two semifinal winners in each bracket will advance to the championship round. There are no consolation rounds.

The team with the higher score will have the opportunity to choose which side to represent for quarterfinals, semifinals, and the championship round. Note, that team with the higher score **must be physically present and select the side they want in person within thirty minutes after the advancing teams were announced by MCHB.** However, if you are paired against an opponent that you have faced in a qualifying round, you will represent the other side in the elimination round.

G. SCORING AND ADVANCEMENT

1. Merits of the Case—The 1L Mock Trial Chairs instruct all judges not to score based on the merits of the case.

2. Scoring and Tabulation for the Mock Trial Competition (MCHB Bylaws, Rule 302).

(a) Determining the Winning Team for Each Round. The team that wins more ballots than the other wins the round. A team wins a ballot when its ballot score exceeds the opponent's ballot score. The ballot score for a ballot is the sum of the oral scores of the team's individual competitors for that ballot. In the event that neither team wins more ballots than the other, the Committee shall break the tie following the steps below in order.

(1) Average Ballot Score. If the Committee determines that neither team wins more ballots than the other, each tabulator shall independently compute the average ballot score of all the ballots in the round for each team. The average ballot score is the sum of a team's ballot scores from all the ballots in the tied round divided by the number of ballots in that round, rounded to the nearest hundredth. The team with the higher average ballot score shall prevail.

(2) Average Oral Score. If the Committee finds that the teams have the same average ballot score when rounded to the nearest hundredth, each tabulator shall independently compute the average oral scores for each competitor in the round. The average oral score is the sum of a competitor's oral scores from all the ballots in the tied round divided by the number of ballots in that round, rounded to the nearest hundredth. The round winner shall be the team with the individual competitor who has the highest average oral score in that round.

(3) Absolute Oral Score. If the Committee determines that there is still a tie, the Committee shall declare the round winner to be the team with the individual competitor who received the highest oral score of all the judges' ballots in that round.

(4) Competition Average Ballot Score. If there is still a tie, the Committee shall determine the competition average ballot scores for the teams. The competition average ballot score is the sum of each team's average ballot scores (rounded to the nearest hundredth) from all rounds divided by the number of rounds in which that team has competed, including the tied round but disregarding byes. Round to the nearest hundredth. The round winner shall be the team with the higher competition average ballot score.

(b) Determining Advancement to Elimination Rounds and Ranking for Power Protection. Before the quarterfinal and semifinal rounds, the Committee shall rank the teams according to the following criteria:

(1) Winning Record. Rank the teams by preference of the greater number of rounds won. Byes count as won rounds.

(2) Competition Average Ballot Score. Among teams with the same number of rounds won, rank by preference of the higher competition average ballot score. The competition average ballot score is the sum of a team's average ballot scores (rounded to the nearest hundredth) from all rounds divided by the number of rounds in which that team has competed, disregarding byes. Round to the nearest hundredth.

(3) Competition Average Oral Score. Among teams with the same competition average ballot score when rounded to the nearest hundredth, rank by preference of the team with the individual competitor who has the higher competition average

oral score. The competition average oral score is the sum of a competitor's average oral scores (rounded to the nearest hundredth) from all rounds divided by the number of rounds in which that competitor has competed, disregarding byes. Round to the nearest hundredth.

(4) Competition Absolute Oral Score. Among teams with the same competition average oral score when rounded to the nearest hundredth, rank by preference of the team with the individual competitor who has received the higher competition oral score of all the judges' ballots in the competition.

The Committee shall select the top sixteen ranked teams of the competition for advancement to the quarterfinal round. In the quarterfinal and semifinal rounds, the Committee shall match the highest-ranked team against the team that is ranked lowest among the teams advancing, and the second highest-ranked team against the team that is ranked second lowest among the teams advancing. In the quarterfinal round, the Committee shall also match the third highest-ranked team against the team that is ranked third lowest among the teams advancing, and the fourth highest-ranked team against the remaining quarterfinalist team.

3. Note—*The MCHB reserves the right to change pairing and side of argument up to two (2) hours before the scheduled start time of any round.*

IV. COMPLAINT PROCEDURES

A. COMPETITOR MISCONDUCT

1. Authority—The 1L Mock Trial Chairs, the MCHB Executive Board and the Faculty Advisor may discipline competitors for violating the Competition Rules, MCHB Bylaws, or the Law School Honor Code.

2. Procedure—Complaint procedures are described in the MCHB Bylaws. You may reach out to Lulu Anderson with questions or to file a complaint: mchbdev@uw.edu.

3. Disciplinary Action—Based on violations of the Competition Rules, MCHB Bylaws, or Law School Honor Code, competitors may be warned, may lose points in a round, or may be disqualified. Violators may also be denied awards, entry in future competitions, or membership on the MCHB. Discipline of competitors will fit the severity of the violation and will be used only as a last resort.

B. TABULATION INACCURACIES

1. Preliminary Round Scores—All scores from the preliminary rounds will be released simultaneously to competitors at a reception following the second night of the preliminary rounds. Competitors may challenge the accuracy of a ballot tabulation at the challenge booth located outside the MCHB Office for a period of **1 hour** after the release of the results. The deadline will be announced at the time the scores are released.

2. Elimination Round Scores—After all rounds are completed, the pairings for the following night will be posted on the MCHB Office door, website, and emailed to competitors. MCHB will have each team's ballots available after each round (except for the first preliminary round. Both preliminary round ballots will be provided after the second preliminary round is completed). You must be physically present to receive your team's ballots, or you may request them in person from any MCHB member in the MCHB office.

Any competitor may challenge the accuracy of a ballot tabulation no later than 11:00 p.m. on the night of the challenged round. Challenges will be made by emailing the competition chairs at uwmchb1lmock@gmail.com or notifying them in person *if they are still physically in the MCHB*

Office. The Committee shall promptly post a written response acknowledging the competitor challenging the tabulation. Challenges received after 11:00 p.m. or in any other form will not be considered. If the Competition Committee finds a miscalculation or other inaccuracy, the Committee shall replace the postings of results with a corrected posting no later than 12:00 a.m. that night. If the Committee has posted pairings for the next round based on inaccurate scores, the Committee shall also change the pairings for the next scheduled round no later than 12:00 a.m. that night.

V. RECOGNITION

A. COMPETITION AWARDS—The 1L Mock Trial Chairs will present at least the following awards at a ceremony after the final round:

1. First Place Teams
2. Finalist Teams
3. Semifinalist Teams
4. Best Speaker Awards:
 - a). First Place
 - b). Second Place
 - c). Third Place

B. INVITATIONS TO JOIN THE MOOT COURT HONOR BOARD—Three 1L competitors from this Competition will receive “Speaker Awards” based on their oral scores. Those competitors will be invited to join MCHB. You must reach the semifinals to be considered for a Speaker Award.

C. ORDER OF THE BARRISTERS—Participation in the Mock Trial Competition is a category for selection to Order of the Barristers. You may apply for Order of the Barristers in the last quarter of your third year. A faculty committee selects up to ten applicants for membership in the Order based on an outstanding participation in moot court events.