



# UNIVERSITY *of* WASHINGTON

SCHOOL OF LAW

Moot Court Honor Board



## 2019 PWRFL 2L/3L MOCK TRIAL COMPETITION RULES October 14–17, 21, 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:** Sam Alvarez [alvarezs@uw.edu](mailto:alvarezs@uw.edu)

**Competition Co-Chair:** Cael Anacker [cka3@uw.edu](mailto:cka3@uw.edu)

**Competition Co-Chair:** Jack Miller [jackwm@uw.edu](mailto:jackwm@uw.edu)

**Competition Committee Member:** Madelein Spencer

**Competition Committee Member:** Stephanie Verdoia

**B. QUESTIONS**—Questions or concerns regarding the competition should be directed to one of the Competition Co-Chair at [mchb2L3Lmocktrial@gmail.com](mailto:mchb2L3Lmocktrial@gmail.com). Do not rely on answers from other MCHB members or competitors.

**C. UPDATE NOTICES**—We will post updates in two places. First, outside the MCHB office on the first floor. Second, on the PWRFL 2L/3L Mock Trial page on the MCHB website (<https://www.uwmchb.com/pwrfl-2l3l-mock-trial.html>). Teams are responsible for checking for updates regularly. We may send periodic announcements out via email, but you are responsible for knowing the content of notices posted.

**D. MCHB BYLAWS**—The Bylaws describe the structure and operating policies of the MCHB. The Bylaws can also be found on MCHB’s website: <http://www.uwmchb.com/bylaws.html>.

### **E. IMPORTANT DATES**

- **Registration Begins:** Monday, 9/30/2019
- **Registration Ends:** Monday, 10/7/19 (checks due to MCHB office)
- **Problem Released:** On a rolling basis between the beginning of registration and its end.
- **Deadline to Withdraw Without Penalty:** Friday, 10/11/19 at 5 p.m. (registration fee refundable until this time)
- **Committee Office Hours:** 10/7/19 -10/11/19 (Come ask questions about the problem and rules)
- **Deadline for Motion in Limine:** Saturday, 10/12/19 at 5 p.m.
- **Match-ups Posted:** Sunday, 10/13/19

- **Competition Dates:** Monday, 10/14/19 through Thursday, 10/17/19, and Monday, 10/21/19. Quarterfinal results will be released on Tuesday, 10/15/19. Teams must be present to select the sides for the higher seed or to challenge an inaccurate tabulation.

**F. PENALTY FOR DROPPING OUT OF THE COMPETITION AT A LATE DATE**—Any competitor or team that drops out of the competition **after 5:00 p.m. on Friday, October 11, 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 the remainder of the 2019-2020 school year. A team or competitor 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 Competition Chairs.** Whether or not the standard for “good cause” has been met is in the sole discretion of the MCHB Executive Board. **The Executive Board reserves the right to request a doctor’s letter or other documentation as evidence of emergency.**

**G. HONOR CODE**—Each competitor shall follow the MCHB Competition Honor Code, set forth at Rule 306 of the MCHB Bylaws, during preparation rounds and participation in Oral rounds. Competitors may discuss the problem with other students and receive critique from each other, professors, and attorneys in practice rounds if they wish. Competitors, may not receive work-product from any student, faculty, staff, attorney, or MCHB member, except those which are provided by the competition chairs as examples. This includes motions in limine, openings/closings, questions, etc.

**H. RULES OF EVIDENCE AND PROCEDURE**—The Federal Rules of Evidence and Federal Rules of Civil Procedure will control unless otherwise modified by the Competition Chairs.

## **II. THE PROBLEM**

The problem for this competition was prepared for the Texas Young Lawyer’s Association (“TYLA”). It was used with permission from TYLA. Please note that there may be rules included from TYLA, those rules DO NOT govern.

## **III. THE ORAL MOCK TRIAL COMPETITION**

### **A. FORMAT OF THE COMPETITION**

**1. Schedule**—We plan to start all competition rounds at 6:30 p.m. each night. This time may change if there are room scheduling conflicts, but you will be notified in advance if that is the case.

**2. Check-in**—Bailiffs and competitors must check-in together forty-five (45) minutes before the start time of oral rounds. Check-in time for all rounds is 5:45 p.m. The check-in table will be outside the MCHB Office. Teams that fail to check in by 5:45 may be disqualified from the competition round at the discretion of the Competition Chairs. **The Plaintiff/Prosecution is responsible for providing a bailiff.** The bailiff must attend training (even if they know how to bailiff) to receive materials.

**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, Thursday, and the following Monday (10/21/19) evenings.

**4. Allocation of Time**—You may choose to reserve a portion of your allotted direct examination time for redirect examination of witnesses. The Plaintiff/Prosecution may also choose to reserve a portion of his/her closing argument time for rebuttal. You must give proper notice to the court and bailiff to reserve time.

**5. Bailiffs**—The Plaintiff/Prosecution will provide a bailiff to keep time. While time limits are strictly enforced, you do not need to use all of your allotted time. We will provide your bailiff with instructions and time cards. If you fail to provide a bailiff, we will deduct two points per competitor per ballot.

**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. Pretrial Oral Motions/Motions in Limine
  - Plaintiff/Prosecution Motion 4 minutes
  - Defendant Response 4 minutes
  - Defendant Motion 4 minutes
  - Prosecution Response 4 minutes
- b. Opening Statements
  - Plaintiff/Prosecution 10 minutes
  - Defense 10 minutes
- c. Plaintiff/Prosecution'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. Defense's Case

Same format as Prosecution's case
- e. Closing Arguments
  - Prosecution 10 minutes (out of which Prosecution may reserve time for rebuttal)
  - Defense 10 minutes
  - Prosecution Rebuttal Remainder of 10 minutes allocated to Prosecution

Each team member must participate in either the opening or closing argument, one direct examination, and one cross examination. The same team member may do the opening/closing statement for both the prosecution and the defense.

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 or make motions *in limine*.

**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 will 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.

**2. Qualifications**—Witnesses are team members to the extent that they must abide by the Competition Rules. Law school employees, **including professors**, and MCHB members are not permitted to serve as witnesses.

**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 within reason and subject to impeachment on cross-examination.

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 must limit the practice of going beyond the record to facts that they may **reasonably infer** from the record.<sup>1</sup> If a question calls for facts not reasonably inferred from the record, the witness should answer, "I don't know."

If a witness makes a statement of fact not contained in the testimony, the witness must admit to doing so if cross-examined 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 if questioned on the subject. Judges will be instructed not to consider any testimony that may not be reasonably inferred from the record.

**Competitors are NOT permitted to object to "beyond the scope of the problem" if they think a witness has invented a material fact.** If a witness goes outside the scope of the problem, please cross-examine the witness on it or impeach the witness if appropriate. However, inventing material facts that cannot be reasonably inferred from the problem is still a violation of competition rules. So, if you feel a team has unfairly invented a set of helpful facts through one of their witnesses, please notify MCHB.

Witnesses are permitted to bring a copy of their deposition or interview transcript to the witness stand. All other materials must be properly admitted before they can be used. **Scripts or summaries will not be permitted.** Competitors can object if a witness brings any materials other than their own deposition with them to the witness stand. Judges have been instructed to sustain these objections.

**C. EVIDENCE**—You 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.

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<sup>1</sup> You are permitted to make reasonable inferences to resolve ambiguities that exist in the problem. For example, if the problem says someone drank a soda, a reasonable inference would be to say that it was a Pepsi. However, if the problem says nothing about the contents of a room, teams would not be permitted to say that the floor was covered in empty beer cans and whiskey bottles, as an example.

However, you and your witnesses may not create any demonstrative evidence outside of court or outside the given facts. All exhibits are authentic and genuine—assume they have been authenticated for trial purposes.

You are permitted to use PowerPoint and other visual representations of the exhibits, subject to the above paragraph. All visuals are still subject to the rules of evidence. During the competition, MCHB will randomly assign rooms; these rooms may not be equipped for PowerPoint. As such, if you choose to prepare an electronic presentation, you do so at your own risk.

**D. JURY INSTRUCTIONS**—A mock jury may be provided only on the final night of the competition. Though the preliminary rounds will not have a jury, 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, to a jury, as if the jury was present. Assume that the instructions provided in the fact pattern are the only instructions to be given and are not subject to motion or modification. They are the only statements of the applicable substantive law. No additional instructions may be tendered. There is no need to number the jury instructions.

## **E. MOTIONS IN LIMINE AND OBJECTIONS**

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

**2. Motions in Limine, Pretrial Motions, Motions to Dismiss, and Motions for Summary Judgment**—Motions *in limine* are limited to those regarding evidence. You may make any pretrial motions you wish within the allotted time. You may make motions to dismiss or for summary judgment orally and present argument on them. We will instruct the judges to reserve their rulings on motions.

## **F. SIDE OF ARGUMENT**

**1. Preliminary Rounds**—The first two days' pairings will be assigned randomly. Teams will argue one side on Monday night and the other side on Tuesday night, and will be paired randomly against different teams. **Teams may not agree to switch sides in any round.** Teams may not observe other rounds until they are eliminated.

(a) If byes are required due to an uneven number of teams competing, one team will be assigned a bye on Monday evening and another team will be assigned a bye on Tuesday evening. Teams with a bye must check in and be prepared to argue either side on the day they have the bye, in case of a last-minute scheduling change.

(b) A bye round will be counted as a round win for the purposes of advancement. The bye team's score from the non-bye round will be used to determine advancement out of the preliminary rounds in the event of a tiebreaker.

**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, we will determine advancement and pairing of teams by using Rule 304 of the MCHB Bylaws. There are no consolation rounds.

(b) After the two preliminary rounds, advancement and pairing of teams will be determined following Rule 304 of the MCHB Bylaws, as described below. The eight top teams will advance to the quarterfinal round. The four winners of the quarterfinal rounds advance to the semifinal rounds. The two winners of the semifinal rounds advance to the championship round. There are no consolation rounds.

(b) The higher seed in each elimination round pairing will choose their argument side. Teams must be present for the announcement of each round results to choose their side. If

a team is not present, MCHB will randomly assign sides for the round. However, if a team is paired against an opponent they faced in a preliminary round, that team will represent the other side in the elimination round.

For quarterfinal rounds, the higher seeded team in each pairing will inform the Committee Chairs of their choice of side immediately following the release of the bracket at the Elimination Bracket Announcement reception. For semifinal and final rounds, the higher seeded team in each pairing will inform the Committee Chairs of their choice immediately following the release of the updated bracket.

## G. SCORING AND ADVANCEMENT

**1. Merits of the Case**—All judges will be instructed 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.

(5) **A Team's Score on the Motion *in Limine*.** The result of the scores on a team's motion *in limine* **will not be factored** into the determination of a winner of the competition rounds.

(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 eight 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. Furthermore, in the quarterfinal round, the Committee shall 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 Committee, 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. Please reach out to Lulu Anderson, VP of Development, if you have questions or concerns. MCHB VP Development <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**—Any competitor may challenge the accuracy of ballot tabulation pursuant to Section 33(d)-(f) of MCHB Bylaws. The competitor must inform one of the Competition Chairs no later than One Hour (60 minutes) after the elimination round announcements have been made.

**Competitors must be present at the announcement reception or subsequent elimination round announcements in order to issue a challenge to the tabulated results.** Challenges received after this one-hour period or in any other form will not be considered. If the Committee finds a miscalculation or other inaccuracy, the Committee shall replace the posting of results with a corrected posting no later than three (3) hours before the next scheduled round. If the Committee has posted pairings for the next round based on inaccurate scores, or any other error or omission, the Committee shall change the pairings for the next scheduled round no later than three (3) hours before the next scheduled round.

## **V. RECOGNITION**

**A. COMPETITION AWARDS**—We will present at least the following awards at a ceremony after the final round:

1. Champion Team
2. Finalist Team
3. Semifinalist Teams
4. Best Oral Advocates:
  - a. First Place
  - b. Second Place
  - c. Third Place

**B. INVITATIONS TO JOIN THE MOOT COURT HONOR BOARD**—Two (2) 2L competitors from the Competition will be invited to join the MCHB. You must reach the quarterfinals to be considered for MCHB membership. The selection criteria are in Rule 101 of the MCHB Bylaws.

**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.