



Putting Substantive Knowledge to Practical Use: Thurgood A. Marshall Moot Court Competition Raises the Bar and Connects Students to the Practice of Law

The 16th Annual Thurgood A. Marshall Memorial Moot Court Competition took place in Washington, D.C., on April 4 and 5. A groundbreaking success, this year's competition had the largest number of applicants and statewide representation yet. Started in 1997, the competition has become an annual event, sponsored by the FBA's Younger Lawyers Division (YLD) and coinciding with the FBA's Midyear Meeting.

Several aspects make it one of the nation's premier moot court competitions. First, every round occurs at a courthouse in Washington, D.C.—the Superior Court of D.C., the U.S. Court of Federal Claims, and the U.S. Court of Appeals for the Armed Forces—as opposed to at a law school or in an office setting. Presenting oral arguments in actual courtrooms gives students an invaluable experience. Second, all volunteer judges are state or federal judges, practitioners, or scholars, thereby reinforcing the real-world experience. Third, at the awards ceremony immediately following the competition, students have an opportunity to network with the federal court practitioners and judges attending the FBA's Midyear Meeting. Finally, each participant receives a free one-year FBA membership.

Forty-five teams representing law schools from across the country competed in this year's competition, making it by far the most challenging and competitive to date. Several states, including Minnesota, made their first appearance and raised the bar. "Thurgood Marshall was a terrific learning experience," said a student from a school new to the competition. "The entire process dovetailed well with the courses I was taking at the time, which allowed me to put substantive knowledge to practical use. The problem was interesting and challenging. When adding the competition to three internships and a full course load, it made me better at time management and gave me a good idea of what it will eventually be like in practice."

This year's problem added a thicker layer of complexity to the competition than in years past. It centered on a fictional

husband (Joe Public) and wife (Jane Private) who lived in a state where the statutory right to jury trials in civil cases had recently been repealed and who had allegedly been defamed by a popular daily tabloid entertainment news program that aired regularly on a broadcast channel. After the plaintiffs filed suit against the program's producer and the channel's owner (a Delaware corporation) for defamation (among other claims) and sought declaratory judgment, the defendants answered the complaint and filed a counter-claim, requesting declaratory judgment with respect to the constitutionality of the eliminated right to civil jury trials. Later, the husband and wife sought leave to file an amended complaint, which was granted, and filed a motion to dismiss the defendants' declaratory judgment request. The state circuit court ordered *sua sponte* that the amended complaint be stricken from the record, and ultimately, the parties found their way to the U.S. Supreme Court.

Having briefed their respective positions on questions certified to the U.S. Supreme Court relating to the right to a jury trial under the Seventh and Fourteenth Amendments and the First Amendment Right to Petition, the law students presented their oral arguments. Teams were eliminated over the course of two days: first from a cut of 45 to 16 on Thursday; then from a cut of 16 to 8, 8 to 4, and 4 to 2 on Friday. The final two teams presented their case to the final round panel, consisting of Hon. Andrew Effron, U.S. Senior Court Judge for the U.S. Court of Appeals for the Armed Forces; Hon. Gustavo Gelpi, U.S. District Court Judge for the District of Puerto Rico; Brigadier General Kyle Goerke, special assistant to the judge advocate general, Army National Guard (and keynote speaker during the Midyear Meeting luncheon); Robert DeSousa, FBA president and state director for Sen. Pat Toomey (R-PA); and Alfredo Castellanos, partner at Castellanos & Gierbolini, this year's problem author and longtime final round

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the reality that the public's need commands immigration reform. To do nothing in the face of principle does nothing but reduce the Republican Party to the permanent party of opposition that has no direction or leadership to guide the country through the turbulent waters of our era. ☉

Endnotes

¹Gordon S. Wood, *THE CREATION OF THE AMERICAN REPUBLIC*, 34 (1776-1787)(quoting JOSEPH PERRY, A SERMON, PREACHED BEFORE THE GENERAL ASSEMBLY OF THE COLONY OF CONNECTICUT, AT HARTFORD ON THE DAY OF THEIR ANNIVERSARY ELECTION, May 11, 1775 (Hartford 1775) (other citations omitted)(Copyright 1969 by the University of North Carolina Press).

²*Id.* at 35.

³ *BSEOIMA*, Immigrant Visas, § 2101(b).

⁴Julia Preston, *Q. and A.: The Senate Immigration Bill*, N.Y. TIMES (April 22, 2013), www.nytimes.com/2013/04/23/us/politics/q-and-a-the-senate-immigration-bill.html?pagewanted=all&r=0.

“Under the Senate bill, the IRS would impose back-tax assessments based on a review of the information provided by undocumented immigrants applying for registered provisional status to U.S. Citizenship and Immigration Services, the agency that will handle those applications. The immigrants would have to pay all taxes they owe, but they would not be subject to prosecution for failing to pay them.

There are no good estimates of how many immigrants applying for provisional status would owe unpaid taxes or how much they would owe. Even though most undocumented immigrants do not have valid Social Security numbers, many file tax returns using individual taxpayer identification numbers they can obtain from the IRS.”

⁵Seung Min Kim, *Raul Labrador Exiting House Immigration Group*, POLITICO (June 5, 2013), www.politico.com/story/2013/06/house-immigration-group-trouble-92282.html#ixzz2VRpFfxHn.

⁶NATIONAL PORK PRODUCERS COUNCIL, *Immigration Reform*, www.nppc.org/issues/agriculture-industry/immigration-reform/.

⁷“Business, Faith Leaders Call for Senator Joe Donnelly to Support Immigration Reform,” www.indystar.com/article/20130604/NEWS/306040081/Business-faith-leaders-call-Senator-Joe-Donnelly-support-immigration-reform.

Editorial Policy

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judge. Seton Hall School of Law students Sean Kennedy and Amanda Leone came out on top as the overall champion team. New York Law School students Alexander Noble and Lily Ockert finished second.

The remaining winners of the competition are as follows:

2013 Moot Court Winners

First Place Team	Seton Hall
Second Place Team	New York Law School
Third Place Team	University of California Hastings College of Law
First Brief	Seton Hall
Second Brief	New York Law School
Third Brief	University of Miami
First Oralist (Prelim)	Jacqueline Hamer • Baylor Law School
Second Oralist (Prelim)	Stephen Bachran • St. Mary's University
Third Oralist (Prelim)	Benjamin Rigg • University of Dayton
Best Final Round Oralists	Sean Kennedy • Seton Hall

Competition directors Adine Momoh, YLD board member, and Kelly Scalise, chair of the YLD, thank all who volunteered their time to serve as judges and bailiffs during the two-day competition; the final panel judges; the YLD Thurgood A. Marshall Moot Court Committee, especially Joey Bowers, incoming co-director and YLD board member; the Superior Court of the District of Columbia, the U.S. Court of Federal Claims, and the U.S. Court of Appeals for the Armed Forces for hosting this year's competition; the participants and their coaches, who continue to impress us all with their oral advocacy skills, careful preparation, and ability to make this competition a rewarding experience for everyone involved; and of course, the dedicated FBA staff, without whose efforts the competition could not have been a success.

If you know of any law students eager to learn about federal practice, please encourage them to participate in the Thurgood A. Marshall Memorial Moot Court Competition. The YLD looks forward to 2014, when the bar will be raised even higher, as 50 teams are expected to compete. ☉