



2020
THURGOOD MARSHALL MEMORIAL
MOOT COURT COMPETITION

OFFICIAL RULES OF THE 2020 COMPETITION

These rules apply to all teams participating in the 2020 Competition.

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**SPONSORED BY THE FEDERAL BAR ASSOCIATION'S
YOUNGER LAWYERS DIVISION**

OFFICIAL TIMETABLE

January 8, 2020	Registration & Entry Fee Deadline
January 13, 2020	Distribution of Competition Problem and Rules
January 31, 2020	Distribution of team numbers to all registered participants
February 14, 2020	Deadline for receiving briefs. All briefs shall be e-mailed in PDF format to Laura Mulhern at lmulhern@fedbar.org and must be received by no later than February 14, 2020, at 11:59 p.m. EST.
March 3, 2020	Distribution of all briefs to teams
March 5, 2020	Distribution of preliminary round pairings
<u>March 18, 2020</u>	
5:30 p.m.	Team check-in at District of Columbia H. Carl Moultrie I Courthouse, located at 500 Indiana Avenue, NW, at the corner of 5th Street, NW, and Indiana Avenue. The nearest subway station is Judiciary Square (Red Line), located two blocks from the Courthouse.
6:15 – 7:30 p.m.	Preliminary rounds of oral argument Round 1 Location: District of Columbia H. Carl Moultrie I Courthouse
7:45 – 9:00 p.m.	Preliminary rounds of oral argument Round 2 Location: District of Columbia H. Carl Moultrie I Courthouse
11:00 p.m.	Announcement of teams advancing to round of sixteen
<u>March 19, 2020</u>	
9:00 a.m.	Round of sixteen of oral argument (Part A) Location: U.S. District Court for the District of Columbia, 333 Constitution Avenue, NW. The nearest subway stations are Judiciary Square (Red Line), located at the east side of 4th Street between D & E Streets, and Archives-Navy Memorial (Yellow Line), located at 7th and Pennsylvania Avenue.
10:30 a.m.	Round of sixteen of oral argument (Part B) Location: U.S. District Court for the District of Columbia
12:30 p.m.	Announcement of teams advancing to quarterfinal round
1:00 p.m.	Quarterfinal round of oral argument Location: U.S. District Court for the District of Columbia
2:45 p.m.	Announcement of teams advancing to semifinal round of oral argument
3:30 p.m.	Semifinal round of oral argument Location: U.S. District Court for the District of Columbia
5:00 p.m.	Announcement of teams advancing to Final Round

6:30 p.m.

Final Round of oral argument

**Location: U.S. Court of Appeals for the Armed Forces
450 E St NW**

8:00 p.m.

Awards Reception

**Location: U.S. Court of Appeals for the Armed Forces
450 E St NW**

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Rule 1. *Competition Sponsorship and Structure.*

The Thurgood Marshall Memorial Moot Court Competition ("Competition") shall be sponsored by the Federal Bar Association and administered by the Younger Lawyers Division. The Board of Directors of the Younger Lawyers Division shall select Competition Directors, who shall be members in good standing of the Younger Lawyers Division. The Competition Directors shall establish such committees and working groups as the Competition Directors find necessary for the efficient administration of the Competition.

The Competition shall be held in conjunction with the Mid-Year Meeting of the Federal Bar Association. The Competition shall consist of written briefs and oral argument. Each team shall submit a written brief supporting either the Petitioner or Respondent. Each team shall also participate in oral arguments, and must be prepared to argue the positions of both Petitioner and Respondent.

The oral pleading portion of the Competition shall be divided into preliminary, round of sixteen, quarterfinal, semi-final, and final rounds. All teams shall participate in the Preliminary Rounds. Teams advancing beyond the Preliminary Rounds shall be chosen on a combination of written and oral pleading scores. Teams advancing through the Playoff Rounds will also be chosen on a combination of written and oral pleading scores. The Competition Champion, however, shall be selected on the basis of oral argument scores in the Final Round only.

Rule 2. *The Problem.*

(a) The Competition shall be based on a hypothetical case (the "Problem"), which shall be prepared each year by scholars or practitioners. The substantive area of law that forms the basis of the Problem may vary from year to year, but shall always involve an area of law in which the Federal Bar Association has a Section, Division, or Committee.

(b) Participants in the Competition may request clarification of any portion of the Problem by sending an e-mail to lmulhern@fedbar.org no later than **February 14, 2019**. The Competition Directors shall review any requests and determine whether clarification is warranted. If so, written clarification shall be sent to all participants.

Rule 3. *Participation.*

(a) Only law schools accredited by the American Bar Association are eligible to participate in the Competition.

(b) The Competition is limited to 40 teams. No team is guaranteed participation until they have paid the entry fee and their registration is confirmed. Teams are accepted on a first-come, first-served basis. Each school may enter no more than three teams; however, two teams from each school will be guaranteed participation in the Competition prior to the end of the registration period (assuming each team's entry fee has been paid in full). The third team registered from each school will be placed on a waiting list. If 40 teams have not been guaranteed participation in the Competition at the close of the registration period, teams from the waiting list will be invited to participate in the Competition in the order in which they registered (preference may be given to schools that are unrepresented in the Competition as of the close of the registration period).

(c) Each team shall be comprised of two members, each of whom must be enrolled in a full-time or part-time academic program of legal education at the school for which they represent. Each team member must be so enrolled from January 2020 through April 2020. The method of selection of team members is left to the discretion of the participating schools.

(d) Each team shall pay an entry fee of \$450.00. The entry fee shall be made payable to the Federal Bar Association and must be received no later than **January 8, 2020**. Late payment of fees may be allowed, at the discretion of the Competition Directors, upon a showing of good cause. Teams requesting a late payment option shall submit their request to the Competition Directors, in writing, no later than **January 2, 2020**. No team shall be allowed to participate unless proper payment has been made on a timely basis.

Rule 4. Team Identification.

(a) Upon proper registration, the Competition Directors shall assign to each team a Team Number. The participants shall not disclose their school affiliation during the course of the competition. After the Competition is concluded, however, the Competition Directors may publicly disclose the names of the law schools that participated in the Competition.

(b) The Team Number shall be placed on the cover of the brief in lieu of any identification of the school name. During oral argument, participants shall identify themselves by Team Number and the participants' names only. Any team that discloses its school affiliation during the Competition shall be subject to a penalty in accordance with Rule 11.

Rule 5. Preparation of Written and Oral Pleadings.

(a) All preparation for the Competition shall be performed by the student participants. All written materials shall be the exclusive product of the participants.

(b) Teams may utilize the assistance of faculty members, other students, and practitioners in preparing for the Competition. However, such assistance shall be limited to discussions of the issues, of research sources or methods, and of the art of oral advocacy. Such assistance in the preparation of written or oral pleadings shall not interfere with the final work product.

(c) In no event shall any participant utilize the Bench Brief to assist in the preparation of written briefs or in preparation for oral argument. Any team found to have utilized the Bench Brief to prepare for the Competition shall be subject to a penalty in accordance with Rule 11.

Rule 6. Judges.

(a) Each round of oral argument shall be judged by three-judge panels whenever possible. Judges for oral arguments shall be licensed attorneys, judges, or scholars, and shall be members of the Federal Bar Association whenever possible. It is not required that the judges have specialized knowledge of the substantive area of law that forms the basis of the Problem, although the Competition Directors shall endeavor to secure as many judges with such knowledge as possible. Each judge will be provided with the Problem and a comprehensive Bench Brief discussing the applicable law, and all judges shall familiarize themselves with the contents of the Problem and Bench Brief.

(b) Judges shall not place competitors into personalized hypothetical situations or use uncomfortable or inappropriate language when asking questions. The use of profanity is never permitted.

(c) All written briefs shall be graded by three graders. All Brief Graders shall have specialized knowledge of the substantive area of law which forms the basis of the Problem whenever possible. In addition, each brief grader will be provided with the Problem and a comprehensive Bench Brief discussing the applicable law, and all Brief Graders shall familiarize themselves with the contents of the Problem and Bench Brief.

(d) In no event shall any judge sit on a panel that will be hearing arguments from any team with which the judge is affiliated. In accordance with this Rule, all judges shall endeavor to avoid even an appearance of impropriety. In the event a team in any oral round believes a judge has an affiliation with its opponent, this suspicion shall be immediately reported to the Competition Directors, who shall investigate the complaint and, if necessary, reassign the judge to a different courtroom.

(e) In the event a judge sits in both Preliminary and Playoff Rounds of oral argument, the Competition Directors will try to avoid having that judge hear arguments from any team which that judge heard in earlier rounds, but in practice this is sometimes unavoidable.

(f) Each judge in oral arguments shall endeavor to provide feedback to participants regarding their performance. Such feedback shall be limited to the art of oral advocacy and shall not include guidance in the applicable substantive area of law. In no event shall any judge reveal any contents of the Bench Brief to participants.

Rule 7. *Written Briefs.*

(a) Each team shall submit its written brief in PDF format to Laura Mulhern via e-mail at lmulhern@fedbar.org, and the brief must be **received** by no later than **February 14, 2019, at 11:59 p.m. EST**. Any team which fails to submit briefs in a timely manner shall be subject to a penalty in accordance with Rule 11.

(b) Each team shall submit a written brief supporting the position of either the Petitioner or the Respondent. Each team may select whether it shall brief the position of the Petitioner or Respondent. However, in the event any school enters more than one team in the Competition, at least one team from that school must brief for the Petitioner and at least one team must brief for the Respondent.

(c) Once a team has submitted its brief, the brief may not be altered in any way. Under no circumstances shall the Competition Directors accept revised or replacement briefs from any team.

(d) All briefs shall comply with the following format rules. Any team whose brief violates any of the format rules shall be subject to a penalty in accordance with Rule 11.

(i) Each brief shall be no more than twenty-five pages in length. This twenty-five page limit excludes the brief covers, title page, table of contents, table of authorities, questions presented, and statement of jurisdiction. The twenty-five page limit includes the summary of argument, statement of facts, arguments, and conclusion, as well as all footnotes or endnotes.

(ii) The body of the brief must be typed and double-spaced. Footnotes, as well as quotations of more than fifty words, may be single-spaced. There shall be no more than 28 double-spaced lines (or their equivalent) per page, including headings and footnotes.

(iii) All briefs must be formatted to fit on 8-1/2 inch by 11-inch paper.

(iv) All briefs shall be typed in Calibri font in a 12 point font size, including headings and footnotes.

(v) Each page of the briefs shall have margins of one inch on all sides.

(vi) Each brief shall have a cover bearing a copy of the Title Page. The Team Number shall be placed in the upper left-hand corner of the brief. In no event shall any brief indicate the team's school affiliation or participants' names.

(vii) Each brief shall contain the following:

- a Title Page, bearing the Team Number in the upper left-hand corner, the case caption, and whether it is on behalf of Petitioner or Respondent;
- a Table of Contents;
- a Table of Authorities;
- a Statement of Questions Presented;
- a Statement of Jurisdiction;
- a Summary of Argument;
- a Statement of Facts;
- an Argument; and
- a Conclusion.

(e) Upon receiving the briefs from participants, each brief shall be reviewed by the Competition Directors for violations of the brief format rules. The Competition Directors shall assess the appropriate penalties for any format violations in accordance with Rule 11.

(f) Each brief shall be graded by three Brief Graders. Each Brief Grader may award each brief between 60 and 100 points ("Brief Raw Score"). Each brief shall be graded on the basis of the substantive law presented, the writing style, and the persuasiveness of the writing.

(g) After the briefs have been graded and the points assigned to each brief by each Brief Grader, the Competition Directors shall subtract the appropriate number of penalty points from any briefs that violate the brief format rules. The raw score assigned by each Brief Grader, minus any penalty points, shall be the Brief Score. Each brief shall therefore have three Brief Scores.

(h) Prior to the oral argument segment of the Competition, the Competition Director shall distribute to all teams all of the briefs.

Rule 8. Oral Arguments.

(a) Oral arguments shall consist of Preliminary, Round of Sixteen, Quarterfinal, Semi-final, and Final Rounds. The Preliminary Round shall consist of two rounds, conducted in accordance with the preliminary round schedule as announced by the Competition Directors. Each team shall argue in each segment of the Preliminary Rounds, arguing once for Petitioner and once for Respondent.

(b) Pairings for the Preliminary Rounds shall be selected randomly by the Competition Directors and/or National staff. Each team shall be notified of its Preliminary Round pairings by e-mail, to be sent by the Competition Directors or their designee not later than March 5, 2020. For the Round of Sixteen and Quarterfinal Rounds, the Competition Directors will randomly determine which teams argue for Petitioner and Respondent. For the Semi-Final Round, teams will draw lots to determine whether a team will argue for Petitioner or Respondent. The team with the lowest team number in each Semi-Final pairing will draw first. For the Final Round, whether a team will argue for Petitioner or Respondent shall be decided by a coin toss in which the coin is allowed to settle on the ground. The team with the higher aggregate brief and oral argument scores in the Preliminary and previous Playoff Rounds (the "Choosing Team") will have the option of choosing "heads" or "tails." If the Choosing Team correctly calls the upward facing side of the coin, then it will have option of choosing whether it will argue for Petitioner or Respondent in the Final Round. If the Choosing Team incorrectly calls the upward facing side of the coin then the choice to argue for Petitioner or Respondent in the Final Round will be given to the other team.

(c) Each round of oral argument shall last one hour. Each team is allotted thirty minutes to present its oral argument. Each team may allocate its time between team members at its discretion; however, in no event shall any member of a team argue more than twenty minutes in any round. At the discretion of the oral round judges, a team may be allotted additional time at the expiration of its thirty minutes to answer questions of the panel.

(d) Oral arguments shall be structured as follows. The two team members representing the Petitioner shall present their arguments consecutively, followed by the two team members representing the Respondent. The team representing Petitioner may reserve up to five minutes for rebuttal, which will follow the arguments of Respondent. Rebuttal may be presented by only one team member. Rebuttal is limited to the scope of oral arguments presented by the Respondent.

(e) Immediately following the arguments, each of the oral argument judges shall complete an oral argument score sheet for the round. In no event shall judges disclose to participants the scores awarded during the round. Judges are, however, strongly encouraged to provide feedback to the participants at the close of arguments.

(f) In the event a team fails to appear for its scheduled argument, the judges shall wait ten minutes for the team to appear. At the expiration of ten minutes, the team that is present shall present its arguments and shall be scored by the judges as if the opponents had appeared. The team that failed to appear within ten minutes of the start of the scheduled argument will receive a score of zero for that round.

(g) In no event shall any team member disclose his or her school affiliation to the oral argument judges. Any participant doing so shall be subject to a penalty in accordance with Rule 11.

(h) While a team member is presenting his or her argument, that team member shall not communicate, orally or in writing, with his or her teammate. In no event shall any participant in an oral argument communicate with its coach or with spectators while the arguments are in progress. Any team violating this rule shall be subject to a penalty in accordance with Rule 11. All participants, their coaches, and affiliated spectators shall be courteous and respectful while opponents are presenting oral arguments. Any team violating this rule shall be subject to a penalty for unsportsmanlike conduct.

(i) The use of profanity is never permitted.

(j) Teams may not utilize exhibits or demonstrative aids during oral arguments.

(k) All rounds of oral argument shall be open to the public. However, teams are prohibited from viewing known opponents in advance of the argument against that opponent, nor may team coaches, family members, or other team affiliates engage in such behavior. Any team violating this rule shall be subject to a penalty in accordance with Rule 11.

(l) Each oral argument judge shall award to each oralist a score between 50 and 100 points ("Oral Raw Score"). The scores will be based on a variety of factors including, but not limited to, courtroom demeanor, familiarity of issues, and ability to answer questions.

Rule 9. Calculation of Scores for Advancement to Playoff and Final Rounds.

(a) For each round of oral argument, a team's score shall be calculated as follows:

(i) Brief Points. Each brief shall have been awarded between sixty and one hundred points by the Brief Graders, in accordance with Rule 7.

(ii) Oral Points. Each oral judge shall assign oral argument points to each oralist in accordance with Rule 8. The total scores from all judges will be calculated by adding the team's two oralists' scores together.

(iii) For each round of oral argument, the Brief Points for each team shall be added to the Oral Points. A team's Brief Score shall count as one-third and the Oral score shall count as two-thirds of each team's score per round. To accomplish this ratio and calculate the score for each round, the total

Brief Points (between 180 and 300 points total) shall be added to the total Oral Points for each round (between 300 and 600 points total).

(iv) At the conclusion of the Preliminary Rounds, the total scores for each segment of the Preliminary Rounds shall be added together. The sixteen teams with the highest number of points in the Preliminary Rounds shall advance to the Round of Sixteen. Teams advancing to the Round of Sixteen will be seeded based upon their preliminary round scores.

(v) The Round of Sixteen, Quarterfinal, and Semi-Final Rounds shall be scored in the same manner as the Preliminary Rounds. Advancement shall be determined by the points accumulated in each Playoff Round. Advancement in the Playoff Rounds will be determined by single elimination. The winner of each round will advance to the next round of competition. The team with the highest number of aggregate points after the Semi-Final Round that does not advance to the Final Round shall be awarded Third Place overall.

(vi) The Final Round winner shall be determined on the basis of the oral argument scores in the Final Round only. Brief scores and oral argument scores from the prior rounds will not count.

(vii) In the event that only two judges are present for any round of oral argument, a third Oral Raw Score will be assigned to each participant. This third Oral Raw Score shall be calculated for each participant by averaging the Oral Raw Scores given to that participant by the two oral round judges who were present.

(viii) In the event of a tie, the team advancing to the next round shall be selected by comparing the teams' win-loss records in all prior rounds, including the Preliminary Rounds. If the teams are still tied, the Competition Directors shall determine whether the teams have faced each other in earlier rounds and, if so, the team which won that round shall advance. If this method does not break the tie, the team with the higher aggregate raw brief scores shall advance.

Rule 10. Awards.

(a) Awards shall be presented to the top three overall teams. First place shall be awarded to the team that is chosen as winner of the Final Round. Second place shall be awarded to the other participant in the Final Round. Third place shall be awarded to one of the other teams participating in the Semi-Final Round, and shall be selected based on an aggregate of the brief and oral argument scores received in the Preliminary and Playoff Rounds. Each team finishing in the top three teams overall shall receive a plaque commemorating their achievements. The Competition Champion shall also receive a "traveling trophy," which may only be displayed at the school until the following year's Competition. The traveling trophy will only be shipped to the administrative office of the Competition Champion's Law School. The Competition Champion accepts full responsibility for the safety and condition of the traveling trophy during the year, and agrees to return the trophy to the succeeding year's Competition by March 1, 2021. The Competition Directors shall have the names of the Competition Champion team, as well as their school affiliation, engraved on the traveling trophy.

(b) The teams with the First, Second, and Third place briefs shall receive a plaque commemorating their achievement. Brief awards shall be selected by an aggregate of the three Brief Scores given to each team.

(c) Plaques shall also be presented to the First, Second, and Third place individual Oralists, commemorating their achievement. Oralist awards shall be selected based on an aggregate of all oral argument scores given to each oralist during the Preliminary Rounds.

(d) In addition to selecting the Competition Champion, the final round judges shall also select the Final Round Best Oralist.

Rule 11. Penalties.

(a) The following penalties are mandatory and shall be assessed by the Competition Directors after a violation has been determined to exist.

(i) Violation of any of the brief format rules described in Rule 7(d): six points for each violation, to be deducted from the Brief Raw Score awarded by each Brief Grader;

(ii) Failure to submit briefs to the Competition Directors in a timely manner: three points for each day past the deadline, to be deducted from the Brief Raw Score awarded by each Brief Grader;

(iii) Disclosure of school affiliation in any manner, either in the brief or during oral arguments: eight points, to be deducted from either the Brief Raw Scores or the Oral Raw Scores, depending on the manner in which the violation occurred;

(iv) Communication with team coaches, spectators, or other team affiliates during oral arguments and as described in Rule 8(h): ten points, to be deducted from the Oral Raw Score awarded by each oral argument judge to the participant engaging in such communication;

(v) Unprofessional conduct: ten points, to be deducted from the Oral Raw Score awarded by each oral argument judge to the participant engaging in such conduct;

(vi) Failure to submit a brief for the Petitioner and for the Respondent in instances where any school enters more than one team in the Competition as described in Rule 7(b): ten points, to be deducted from the Brief Raw Score awarded by each Brief Grader for each team; and

(vii) Use of Bench Brief in the preparation of written briefs or oral argument: twenty points, to be deducted from either the Brief Raw Scores or the Oral Raw Scores, depending on the manner in which the violation occurred.

(b) Any team witnessing a violation of any of the Competition Rules shall promptly report the violation to the Competition Directors. The complaint shall be immediately investigated and, in the event a penalty is assessed, the Competition Directors shall promptly notify the penalized team of the nature and extent of the penalty. In no event shall the Competition Directors identify the source of the complaint.