38th Annual
Robert F. Wagner
National Labor &
Employment Law
Moot Court Competition

2014

Competition Rules
# Table of Contents

I. Teams .......................................................................................................................... 1
II. Briefs .......................................................................................................................... 2
III. Service of Briefs and Certification ........................................................................ 3
IV. Brief Scoring .............................................................................................................. 4
V. Oral Argument ........................................................................................................... 4
VI. Oral Argument Scoring ............................................................................................ 6
VII. Advanced Rounds .................................................................................................... 6
VIII. Awards ................................................................................................................... 7
IX. Authority of the Association ..................................................................................... 7
X. Fact Pattern ............................................................................................................... 8
XII. Dates ....................................................................................................................... 8
     Proof of Service ......................................................................................................... 9
     Certification .............................................................................................................. 10
1. **TEAMS**

1. A maximum of two teams may represent any one law school in this Competition. If multiple teams from any law school are registered to compete, those teams shall not work together when researching, writing, or editing their briefs. Teams from the same school however, may practice oral arguments together.

2. **Competitors**

   a. Each team must have at least two, but no more than three competitors. All team members must participate in writing the team’s brief.

   b. Each team member must argue at least once in the preliminary rounds in order for the team to be eligible to advance.

   c. No team member may hold a law degree. Team members must be enrolled in a full-time or part-time juris doctor program in the law school they represent.

   d. No team member may be replaced after registration without the express written consent of the Competition Co-Chairs.

   e. Only competitors who argue in at least two preliminary rounds will be considered for the Best Preliminary Round Oral Advocate Award.

3. **Coaches and Advisors**

   a. Coaches and advisors may be students, faculty members, practitioners, or outside legal advisors.

   b. Coaches and advisors are only permitted to assist with oral argument preparation and may not, **under any circumstances**, aid in researching, writing, or editing a competing team’s brief.

   c. All coaches and advisors are subject to the same rules as team members, except as explicitly stated in these rules.

   d. Each team may have a maximum of two coaches or advisors.

4. **Outside Assistance**

   a. Competitors may not receive assistance of any kind from coaches, advisors, school writing centers, practitioners, faculty members, or any other person during the research, writing, and editing process. Competitors may only consult legal and non-legal resources when researching their brief. The consultation of a librarian is only permissible to the extent that the librarian assists in procuring a resource requested by a competitor. Competitors shall not be permitted to solicit or accept recommendations.
of resources by a librarian based on any information contained in or derived from the fact pattern.

5. Disqualification

a. Any team that advances but fails to appear for their designated round will be automatically disqualified.

b. Any team that advances to the Final Round but is unable to attend must promptly notify the Co-Chairs of the Competition before 5:00 p.m. on Saturday, March 22, 2014. Failure to do so will result in disqualification and preclude your law school from competing in the 2015 Robert F. Wagner National Labor & Employment Law Moot Court Competition.

II. Briefs

1. The competition Co-Chairs will randomly assign the side each team will write for their brief (i.e., Petitioner or Respondent). Each team will also be assigned a team number. Team numbers and sides will be sent to all teams via email on the date the fact pattern is released.

2. The United States Supreme Court Rules shall govern the format and pagination of the briefs, unless these competition rules indicate otherwise.

3. Briefs should not contain any identifying information, including law school name or team member names. Only the team number assigned by the competition chairs should appear on the lower right-hand corner of every page of the brief. Any violation of anonymity in submitting briefs may result in disqualification from the competition.

4. The cover page of the Petitioner’s brief must be printed on blue paper, and the cover page of the Respondent’s brief must be printed on red paper.

5. Formatting of the brief:
   a. The typeface for the brief must be Times New Roman, size twelve-point font.
   b. All citations must be in the form prescribed by The Bluebook: A Uniform System of Citation, 19th ed.
   c. The brief shall not include a formal statement of jurisdiction.
   d. Each page of the brief shall measure 8½ by 11 inches, with one-inch margins on all sides (excluding page numbers).
   e. All sections of the brief, except for the cover page, point headings, sub-point headings, footnotes, and block quotations, must be double-spaced.
f. Pages must be printed single-sided.

g. Briefs shall include the following sections: Cover Page, Table of Contents, Table
of Authorities, Opinions Below, Statement of the Case (including Statement of
the Facts and Procedural History), Argument, and Conclusion.

h. The substantive portion of the brief must not exceed thirty (30) pages. The Cover
Page, Questions Presented, Table of Contents, Table of Authorities, and
Appendices (if included) will not count towards the thirty-page limit. Any
partially filled page will be counted as a full page.

i. All cases cited in the briefs must be reported opinions decided on or before
December 31, 2013. Citation to unreported or forthcoming cases is prohibited.

### III. SERVICE OF BRIEFS AND CERTIFICATION

1. Each team must serve a total of five (5) bound or stapled copies of its final brief
contained in one (1) single package or envelope. All copies of the brief must be coil,
book bound, or stapled. The packaged briefs must be postmarked on or before February
13, 2014, and addressed to the Competition Co-Chairs at the following address:

   New York Law School
   Moot Court Association
   Attn: Nathalie Gonzalez & Katerina Kurteva
   185 West Broadway
   New York, NY 10013

2. An identical reproduction of the bound or stapled brief must be emailed to
wagnermoot@nyls.edu in PDF format on or before 11:59 p.m. Eastern Standard Time on
February 13, 2014. PDF versions of all briefs from competing teams will be made
available on the Wagner Competition website by 11:59 p.m. Eastern Standard Time on
February 20, 2014.

3. Briefs may not be revised after the February 13, 2014 service deadline.

4. Ten (10) points will be deducted from the total brief score for each day a brief is
postmarked after February 13, 2014. Failure to receive both the required number of
bound briefs and the PDF version by February 19, 2014, will result in a disqualification.

5. Completed Proof of Service and Certification forms (see attached), which attest that five
(5) copies of the bound brief and the PDF version were timely served on the New York
Law School Moot Court Association, and that the team has complied with all competition
rules, must be included in the package containing the team briefs. A penalty of ten (10)
points will be deducted for failure to include either the Proof of Service or the
Certification.
### IV. BRIEF SCORING

1. Each brief will be scored by three (3) content graders and one (1) Bluebook citation grader. Graders will be Members from the New York Law School Moot Court Association Executive Board. Each team’s final brief score will be calculated by combining the arithmetic average of the three content scores with the Bluebook score.

2. Failure to conform to any of the rules expressly provided herein will result in a reduction of a team’s brief score, subject to the sole discretion of the New York Law School Moot Court Association Executive Board.

3. Brief scores will be distributed to teams at Orientation on Wednesday, March 19, 2014.

4. If a representative from your team is unable to attend Orientation, you may request your team’s brief score from Competition Co-Chairs Nathalie Gonzalez or Katerina Kurteva at any point during the competition, or by emailing the Association at wagnermoot@nyls.edu.

### V. ORAL ARGUMENT

1. All teams must argue in three (3) preliminary rounds. In the first preliminary round, all teams will argue the side they wrote for their brief. In the event there are an odd number of teams competing, the New York Law School Moot Court Association reserves the right to field one or more “ghost teams” to ensure that each competing team will argue on brief for the first preliminary round. For subsequent rounds, teams will be randomly assigned to represent Petitioner or Respondent. Each team will argue at least once for Petitioner and at least once for Respondent during the preliminary rounds. Assignment of the sides each team will argue for all of the preliminary rounds will be distributed prior to the commencement of oral argument.

2. Teams must arrive at the designated assembly room at least thirty (30) minutes before rounds are scheduled to begin.

3. Each team is allotted thirty (30) minutes for oral argument. Each team may divide this time between two members as it wishes, provided that each oralist argues for at least ten (10) minutes. Failure to argue for at least ten (10) minutes will result in a ten-point deduction from that oralist’s score. Each team must inform the bailiff how they wish to split their allotted time prior to the commencement of the round.

4. Each oral argument will have one (1) bailiff provided by the New York Law School Moot Court Association, who will be responsible for monitoring the competitors’ time and collecting the judges’ score sheets. The bailiff will hold up a time card indicating when each competitor has ten, five, three, and one minute(s) remaining. At the conclusion of the argument, the bailiff will then hold up a card indicating the competitor’s time is up.
5. Petitioner has the exclusive right to rebuttal. Petitioner may reserve a maximum of five (5) minutes for rebuttal by notifying the bailiff before the judges enter the courtroom. Petitioner must still formally request rebuttal time from the Chief Justice of the Court at the beginning of Petitioner’s argument. Failure to inform the timekeeper or the Court will be treated as a waiver of rebuttal. Rebuttal can only be given by one team member arguing for Petitioner, as long as it is given by a team member that argued during that round. The time reserved for rebuttal may be split between one or both team members, in any manner they choose, so long as they inform the bailiff of their choice prior to the commencement of the round. Petitioner may waive rebuttal by informing the Chief Justice of the Court after Respondents have finished their argument.

6. A team may request time and a half (22 min. and 30 sec.) for any participant to accommodate for disabilities or interpreters. Requests for such accommodations must be made by February 7, 2014. Requests are subject to the final approval of the New York Law School Moot Court Association Executive Board.

7. Teams may not identify their school to any judge or timekeeper during the competition. Any disclosure of such information may result in disqualification from the competition.

8. Spectators may attend oral arguments if there is sufficient space. The timekeeper of each round will make that determination based on the size of the room. No person affiliated with another competing team may attend an oral argument round unless the team they are affiliated with has been eliminated. Spectators may not advise, instruct, or communicate with the competitors in any manner during their oral arguments.

9. Any team members or coaches who are not participating in the oral argument round shall not sit at the counsel table. Bailiff will instruct coaches, team members, and spectators where they may sit during the round.

10. Recording or taping any argument is prohibited. New York Law School reserves the exclusive right to record the Final Round for purposes of display on the Association’s website. Photography is permitted once each round is over and the judges have finished deliberating.

11. No visual aids may be used for oral arguments.

12. Any team may object to a perceived relationship or conflict between its opposing team and the sitting bench, and must raise that objection before the argument begins. Failure to object before the argument commences constitutes a waiver of the right to object. Any personal or professional relationship between a team member and an individual sitting on the bench must be disclosed to the Competition Co-Chairs prior to the commencement of the round.

13. Any team may object to conduct observed during a round that may have reasonably impacted their oral argument score for that round. Such objections must be raised to the Competition Co-Chairs immediately after the round is completed. Failure to do so will be deemed a waiver of the right to object for that round.
VI. ORAL ARGUMENT SCORING

1. Each oral argument round will be judged by a minimum of two (2) judges and scored in accordance with a standardized scoring sheet, which will be the same sheet used for all oral argument rounds during the Competition.

2. Total team scores will be based on a combination of brief and oral argument scores, consistent with the following rules:
   
a. Preliminary Rounds: The brief score will count for forty percent (40%) of the total score. Oral argument scores will count for the other sixty percent (60%) of the total score. The top sixteen (16) teams with the highest combined brief and oral argument score will move on to the next round.

b. Octo-Final Round: The brief score will count for twenty percent (20%) of the total score. Oral argument scores will count for eighty percent (80%) of the total score. The top eight (8) teams with the highest combined brief and oral argument score will move on to the next round.

c. Quarter-Final Round: The total score will be determined solely on the basis of the oral argument score. The winner will be the team that receives the higher oral argument score on a majority of the ballots submitted by each of the judges of that round. In the event of a tie, the winner will be the team with the highest total argument score, calculated by adding all of the judges’ scores for that round. The brief score will only count in this round in the event of a tie. If a tie still exists after looking at the brief score, a cumulative average of the team’s oral argument scores from all previous rounds will serve as a tiebreaker.

d. Semi-Final Round: The total score will be determined solely on the basis of the oral argument score. The winner will be the team that receives the higher oral argument score on a majority of the ballots submitted by each of the judges of that round. In the event of a tie, the winner will be the team with the highest total argument score, calculated by adding all of the judges’ scores for that round. The brief score will only count in this round in the event of a tie. If a tie still exists after looking at the brief score, a cumulative average of the team’s oral argument scores from all previous rounds will serve as a tiebreaker.

e. Final Round: The Final Round judges will choose a winner.

3. Oral argument scores will be available once the team is eliminated.

VII. ADVANCED ROUNDS

1. The advanced rounds include:
a. **Octo-Final Round**: The top sixteen (16) teams will be ranked based upon their total score. Pairings will be determined by having the highest ranked teams competing against the lowest ranked teams (e.g., #1 v. #16, #2 v. #15, etc.).

b. **Quarter-Final Round**: The top eight (8) teams will be ranked based upon their total score. Pairings will be determined by having the highest ranked teams competing against the lowest ranked teams (e.g., #1 v. #8, #2 v. #7, etc.).

c. **Semi-Final Round**: The top four (4) teams will be ranked based upon their total score. Pairing will be determined by having the highest ranked teams competing against the lowest ranked teams (i.e., #1 v. #4 and #2 v. #3).

d. **Final Round**: The top two (2) teams will compete in the Final Round.

2. A coin toss shall determine which side (Petitioner or Respondent) each team will argue in the advanced rounds. All advancing teams will partake in a coin toss immediately after the advancing teams are announced. The higher ranked team will choose “heads” or “tails” and the team that wins the coin toss will choose which side that team will argue.

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**VIII. AWARDS**

Awards will be given for the National Championship Team; Second Place team; top two (2) Preliminary Round Oral Advocates; Best Final Round Oral Advocate; the top three (3) Petitioner Briefs; the top three (3) Respondent Briefs; and Best Preliminary Round Team. The total number of awards given is twelve (12). All Preliminary Round awards will be presented at the Wagner Reception on Saturday, March 22, 2014.

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**IX. AUTHORITY OF THE ASSOCIATION**

1. The Competition Co-Chairs shall have the sole discretion in interpreting and amending these rules. The New York Law School Moot Court Association Executive Board has sole authority to assess penalties or disqualify teams for any failure to abide by these rules. Decisions will be made based upon the information obtained from the competitors, judges, and/or bailiffs. Such decisions will be promptly communicated to the parties involved.

2. All requests for clarification of these rules must be e-mailed to wagnermoot@nyls.edu on or before 11:59 p.m. Eastern Standard Time, Friday, February 7, 2014. The Competition Co-Chairs will notify all teams of amendments or clarifications of these rules via e-mail. If any questions about the rules arise during the competition, they must be addressed to the Competition Co-Chairs. All decisions made by the Competition Co-Chairs or the New York Law School Moot Court Association Executive Board are final.

3. The Wagner Authors have the sole discretion to answer substantive inquiries concerning the fact pattern. All such inquiries must be e-mailed from the requesting school to the Wagner Authors at wagnerauthors@nyls.edu on or before 11:59 p.m. E.T., Friday...
February 7, 2014. Answers to substantive questions will be sent to all competing teams. All decisions of the Wagner Authors are final.

4. All objections must be submitted in writing. The Competition Co-Chairs have the sole authority to resolve any disputes that may arise during the competition.

5. All correspondence regarding this Competition must be mailed or emailed to:

   New York Law School
   Moot Court Association
   Attn: Nathalie Gonzalez & Katerina Kurteva
   Wagner Competition Co-Chairs
   185 West Broadway
   New York, New York 10013
   wagnermoot@nyls.edu

X. FACT PATTERN

Students and Faculty of New York Law School and the Moot Court Association prepared the fact pattern, which is copyrighted by the New York Law School Moot Court Association. Except as otherwise provided, reproductions of any information (including fact patterns) for any use may be made only with permission from the New York Law School Moot Court Association. If permission is granted, use will be permitted only on the condition that: (1) the author(s) and Association are appropriately identified on each copy; and (2) proper notice of copyright is affixed to each copy.

XI. DATES

1. The fact pattern, along with these rules, will be posted on the Wagner Competition website on or about 11:59 p.m. Eastern Standard Time, Sunday, January 12, 2014.

2. Team briefs must be submitted in accordance with these rules by Thursday, February 13, 2014 at 11:59 p.m. Eastern Standard Time.

PROOF OF SERVICE

We certify that our team has served five (5) copies of its brief and a PDF version of the brief in accordance with the rules of the 38th Annual Robert F. Wagner National Labor & Employment Law Moot Court Competition at New York Law School. A postmark dated no later than 11:59 p.m. Eastern Standard Time, February 13, 2014, is evidence of such proper and timely service.

________________________________________
Law School Name

________________________________________
Team No.

Competitor 1 Name __________________________ Signature __________________________ Date __________

Competitor 2 Name __________________________ Signature __________________________ Date __________

Competitor 3 Name __________________________ Signature __________________________ Date __________

Coach Name ________________________________ Signature __________________________ Date __________

Coach Name ________________________________ Signature __________________________ Date __________
CERTIFICATION

We certify that we have complied with the rules of the 38th Annual Robert F. Wagner National Labor & Employment Law Moot Court Competition at New York Law School. This brief is the work product solely of the undersigned competitors. The undersigned competitors have not received any assistance from any law school faculty member, student, coach, or any other person when researching, writing, or editing the enclosed brief.

________________________________________
Law School Name

________________________________________
Team No.

Competitor 1 Name       Signature       Date

Competitor 2 Name       Signature       Date

Competitor 3 Name       Signature       Date

Coach Name             Signature       Date

Coach Name             Signature       Date