

42nd Annual

ROBERT F. WAGNER

NATIONAL LABOR & EMPLOYMENT LAW

MOOT COURT COMPETITION

2018

COMPETITION RULES

NEW YORK LAW SCHOOL
MOOT COURT ASSOCIATION

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PART I. TEAMS

1.1 Eligibility. Any current student in academic good standing, in a full-time or part-time juris doctor program at the law school they represent is eligible to participate in the Robert F. Wagner National Labor and Employment Law Competition (the “**Competition**”). No team member may hold a law degree.

1.2 Visiting Students. A law student enrolled in courses at an institution other than his/her home institution may compete with either his/her home institution or host institution, but not both, subject to this Part I.

1.3 Team Registration. A maximum of two (2) teams may represent any one law school in this Competition. If multiple teams from the same 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.

1.4 Members. Each participating team shall consist of at least two (2) competitors, but no more than three (3) competitors. All team members must participate in writing the team’s brief.

(a) Participation. Each team member must argue in at least one (1) preliminary round in order for the team to be eligible to advance. Only competitors who argue in at least two (2) preliminary rounds will be considered for the Best Preliminary Round Oral Advocate Award.

1.5 Withdrawals and Replacements. Teams must give notice of their intent to withdraw from the Competition or to replace a team member by the date provided in Section 11.3 (the “**Withdrawal/Replacement Deadline**”). Upon written notice to the Chairs, team members may be replaced after the Withdrawal/Replacement Deadline subject to the Chairs’ express written consent. An entire team may withdraw from the Competition so long as the team has given the Chairs written notice of its decision to withdraw no later than the Withdrawal/Replacement Deadline.

PART II. COACHES AND ADVISORS

2.1 Coaches and Advisors. Each team may designate a maximum of two (2) coaches or advisors to assist with competition preparation, subject to the limitations of Section 2.2. Coaches and advisors may be, but are not limited to, students, faculty members, practitioners, or outside legal advisors.

2.2 Permissible Assistance. Subject to the conditions of Part III, Coaches and advisors shall only assist with oral argument preparation. Coaches and advisors shall not, **under any circumstances**, aid in researching, writing, or editing a competing team’s brief.

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

PART III. OUTSIDE ASSISTANCE

3.1 Research and Brief Writing Assistance. Competitors shall 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, however, consult legal research and non-legal research resources when conducting research for the brief, including, but not limited to, Westlaw, LexisNexis, Bloomberg Law, treatises, cases, statutes, practical guides, and online resources.

3.2 Librarian Assistance. 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 solicit or accept recommendations of resources by a librarian based on any information contained in or derived from the fact pattern.

3.3 Oral Argument Assistance. Competitors may receive assistance with oral argument preparation from coaches, advisors, students, practitioners, faculty members, or any other person the competitors solicit for oral argument assistance. During the Competition, competitors shall only solicit or accept assistance from coaches and advisors. Assistance provided to competitors by coaches and advisors may only be done outside of the competition room before or after the start of a round. Competitors are strictly forbidden from soliciting or accepting assistance inside of a designated oral argument room and during the time such team or competitor is scheduled to present oral argument.

PART IV. DISQUALIFICATION

4.1 Failure to Appear. Any competitor who fails to appear for his or her scheduled oral argument shall result in automatic disqualification of the entire team.

4.2 Failure to Attend Final Round. Any team that advances to the Final Round but is unable to attend must promptly notify the Chairs before 5:00 p.m. on Saturday, March 10, 2018. Failure to do so will result in disqualification, forfeiture of any awards received, whether an individual or team award, and exclusion of the non-appearing law school from competing in the subsequent Robert F. Wagner National Labor & Employment Law Moot Court Competition.

4.3 Egregious Acts. The Association reserves the right to disqualify any competitor or team for acts committed by a competitor, team, spectator, coach, or advisor that conducts himself/herself/or itself in an egregious manner, so much so, that it shocks the conscience of a reasonable competitor, offends the notion of justice and fairness, or runs counter to the decencies of civilized conduct one should adhere to at a moot court competition. A disqualification under this Section 4.3 shall be made in the sole discretion of the Chairs.

PART V. BRIEFS

5.1 Petitioner/Respondent Assignments. The Chairs will randomly assign each team a side to write on 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 each team individually via email on the date the fact pattern is released.

5.2. Applicable Laws and Rules

(a) **Format Rules.** Except as otherwise provided, The United States Supreme Court Rules shall govern the format and pagination of the briefs.

(b) **State of Wagner.** If a case, event, or otherwise is set in the State of Wagner, the State of Wagner shall be considered a 51st state of the United States. If a case is heard by the United States District Court for the Southern District of Wagner, the District shall be considered a duly authorized federal, regional, district court of the United States that comprises the State of Wagner. If a case is heard by the Court of Appeals for the Thirteenth Circuit, the Thirteenth Circuit shall be considered a federal, regional appellate circuit for the United States that embraces the State of Wagner.

(c) **Procedural Rules.** In addition to any Wagner statutes set out in the record, and except as otherwise provided herein, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Federal Rules of Appellate Procedure, and the Rules of the Supreme Court of the United States shall apply.

5.3 Components. Briefs shall include the following sections:

- (a) A Cover Page;
- (b) Questions Presented for Review. The questions presented should be brief and should not be argumentative or repetitive. The questions shall be set out on the first page following the cover, and no other information shall appear on that page;
- (c) Table of Contents;
- (d) Table of Cited Authorities;
- (e) Opinions Below;
- (f) Statement of the Case, including Statement of Facts and Procedural History;
- (g) Summary of the Argument, setting forth a clear and concise condensation of the argument made in the body of the brief; mere repetition of the headings under which the argument is arranged is insufficient;
- (h) Argument, exhibiting clearly the points of fact and law presented and citing the authorities and statutes relied on;
- (i) Conclusion, specifying with particularity the relief the party seeks;
- (j) Appendices, if any;
- (k) Completed Proof of Service form attached hereto;
- (l) Completed Certification form attached hereto; and
- (m) The brief shall not include a formal statement of jurisdiction.

5.4 Format

(a) **Cover Page.** 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.

(b) **Page Limit and Size.** No brief shall exceed thirty (30) pages, excluding: (i) the Cover Page, (ii) Questions Presented, (iii) Table of Contents, (iv) Table of Authorities, and (v) Appendices (if included). Any partially filled page will be counted as a full page. Each page of the brief shall measure 8½ by 11 inches, with one-inch margins on all sides (excluding page numbers).

(c) **Footnotes and Headings.** Teams may elect to use footnotes, headings, and/or subheadings. Footnotes, headings, subheadings and all other words found within a page of the brief, including the signature block, count toward the page limit, unless they form a part of one of the excluded sections listed in Section 5.4(b).

(d) **Spacing.** All sections of the brief, except for the cover page, point headings, sub-point headings, footnotes, and block quotations, must be double-spaced.

(e) **Font.** The typeface for the brief must be Times New Roman, size 12-point font, except for the footnotes which must be Times New Roman, size 10-point font.

(f) **Citations.** All citations must be in the form prescribed by *The Bluebook: A Uniform System of Citation*, 20th ed. All cases cited in the briefs must be reported opinions decided on or before Sunday, December 31, 2017. Citations to unreported or forthcoming cases is prohibited.

(g) **Print.** All pages must be printed single-sided. The cover page shall be printed in a manner consistent with Section 5.4(a).

(h) **Identifying Information.** Briefs shall not contain any identifying information, including law school name or team member names. The team number assigned by the Chairs must appear on the lower right-hand corner of **every page** of the brief. Any violation of anonymity in submitting briefs may result in disqualification pursuant to Part IV.

5.5 Service of Briefs and Certification

(a) **Service.** Each team must submit 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 coiled, book bound, or stapled. The packaged briefs must be postmarked on or before Friday, February 2, 2018 (the “Submission Date”), and addressed to the Chairs at the address provided in Section 9.5.

(b) **Electronic Submission.** An identical reproduction of the brief must be emailed to wagnermoot@nyls.edu in PDF format no later than 11:59 p.m. Eastern Standard Time on Friday, February 2, 2018 (the “Electronic Submission Date”). PDF versions of all briefs from competing teams will be made available on the Competition website by 11:59

p.m. Eastern Standard Time on Friday, February 9, 2018. Electronic submissions shall comply with the anonymity rules of Section 5.4(h).

(c) Certifications. Each team must include, in both the mailed package under Section 5.5(a) and the electronic PDF submission under Section 5.5(b), completed Proof of Service and Certification forms (see attached), which attest that five (5) copies of the bound brief and a PDF version of the brief were timely served on the New York Law School Moot Court Association, and that the team has complied with all competition rules. A penalty of ten (10) points shall be deducted for failure to include either the Proof of Service or the Certification.

(d) Late Submissions. Each brief postmarked after the Submission Date shall be penalized with a deduction of ten (10) points from the total brief score for each day a brief is postmarked after the Submission Deadline. Each brief received after the Electronic Submission Date shall be penalized with a deduction of ten (10) points from the total brief score for each day after the Election Submission Date. Failure to receive **both** the required number of bound briefs and the PDF version by Thursday, February 8, 2018, will result in automatic disqualification, subject to the sole discretion of the Chairs.

(e) Finality. Briefs are final upon submission and shall not be revised, modified, or supplemented.

5.6 Brief Scoring

(a) Graders. Each brief will be scored by no less than 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 content scores with the Bluebook score.

(b) Rule Adherence. 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 Chairs' discretion.

(c) Score Sheets. Brief and Oral Argument scores will be distributed to teams after the competition has concluded in either hard or electronic copy.

PART VI. ORAL ARGUMENT

6.1 Length. Each team is allotted thirty (30) minutes for oral argument ("Allotted Time"). Each team may divide this Allotted Time between two members as it wishes, provided that each oralist argues for at least ten (10) minutes ("Minimum Time"). Petitioner may reserve a maximum of five (5) minutes for rebuttal. Failure to argue for the Minimum Time shall result in a ten (10) point deduction from that oralist's score. Each team is required to inform the bailiff how they wish to split their allotted time prior to the commencement of the round.

6.2 Rebuttal. 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 bailiff and 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. Petitioner may waive rebuttal by informing the Chief Justice of the Court after Respondents have concluded their argument.

6.3 Timekeeping. 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 (10), five (5), three (3), and one (1) minute(s) remaining. At the conclusion of the argument, the bailiff will then hold up a card indicating the competitor's time is up.

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

6.5 Accommodations. A team may request time and a half for any participant to accommodate for disabilities or interpreters. Written requests for such accommodations must be made by 3:00 p.m. on Friday, January 26, 2018 to the Chairs. Requests are subject to the final approval of the New York Law School Moot Court Association Executive Board.

6.6 Preliminary Rounds. All teams must argue in three (3) preliminary rounds. In the first preliminary round, all teams shall argue the side they wrote for their brief. In the event there is 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 either 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 arguments.

6.7 Room Arrangement; Spectators. The bailiff shall have absolute authority over room arrangements for oral arguments. The bailiff shall instruct coaches, team members, judges, and spectators where they may sit during the oral argument round.

Spectators may only attend oral arguments if there is sufficient space in the designated room. The bailiff of each round will make that determination based on the size and set-up 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 shall not advise, instruct, or communicate with the competitors in any manner during their oral arguments. Communications with spectators, coaches, non-competing team members, or any other person during oral argument rounds, except an individual's fellow competitor, shall be penalized a five (5) point deduction in the competitor's individual oral argument score.

Any team member or coach who is not participating in the oral argument round shall not sit at the counsel table.

6.8 Prohibited Conduct. No visual aids may be used for oral arguments. The recording or taping of any argument is strictly 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. Teams may not identify their school to any judge or bailiff during the competition. Any disclosure of such information may result in disqualification from the competition, subject to the discretion of the Chairs.

6.9 Objections. Any objection pursuant to this Section 6.9 must be raised to the bailiff in a manner consistent with the subsections hereto. The following objections may be raised with regards to oral arguments:

(a) Perceived Conflict of Interest. Any team may object to a perceived relationship or conflict between its opposing team and the sitting bench. Objections under this Section 6.9(a) must be raised **before** the argument begins. Objections shall be disclosed to the bailiff who shall promptly notify the Chairs. Failure to object before the argument commences constitutes a waiver of the right to object. Only team members, coaches, and advisors are permitted to raise Perceived Conflict of Interest objections. Personal or professional relationships between a team member and an individual sitting on the bench must be disclosed to the Chairs prior to the commencement of the round.

(b) Observed Conduct. 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 Chairs immediately after the round is completed. Failure to do so will be deemed a waiver of the right to object for that round.

(c) Writing Requirement. All objections must be submitted in writing promptly after being disclosed to the bailiff or to the Chairs. The Chairs have the sole authority to resolve any Article VI dispute that may arise during the competition.

6.10 Oral Argument Scoring. Total team scores will be based on a combination of brief and oral argument scores, consistent with the following rules:

(a) Judges. 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.

(b) Preliminary Rounds. The brief score will count for forty percent (40%) of the total score. Oral argument scores will count for sixty percent (60%) of the total score. The top sixteen (16) teams with the highest combined brief and oral argument score will advance to the Octo-Final Round.

(c) 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 brief and oral argument score combined will move on to the next round.

(d) Quarter-Final Round. The total score will be determined solely on the basis of the oral argument score. The winner will be the team with the higher total argument score, determined by the sum 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) **Semi-Final Round.** The total score will be determined solely on the basis of the oral argument score. The winner will be the team with the higher 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.

(f) **Final Round.** The Final Round judges shall have the sole discretion in selecting the National Championship Team and Best Final Round Oral Advocate.

(g) **Score Sheets.** Oral argument scores will be available for each team after the Final Round.

PART VII. ADVANCED ROUNDS

7.1 **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.

7.2 **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.

7.3 **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.

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

7.5 **Coin Toss.** 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.

PART VIII. AWARDS

8.1 **Awards.** The following awards may be earned:

- (a) National Championship Team
- (b) National Championship Team Runner-Up
- (c) Best Final Round Oral Advocate

- (d) Best Petitioner Preliminary Round Oral Advocate
- (e) Best Respondent Preliminary Round Oral Advocate
- (f) Best Preliminary Round Team
- (g) Best Petitioner Brief
- (h) Best Respondent Brief

8.2 Announcements. All Preliminary Round awards, as listed in Section 8.1(d)-(h), will be presented at the Wagner Banquet on Saturday, March 10, 2018. Final Round awards, as listed in Section 8.1(a)-(c), will be presented after the conclusion of the Final Round oral arguments and deliberations on Sunday, March 11, 2018.

PART IX. AUTHORITY OF THE ASSOCIATION

9.1 Chairs. The Competition Co-Chairs shall have the sole discretion in interpreting and amending these rules.

9.2 Executive Board. 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.

9.3 Clarifications and Amendments. All requests for clarification of these rules must be e-mailed to wagnermoot@nyls.edu by 3:00 p.m., Eastern Standard Time, on Friday, January 26, 2018. The Chairs shall 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 Chairs. All decisions made by the Chairs or the Executive Board are final.

9.4 Substantive Inquiries. 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 wagnermoot@nyls.edu by 3:00 p.m., Eastern Standard Time, on Friday, January 26, 2018. Answers to substantive questions will be sent to all competing teams. All decisions of the Wagner Authors are final. If any questions about the fact pattern arise during the competition, they must be addressed to the Wagner Chairs. The Wagner Chairs have the sole discretion to answer substantive inquiries during the Competition. Any answer to a substantive inquiry shall be communicated to competitors, coaches, and advisors as soon as reasonably possible, in a manner deemed most appropriate by the Wagner Chairs.

9.5 Notice. All correspondence regarding this Competition must be made either via the Competition email, wagnermoot@nyls.edu, or via mail using the following postal address:

New York Law School
185 West Broadway
New York, New York 10013

Attn: Moot Court Association
Wagner Co-Chairs

ARTICLE 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 shall not be made, except with written consent 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.

ARTICLE XI. DATES

11.1 Posting Date. 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, on Friday, December 29, 2017.

11.2 Submission Date. Team briefs must be submitted, in accordance with these rules, by Friday, February 2, 2018, no later than 11:59 p.m. Eastern Standard Time.

11.3 Withdrawal/Replacement Deadline. A team may withdraw or individual team members may be replaced by giving written notice to the Chairs by Friday, February 2, 2018, no later than 11:59 p.m. Eastern Standard Time. Registration fees are non-refundable.

11.4 Competition Dates. The competition will be held from Friday, March 9, 2018 through Sunday, March 11, 2018.

(Please review attached supplements)

PROOF OF SERVICE

We certify that our team has submitted five (5) hard copies of our brief and a PDF version of our brief in accordance with the rules of the 42nd 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, Friday, February 2, 2018, 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 42nd 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