

REGENT UNIVERSITY MOOT COURT BOARD

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11th ANNUAL LEROY R. HASSELL, SR. NATIONAL CONSTITUTIONAL LAW MOOT COURT COMPETITION

2012 RULES

THE REGENT PROBLEM¹ IS THE COPYRIGHTED PROPERTY OF THE REGENT UNIVERSITY MOOT COURT BOARD. THE REGENT PROBLEM MAY ONLY BE USED IN INTRA-SCHOOL COMPETITIONS THAT DO NOT INVOLVE THE WRITING OF A BRIEF IF EXPRESS WRITTEN CONSENT IS GIVEN BY THE MOOT COURT BOARD AT REGENT UNIVERSITY. USE OF THE OFFICIAL REGENT RECORD IS NOT PERMITTED IN BRIEFED COMPETITIONS. THE PROBLEM MAY NOT BE USED FOR ANY OTHER PURPOSES.

On Friday, February 17, and Saturday, February 18, 2012, the Leroy R. Hassell, Sr. National Constitutional Law Moot Court Competition will be hosted by the Moot Court Board of Regent University School of Law (MCBRU) and sponsored by the American Center for Law and Justice (ACLJ). This Competition is designed to encourage law students with an interest in the area of constitutional law to strengthen appellate advocacy skills, and to foster a continued spirit of kinship among the competing teams. The Competition is limited to twenty (20) teams. There is a limit of two (2) teams per school. In the event that there are not twenty (20) teams registered, registered schools will be given the option of registering a third team.

It is the responsibility of competing teams to read the Rules and fully comply with its requirements.

The rules governing the Competition are set forth as follows:

1 ORGANIZATION OF THE COMPETITION AND RESPONSIBILITIES OF PARTICIPANTS

- 1.1 The Committee of the Hassell National Constitutional Law Moot Court Competition (“Committee”), which is comprised of certain members of the MCBRU, will apply and enforce these rules with due consideration for the teams and the Competition. The Hassell National Constitutional Law Competition Director (“Director”) shall be responsible for the management of the Competition. Any and all questions concerning the competition shall be brought to the attention of the Director as soon as practicable at clinbeh@regent.edu.
- 1.2 Each team wishing to participate in the Competition shall submit a registration form containing the information for the team and school, together with an administration fee. Each team also has the option of registering online at: <http://www.regent.edu/nationalcompetition>.

¹ The persons and events depicted in this problem are purely fictional and were prepared solely for the educational experience being conducted in this competition. Any resemblance to actual persons, living or deceased is unintentional and purely coincidental.

- 1.3 Each team shall designate one representative to whom information may be sent and with whom questions and concerns may be discussed.
- 1.4 The competition director needs to be informed of any changes made to a school's contact information.

2 DISTRIBUTION OF THE RULES, BRIEFS AND RECORD

- 2.1 A copy of the Record and these Rules will be available on the Hassell National Constitutional Law Competition website for the representatives designated by each team.

3 THE COMPETITION

3.1 ROUNDS

- 3.1.1 Preliminary Rounds – The Competition will be held on two consecutive days. Each team will argue a minimum of four (4) preliminary rounds. Each team will argue both on-brief and off-brief. If an odd number of teams compete in the Competition, the MCBRU reserves the right to have a neutral non-competing team argue in each of the four preliminary rounds to “even” out the rounds.² Should a neutral team not be available to argue in the rounds, the MCBRU will use the following procedure in the event that an odd number of teams compete in the Competition: Four names will be randomly selected by a neutral party. The names selected will receive a bye in one of the four preliminary rounds. The team with the bye in the first preliminary round will argue against the team with the bye in the second preliminary round and the team with the bye in the third preliminary round will argue against the team with the bye in the fourth preliminary round. These arguments will be held on the evening of Friday, February 17, after the completion of the first three preliminary rounds. These arguments will count as each of the four selected team's fourth preliminary round. Pairings will be altered to prevent teams from the same school from meeting before the Final Round of the Competition.
- 3.1.2 Quarter Final Rounds – The eight (8) teams with the highest scores, as determined by their brief score and their performance in the preliminary rounds, will advance to the quarter final round. Teams will be seeded by win/loss record; teams with the same win/loss record will be further seeded by cumulative margin of victory. The highest seeded team will be paired against the lowest seeded team, etc (i.e., 1 vs. 8, 2 vs. 7, 3 vs. 6, and 4 vs. 5). However, the pairings will be altered to prevent two teams from the same school from meeting before the Final Round of the Competition, in which case teams will be seeded as close to their natural seeding as possible.
- 3.1.3 Semi-Final Rounds – The four (4) prevailing teams in the Quarter-Final Round will advance to the Semi-Final Round. The winner of 1 vs. 8 will go against the winner of 4 vs. 5, while the winner of 2 vs. 7 will go against the winner of 3 vs. 6. However, the pairings will be altered to prevent two teams from the same school from meeting before the Final Round of the competition.
- 3.1.4 Final Round – The two (2) prevailing teams will advance to the Final Round. The winner of the Final Round will be determined by the judges of the Final Round, solely on the basis of the Final Round oral argument performances of the teams participating in the Final Round. The Final Round will consist of two full length rounds where a different person from each team will argue each time. The two teams will complete one full round, then there will be a five minute break, and the two teams will complete another full round on the opposite side the teams were on at the beginning of the round. There will be no numerical scoring of the final round. In the event of an even-numbered judge panel during the Final Round of the Competition, prior to the beginning of the round, the Committee shall randomly exclude one judge's ballot to eliminate the possibility of a tie. This random selection will not be disclosed to anyone.

² This means that a team of Regent students that are not a part of the Moot Court Board at Regent University will argue once per round against the odd numbered team. This neutral team will not be scored and will not be eligible to win any award in the competition or continue in the break rounds.

3.2 TEAMS

- 3.2.1 Each team shall consist of two (2) or three (3) student members. Team members must be students enrolled in a full or part-time program in the school that they represent. Only candidates for a Juris Doctor degree may participate in this competition. All team members may contribute to the writing of the brief and may present oral arguments, but **ONLY ONE TEAM MEMBER MAY ARGUE IN A SINGLE ROUND**. All three team members may sit at counsel table.
- 3.2.2 For each two member team, each advocate must be designated as counsel for the petitioner or respondent. Once each competitor has been selected to argue for the petitioner and/or respondent, she must argue that side for the remainder of the Competition. The side designation for each Competitor is due on the same day the brief is due.
- 3.2.3 For each three member team, the team members can rotate oral arguments or one person can serve solely as the brief writer/substitute oralist, with the remaining two competitors designated as counsel for petitioner and respondent.
- 3.2.4 Team members may not be substituted, except for good cause, which will be determined by the Committee. A team must obtain written approval of the Director to substitute a team member after the brief is filed. No substitutions are allowed once the competition begins.
- 3.2.5 Each team will be assigned a letter by the Director prior to its arrival at the Competition. This method will be the sole method of identifying the teams during the oral competition. Participants may not divulge the names of their law schools directly or indirectly to the judges until after the completion of the Competition.

4 SIDE DESIGNATION

- 4.1 The Director will assign a briefing side designation to each team, as well as a team letter. Teams will be notified, in writing or electronic mail, of their side designations by 6:00 p.m. EST, Wednesday, November 21, 2011. Teams must submit a brief for the side designated to them by the Director.

5 BRIEFS

5.1 SUBMISSION AND DELIVERY

- 5.1.1 Subject to the rules of this Competition, briefs, and all copies of the brief, will comply with the Rules of the Supreme Court of the United States. Briefs and copies will comply with Supreme Court Rule 24 and Rule 33 except for Rule 24.2, 24.3, and 24.4. Rule 33 should be followed only with regard to the preparation of the brief covers.
- 5.1.2 The original brief will include on its cover the name and address of the school as well as the names of the team members. The copies of the brief will include on their covers **ONLY** the team's assigned letter and team designation (i.e. Attorney for the Petitioner). No information serving to identify the team or its law school may be included on the cover of the eight (8) copies. Each team must also serve one electronic copy of its brief pursuant to section 5.2.2.
- 5.1.3 All citations should conform to the nineteenth edition of *A Uniform System of Citation* published by Harvard Law Review Association (commonly known as "The Bluebook").
- 5.1.4 Briefs must be created in Microsoft Word, Version 5.0 or higher. Briefs created in another program and converted to Microsoft Word will not be accepted. Briefs produced by any printing or copying process shall be in 11-point non-proportional print font (e.g. Courier or Courier New).
- 5.1.5 Briefs shall not exceed thirty (30) pages. Any partially filled page will be counted as a full page. The page limit does not include pages containing the cover page, questions presented, table of contents, table of authorities, or the appendices.

- 5.1.6 Any process that produces a clean, black image on white paper may be used for the brief. All briefs must be bound on the left by coiling or a similar bookbinding method. The paper size must be 8 1/2" x 11.
- 5.1.7 Each page of text shall contain no more than twenty-eight (28) lines of double-spaced text. Two lines of text from a single-spaced argument or block quote will count as one line. Typed matter should not exceed 6 1/2" x 9 1/2" per page. The page number is not included in this measurement.
- 5.1.8 Typed matter must be double-spaced, except footnotes, argument headings, and block quotations may be single-spaced.

5.2 *SERVICE OF BRIEFS*

- 5.2.1 Each team will serve one (1) bound original and eight (8) bound copies of its brief upon the Committee. The Committee must receive the briefs by, Friday, January 13, 2012 by 6 p.m. EST. To ensure timely delivery, overnight delivery services, certified mail or hand delivery may be used.
- 5.2.2 Each team will submit one electronic copy of its brief via an e-mail to the following address: clinbeh@regent.edu by Friday, January 13, 2012 by 6 p.m. EST. The brief must be submitted in Microsoft Word, Version 5.0 or higher. No other format will be accepted. The electronically submitted brief should be one document only. Like the printed copies of the original brief, the electronic copy's cover should ONLY contain the team's assigned letter and NOT the school/names/etc. The accompanying e-mail must contain the team's designated letter, the name of the law school, the team members' names, and specify the names of the oralists. The electronic copy will be posted to the Hassell National Competition Website by Friday, January 27, 2012 by 6 p.m. EST at <http://www.regent.edu/nationalcompetition>.
- 5.2.3 Briefs served upon the Committee should be sent to: Regent University Moot Court Board, Attn: Sonny Behrends, National Competition Director, 1000 Regent University Drive, Virginia Beach, Virginia 23464.
- 5.2.4 If a team fails to properly serve its brief under these rules, the date of service will be considered the date the brief is received. The penalty for late service of briefs is five points per day that the brief is late.

5.3 *BRIEF CERTIFICATES*

- 5.3.1 Each team submitting a brief in the Competition shall certify that the brief has been prepared in accordance with the Rules of the Competition and that it represents the work product solely of such team's members. The certificate shall be submitted simultaneously with the brief, but shall not be affixed, bound, or otherwise inserted into the brief. The original copy of the certificate must be sent to the Director along with the team's brief.³

5.4 *BRIEF SCORING*

- 5.4.1 Each brief will be "blind graded" by graders provided by participating teams. Each participating team shall select one faculty member (or practicing attorney with at least ten years' experience) to serve as a brief grader (therefore if a school sends two teams that school will be providing two brief graders, one for each team). Participating teams must notify the Director by 6:00 p.m. EST, Monday, January 2, 2012 of its designated brief grader and provide his or her contact information. Team faculty advisors or other persons directly associated with the Moot Court program are not eligible to serve as brief graders. Brief graders may not judge practice rounds or otherwise discuss the problem with the participants or their coaches. Brief graders can expect to grade up to five (5) briefs each and will have a three-week period to do so. **Failure to provide a brief grader by the designated date/time will result in the loss of two**

³ A sample certification form is in Appendix 1.

(2) points per day from the team's total brief score. If a team has not notified the Director of its designated brief grader by 6 p.m. EST, Monday, January 9th the team will be disqualified from competing-THERE WILL BE NO EXCEPTIONS TO THIS RULE. Each judge will evaluate the briefs based on a one-hundred (100) point scale. Knowledge of the law and persuasiveness will be the primary standards in grading but form, style, and appearance will also be considered. Grading will be anonymous with each brief identified only by its team letter designation. Upon request, brief score sheets will be made available in advance of the competition.

6 ORAL ARGUMENTS

6.1 The Competition will be held at Regent University School of Law, Robertson Hall, 1000 Regent University Drive, Virginia Beach, Virginia 23464. The Director will determine the time and room number for each preliminary round of arguments, and will notify each participating team of this information before and during the Competition.

6.2 *FORMAT OF THE ORAL ARGUMENT*

- 6.2.1 Each team will be limited to twenty (20) minutes of oral argument per round, where only one (1) person on each team will argue. The team for the Petitioner in each round is responsible for communicating to the bailiff, prior to the beginning of the argument, how it wishes to allocate its twenty (20) minutes for argument and rebuttal time. The Petitioner will also be solely responsible for asking the Chief Judge's permission to take rebuttal. Rebuttal is not reserved simply because the Petitioner tells the bailiff he or she wants it. The team for the Petitioner may ask to reserve up to five (5) minutes for rebuttal. The Chief Justice has the discretion to allow additional time for the advocate's response.
- 6.2.2 During the four (4) Preliminary Rounds each team member may only argue each side once.⁴ Thus, no particular team member may argue more than twice. During the Quarter Final and Semi-Final Rounds, a team member may argue either side as many times as the team desires. During the Final Round, two different team members must argue.

6.3 *SCORING*

- 6.3.1 The scores of the teams will be computed for each round by weighing the oral argument two-thirds (66.67%) and the brief one-third (33.33%). In the Final Round, a simple majority of the judges determines the winner of the Competition.
- 6.3.2 Each individual competitor's score will be the average of the scores assigned to that competitor by the members of the judging panel in all of the four (4) preliminary rounds in which that competitor has argued. An individual competitor must argue at least twice in order to be eligible to receive an Oralist Award.
- 6.3.3 The winning team will be designated the Champion based upon its performance in the Final Round. The Best Oralist will be designated based upon performance in the four (4) Preliminary rounds. The Best Brief will be designated based upon the average of the judges' "blind grading" of the briefs prior to the Competition. Scoring of the oral arguments and brief will be on a scale of zero (0) to one hundred (100) points.

⁴ If there are two members on a team then Team Member 1 may argue the Petitioner side once during the preliminary rounds and the Respondent side once during the preliminary rounds. This means both Team Members will argue two rounds. If there are three Team Members, the team can decide which Team Member will argue twice and which Team Members will argue once during the preliminary rounds

- 6.3.4 The Committee will select members of the bench and bar to serve as oral argument judges. Each judge will evaluate each advocate on a one hundred (100) point scale. The criteria the team members will be judged on during oral arguments are: Knowledge of the Law, Ability to Answer Questions, Persuasiveness, Forensic Performance, and Courtroom Demeanor.⁵ Upon request, oral argument score sheets will be made available in advance of the competition.
- 6.3.5 If a tie exists after the oral argument and brief scores are considered, the team winning the oral argument portion will be declared the winner of the round.
- 6.3.6 For the purposes of seeding during the preliminary rounds, a team's margin of victory is calculated by subtracting the losing team's point total from the winning team's point total. If a tie occurs, neither team will receive a win or a loss and the margin of victory for each team will be zero (0).

7 IDENTITY OF LAW SCHOOLS

- 7.1.1 The identity of the Law Schools represented by the participating team members may not be revealed to the judges at any time before the completion of the competition.
- 7.1.2 A team member shall be responsible for notifying the Director immediately if that team member knows a judge before whom that team member is slated to argue. Failure to do so could result in the disqualification of that member's team.
- 7.1.3 The penalty for disclosure of the team's Law School is five points assessed against any team whose member states the name of the team's Law School in front of a judge or during an oral argument. Participants are cautioned against using bags, binders, or any other school-labeled paraphernalia during the Competition weekend.

8 GUIDELINES FOR GRADING BRIEF AND JUDGING ORAL ARGUMENTS

- 8.1 The problem, a bench memorandum, and a copy of these Rules will be provided for use of those grading team briefs and judging oral arguments.

9 ANNOUNCEMENTS AND AWARDS

- 9.1 The team that wins the Final Round will be designated the Champion. The top two teams, top five team briefs, and top five oralists will be announced at a banquet following the conclusion of the Final Round of the Competition.
- 9.2 All participants and judges are invited to attend the banquet. At the conclusion of the Banquet, the Committee will award plaques to the first and second place teams, the Best Oralist and the team with the Best Brief. Each participant and the top five oralists and briefs will be awarded certificates at the banquet.

10 FACULTY AND OTHER ASSISTANCE

- 10.1 The Brief is to be the work product of the team members only. If a school has more than one team competing, the teams may NOT assist each other in any form and cannot consult each other in the development of arguments for the brief or for oral arguments.

⁵ At the conclusion of each of the four (4) Preliminary Rounds the judges may offer brief comments to each of the competitors addressing only stylistic or non-substantive issues. No comments will be given at the end of the Quarter Final or Semi-Final rounds.

- 10.2 During oral argument, a speaker may only receive assistance from those seated at counsel table.
- 10.3 After the brief is filed, participants may have non-team members judge practice arguments. Critique of the arguments, however, must only address stylistic non-substantive issues.
- 10.4 Subsections 10.1-3 are the “letter” of this rule. The “spirit” of this rule is that the students who compete have full and total responsibility for the brief and oral arguments, except as provided in 10.1. While loopholes undoubtedly exist in this rule, it would violate the “spirit” of this rule to use them.

11 ADMINISTRATION

- 11.1 Requests for information or rule interpretation should be sent to the Director by e-mail at clinbeh@regent.edu. The Director will issue an interpretation of these Rules upon request. All Rule interpretations will be promptly provided to all teams via e-mail.
- 11.2 The Moot Court Board has the discretion to modify or waive any of these Rules as any extraordinary circumstances may warrant.
- 11.3 The Rules may be modified as necessary to present the most equitable scoring of the Hassell Competition where there is an odd number of competing teams.
- 11.4 In the event of an ambiguity or conflict, the Director’s interpretation of these Rules and/or written communications to participants will govern.

12 SCOUTING

- 12.1 Scouting is prohibited. No team member still participating may attend the argument of any other school or receive information from any person who has attended an argument of any other school.
- 12.2 All team members, including non-arguing team members, can attend their own team’s arguments. A maximum of two team members are allowed to sit at counsel table
- 12.3 In the event that a school sends two teams, faculty advisors may attend the argument of each of their teams.
- 12.4 Non-participants may observe the oral argument rounds with the permission of all of the participants in the round they wish to observe. No one other than representatives of the Regent University School of Law Moot Court Board may record any portion of any round of the competition.

13 CONDUCT

- 13.1 The conduct of all participants in the Competition, including team members and coaches, will be governed by the standards set out in the ABA Model Code of Professional Responsibility and the ABA Model Rules of Professional Conduct.
- 13.2 Any team found to have conducted scouting of any kind will be suspended from further participation in the competition.
- 13.4 Unless otherwise stated, any infraction of these rules will result in a loss of five (5) points from a teams’ overall score.

14 WITHDRAWAL

- 14.1 Should any team decide to withdraw prior to the Hassell Competition’s final registration deadline, Regent University Moot Court Board will mail a refund check in the amount of one-half of the registration fee to the appropriate recipient designated by the withdrawing team’s representative.
- 14.2 Should any team decide to withdraw after the Competition’s final registration deadline, no refund will

be issued.

APPENDIX 1

CERTIFICATION FORM

We hereby certify that the [Petitioner's/Respondent's] brief of Team _____ is the work product solely of the undersigned and that the undersigned have not received any Faculty or other assistance, except as provided for by the Hassell Competition Rules, in connection with the preparation of this brief.

(Printed Name)

(Signature)

(Printed Name)

(Signature)

(Printed Name)

(Signature)

APPENDIX 2
BRIEF SCORING SHEET

BRIEF LETTER _____

NAME OF JUDGE _____

BRIEF PARTS	CRITERIA	POINTS POSSIBLE	POINTS GIVEN
Cover of Brief	Please DO NOT score. All covers will be graded by one independent brief grader	(1)	
Questions Presented	Do the questions adequately describe the issues before the court? Are the issues phrased such that the answer naturally favors the party propounding them?	(4)	
Table of Contents	Are the brief sections in the proper sequence? Does the brief contain all the necessary parts?	(1)	
Table of Authorities	Is there a sensible arrangement of the federal cases, state cases, statutes, and secondary sources?	(2)	
Constitutional Provisions & Statutes	Are Constitutional provisions and statutes in proper bluebook form?	(1)	
Statement of the Case	Are the essential facts stated in as favorable a way as possible without leaving out material facts? Is the statement accurate?	(5)	
Statement of Jurisdiction	Is proper authority given for the jurisdiction of the court?	(1)	
Summary of the Argument	Are the arguments developed and persuasive? Is the summary concise?	(4)	
Citations	Please DO NOT score. All citations will be graded by one independent brief grader.	(10)	
Overall Appearance & Style	Evaluate the overall neatness of the typing and physical presentation. Is the brief clear and unambiguous? Does the brief look polished from re-drafting and re-writing? Has there been an excessive use of quotations? Has the brief effectively used the allotted space	(10)	
Argument Structure	Is the structure logical and indicative of the issues? Are the arguments organized in a clear and persuasive manner? Do the arguments flow logically, compelling a conclusion in the writer's favor?	(10)	
Issue Recognition	Did the arguments include all necessary issues?	(15)	
Persuasiveness of Headings and Text	Was the argumentative tone of both the headings and text properly developed?	(15)	
Use of Authority	Was the argumentative tone of both the headings and text properly developed? Have the leading cases been used? Do the authorities support a sound legal analysis? Have persuasive secondary authorities been used? Has there been an excessive reliance on secondary materials? Have public policy arguments been developed when appropriate? Has the brief incorporated the facts of cited cases to inform and persuade the reader? Have the cases and authorities been used as effectively as possible? Has the brief distinguished cases and important authorities that are unfavorable to its position?	(20)	
Conclusion and Signature	Does the brief contain a conclusion statement and a signature line?	(1)	

FINAL SCORE (out of 100 possible points): _____

Please submit grades via EMAIL to Sonny Behrends at clinbeh@regent.edu.