

**General Instructions for the  
2001-2002 First-Year Moot Court Competition**

**Preliminary Matters:**

1. The First-Year Moot Court Competition is designed to give participants an opportunity to gain appellate advocacy experience. Only first-year J.D. candidates are eligible to participate.
2. The cases used in the First-Year Competition are based upon cases currently before the Supreme Court. Participants are not permitted to attend the oral arguments at the Supreme Court should they be heard after packets have been distributed. Participants may not obtain any documents (briefs, amicus briefs, motions, etc.) filed in relation to the actual cases. In addition, participants are forbidden to use or refer to the actual district and appellate court opinions (the “actual” opinions does not include the State of Moot Court of Appeals decision, or the State of Moot Supreme Court decision on reserve in the library). A willful violation of any of these provisions constitutes a violation of the WCL Honor Code.
3. To assist participants with their preparation, a copy of the opposing brief, as well as the mock U.S. District Court and Court of Appeals decisions, or the State of Moot Court of Appeals and the State of Moot Supreme Court decisions, will be on reserve in the library.
4. Participants are expected to thoroughly read all information in the competition packet.

**Format of the Competition:**

1. Each participant will be assigned to argue one side of one case. The cases for the competition are United States v. Marc Trump and James Wright, et. al v. Rob Rogers.
2. For the preliminary round, each participant will argue once. Participants will argue on-brief. Although it is unlikely, participants may be required to argue off-brief in order to ensure that the strongest competitors advance.
3. Each participant will have fifteen (15) minutes to deliver his or her argument. The Petitioner, alone, may elect to reserve up to three (3) of the allotted fifteen (15) minutes for rebuttal, but only if he or she asks the court’s permission before starting his or her argument.
4. Participants advance to the next round based solely on the score from their oral argument. In the first three rounds, competitors will only be scored against other competitors who argue the same side of the same case. In the final round, all competitors will be judged against each other.
5. The first round will be held the weekend of January 26-27, 2002. Competitors will argue once on either Saturday or Sunday (the schedule will be posted outside of the Moot Court Office during the week of January 14, 2002). The quarterfinal and semifinal rounds will be held on Saturday, February 2, 2002, and the final round will be held on Sunday, February 3, 2002. All rounds will take place at the Washington College of Law.

**Additional Information:**

Each participant is assigned to a First-Year Competition Committee Member. Questions should be directed to the respective Committee Member. If the Committee Member is unable to answer the question, it should be directed to Traci Tyers, First-Year Competition Director.

United States v. Marc Trump

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## MOOT COURT PROCEDURES:

### Participant's Goal:

Your primary goal as a competitor should be to present an oral argument that embodies your main points in a logical, clear and persuasive manner.

### The Players:

In the each of the rounds, there will be four participants in each courtroom, one participant for each side of each case. In addition to competitors, there will be two to four judges and a bailiff in each courtroom.

### Courtroom Procedure:

The competition is designed to give you an experience that closely mimics a real life proceeding before the Supreme Court. Accordingly, the procedures that you will be expected to adhere to are quite formal. We will attempt to sketch them for you below. These procedures are by no means intended to cause anxiety. Please remember, while compliance with these procedures is expected, the judges will know that it is your first formal moot court competition and will be flexible.

1. Justices enter the room as the bailiff says, "All rise." If no bailiff is present you should still stand.
2. You may be seated after the justices have been seated. The Chief Justice will then indicate which case he/she would like to hear first.
3. The Petitioner will go to the podium first. He/she can take a moment to situate him/herself. Bring as little as possible with you to the podium. Normally participants bring just an outline of their arguments.
4. Petitioner should wait until all the justices look up and indicate that they are ready to begin. After the Petitioner properly introduces him/herself (see Introduction below), he/she should then request rebuttal time (up to three (3) minutes). The Petitioner alone gets the option to have a rebuttal, which is normally used to address new arguments that the Respondent has presented in his/her argument, or to shore up weak spots in one's own argument that the Respondent has exposed. The Petitioner is not required to use rebuttal time.
5. The bailiff will inform the oralist and the bench when 5, 3, and 1 minute(s) remain in the oralist's allotted time, through the use of time cards.
6. Respondent for the same case then argues. Respondent does not receive rebuttal time.
7. After the Respondent argues, the Petitioner can then use the time that she has reserved for rebuttal.

8. The Petitioner and Respondent for the second case then argue as outlined above.
9. When the arguments are completed the bailiff asks everyone to rise and participants will be asked to leave the room. At this time the justices will independently fill out the score sheets.
10. You will then be invited back for a short critique. Keep in mind that oral advocacy is a very stylistic process. You may receive some constructive criticism that you may not agree with. Moreover, it is a real possibility that you will receive comments from one round of judges that are inconsistent with comments that you receive from another round of judges. Do not be disillusioned by this. This is only an all too accurate reflection of the real world where one judge may prefer one style while another judge may prefer a different technique. You should understand that in the long run it is your job to process the comments and develop your style as you see fit.

### **The Argument:**

#### Petitioners

1. Introduction: You must present an introduction that sounds something like this: “May it please the court, my name is \_\_\_\_\_, counsel for the Petitioner \_\_\_\_\_.”
2. Optional rebuttal time requested: “At this time, the Petitioner would like to reserve (usually 2 or 3 minutes) for rebuttal.”
3. Thesis statement: In one or two sentences, tell the court what it is you are seeking and why they should hold in your favor. If it helps, you should incorporate the decision of the lower court(s).
4. Roadmap: There is no hard and fast rule regarding how this should be done. Essentially, the roadmap tells the court what the two or three areas of analysis are that you will argue to support your position. Some judges like it if you frame the areas of analysis in a way that is favorable to your client. This is helpful particularly if you run out of time and do not get to cover all your intended points because the court knows where you stand on the issue.
5. Statement of the case: Before beginning to argue in your first area of analysis, ask, “Would the Court like a statement of the facts?” If the judges indicate that they would so like, give them a brief recitation of the facts, slanted as much as possible to favor your position. If the judges state that they do not need a statement of the facts, proceed into your argument.
6. Argument: Because you only have fifteen (15) minutes to argue, some prefer to argue their strongest points first, because depending upon the judges questions, you may not get past your first point. Some find it more effective to argue their strongest points last. Many have found it helpful to structure their three arguments in the order most appropriate to analyzing the issue; called the “outside in” approach. Again, there are no hard and fast rules on how to structure your argument; use whatever works best for you. Extensive case citation is discouraged. However, be familiar with all the cases on which you and your opponent rely.

7. Conclusion: You should take a minute to conclude by summarizing your main arguments. The conclusion should be short, but sweet. Remember to include your prayer for relief (e.g. “The Petitioner/Respondent respectfully requests that this Court reverse/affirm the decision of the lower court”). If you run out of time before you get a chance to argue all of your points, ask the Court, “I see my time has come to a close, may Petitioner/Respondent quickly conclude?” If the Court so allows, then state your conclusion.
8. Rebuttal: This is the opportunity to respond briefly to Respondent’s arguments, and use them to drive your key points home. An effective rebuttal addresses the points that the Respondent has brought up that you feel that you did not get a chance to adequately address in your argument. At the conclusion of rebuttal, reiterate your prayer for relief. Whether or not you elect to rebut Respondent’s argument is a tactical question.

### Respondents

1. Much of what has been outlined above pertains to Respondent’s argument as well. However, there are some differences that you should be aware of.
2. Respondents are NOT afforded rebuttal time. This makes it extremely important for the Respondent to directly attack the strength and validity of the Petitioner’s points during the initial argument.
3. Respondents are not required to make a statement of the case, but should ask the court if they would so desire. As outlined above, you should try to slant your facts to support your position.

### Helpful Hints

1. The key to success is preparation. When preparing for the competition consider the following:
  - a. Knowledge: Know the facts completely and thoroughly. You should also know the law (favorable and unfavorable) relevant to your case, and the cases on both sides of the issues. Although not required, it is strongly advised that you read the major cases cited in the brief on which you will be relying and even those cited in your opponent’s brief.
  - b. Outline: Outline your arguments; do not write them out. Stick to key words, phrases and issues (truly great oral arguments have a discernible theme), and be prepared to speak for approximately ten (10) minutes of your fifteen (15) minute presentation, so as to have time to answer questions.
  - c. Mooting: Practice aloud before others, by yourself, in front of a pet, or mate. Practice answering questions while in the middle of your argument and then returning to the point that you were making.
  - d. Anticipate the Court’s questions: Know where the weaknesses are in the position you are advocating and be able to distinguish damaging precedent.

## 2. Delivering your argument and responding to questions:

- a. Speak slowly and confidently.
- b. Listen carefully and respond directly to questions; a momentary pause before answering is a good technique to use. Answer the judge's questions directly even if it is not favorable to your position (you may then try to distinguish it). Some judges like to pose hypotheticals. Be aware that not all the questions that judges ask are against your position, some questions are actually intended to shore up your position.
- c. Be aware of the time that remains and adjust your argument accordingly. You should begin to conclude at the one (1) minute mark. When your time has expired, you should not proceed without first asking permission of the court. If permission is given, then quickly conclude. If you finish with time to spare, sit down.
- d. Address judges as "Justice \_\_\_\_\_" or "Your Honor." When addressing the panel of justices as a whole, refer to them as "Your Honors." Address opposing counsel as "Counsel for Petitioner/Respondent."
- e. Never say, "I believe" or "I assert," instead refer to your client and say, "Petitioner/Respondent believes" or "Petitioner/Respondent asserts."
- f. Do not respond to the judges' questions with a question. However, asking them to clarify their questions is permissible.
- g. Never tell a judge the answer to his/her question will be given later.
- h. Never interrupt a judge.

## 3. Demeanor:

### a. YOU SHOULD:

- i. Exhibit enthusiasm – it convinces the judges that you really believe what you are advocating
- ii. Show respect for the judges and opposing counsel.
- iii. Use short, precise and understandable terms.
- iv. Dress professionally (preferably in a suit); err on the side of conservative; avoid distracting jewelry.

- v. Stand solidly on both feet (don't cross your feet, nor shift your weight).

**b. YOU SHOULD NOT:**

- i. Be defensive.
- ii. Be overly dramatic.
- iii. Be disruptive while a competitor is arguing.
- iv. Engage in nervous gesturing (i.e. rocking back and forth, shuffling papers at the podium, jingling change, playing with jewelry, etc.).