
MEMORANDUM

TO: FIRST YEAR MOOT COURT COMPETITION PARTICIPANTS

FROM: FIRST YEAR MOOT COURT COMPETITION DIRECTORS,
COURTNEY MORAN AND RAFAEL ROBERTI

SUBJECT: GENERAL INSTRUCTIONS FOR THE 2011-1012 ALVINA RECKMAN-
MYERS FIRST YEAR MOOT COURT COMPETITION

Preliminary Matters:

1. The Alvina Reckman-Myers First Year Moot Court Competition is designed to give participants an opportunity to gain appellate advocacy experience. Only first year JD candidates are eligible to participate.
2. The case in this competition may be similar to cases currently before the Supreme Court. Participants are not permitted to attend the oral arguments at the Supreme Court should they be heard after the packets have been distributed. Participants may not obtain recordings of the actual arguments in this case. Participants may not obtain any documents (briefs, amicus briefs, motions, etc.) filed in relation to similar or actual cases. In addition, participants are forbidden to use or refer to the actual district and appellate court opinions. A violation of any of these provisions constitutes a violation of the Washington College of Law Honor Code and will disqualify you from competing.
3. 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 the case (Appellant or Appellee).
2. For the preliminary round, each participant will argue twice. Each participant must argue on-brief (the side to which you were assigned).
3. Each participant will have 15 (fifteen) minutes to deliver his or her argument. The Appellant may elect to reserve up to 3 (three) minutes of the allotted 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 3 rounds, competitors will only be scored against other competitors who argue the same side of the case. In the final round, all competitors will be judged against each other.

5. The preliminary rounds will be on January 28, 2012, and the quarterfinals, semifinals, and final rounds will be held on January 29, 2012. All rounds will take place at the Washington College of Law.
6. Problem specific and general questions should be directed to the First Year Competition Directors, Courtney Moran and Rafael Roberti, at FirstYearCompDirectors@gmail.com. Also visit www.wcl.american.edu/org/mootcourt/ for regular updates on the Alvina Reckman-Myers First Year Competition.

MOOT COURT PROCEDURES:

Participant's Goal:

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

The Players:

In each of the rounds, there will two participants in each courtroom; one participant for each side of the case. (The Competition Directors may change this format as necessary, based on the number of competitors.) In addition, there will be two to four judges and a bailiff in the courtroom during the rounds.

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 follow 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. If the justices are already in the courtroom when you arrive, simply enter the room when directed to do so and await their instructions.
2. You may be seated after the justices have been seated. The Chief Justice will then call the case.
3. The Appellant will go to the podium first. It is perfectly acceptable to take a moment to situate yourself. Bring as little as possible with you to the podium. Normally, participants just bring an outline of their arguments.
4. Appellant should wait until all justices look up and indicate that they are ready to begin. After the Appellant properly introduces him/herself (see Introduction below), he/she should then request rebuttal time (up to 3 minutes). The Appellant alone retains the option for rebuttal, which is normally used to address new arguments that the Appellee

has presented in his/her argument, or to shore up weak spots in one's own argument that the Appellee has exposed. The Appellant is not required to use rebuttal time.

5. The Bailiff will, through the use of time cards, inform the participant and the bench when 5, 3, and 1 minute (s) remain in the participant's allotted time.
6. Appellee then argues next. Appellee does not receive rebuttal time.
7. After the Appellee argues, the Appellant can use that time that he/she has reserved for rebuttal.
8. 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 their score sheets.
9. You will then be invited back in for a short critique. Keep in mind that oral advocacy is a very stylistic process. You may receive some constructive criticism that you may disagree 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 style. You should understand that in the long run, it is your job to process the comments and critiques and develop your style as you see fit.

The Argument:

Appellants:

1. **Introduction:** You must present an introduction that sounds something like this: "May it please the court, my name is _____, counsel for the Appellant _____."
2. **Optional rebuttal time requested:** "At this time, the Appellant would like to reserve (2 or 3 minutes) for rebuttal."
3. **Thesis Statement:** In one or two sentences, tell the court what you are seeking and why they should rule 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 main 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, give them a brief recitation of the facts, slanted as much as possible to favor your position. If the judges state they do not need a statement of the facts, proceed to your argument.
6. **Argument:** Because you only have 15 minutes to argue, some prefer to argue their strongest points first, because depending upon the judge’s questions, you may not get past your first point. Some find it more effective to argue their strongest point last. Many have found it helpful to structure their 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 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 Appellant/Appellee respectfully requests that the 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 the Appellant/Appellee quickly conclude?” If the Court allows, then state your conclusion.
8. **Rebuttal:** This is the opportunity to respond briefly to the Appellee’s arguments, and use them to drive your key points home. An effective rebuttal addresses the points that the Appellee has brought up that you did not get a chance to adequately address in your argument. At the conclusion of the rebuttal, reiterate your prayer for relief. Whether you elect to rebut the Appellee’s argument is a tactical decision.

Appellees:

1. Much of what has been outlined above pertains to Appellee’s argument as well. However, there are some differences you should be aware of.
2. Appellees are NOT afforded rebuttal time. This makes it extremely important for the Appellee to directly attack the strength and validity of the Appellant’s points during your argument.
3. Appellees are not required to make a statement of the facts, but should ask the court if they would so desire. As outlined above, you should try and 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.
 - b. **Outline:** Outline your arguments; do not write them out. Stick to the key words, phrases and issues (truly great oral argument have a discernable theme), and be prepared to speak for approximately 10 minutes of your 15-minute presentation, so as to have time to answer questions.
 - c. **Mooting:** Practice aloud before others or by yourself. Practice answering questions while in the middle of your argument and then returning to the point you were making.
 - d. **Anticipate the Court's questions:** Know the weaknesses in the position you are advocating and be able to distinguish damaging precedent. Reading the opposing brief is a good way to prepare for this.
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 and 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 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 then sit down.
 - d. Address the judges as "Justice _____" or "Your Honor." When addressing the panel of judges as a whole, refer to them as "Your Honors." Address opposing counsel as "Counsel for Appellant/Appellee" or "Opposing Counsel."
 - e. Never say, "I believe" or "I assert"; instead directly assert the law you are going to use to support your point. What you think or what your client thinks should not be the focus, the law should. You may, however, refer to your client and say "Appellant/Appellee believes" or "Appellant/Appellee asserts," if necessary.

- f. Do not respond to judges' questions with a question. However, asking them to clarify their question 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 (a suit is preferred); err on the side of conservative; avoid distracting jewelry.
 - v. Stand solidly on both feet (do not 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. For example, loudly flipping through your notes for rebuttal is disruptive.
 - iv. Engage in nervous gesturing. For example, do not rock back and forth, shuffle papers at the podium, jingle change, play with jewelry, etc.

GOOD LUCK !