



# Burton D. Wechsler First Amendment Moot Court Competition

American University Washington College of Law  
WASHINGTON, DC

## 2019 Clarification Questions and Answers

### Questions About the Rules - General

**Questions for clarification about the rules are not limited by any deadline. Please ask the competition directors promptly--and at any time, even during the competition itself--if you have any questions about the rules of the competition.**

1. Are teams restricted to the cases and sources cited in the packet?
  - a. No. This is an "open universe" problem. You should incorporate outside research in your brief, as a real practitioner appearing in the Supreme Court of the United States would.
2. What is the scope of the outside help rule? May a coach point the team towards good avenues of research, or just give them general "orientation" advice?
  - a. The rules of the competition define outside help as ". . . assistance from any person who is not a member of that team." Our interpretation of this rule is in line with the plain meaning of the text--teams may not be assisted by anyone. As such, competitors must conduct all of their own research and writing, any assistance from coaches in this process--even mere hints, or "pointers" to things they should look at are forbidden by this rule. In short, until the brief is submitted, coaches must not provide any assistance whatsoever.

### Questions About the Rules - Brief formatting

**Please note that as a matter of policy, the competition directors will not resolve questions of Bluebooking or grammar in the answers to clarification questions. Furthermore, if a question includes presumptions about such issues, that component of the question will be redacted prior to its publication.**

1. May the brief's cover page, questions presented, the Table of Contents, and the Table of Authorities be single-spaced?

- a. We do not resolve questions of how to apply the Bluebook's rules in our answers to clarification questions. Rule IV.4 mandates that briefs have "double spacing in both text and footnotes (Except for where the most recent edition of the Bluebook prescribes a different spacing--for example, in block quotations)." Except for where the Bluebook specifies otherwise, your entire brief should be double spaced. **This policy may have been different in years past, do not rely on the previous year's clarification questions which had previously been posted on the competition website.**
2. Do you cite to the problem as (J.A. at \*\*. ) or J.A. at \*\*. ?
    - a. Per rule IV.11: Citation to the problem should take the following form: "(J.A. at \*\*. )" For example,

The Tenley District Court stated that "[t]his case requires the Court to balance the right of freedom of expression against the ability of a person to preserve her reputational interests." (J.A. at 1.).

**To the extent that this citation format is inconsistent with the Bluebook, you should follow Rule IV.11 over the Bluebook for citations to the record only. Per rule IV.7, all other citations should follow the standard Bluebook format.**

### Questions About the Contents of the Record

**Please note that as a matter of policy, the competition directors will only confirm whether the record resolves a particular issue of fact, and will not indulge any conclusions thereupon. Furthermore, if a question includes presumptions beyond facts contained in the record, that component of the question will be redacted prior to its publication.**

**While the answers to these questions attempt to clarify inconsistencies and fill in gaps, they are not always the exclusive resolution to these questions. When an answer resolves a question which is not otherwise answered by the record, you may safely rely on the answer given here. For any other answer, especially one which derives its information from the record, you should still carefully review the record for details which may further resolve the answers to these questions.**

1. Did Courtier plead guilty to a distribution of cocaine charge?
  - a. As seen on page 5 of the record, Courtier "was charged with two felonies for distribution of cocaine. She pled guilty to one of the felonies and served two years in prison."

2. Was Courtier's past criminal conviction a matter of public record?
  - a. The record does not indicate that any special circumstances, like the court records being “sealed” were present. As such, you should operate under the assumption that Courtier’s convictions are generally as public as a typical conviction in a typical state.
3. Does Courtier allege any other statement as defamatory apart from the 4 excerpts listed at J.A. 18?
  - a. The record uses expansive language, implying that there may be more statements, but you do not need to address any other statements in your brief or your oral arguments in order to make a complete argument.
4. To what extent did Ms. Courtier’s prior criminal convictions gain notoriety or public attention?
  - a. The record does not establish that there was any notoriety or public attention to the prior criminal convictions, and the question presented on certiorari assumes there was no notoriety or public attention.
5. Is the citation for *Liberty-Lobby* on J.A. at 20 meant to read "*Liberty-Lobby v. Anderson*, 746 F.2d 1563 (D.C. Cir. 1984)" rather than "*Liberty-Lobby v. Anderson*, 746 F.2d 1543 (D.C. Cir. 1984)"?
  - a. Yes.
6. Do Mr. Lansford and Ms. Courtier both live in Silvertown?
  - a. The record does not specifically address this question.
7. Was Lansford's post submitted as a comment in response to the column in Courtier's website? If not, was it Mr. Lansford’s personal website or a website related to his political campaign? In other words, what is the nature of Mr. Lansford’s website where he posted the “allegedly” defamatory remarks?
  - a. On page 8, the record describes the website as “his” meaning Lansford’s, and the posting is described as occurring “on social media.” Beyond this, the record does not indicate the nature of the website Lansford posted on.
8. How long has it been since Silvia Courtier last faced criminal charges?
  - a. Page 6 and 10 of the record refer to Courtier’s criminal past as occurring “decades” ago. Beyond this, the record does not indicate precisely how long it has been since Courtier last faced criminal charges.
9. How did Lansford come to learn of Courtier’s background and criminal history

- a. The record does not contain an answer to this question.

10. How old is Courtier?

- a. The record does not establish Courtier's exact age, though she is old enough for "decades" to have passed since her two year jail sentence which occurred in her early twenties. Logically, she must be at least in her "mid" thirties, though we do not have an upper limit to her potential age.

### Questions of Law, The Writ, and Party Positions

**Please note that as a matter of policy, the competition directors will not resolve questions of law in the answers to clarification questions. Furthermore, if a question includes presumptions about legal issues, that component of the question will be redacted prior to its publication.**

1. Which party is now which position?
  - a. Lansford is now the petitioner, Courtier is now the respondent.
2. Are all the state law cases cited in the opinion cited in lieu of Tenley state law? Are they mandatory or persuasive?
  - a. The case citations in the record are generally accurate. The record does not reflect answers to any of the remaining questions.
3. Regarding the second question presented, i.e. rhetorical hyperbole, to what extent should competitors address whether Respondent is a public figure?
  - a. You should address the Respondent's status (or lack thereof) as a public figure to the extent that your research indicates it is useful to resolve the question presented.
4. Is Tenley District Court a state court?
  - a. Yes.
5. Is the Supreme Judicial Court of the State of Tenley the highest state court in Tenley?
  - a. Yes
6. Is Courtier challenging the whole statement made by Lansford or just parts of the statement? In one part of the record, it says "These include the phrases: "a pimp for the rich"; "a leech on society"; "a whore for the poor"; and "corrupt and a swindler."" This could be taken to mean she is challenging these phrases and more. But in another part of

the packet, it says, "Courtier contends that she was defamed by the following terms: "pimp", "leech", "whore", and "swindle."

- a. Per the record, Courtier is challenging the terms "pimp," "leech," "whore," and "swindle" as they occurred in the context of the complete phrases.
7. Is the first question on the writ asking whether the libel-proof doctrine should be adopted by the Court, or are we analyzing whether the doctrine can be applied in situations like this one?
  - a. You are being asked to determine whether someone can be a libel proof plaintiff under specific conditions. To be precise, the first question is asking you to determine whether someone can be a libel proof plaintiff under defamation law, solely on the basis of past criminal convictions, including a felony, that have gained no notoriety or public attention.