



## **Official Rules – Fall 2023**

The following represent the official rules of the Billings, Exum & Frye National Moot Court Competition (“the Rules”).

### **I. Organization and Administration of Competition**

Elon University School of Law in Greensboro, North Carolina, sponsors the annual Billings, Exum & Frye National Moot Court Competition. The competition seeks to provide law students with the opportunity to advance and showcase their written and oral advocacy skills. It honors three of North Carolina's most distinguished lawyers, Rhoda Billings, Jim Exum, and Henry Frye, who have each served as Chief Justice of the Supreme Court of North Carolina, in a variety of leadership positions within the legal profession and in public life, and as founding members of the Elon University Law School Advisory Board. The competition is conducted under the supervision of the Moot Court Board’s National Competition Committee (“Competition Committee”) and the Director of the Moot Court Program.

### **II. Teams**

#### **A. Registration**

The competition is open to teams from law schools fully or provisionally approved by the American Bar Association (schools that can establish that they are actively seeking ABA approval are also eligible to participate). Registration for the competition has closed.

#### **B. Number and Composition**

Law schools may enter up to two teams consisting of two or three members. Teams will generally consist of second and third-year students. If a law school allows first-year students to compete on interscholastic teams, it may request permission to have first-year students compete. Competitors must be registered law students seeking the Juris Doctor degree and in good standing at their home institution. No team member may have completed the Juris Doctor degree prior to October 21, 2023.

### C. Identification of Team Members

Teams may identify their members on their registration forms. In addition, the Competition Committee will send each registered team an electronic form on which to confirm each team member's name and email address. The team members' names must be submitted prior to submission of a team's written brief.

Each team must designate one representative, who can be a team member or coach, to whom information may be sent and with whom questions and concerns may be discussed and provide contact information for the representative, including email address and cell phone number. This designation must occur at the same time team members are identified as noted above.

### D. Substitution of Team Members and Team Withdrawal

If a team member is unable to compete in an oral argument round, then the remaining members of a three-person team must fill the gap left by the member not participating, but in all instances, at least two members of a team must argue in a given round.

Each team may designate one additional alternate team member. This alternate may stay informed of the team's progress but, as long as the member remains an alternate, may not contribute to brief writing. The alternate also must be explicitly listed as "alternate" in the list of team members.

The alternate may assume team member status only for good cause, such as severe illness or other similar extenuating circumstances. A team must obtain approval from the Competition Committee to substitute a team member after the problem is released. The alternate may not assist the team in its preparation of the brief unless substituted for a team member. No substitutions are allowed once the oral argument rounds begin.

Should any team decide to withdraw prior to the competition's final registration deadline, it will receive a refund of one-half of its registration fee. No refund will be issued for withdrawals after registration closes.

### E. Team Identification

Each team will be randomly assigned a number designation for the competition. These numbers will be disseminated to the team contacts via email approximately two weeks before the written briefs are due. This number will be the sole method of identifying the team on its brief and during the oral argument phase of the competition. No one affiliated with a team, including team members, coaches, and observers, may directly or indirectly (e.g., school name affixed to bag, pen, or other items) divulge their law school's identity to the judges. Violation of this rule shall result in a penalty, up to and including disqualification.

### **III. The Problem**

#### **A. Release of Problem and Requests for Clarifications**

The Problem will be released on or around August 28, 2023. Requests for clarifications will be entertained through September 11, 2023. These requests should be submitted via e-mail to Associate Dean Alan Woodlief, Director of the Moot Court Program, at [awoodlief@elon.edu](mailto:awoodlief@elon.edu). Any clarifications will be posted to the competition web site after the deadline for submission.

#### **B. Copyright**

The copyright to the Problem is held by the Elon University School of Law Moot Court Board. Audio, visual, or written versions may not be posted online or distributed in any manner or format without express written permission from the Moot Court Board. The Problem may not be used for intra-school or intramural competitions designed to select a law school's competitors for this competition. Requests to use the Problem for other internal law school competitions or other purposes may be submitted to Associate Dean Woodlief at [awoodlief@elon.edu](mailto:awoodlief@elon.edu).

### **IV. Briefs**

#### **A. Side Argued**

A team may choose to write its brief on behalf of the Petitioner or the Respondent. If two teams from the same school enter the competition, one team will submit a Petitioner's Brief and one team will submit a Respondent's Brief (to be determined among the teams and/or their coaches).

#### **B. Format, Length and Specifications**

1. Briefs shall conform to the Rules of the United States Supreme Court except that teams should omit a formal statement of jurisdiction. All citations should conform to the most recent edition of The Bluebook: A Uniform System of Citation.
2. A brief shall not exceed 30 pages. This page limit does not include pages containing the cover page, questions presented, table of contents, table of authorities, or the appendices. Any partially filled page shall be counted as a full page.
3. All text shall be in Times New Roman, 12-point font. Smaller fonts and the use of compacted or otherwise compressed printing features will be grounds for a penalty. Footnotes, argument headings, and single-spaced quotations must appear in the same size font as the rest of the text.
4. Any process that produces a clear, black image on white may be used for the brief. All briefs must be bound on the left. The paper size must be 8 1/2" x 11".
5. Each page of text shall contain no more than 28 lines of double-spaced text. Typed matter shall not exceed 6 1/2" x 9" per page, i.e., a minimum one-inch margin on all sides. The page number is not included in this measurement.
6. Typed matter must be double-spaced. Footnotes, argument headings, and extended quotations may be single-spaced.

7. A team shall print its team identification number in the lower right corner of the cover page of its brief. Briefs shall not be signed, and no other material serving to identify a team or its members, shall appear anywhere within or on the brief.
8. A team may not revise its brief after its submission.

### C. Service of Briefs

1. Each team must submit its brief electronically as a PDF file **and** as a Microsoft Word document. These electronic copies must be sent as an email attachment to Associate Dean Woodlief at [awoodlief@elon.edu](mailto:awoodlief@elon.edu). Teams are not required to submit printed copies of their brief.
2. Deadlines for Service - The electronic copy of the brief must be received by the competition by **5:00 p.m. EST on Tuesday, September 26, 2023**. Any team whose brief is received later than 5:00 p.m. EST on September 26, 2023, shall be assessed a late penalty of 10 points per day the brief submission is late, which will be deducted from the overall score of the brief.
3. Teams are not required to serve printed copies of their brief on other teams. All briefs will be posted to the competition website by Friday, September 29, 2023.

### D. Certification

By submitting a brief, each team member certifies that the brief has been prepared in accordance with these Rules, particularly the rule regarding assistance (Rule IX.A.).

### V. **Oral Argument**

- A. The oral argument rounds will be held Friday, October 20 and Saturday, October 21, 2023. Each team will argue two times in the preliminary rounds. The competition consists of two preliminary rounds, a first elimination round (octofinal round), a quarterfinal round, a semifinal round, and the championship round.
- B. Two team members will argue in each round of oral argument. A team may vary which members will argue from round to round. Only those team members who are arguing may sit at counsel table.
- C. Competitors should report to their assigned courtroom for a round at least 15 minutes before the scheduled start time. If a team is more than 10 minutes late for a scheduled round, then the team will forfeit the round. See section VI.A. for the scoring of such situations in the preliminary rounds.
- D. Oral argument is limited to a total of 30 minutes per team.
  1. Although a team may divide its allotted time as it chooses, no team may allocate more than 17 minutes to one advocate (including rebuttal time).
  2. The petitioner may reserve up to a maximum of five minutes for rebuttal. Only one

advocate may argue rebuttal. Petitioner will inform the bailiff which team member will rebut prior to the round.

3. The judges may, in their sole discretion, extend any speaker's time.

E. No video or audio recording by teams or spectators is permitted. The Championship Round and other rounds may be videotaped, photographed, or otherwise recorded by Elon University School of Law. A student's decision to enter and participate in the competition constitutes consent to videotaping, photography, or other recording. Videos, photographs, and audio recordings may be posted to the Elon website, used in print publications, and otherwise distributed by the school.

F. Mobile phones, smart phones, personal digital assistants, computers, and other electronic communication devices are prohibited at counsel table (and any present in the courtroom, including those of spectators, should be silenced). No presentation devices or exhibits of any kind may be used in oral argument. A violation of this rule will result in a 10-point deduction from each team members' oral argument score for the round.

## **VI. Round Scoring and Advancement**

### **A. Preliminary Rounds**

Each team will argue in two preliminary rounds. In the preliminary rounds, pairings will be determined by brief scores, with the teams power seeded based on their brief score. Teams in the top half of the brief scores will be randomly paired against teams in the bottom half of the brief scores. Sides (i.e., Petitioner or Respondent) in the first two preliminary rounds will be assigned randomly, and each team will argue once as Petitioner and once as Respondent (once on brief and once off brief).

The foregoing is subject to the following exception: No team during the preliminary rounds will face a team from the same school, nor will they face the same team from another school twice.

If there is an uneven number of teams competing in the preliminary rounds, two teams will be randomly selected by the Competition Committee. The first selected team will receive a bye in the first preliminary round, and the second selected team will receive a bye in the second preliminary round. The two bye teams will argue in a supplemental "bye round" between the first and second preliminary rounds.

In the preliminary rounds, a team's score for the round will be computed by weighing the oral argument 60 percent and the brief 40 percent.

If a team forfeits an assigned round, the team's scheduled opponent will be the winner of that round and their margin of victory will be one point, unless the opponent's reduced brief score is more than one point higher than the forfeiting team's brief score, in which case the margin of victory for the opponent shall be the difference between the brief scores.

In the event of ties in the win-loss record, the ties will be resolved in the following order:

- (1) Aggregate point differential from the preliminary rounds (calculated by subtracting the losing team's point total from the winning team's point total for the round); then
- (2) Oral argument scores from the preliminary rounds; then
- (3) Coin toss.

#### B. Elimination (Octofinal) Round

Following the two preliminary rounds, the field will be narrowed to 16 teams. The 16 teams with the best win-loss records in the preliminary rounds will advance to the octofinal round (with ties resolved as described in section VI.A. above).

From the octofinal round forward, the competition is single, head-to-head elimination. Teams will be placed into brackets before the octofinal round and will not be reseeded after the octofinal round. The sixteen teams advancing to the octofinal round will be seeded in order of their win-loss record in the preliminary rounds (with ties resolved as noted in VI.A. above), with the highest seed arguing against the lowest seeded team, etc. (i.e., 1 vs. 16, 2 vs. 15, 3 vs. 14, and 4 vs. 13, etc.).

Unlike the preliminary rounds, teams from the same school may face each other in the octofinal round. In the octofinal round, sides will be determined by a coin flip, with the coin called by the higher seeded team, and the team winning the coin flip choosing the side.

In the octofinal round, a team's score for the round will be computed by weighing the oral argument 70 percent and the brief 30 percent. The team with the highest score in a round will advance to the quarterfinals. In the event of a tie in an octofinal round, the winner of the round will be the team with the highest total oral argument score in that round.

#### C. Quarterfinal Round

The eight teams winning their rounds in the octofinals will advance to the quarterfinals. The seeding from the octofinal round continues, i.e., teams will be paired in traditional bracket format with the winner of 1 vs. 16 facing the winner of 8 vs. 9, the winner of 2 vs. 15 facing the winner of 7 vs. 10, the winner of 3 vs. 14 facing the winner of 6 vs. 11, and the winner of 4 vs. 13 facing the winner of 5 vs. 12).

Unlike the preliminary rounds, teams from the same school may face each other in the quarterfinal round. In the quarterfinal round, sides will be determined by a coin flip, with the coin called by the higher seeded team, and the team winning the coin flip choosing the side.

A team's score for the round will be computed by weighing the oral argument 75 percent and the brief 25 percent, and the team with the highest combined score in a courtroom will advance to the semifinals. In the event of a tie in a quarterfinal round, the winner of the round will be the team with the highest total oral argument score in that courtroom.

#### D. Semifinal Round

The four teams winning their rounds in the quarterfinals will advance to the semifinals. The seeding from the quarterfinal round continues, i.e., teams will be paired in traditional bracket format (the winner of 1/16 vs. 8/9 against the winner of 4/13 vs. 5/12, and the winner of 2/15 vs. 7/10 against the winner of 3/14 vs. 6/11).

In the semifinal round, sides will be determined by a coin flip, with the coin called by the higher seeded team, and the team winning the coin flip choosing the side. The winner of a semifinal round will be the team that receives the highest total oral argument score from the judges in that courtroom.

#### E. Championship (Final) Round

The two teams winning their rounds in the semifinals will advance to the championship round. In the final round, sides will be determined by a coin flip, with the coin called by the higher seeded team, and the team winning the coin flip choosing the side.

In the final round, the winner will be the team that receives the highest total oral argument score from the judges in that courtroom.

### **VII. Scoring**

#### A. Brief Scoring

1. Briefs will be scored by members of the Elon Law faculty and/or administration, experienced members of the local bench and bar, and/or members of the Moot Court Board. Brief graders will be provided with the problem, a bench memorandum, and a copy of these Rules. Grading will be anonymous, with each brief identified only by its team number.
2. Each judge will evaluate the briefs based upon a 100-point scale. Thoroughness of research, knowledge of the law, depth of analysis, and persuasiveness will be the primary standards in grading, but form, style, and appearance, including citation, spelling, punctuation, and capitalization, will also be considered. Teams will be informed of their brief scores and the median brief score for the competition prior to their first preliminary round. Teams will not be provided score sheets from the brief graders.

#### B. Oral Argument Scoring

1. Oral argument rounds will be judged and scored by members of the bench and bar, as well as Elon Law faculty and/or administration. If necessary, members of the Moot Court Board, who are not serving on the Competition Committee, may serve as judges. Oral argument judges will be provided with the problem, a bench memorandum, a copy of these Rules, and guidelines for judging oral arguments.
2. The competition strives to obtain a wide range of judges and attempts to have teams not argue before the same judge more than once. However, at times, it may be necessary for judges to hear the same team more than once, and it is not a valid basis for complaint that

the team has already argued in front of the same judge. A team should not delay or interrupt a round because it is appearing before the same judge.

3. Each judge will evaluate each advocate upon a 100-point scale, considering substantive content of the argument, knowledge of the record, ability to address questions, courtroom demeanor and professionalism. Teams will not be provided score sheets from the oral argument judges.

### C. Round Scoring

See Section VI. above.

## **VIII. Awards**

### A. Chief Justices' Cup and Team Awards

The championship team's name will be engraved on the Chief Justices' Cup which is permanently displayed at Elon University School of Law. The winning law school will also receive a replica of the Chief Justices' Cup that it may keep and display at its own school. Each member of the championship team will also receive a plaque commemorating this achievement. Team awards will be presented to all teams reaching the Quarterfinals and later rounds.

### B. Brief Writing Awards

Brief writing awards will be presented to the teams writing the best two Petitioner briefs and the best two Respondent briefs.

### C. Oral Advocacy Awards

Oral advocacy awards will be presented to the best advocate in the final round, as well as the top five advocates in the preliminary rounds (based on highest average scores in the preliminary rounds). To be eligible for an individual oral advocacy award for the preliminary rounds, a competitor must argue twice in the preliminary rounds.

## **IX. Assistance and Scouting**

### A. Assistance

1. Because the purpose of this competition is educational, teams may receive limited faculty assistance in the preparation of their briefs. Permissible assistance is limited to discussion of the issues with the students. No one other than a student team member may supply research, engage in drafting the brief, or review or comment upon a draft of the brief before it is submitted to the competition (this also bars any researching, drafting, or revising through the use of any generative artificial intelligence, including but not limited to ChatGPT or embedded AI in Lexis, Westlaw, Microsoft Word, etc.). Service of the brief as required by these Rules constitutes certification that the team has not received impermissible assistance in preparation of the team's brief and has complied with this



rule.

2. After the brief is submitted, participants may receive assistance in preparation for oral arguments. If a team registers two or more teams, it is permissible for these teams to practice together.
3. During oral argument rounds at the competition, a speaker may receive assistance only from those seated at counsel table.

#### **B. Scouting**

1. Scouting is prohibited. No team member or faculty coach still participating shall attend the argument of any other team or receive information from any person who has attended an argument of any other team.
2. Notwithstanding paragraph 1 above, if a school sends two or more teams, faculty coaches may attend the arguments of each of their teams.
3. Non-participant guests may observe the oral argument rounds. A team is responsible for the conduct of its guests and should inform them of all rules, e.g., silencing cell phones, non-disclosure of school name, etc.

#### **X. Conduct**

Team members, coaches and their guests will conduct themselves in accordance with these Rules and in a responsible and professional manner in all respects.

#### **XI. Challenges**

Teams may not challenge their brief score. A challenge to an oral argument round may be made only for rules violations or serious misconduct by a competitor or unprofessional behavior by a judge (e.g., falling asleep or not paying attention during a round, etc.). A challenge must be made by a competitor or coach to the Competition Committee within 10 minutes of the conclusion of the round. Any challenge submitted after 10 minutes of the conclusion of the round is waived. Disagreement with the scoring or result of a round are not a basis for challenges. A judge's rigorous questioning, probing of a competitor's argument or disagreement with a competitor's position will not be considered inappropriate bias and is not a basis for challenge. Likewise, a competitor's disagreement with a judge's reading of the Record or understanding of the legal arguments is not a basis for challenge. Finally, as noted earlier in the Rules, it is not a valid basis for challenge that a team has already argued in front of the same judge.

The Competition Committee will notify competing teams how to submit challenges. A challenge will not delay the start of any subsequent rounds. Further, the remedy for any challenge is at the sole discretion of the Competition Committee.

#### **XII. Interpretation and Supplementation/Amendment of the Rules**

The Elon University School of Law Moot Court Board, the Competition Committee, and the

Director of the Moot Court Program reserve the right to make decisions regarding any aspect of the competition. They also reserve the right to supplement these Rules to address situations not presently covered by these Rules and to amend these Rules at any time before or during the competition. Decisions of the Moot Court Board, Competition Committee, and/or Director of the Moot Court Program are final.

Please address questions about the Billings, Exum & Frye National Moot Court Competition and these Rules to Dean Alan Woodlief at ([awoodlief@elon.edu](mailto:awoodlief@elon.edu)) or to the Student Chairs of the Competition Committee.