



**The Wilson Moot**

**Official Rules – 2018**

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# **The Wilson Moot**

## **Official Rules – 2018**

### **I. INTERPRETATION**

#### **A. Purposes and Objectives**

The Wilson Moot is administered by lawyers (the “Administrators”) working in partnership with law firms, the government, and private institutions. It is designed to provide a unique opportunity for law students, judges, legal academics, and practitioners to meet and debate problems of current importance in the law, particularly those concerning equity-seeking groups. Our goal is to foster a deeper comprehension of the law, support and encourage legal education, and promote a spirit of cooperation and understanding where different voices may be heard and respected.

The Official Rules are designed to facilitate the fair and proper conduct of the competition and shall at all times be interpreted in accordance with these purposes and objectives.

#### **B. Interpretation of Rules**

##### **1. Referees**

There will be a panel of up to three Referees available up to and during the competition responsible for the interpretation and enforcement of these Official Rules.

##### **2. Rules**

Any question that arises during the competition concerning the interpretation or enforcement of these Official Rules will be decided by a majority decision of the Referees. These decisions will be called Official Rulings. Timekeepers, administrative assistants, Judges, or others have no power to interpret the Official Rules. Any reliance by a team on a ruling made by a person or persons other than the Referees will not prevent a penalty from being imposed if the Official Ruling of the Referees differs from that of such other person or persons. All Official Rulings are final and binding.

3. Additional Powers

The Referees may promulgate such other measures as they may deem advisable for the fair and orderly conduct of the competition, provided that these measures do not conflict with any of the Official Rules and are in the best interests of the moot.

## II. PROCEDURES AND GUIDELINES

### A. Jurisdiction of the Court

The moot is an appeal to The High Court of the Dominion of Canada. No decision of any Canadian Court, including the Supreme Court of Canada, is binding on the High Court of the Dominion of Canada.

### B. Fact Problem

The hypothetical fact problem upon which the moot is based will be written by the Administrators and will concern a subject of timely interest (the “Official Problem”). The Official Problem will be delivered to all participating schools.

### C. Clarifications

1. Official Problem

Participants may submit requests for clarification on points that are unclear in the Official Problem and that must be clarified in order to submit a proper argument. Such requests must be made in writing to the Administrators, and must be accompanied with a brief explanation as to why the clarification is necessary for a proper understanding and development of the legal issues involved. Requests for clarification shall be answered selectively, at the discretion of the Referees and the authors of the problem, and any answers will be distributed to all participating teams. Requests for clarification must be received by **November 21, 2017**. Any requests made after that date may be subject to penalties at the discretion of the Referees.

2. Official Rules

Participants may submit requests for clarification regarding the Official Rules by **November 21, 2017**. Such requests must be made in writing to the Administrators, and must be accompanied by a brief explanation as to why the clarification is necessary. Requests for clarification of this nature will be forwarded to the Referees for their consideration. Such requests shall be selectively answered, at the discretion of the Referees, and any answers will be distributed to all participating teams. Any requests for clarification made after November 21, 2017 may be subject to penalties at the discretion of the Referees.

**D. Eligibility**

Any participating law school may put forward one team composed of at least two and no more than five full-time students in an undergraduate law program at that school. Team members may be chosen by any method approved by the responsible authority, provided it does not conflict with the rules concerning outside assistance.

**E. Application**

All participating schools must submit an application form and fee of CAD\$600.00 no later than **October 25, 2017**.

**F. Team Identification**

Each team in the competition will be assigned a number at random by the Administrators. This number must be used on factums and at all times during the competition. The school name must not appear on the factums and must not be used to identify a team or a team member in any way (such as by name tag) during the competition. In addition, the names of the students preparing the factums must not appear on the factums. Likewise, do not indicate city or place at which the factums are signed.

**G. Outside Assistance**

1. No person or persons other than the team members may participate in the preparation or presentation of any aspect of the team factums or oral argument. The team factums and the oral arguments of each mooter must be the work of team members only.

2. Notwithstanding subparagraph (1) above, it is permissible for team coaches, faculty members, and others to discuss in general terms the issues raised in the problem, to suggest possible research sources, and to provide instruction relating generally to advocacy techniques and the preparation of persuasive oral and written arguments. Any persons acting as judges in oral argument “practice rounds” shall be advised by the team of the requirement that such practice round judges must so confine their comments and feedback.

3. Teams shall not conduct practice rounds in front of persons who will be judges in the current year’s moot. It is the responsibility of teams to make such inquiries of potential practice round judges as are necessary to ensure compliance with this rule. In addition, no team shall request that any current member of the organizing firm of Blake, Cassels & Graydon LLP judge an oral argument practice round or otherwise assist in a team’s preparation.

### **III. FACTUMS**

#### **A. Required Factums**

Each team shall prepare an Appellant’s factum and a Respondent’s factum.

#### **B. Form**

##### **1. General**

Each Appellant’s factum and Respondent’s factum shall consist of:

- (a) A cover page setting out only the following details: the name of the court appealed to; the style of cause; the title of the document (i.e. “Factum of the Appellant” or “Factum of the Respondent”); and the team number. Names of team members shall not appear on the cover page of the factums, nor anywhere else in the factums;
- (b) A Table of Contents setting out the headings used in Parts I-V of the factum;
- (c) Part I – Overview;

- (d) Part II - Statement of Facts (a concise statement of facts by the Appellant or a statement by the Respondent of her position with respect to the Appellant's statement of facts, together with a concise statement of such other facts as she considers relevant);
- (e) Part III – Statement of Points in Issue;
- (f) Part IV – Argument;
- (g) Part V – Order(s) Sought (a concise statement of the order(s) desired);
- (h) Part VI – List of Authorities and Statutes to be referred to (the full text and/or copies of statutes, regulations, or other reference materials should not be included in Part VI); and
- (i) a blank back page.

2. Length

Parts I-V of the factum shall be no more than thirty (30) pages in total length. The pages of the factum shall be numbered with continuous Arabic numerals beginning at Part I and ending on the final page of Part VI.

3. Spacing

Parts I-V of the factum must be double spaced, except for: (i) references, footnotes, and titles more than one line in length, which may be single spaced; and, (ii) quotations of fifty (50) words or more, which may be single spaced and shall be indented 1/2 additional inches on both the left and right margins. All portions of the factum other than Parts I-V may be single spaced.

4. Type

All parts of the factum, except the cover page, and including any footnotes, shall be in Times New Roman 12-point font.



5. Printing and Page Format

Electronic copies of the factums must be submitted in Microsoft Word format. Hard copies of the factum shall not differ from the electronic copy submitted. Any tracked changes must be removed from the electronic copy. Hard copies shall be printed double-sided on white paper, 8½” x 11” in size, and must be fastened by cerlox binding.

**Margins:** each page of the factum shall have margins of at least one inch on all sides, excluding page numbers.

**Colours of cover and back pages:** the cover page and back page of the Appellant’s factum shall be on red paper. The cover page and back page of the Respondent’s factum shall be on blue paper.

6. Citations

All citations shall be made in accordance with the *Canadian Guide to Uniform Legal Citation*, which is the Official Citation Guide adopted by the Administrators.

Should a provision of the *Canadian Guide to Uniform Legal Citation* conflict with any Official Rule herein, the Official Rule shall prevail.

**C. Submission of Factums**

Each team shall deliver fifteen (15) hard copies of each of its Appellant’s and Respondent’s factums to the Administrator. The hard copies of the factums must be delivered to a courier company or local post office by 5:00 p.m., school’s local time, on Thursday **January 25, 2018** (confirmed by a receipt obtained from the courier company or a postmark from the post office) to be received by the Administrator no later than Tuesday **January 30, 2018**, at the following address:

The Wilson Moot  
c/o Louise James, Administrator  
Blake, Cassels & Graydon LLP  
199 Bay Street, Suite 4000  
Toronto, ON M5L 1A9

Each team must also deliver to the Administrator electronic copies of its Appellant’s and Respondent’s factums in Microsoft Word format (.doc or .docx file extension) via email to

[wilsonmoot@blakes.com](mailto:wilsonmoot@blakes.com) by 5:00 p.m., school's local time, on Thursday **January 25, 2018**. Electronic factums must be labeled and submitted with the following file names: "Team [insert team #] Appellant Factum" and "Team [insert team #] Respondent Factum."

The Administrators will determine team pairings for the oral argument on a random basis. According to the "Schedule of Dates," the appropriate factums will be forwarded electronically by the Administrators to those schools that they will be opposing in oral argument. The Administrators shall send the appropriate electronic copies of the factums to the single email address provided by the team on its registration form for that purpose.

**D. Revision of Factums**

No team may revise, add, delete, or in any other manner alter its factums after submission.

**E. Ownership of Factums**

All rights with respect to the factums submitted in the competition become the property of the Administrators.

## **IV. ORAL ARGUMENT**

**A. Procedure**

1. Rounds

The competition shall consist of preliminary rounds of oral argument, followed by a final round between the two highest ranking teams. The team standings will be determined according to Rule VI, below. In the preliminary rounds, each team shall argue twice as Appellant and twice as Respondent. Every effort will be made to have no team meet any other team more than once prior to the final round.

2. Argument

Any team member may act as an oralist during any round. However, to be eligible for any oralist award, a competitor must have argued at least twice. Only two oralists may argue during any

single round.

3. Time

Each team shall be allowed forty-five (45) minutes per round for oral argument. This time limit may be extended by the Judges in their discretion to a maximum of ten (10) minutes per round. No single oralist shall argue longer than twenty-five (25) minutes of the forty-five (45) minutes given to each team. Included in the forty-five (45) minutes is a reply for the Appellant. Prior to the beginning of each round, the Appellant may reserve time for reply; no more than ten (10) minutes may be reserved. Respondents are not entitled to make a sur-reply and shall not reserve time for a sur-reply. If the Judges in their discretion extend total team time beyond forty-five (45) minutes, then and only then may an oralist argue for longer than twenty-five (25) minutes.

4. Judges

The Judging panels shall consist of justices, lawyers, and other professionals. A panel of three (3) Judges shall be utilized wherever possible for the preliminary rounds. The number of Judges for the final round shall be in the discretion of the Administrators.

Judges in the preliminary rounds and the final round are encouraged to provide feedback to participants regarding their performance at the completion of rounds of oral argument.

When addressing a Judge, mooters should call the Judge "Justice (surname)".

**B. Counsel**

During each round, one other team member may sit as counsel at the counsel table with the two oralists. The person acting as counsel must be one of the team members. All other team members attending the round must be seated in the public gallery of the courtroom.

**C. Scope of Argument**

The scope of a participant's oral argument is not limited to the scope of her factum. The scope of the Appellant's reply is limited to the scope of the Respondent's oral argument.

**D. Scouting Prohibited**

Deliberate scouting of opposing teams will be considered unsporting behavior and may result in penalties under section VI, below. It is prohibited for team members to attend the rounds of opposing teams against whom they will argue.

No taping of oral arguments will be allowed under any circumstances except with the advance permission of the Referees and the two participating teams.

**E. Courtroom Communication**

Oral and written communication may take place between the counsel table and an oralist while the oralist is presenting her oral argument.

No oral or written communication may take place between the counsel table and any spectator or team member who is not at that counsel table during a round.

No materials of any kind may be submitted directly to the Judges by team members, including during oral argument.

**F. Electronic Devices**

Devices such as laptops, tablets, or smartphones are permitted at the counsel table for the purposes of: (a) taking notes; (b) timekeeping; and (c) for counsel's reference to notes, submissions, and authorities that were prepared or compiled in advance of the oral argument round.

No electronic device of any kind shall be used by any team member at counsel table during the oral argument round to access the internet, to communicate with any individual, or to otherwise search for any content or authorities not prepared or compiled in advance of the round. Any device capable of connecting to the internet shall have its send/receive functions turned off for the duration of the oral argument.

**G. Spectators**

Subject to the availability of space, the competition is open to the public.

## **H. Robes**

Robes are not to be worn by the participants during the competition.

## **V. PENALTIES**

### **A. Procedure**

#### 1. General

The Referees, on their own initiative or upon receiving a complaint, may assess a penalty for any violation of the Official Rules. The Referees shall make every effort to allow the team(s) or individual(s) accused of Official Rules violations to submit a response prior to the penalty determination. Following such a reply, an Official Ruling shall be made by the Referees from which no appeal may be taken. The Official Ruling, which shall be prepared at the first reasonable opportunity, will inform the team(s) involved of the penalty. The Referees shall provide oral reasons.

Penalties will be considered by the Referees regardless of whether an infraction of the Official Rules was caused by a team member, coach, or other staff of the participating school.

#### 2. Complaints

Complaints pertaining to oral argument or other violations of these Official Rules must be reported immediately or at the first reasonable opportunity to a Referee.

Any violation of the Official Rules occurring during oral argument that is not brought to the attention of a Referee immediately following the round will not be considered by the Referees and cannot result in an assessment of penalty points against the violating team.

A request to the Judges for a ruling on a breach of the Official Rules is not appropriate and may result in an assessment of a penalty against the requesting team.

**B. Quantum**

1. General

The number of penalty points to be assessed against a team for a violation of the Official Rules will be in the discretion of the Referees. The Referees shall make every effort to assess penalties in a fair manner with regard to maintaining the integrity of the competition. In considering the quantum of a penalty, the following factors will be taken into account:

- (a) prejudice caused to other teams in the competition;
- (b) advantage gained as a result of the Official Rules violation;
- (c) inadvertence or misadventure;
- (d) occurrences beyond the control of the team(s) or individual(s) concerned;
- (e) inconvenience caused to the organizers and to the other teams involved; and
- (f) all the circumstances surrounding the violation including any reply submitted pursuant to paragraph A(1) above.

2. Penalties relating to factums

While the quantum of all penalties is within the discretion of the Referees, the following penalties will normally be assessed for violations of the Official Rules relating to factums:

Electronic or hard copy of a factum submitted later than the deadline	2 points per day (or part of a day)
Factum longer than permitted length	2 points per page (or part of a page) over permitted length
Non-compliance with rules concerning size of margins in a factum	1 point
Non-compliance with rules concerning fonts in a factum	1 point
Tracked changes remaining in electronic copy	½ point

## VI. SCORING

### A. Judges' Points

There are nine (9) possible Judges' points for each round. Judges' points are awarded as follows:

#### Factum Points – Three (3) Total

One (1) point is given for each time a team's factum is scored higher than its opponent's factum. In the case of a tie between a factum Judge's score for a particular Appellant's and Respondent's factum, the factum with the highest total score will be awarded the point. If the total score for the factums is tied, one-half (1/2) of a Judge's point will be awarded to each team.

#### Oral Points – Six (6) Total

Two (2) points are given for each oral argument Judge that scores a team higher than its opponent in oral argument.

In extraordinary circumstances and with special permission of the Referees, two member Judging panels may be used for factums or oral argument. For factums, a hypothetical third Judge's score will be created by awarding the factum the average of the other two scores.

Where a two Judge panel is used for oral argument, a hypothetical third score is not created. Three points are given each time one of the Judges scores a team higher than its opponent.

### B. Penalties

#### 1. Factums

Penalty points assessed against a factum will be subtracted from each factum Judge's score for that particular factum before determining the scores awarded to the penalized factum. For example, if the three factum Judges award the scores of 38, 36, and 40 to a factum which is penalized two (2) points for lateness, the scores of that factum for all purposes will be 36, 34, and 38 respectively.

2. Oral Argument

Penalties assessed during oral argument may be either team penalties or individual penalties as determined by the Referees:

- (a) in the case of team penalties, the amount of the penalty will be subtracted from the score awarded by each oral argument Judge to each mooter during the round in which the violation occurred. For example, if the three oral argument Judges awarded scores of 38, 36, and 40 and 40, 36, and 38 to the two members of a team penalized two (2) points, the oralist scores for that round for all purposes will be recorded as 36, 34, and 38 and 38, 34, and 36 respectively.
- (b) in the case of individual penalties, the amount will be subtracted from the score awarded by each oral argument Judge to the penalized mooter during the round in which the violation occurred. The score of a non-penalized team member will not be altered by the assessment of an individual penalty against a teammate.

3. Other

In the case of penalties not arising specifically out of a factum or a particular round or oral argument, such as for unsporting behavior, the Referees shall assess penalties by subtracting penalty points from the total points awarded to the penalized team in whatever round the Referees, in their discretion, deem appropriate.

The assessment of these penalty points will affect the Judges' points totals only but may nevertheless lead to a change in the winner of a round.

**C. Winner of the Round**

The winner of each round will be the team with the highest number of Judges' points for that round. If the two teams remain tied after comparing total Judges' points for the round, the team with the highest raw score in that round will be the winner of the round. If the two teams remain tied after comparing both Judges' points and raw score, the round will be declared a tie.

**D. Winner of the Competition**

Following the completion of the preliminary rounds, the teams will be ranked highest to



lowest according to the ranking procedure set out below. The two highest ranking teams will participate in the finals. The winner of the final round, as determined by the final round Judges, will be the winner of the competition.

1. Total Raw Score

Teams will be ranked according to total raw score, calculated as follows:

$$\text{Total raw factum scores plus (Total raw oral argument scores minus two (2) highest and two (2) lowest oral argument scores) =}$$

**Total raw score**

Total raw score is therefore out of 1300, comprised of 300 total possible points for both factums and 1000 total possible oral argument points (after subtraction of the two highest and two lowest oral argument scores).

2. Judges' Points

If two or more teams remain tied after comparing total raw scores, the team with the greater number of Judges' points shall be ranked highest. (There are thirty-six (36) possible Judges' points per team for the competition.)

3. One-on-One Tie-Breaker

If two winners cannot be chosen after comparing total raw scores and total Judges' points, then any tie will be broken in favour of any team who has competed against and beaten, in the preliminary round, another team with which it is tied.

4. Win/Loss/Tie Record

If two teams remains tied after applying paragraphs D(1)-(3) above, the team with the better Win/Loss/Tie record shall be ranked highest.

A 4-0 team (4 wins, 0 losses) is automatically ranked higher than a 3-0-1 team (3 wins, 0 losses, 1 tie), which is ranked higher than a 3-1 team (3 wins, 1 loss), which is ranked higher than a 2-0-2 team, etc.

5. Discretion

If the teams are still tied after comparison of scores after applying paragraphs D(1)-(4) above, a determination of the rank as between the teams in question will be made by the Referees in consultation with the Judges.

**E. Top Factums**

The winners of the top factum awards shall be those teams with the highest total factum scores, computed by totalling all of the factum scores received for both the Appellant and Respondent factums for each team.

**F. Top Oralist**

The winners of the top oralist awards will be those persons with the highest individual oral scores, which shall be calculated as follows:

(Total of individual oral argument scores received minus the highest and lowest oral argument scores received)

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(number of Judges that scored the oralist minus two (2))

An oralist must argue at least two rounds to be considered for an oralist award. In no event shall the score for the final round be used to calculate best oralist results.

## ANNEX “A”

### ORAL ARGUMENT SCORING INSTRUCTIONS TO JUDGES

Each team is given forty-five (45) minutes to argue, of which no more than ten (10) minutes may be reserved for reply by the Appellant. The Respondent is not entitled to make a sur-reply. No single oralist shall argue longer than twenty-five (25) minutes. Extensions of team time beyond forty-five (45) minutes, which in no case shall exceed ten (10) minutes beyond the total time allocated for presentation, shall be within the discretion of the Judges. The timekeepers will assist you with these timekeeping matters.

Strict anonymity of school identity shall be ensured as far as possible. Teams shall be identified through the rounds only by number, not by school name.

During the argument, each Judge should tentatively score each oralist at the conclusion of his or her oral presentation. Following the argument, the Judges shall retire to deliberate. They shall then individually mark their scoring summaries without comparisons to the scoring summaries of their fellow Judges. The Judges do not return to the courtroom to declare a winner, however they may return to give reasons or to comment orally on the performance of the teams. We encourage Judges to attend the reception on Friday night and/or the awards dinner Saturday evening to informally discuss the moot with participants.

Judges are asked to carefully complete the individual sheets attached to the score sheets, which will be delivered to each mooter at the close of the competition. Mooters value these personal comments as a very important part of the learning process. Please be as specific as you can; the time you spend providing these comments will be appreciated by the mooters. It is up to you whether or not you choose to indicate your name on the evaluation sheets.

Please evaluate each advocate independently rather than in comparison to the other advocates in the round (or other rounds you may have judged). A score between thirty (30) and fifty (50) (inclusive) should be assigned to each advocate. An average score for the competition is thirty-eight (38). In order to ensure fairness in scoring between Judges and Judges’ panels, you should try to score all advocates that you judge such that the average of all the scores that you assign – in other words, your personal scoring average – is approximately thirty-eight (38).

Factors to be considered in assessing points (without regard to order of importance) include, but are not limited to:

1. correct and articulate analysis of the issues;
2. familiarity with and use of the relevant authorities;
3. knowledge of the substance of the topics in issue;
4. response to questions;
5. clarity;
6. ingenuity;
7. knowledge of the facts and of the legal principles directly applicable to the facts; and
8. persuasiveness and style.

References in a Respondent's factum to an Appellant's factum that is not before the panel should be disregarded for the purposes of the oral argument scores.

Judges should be familiar with the problem, the law, and the teams' factums before judging. The Bench Memorandum outlines most of the issues in the case and should be read carefully. However, the Bench Memorandum does not represent a resolution to the problem and should not be regarded as such.

Judges should feel free to question oralists at any point in the argument, but should also bear in mind the importance of affording oralists the opportunity to make their arguments. However, the Administrators strongly encourage the Judges to take an active role in the proceedings. A moot is not a public speaking contest. A mooter must have an excellent command of her material and must be able to easily and smoothly field questions from the bench. Bear in mind that mooters spend vast amounts of time perfecting their arguments; not to test them with penetrating questions results in a moot which is unrewarding for all participants.

**The substantive merits of the case shall not be considered in judging the oral argument.**

**ANNEX “B”****FACTUM SCORING INSTRUCTIONS TO JUDGES**

Factums shall be scored individually by each factum Judge independently of her colleagues by assigning a grade between thirty (30) and fifty (50), inclusive. An average factum score for the competition is thirty-eight (38).

Scoring factors to be considered (without regard to the order of importance) include, but are not limited to:

1. correct and articulate analysis of the issues;
2. familiarity with and use of the relevant authorities;
3. knowledge of the substantive issues;
4. extent of research;
5. clarity;
6. ingenuity;
7. persuasiveness;
8. application of legal principles directly applicable to the facts; and
9. correctness of format, citations, and grammar.

**The substantive merits of the case shall not be considered in judging the factums.**