



**The Wilson Moot
Official Rules – 2021**

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The Wilson Moot Official Rules – 2021

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 by email 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 17, 2020**. 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 17, 2020**. 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 17, 2020 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 21, 2020**.

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 (including the name appearing on the Zoom Virtual Courtroom when logging in) 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. Electronic and Page Format

Electronic copies of the factums must be submitted in Microsoft Word format. Any tracked changes must be removed from the electronic copy. It is not necessary to submit hard copies of the factums and such copies will not be accepted.

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

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 one (1) electronic copy of each of its Appellant's and Respondent's factums to the Administrator in Microsoft Word format (.doc or .docx file extension) via email to wilsonmoot@blakes.com by 5:00 p.m., school's local time, on Thursday **January 21, 2021**. Electronic

factums must be labeled and submitted with the following file names: “Team [insert team #] Appellant Factum” and “Team [insert team #] Respondent Factum.” by email.

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 one preliminary round 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 round, each team shall argue once as Appellant and once as Respondent.

2. Argument

Any team member may act as an oralist during any round. Only two oralists may argue during any single round.

3. Format

The competition shall take place virtually. All participants (mooters, judges, timekeepers, and observers) will receive the link to their Zoom Virtual Courtroom in advance of the preliminary round and/or final round, as applicable. All other necessary links to access the competition’s virtual space (e.g. participant briefings and planned social events) will also be provided in advance.

Each team is responsible for ensuring that its mooters and coaches have the appropriate technical capabilities connect to the Zoom Virtual Courtroom. To mitigate the risk of technical issues during the competition, all teams will be required to complete a test their internet connection and technological capacity to enter the Zoom Virtual Courtroom in advance of the competition.

Limited technical support services will be available during the competition from the service provider for the Zoom Virtual Courtrooms. Under no circumstances will the Administrators be responsible for providing technical support or troubleshooting services to teams.

All participants should take reasonable steps to minimize interruptions or background noise during the rounds. Teams are encouraged to consult the Best Practices for Remote Hearings developed by the

Joint E-Hearings Task Force of the Advocates' Society, the Ontario Bar Association, the Federation of Ontario Law Associations, and the Ontario Trial Lawyers Association for guidance, particularly section 9 thereof (Court Etiquette and Dignity During the Hearing).

4. 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.

Each team will be provided with a counsel slip in advance of the first round. Each team shall complete the counsel slip by allocating the time for oral argument between mooters at their discretion, but in accordance with the paragraph above. Completed counsel slips must be provided to the Administrator in Microsoft Word format (.doc or .docx file extension) via email to wilsonmoot@blakes.com by 12:00 p.m., school's local time, on **Tuesday, February 16, 2021**.

5. 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 round. The number of Judges for the final round shall be in the discretion of the Administrators.

Judges in the preliminary round 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

Only the oralists/counsel for each of the Appellant and Respondent teams that are mooting during that round are permitted to log into the Zoom Virtual Courtroom as participants. Counsel on the same team may log in from separate places, or together, at counsel's discretion and subject to any restrictions on in-person gatherings that may be imposed by their home school and/or local laws. All other team members and coaches attending the round must observe through the livestream on YouTube.

Counsel shall log into the Zoom Virtual Courtroom at least fifteen (15) minutes in advance of the scheduled start time for that round.

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. Recording Prohibited

No taping or recording 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. For clarity, electronic communication between team members at counsel table (e.g. by email or instant message) are permitted.

No oral, written, or electronic communication may take place between the counsel table and any spectator or team member who is not also an oralist during that 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 desktop computers, laptops, tablets, or smartphones are permitted at the counsel table for the purposes of: (a) logging into and participating in the moot; (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 communicate with any individual not otherwise participating in the round, or to search for any content or authorities not prepared or compiled in advance of the round.

G. Spectators

The competition is open to the public. Spectators will be permitted to access the rounds via a livestream available on YouTube, and may not access the round by joining the Zoom Virtual Courtroom. Teams should not provide spectators with the link to the Zoom Virtual Courtroom.

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 or written

reasons, at the Referees' sole discretion.

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 the Referees, in writing, by email at wilsonmoot@blakes.com. The subject line "Report of Rules Violation" should be used for any such email.

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:

Factum submitted later than the deadline	2 points per day (or part of a day)
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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 changed 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 round, 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 final. 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:

$$\text{Total raw factum scores plus (Total raw oral argument score minus one (1) highest and one (1) lowest oral argument score) =}$$

Total raw score

Total raw score is therefore out of 800, comprised of 300 total possible points for both factums and 500 total possible oral argument points (after subtraction of the highest and lowest oral argument score).

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 eighteen (18) 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 2-0 team (2 wins, 0 losses) is automatically ranked higher than a 1-0-1 team (1 win, 0 losses, 1 tie), which is ranked higher than a 1-1 team (1 win, 1 loss), which is ranked higher than a 0-0-2 team (0 wins, 2 losses).

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)

(number of Judges that scored the oralist)

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. At the conclusion of the argument, the Judges may in their discretion provide short, general comments from the bench about the performances of the teams in the round. The Judges do not declare a winner. Following the argument and any comments from the bench, the Judges shall retire to deliberate in a virtual breakout room. They shall then individually mark their scoring summaries (which will be emailed to judges in advance) without comparisons to the scoring summaries of their fellow Judges. When complete, Judges shall immediately send the scoring summaries to the Administrators by email at wilsonmoot@blakes.com.

We encourage Judges to attend the virtual social gathering on Friday night and/or the awards ceremony on Saturday after the final round.

Judges are asked to electronically complete the individual comment sheets attached to the score sheets, which will be delivered to each mooter at the close of the competition. These should be provided to the Administrators along with the scoring summaries by email as set out above. Mooters value these personal comments as an 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 with the average score of thirty-eight (38) in mind.

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.**