

# THE 33rd ANNUAL UNIVERSITY OF SAN DIEGO SCHOOL OF LAW NATIONAL CRIMINAL PROCEDURE TOURNAMENT

## 2022 COMPETITION RULES & REGULATIONS

### **I. The Competition**

The University of San Diego School of Law National Criminal Procedure Tournament (hereinafter “the Tournament”) is an annual interschool appellate advocacy competition governed by the rules set forth herein. Given current COVID-19 conditions, the Tournament is currently scheduled as an IN-PERSON event. That status is subject to change if conditions dictate. These rules include preliminary guidance for remote participation for **PLANNING PURPOSES ONLY**.

### **II. The Competition Materials**

The materials provided and distributed by the University of San Diego School of Law Appellate Moot Court Board (hereinafter “Moot Court Board”) are exclusively for purposes of the Tournament. By entering the Tournament, each school agrees that the 2022 National Criminal Procedure Problem, Rules, and other Competition materials will not be used outside of the Tournament.

### **III. The Competition Rules**

#### **Rule 1. Tournament Registration**

The Vice Chair of Tournaments and Criminal Procedure Tournament Coordinator (hereinafter collectively called “Tournament Coordinators”) reserve the right to have a multi-tiered registration period. The Tournament Coordinators have the sole discretion to decide whether invitations will be extended during each registration period and which schools invitations will be extended to. The Tournament Coordinators also reserve the right not to disclose which teams have been extended different invitations.

#### **Rule 2. Number and Composition of Teams**

- (a) **Team Defined.** “Team” is defined as no less than two (2) and no more than two (2) persons satisfying the criteria enumerated in paragraph (d) of this section. Each such qualified person of a Team shall be deemed a member of that Team.
- (b) No person may be a member of more than one Team.
- (c) There are only two (2) teams allowed per school.
- (d) **Student Status Required.** No Team member may hold a Juris Doctor (J.D.) degree from a law school within the United States of America or its territories. Competitors must be enrolled in a full or part-time J.D. or equivalent program at the law school they are representing at this tournament. International students who hold a law degree from a foreign country and are currently pursuing an L.L.M. degree are eligible to participate.

L.L.M students who have obtained a Juris Doctor (J.D.) degree from a law school within the United States of America or its territories may not compete.

### **Rule 3. Affidavit**

Each Team member must sign a copy of the affidavit found on the USD Appellate Moot Court Board website. The affidavit must be submitted via email to [sdcrimpro@gmail.com](mailto:sdcrimpro@gmail.com).

### **Rule 4. Substitution of Team Members**

Generally, there shall be no replacement of Team members after a signed affidavit is submitted. If a competitor is unable to continue in the competition, exceptions may be granted with the express written consent of the Tournament Coordinators. A Team in an exigent situation must contact the Tournament Coordinators as soon as possible to have the situation considered.

### **Rule 5. Team Cooperation**

All research and writing for the brief shall only be conducted by the *Team participant members* listed on the affidavit and must be **independent** of any other Team. Teams representing the same school *shall not work together* on research and writing for the brief. After the brief is filed, Teams may conduct practice oral arguments together.

### **Rule 6. Outside Assistance and Coaching**

- (a) **Faculty or Other Assistance.** No Team shall receive outside assistance of any kind prior to filing its brief.
- (b) **Team Participation.** Each brief submitted must be prepared by *members of that Team* under whose entry number the brief is submitted. No one other than those Team members may participate in any way in the preparation of that Team's brief. *Only Team members* shall perform brief editing and/or proofreading.
- (c) **Coaching.** One coach may assist a Team only in the preparation of its oral argument, except as limited by paragraph (e) of this section. The coach may be a student, a faculty member, or an advisor associated with the Team's university. The coach may coach two Teams from the same school.
- (d) **"Scouting" Prohibited.** No member or coach of any Team still participating in the Tournament shall attend any Preliminary Round, Round of 16, Quarter-Finals, or Semi-Finals Round argument of any other school's Team(s) or receive information from any person who has attended such arguments. *Coaches may only watch the round(s) containing the Team(s) they attend the Tournament with, except the Final Round. Observers may only watch the final round.* The Moot Court Board encourages all team members, coaches, and observers to attend the **Final Round on November 6, 2022**.
- (e) **Oral Argument Assistance.** After the brief has been filed, Teams may receive outside assistance in the preparation of their oral arguments. However, this assistance is limited to judging and critiquing oral argument practices. Competitors are solely responsible for argument formulation and strategy.
- (f) **Sharing of Resources.** Information, research, and printouts may not be shared with any other Team at any point of the Tournament.

## **Rule 7. Briefs – General**

Each Team must submit a petitioner or respondent brief. Each Team will be assigned to write a brief for either petitioner or respondent. However, each Team must be prepared to argue both sides of the case for oral arguments.

## **Rule 8. Briefs – Format**

### **(a) Form and Length.**

- i. The brief must be on 8-1/2 x 11 inch pages with one-inch margins (excluding page numbers). Briefs must be typed and justified. The font and size of the text of all parts of the brief, including the footnotes, must be in Times New Roman 12-point. The text of all parts of each brief must be double-spaced, except that the text of the footnotes, headings, and indented quotations may be single-spaced. However, there must be double spacing between each heading and the body text of the brief.
  - ii. The entire substantive body of the brief may not exceed twenty-five (25) pages in length. **The 25-page limitation does not include the cover page, table of contents, table of authorities, and issues presented.** Pages must be numbered in the bottom center of every page, with the exception that the cover page should have no number. The table of contents, table of authorities, and issues presented shall be numbered using lower case Roman numerals beginning with “i” on the first page of the table of contents. Arabic/standard page numbering shall begin on the statement of facts, beginning with “1.” The conclusion must be on or before page twenty-five (25). Any partially filled page will be counted as a full page.
- (b) Brief Sections.** A brief must contain, under appropriate headings and in the order indicated:

- i. A cover page; each brief cover must have a color as follows:
  - A. **Petitioner: Blue**
  - B. **Respondent: Red**
- ii. A table of contents with page references;
- iii. A table of authorities;
  - Authorities must be listed in the following order: cases (which must be alphabetically arranged), statutes, and other authorities. Each authority must include references to the pages of the brief where the authority is cited.
- iv. A statement of the issues presented for review;
- v. A statement of facts relevant to the issues presented for review with appropriate references to the record;
- vi. A summary of the argument;
- vii. The standard of review;
- viii. The argument;
- ix. A short conclusion stating the relief sought.

- (c) **Defer to Supreme Court Rules.** Except to the extent that the rules herein are inconsistent, the Rules of the Supreme Court of the United States will govern the format of the briefs. There need not be a formal statement of jurisdiction. The Rules of the Supreme Court can be found at <https://www.law.cornell.edu/rules/supct>.
- (d) **Unpublished Opinions.** Unpublished opinions are not binding precedent and should not be cited.
- (e) **Citations.** All citations to legal authority must be complete and in the form prescribed by the latest edition of *The Bluebook: A Uniform System of Citation*. Citations to the factual record must conform to the following format: R. at [Page #]. i.e., R at 8.

### **Rule 9. Briefs – Identification**

**Identification Number.** Neither the names of Team members nor the name of their school shall appear within the brief itself. Each Team shall be assigned an identification number provided by the Tournament Coordinators. Each brief submitted must bear the identification number in the uppermost right-hand corner of the brief cover, and must clearly indicate on its cover whether it is submitted by Petitioner or Respondent.

### **Rule 10. Service of Briefs**

- (a) **Electronic Copy.** Each Team will submit one electronic copy in portable document format (.pdf) of its brief via email no later than ***October 18, 2022 at 5:00 PM PDT***, to the following address: ***sdcrimpro@gmail.com***.
  - i. No other formats will be accepted without prior approval.
  - ii. The electronically submitted brief should be one document only.
  - iii. The subject line of the email must contain the Team’s designated number, and the body of the email must contain the name of the law school and Team members’ names.
  - iv. The electronic copies of the briefs will be posted on the Criminal Procedure Moot Court Competition website by ***October 21, 2022*** to allow participating Teams access.
- (b) **Hard Copy.** No hard copies will be accepted.
- (c) **Changes Prohibited After Submission.** Once the briefs have been submitted, no revisions, supplements, or additions will be allowed.

### **Rule 11. Plagiarism**

Plagiarism of any kind will result in immediate disqualification. Any use of another’s work not properly identifying that source within the brief is plagiarism.

### **Rule 12. Oral Arguments – Time and Place**

- (a) The Preliminary Rounds will take place on ***Friday, November 4, 2022***, and ***Saturday, November 5, 2022***.
- (b) The Round of 16 and Quarter-Final Round will take place on ***Saturday, November 5, 2022***.
- (c) The Semi-Final and Final Rounds will be held on ***Sunday, November 6, 2022***.
- (d) *More detailed information about the tournament structure will be forthcoming.*

### **Rule 13. Oral Arguments – Competitors**

Oral arguments are limited to the two members of the Team. While Team coaches may be physically present in the room during the argument, no coach may communicate with the two members during the oral argument.

### **Rule 14. Oral Arguments – Number of Arguments; Eliminations; Pairings**

- (a) **Preliminary Rounds:** There will be four (4) Preliminary Rounds in which each Team shall argue two (2) rounds as Petitioner and two (2) rounds as Respondent. In no event shall Teams be paired against the same opponent for both Preliminary Rounds on the same day. The University of San Diego Moot Court Board shall, through a seeding process dependent on brief score, pair Teams. The Moot Court Board shall not disclose the seed rankings at any time.
- (b) **Round of 16:** The sixteen (16) highest scoring Teams from the Preliminary Rounds shall advance to the Round of 16. Each Team will argue once during the Round of 16. Teams shall be paired by the Moot Court Board through a seeding system with the Team with the highest combined Preliminary Round score paired against the lowest combined Preliminary Round score. In each pairing, the Team with the highest seeding in the Preliminary Rounds shall argue the side of their preference. The Moot Court Board shall not disclose the seed rankings at any time. The Round of 16 scoring will take into consideration brief score (See Rule 17(b)).
- (c) **Quarter-Final Round (Knockout):** The eight (8) highest scoring Teams from the Round of 16 shall advance to the Quarter-Final Round. Each Team will argue once during the Quarter-Final Round. Teams shall be re-seeded and paired by the Moot Court Board through a seeding system with the Team with the highest combined Round of 16 score paired against the lowest combined Round of 16 score. In each pairing, the Team with the highest seeding shall argue the side of their preference. The Moot Court Board shall not disclose the seed rankings at any time. The Quarter-Final Round will be head-to-head with brief score no longer factored into the scoring.
- (d) **Semi-Final Round (Knockout):** The four (4) winning Teams from their respective Quarter-Final Round shall advance to the Semi-Final Round. Each Team will argue once during the Semi-Final Round. Teams shall be re-seeded and paired by the Moot Court Board through a seeding system with the Team with the highest combined Quarter-Final score paired against the Team with the lowest combined Quarter-Final score. In each pairing, the Team with the highest seeding shall argue the side of their preference. The Moot Court Board shall not disclose the seed rankings at any time. The Semi-Final Round will be head-to-head with brief score no longer factored into the scoring.
- (e) **Final Round (Knockout):** The two (2) winning Teams from their respective Semi-Final Round will advance to the Final Round. The Teams in the Final Round will argue only once, either as Petitioner or Respondent. The Team with the highest seeding will decide which side to argue for the Final Round. The Final Round will be head-to-head with brief score not factored into the scoring.

### **Rule 15. Oral Arguments – Timing**

- (a) Oral arguments must be limited to a total of Fifteen (15) minutes per person per Team.
- (b) Petitioners may reserve up to five (5) minutes for rebuttal *by designating to the time-keeper prior to the commencement of the rounds and requesting rebuttal time from the judges during the argument of first counsel arguing for the Petitioner*, conditioned on the judges granting the requested time. The first counsel arguing must request rebuttal time; however, either counsel may give the rebuttal.
- (c) If the Petitioners do not follow the procedure by failing to request rebuttal time from the judges, no time will be granted unless the judges present in the courtroom decide to grant such time. **No appeal will be accepted regarding procedural deficiency on the part of the petitioners that result in no rebuttal time.**
- (d) The rebuttal time may be deducted either from the first or second counsel for the Petitioner, but only the counsel from whose initial argument rebuttal time has been deducted will be allowed to give rebuttal. This time may be waived by the Petitioners following the close of Respondents' argument. Counsel for Petitioner will argue their case in its entirety at the outset, followed by counsel for the Respondent.

### **Rule 16. Scoring – Brief Scoring**

- (a) **Scoring Committee.** An appointed committee will score all briefs submitted. Briefs will be scored twice by two different brief graders appointment to the committee. If the point difference is greater than 15 points out of the total 100 points possible, a third brief grader will grade the brief. The brief score will be determined by the average of all brief grader's scores.
- (b) **Identifying Characteristics.** Any matter serving to identify a Team or its members will be excised by the Tournament Coordinators prior to submission to the Scoring Committee.
- (c) **Penalties.** All briefs shall be subject to uniform penalties for each type of violation, which may be levied with fractional points.

### **Rule 17. Scoring – Oral Argument Scoring**

- (a) **Weight of Briefs and Arguments.** The oral score shall be determined by a panel of judges, *without the knowledge of the Team's brief score*. The oral score shall be combined with the brief score as set forth below to determine the Preliminary and Round of 16 scores.
- (b) **Round Scoring.** Scores for all competing Teams during the Preliminary, Quarter-Final, Semi-Final, and Final Rounds shall be computed as follows:
  - i. **Preliminary Round**
    - A. (Average Brief Score) x .35
    - B. (Average Oral Score) x .65
  - ii. **Round of 16 Round**
    - A. (Average Brief Score) x .25
    - B. (Average Oral Score) x .75
  - iii. **Quarter-Final Round**
    - A. (Highest Combined Oral Argument Score)

iv. **Semi-Final Round**

A. (Highest Combined Oral Argument Score)

v. **Final Round**

A. Scores are computed solely based on the oral scores awarded to the competitors by the Final Round judges bench.

**Rule 18. Criteria for Advancement**

Advancement in the competition shall take place according to the following criteria:

- (a) **Preliminary Rounds:** Thirty-four (34) Teams are scheduled to compete in the Preliminary Rounds. The sixteen (16) Teams with the top scores as computed above will advance to the Round of 16. In the event of a tie, the Team with the highest average oral score will advance. If any further tie occurs, the advancement procedure shall be at the discretion of the Tournament Coordinators.
- (b) **Round of 16:** Sixteen (16) Teams will compete in the Round of 16. The Round of 16 scoring will take into consideration brief score. The Team that has the higher score than the other respective competing Team will advance to the Quarter-Final Rounds. In the event of a tie, the Team with the highest average oral score from the Round of 16 will advance. If any further tie occurs, the advancement procedure shall be at the discretion of the Tournament Coordinators.
- (c) **Quarter-Final Rounds:** Eight (8) Teams will compete in the Quarter-Final Round. The Quarter-Final Round will be head-to-head. The Team that has the higher combined score will advance.
- (d) **Semi-Final Rounds:** Four (4) Teams will compete in the Semi-Final Rounds. The Semi-Final Rounds will be head-to-head. The Team that has the higher combined score will advance. The two Teams that do not advance to the Final Round will be ranked Third Place and Fourth Place according to their Quarter-Final Round score.
- (e) **Final Round:** Two (2) Teams will argue in the Final Round. The winner of the Final Round will be determined solely on oral scores of the Final Round bench judges. The Teams will be ranked First Place and Second Place.

**Rule 19. Identification Prohibited**

Although competitors may each identify themselves to the Court by first and last name, **the Team's law school affiliation must not be mentioned at any time during the oral arguments.** In addition, no school folders, letterhead, clothing, or other paraphernalia with one's law school affiliation is to be present and/or worn at any time during the course of the Tournament. These requirements serve to safeguard the absolute equality of the judging process and simultaneously ensures the complete anonymity of the competitive process.

**Rule 20. Contact with Judges Is Prohibited**

All participants are prohibited from speaking with the judges before their respective rounds and/or mentioning the school they come from at any point during the oral argument competition rounds.

### **Rule 21. Spectators**

Spectators will only be permitted during the final round on *Sunday, November 6, 2022*.

### **Rule 22. Tournament Awards**

- (a) At the conclusion of the final round on *November 6, 2022*, the following awards will be given:
  - i. Best Brief for the Petitioner;
  - ii. Best Brief for the Respondent;
  - iii. Top three (3) best Individual Oralists in the Preliminary Rounds;
  - iv. First, Second, Third, and Fourth Place Teams.
- (b) After the conclusion of the competition, the following will be posted on the official competition website:
  - i. All awards recipients;
  - ii. List of Round of 16 Finalists, grouped by team and by school;

### **Rule 23. Discretion of Tournament Coordinators**

- (a) **Interpretation of Rules.** The University of San Diego Appellate Moot Court Vice Chair of Tournaments and the Criminal Procedure Tournament Coordinator have sole discretion to make all necessary interpretations of these Rules. No interpretation of these Rules is valid unless obtained in writing from the Vice Chair or Tournament Coordinator who represent the opinion of the Board.
- (b) **Application of Rules.** The University of San Diego Appellate Moot Court Board Vice Chair of Tournaments and Tournament Coordinator have the sole discretion to interpret and apply tournament rules, to assess penalties, or to disqualify any Team for failure to abide by any of the Rules of the Competition.
- (c) **Substantive Inquiries.** The University of San Diego Appellate Moot Court Vice Chair of Tournaments and Tournament Coordinator have sole discretion to answer substantive inquiries concerning the Problem. All substantive questions and answers will be posted on the event website.
- (d) **Request for Rule Clarification.** A team may make a request for clarification or interpretation of these Rules. Any such request must be emailed **by a team member or team coach** to **sdcrimpro@gmail.com** with the subject line stating, “Rule Clarification” and the rule needing clarification. The Vice Chair of Tournaments and Tournament Coordinator will respond to requests by e-mail. All clarifications and interpretations will be emailed and posted on the USD Appellate Moot Court website at <http://www.usdmootcourt.com/tournaments/national-criminal-procedure-tournament/>.

**RULES X24 AND X25 ARE PRELIMINARY RULES FOR ONLINE COMPETITION FACILITATION ONLY. THESE RULES ARE FOR PLANNING PURPOSES AND WILL BE USED ONLY IF COVID-19 CONDITIONS CHANGE AND MANDATE AN ONLINE COMPETITION.**

**Rule X24. Online Tournament-Specific Rules**

- (a) If an online tournament is required, the Zoom application will be the medium used to facilitate the tournament.
- (b) Advocates may sit or stand.
- (c) When other competitors are arguing, advocates must keep their cameras on and microphones muted.
- (d) No other persons should be physically present with team members while they are participating in oral arguments.
- (e) Advocates must print any outlines or notes that they plan to use for the argument.
  - (i) Advocates may not use the internet, computers, ipads, cell phones, etc. for any assistance during oral arguments or while waiting to make a rebuttal.
  - (ii) Team members arguing for petitioner may use a text-based communication application to coordinate their rebuttal AFTER the petitioner's argument is complete in its entirety.
- (f) Do not make any distracting movements while other competitors are arguing.

**Rule X25. Technical Issues**

- (a) The Chair of Moot Court, Vice Chair of Tournaments, and Vice Chair of National Tournaments have the sole discretion to determine whether a makeup argument is to be afforded to a competitor based on a technical issue.
- (b) If advocates experience a technical issue such as severe lag time or sound issues that impede a judge's ability to score an argument or that results in a significant reduction in an advocate's argument time, an advocate may be afforded a makeup argument with a different set of judges. Any makeup round will involve no consideration of the original oral argument.
- (c) If afforded a makeup argument, the opposing team is permitted to watch, but will not be permitted to make any arguments.