

**2010  
NATIONAL PRETRIAL COMPETITION**

**RULES and SCHEDULE**



**The Competition will be held October 8–9, 2010  
at  
Stetson University College of Law  
Gulfport, Florida**

IN COOPERATION WITH THE



Young Lawyer's Division  
Florida Bar Association

and



## Schedule

*Problem distributed.....	August 20, 2010
Briefs due 12:00 noon EST ( <b>must be received by this date</b> ).....	September 17, 2010
Supplemental Evidence released .....	September 20, 2010
Registration (11:30–11:45 a.m.) .....	October 8, 2010
**Coaches' Meeting (11:45 a.m.) .....	October 8, 2010
Lunch (12:00–1:15 p.m.) .....	October 8, 2010
First Round (1:30–4:30 p.m.) .....	October 8, 2010
Dinner (4:30–5:45 p.m.) .....	October 8, 2010
Second Round (6:00–9:00 p.m.) .....	October 8, 2010
Reception (9:00–10:00 p.m.).....	October 8, 2010
Announcement of the final four teams (10:00 p.m.).....	October 8, 2010
Continental Breakfast (8:15–8:45 a.m.) .....	October 9, 2010
Semifinal (9:00 a.m.–12:00 noon).....	October 9, 2010
Lunch (12:00–12:45 p.m.).....	October 9, 2010
Announcement of the final two teams will occur during lunch.....	October 9, 2010
Final Round (1:00–4:00 p.m.) .....	October 9, 2010
Reception (4:00–4:45 p.m.) .....	October 9, 2010
Banquet/Awards Ceremony (4:45 pm) .....	October 9, 2010

All times are subject to change.

**\*The problem will be made available on Stetson's Web site, at <http://www.law.stetson.edu/pretrial>.**

**\*\*The mandatory first event** is an orientation meeting for coaches. At least one coaching representative of each team **must** attend. During the coaches' meeting, the initial sides will be chosen.

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## **A. COMPETITION COMMITTEE AND FORUM**

### **1. “Competition Committee” Defined:**

The Competition Committee is comprised of Professor Charles H. Rose III, Associate Dean Kristen Adams, and Professor Brooke Bowman, all of Stetson University College of Law. Other members may be appointed to serve on the Competition Committee. Members of the Competition Committee will not be actively affiliated with any team registered to participate in the Competition.

### **2. Powers of the Competition Committee:**

- a. The Competition Committee has the sole discretion to enforce all Competition rules.
- b. The Competition Committee has the sole discretion to interpret the Competition rules. No interpretation of the Competition rules is valid unless obtained in writing from the Competition Committee.
- c. The Competition Committee has the sole discretion to answer questions about the Record and all other papers that constitute the problem.
- d. The Competition Committee has the sole power to resolve any dispute that may arise during the Competition.
- e. The Competition Committee has the power to change or supplement the Competition rules, should any changes or supplements become necessary. Changes and supplements will be communicated to participating teams as quickly as possible.

### **3. Participation of Competition Committee Members:**

Unless each affected team consents, members of the Competition Committee will not judge briefs or oral arguments.

### **4. Questions and Inquiries:**

Any questions or inquiries about the Competition should be directed to the Competition Committee **in writing**, by October 1, 2010, by 5:00 p.m. EST. To the extent a question or inquiry affects other teams, a copy of each written question and answer will be circulated to all participating teams.

**5. Contact with the Competition Committee:**

The Competition Committee may be reached as follows:

**By mail:** National Pretrial Competition 2010  
Attn: Professor Brooke Bowman  
Stetson University College of Law  
1401 61st Street South  
Gulfport, Florida 33707

**By fax:** National Pretrial Competition 2010  
Attn: Professor Brooke Bowman  
727-343-9319

**By e-mail:** [nptc@law.stetson.edu](mailto:nptc@law.stetson.edu)

**B. TEAM COMPOSITION**

**1. “Team” Defined:**

- a. A “team” consists of four persons, each of whom satisfies the criteria listed in Section B(2) below.
- b. No person may be a member of more than one team.
- c. During the motion arguments, only two team members will present arguments.
- d. During the evidentiary portion, two team members will present the evidence, and two team members will serve as witnesses.
- e. All team members may participate in any other aspect of the Competition, including practice rounds, research, and drafting.
- f. Only the two team members advocating may sit at counsel table during a round.

**2. Qualifications of Team Members:**

- a. No team member may hold a law degree from a United States law school.
- b. Each team member must be enrolled in a full-time or part-time Juris Doctorate or equivalent program at the law school they represent.
- c. Except as noted above, members may not hold or be enrolled in

any graduate legal program, such as an LL.M. or S.J.D. program, or the equivalent.

**3. Replacing Team Members:**

Team members may not be replaced after the team's briefs have been submitted on September 17, 2010, except with the express written consent from the Competition Committee, which will require a showing of good cause.

**4. Coaches and Advisors:**

- a. Each team may have one or more coaches/advisors. If the team does not have a coach/advisor, the team must designate a representative to attend the coaches' meeting on October 8.
- b. Coaches may be present during the competition, but cannot communicate with the team members until after that particular round is complete. A particular round is complete after the presentation of closing arguments.

**C. BRIEFS**

**1. Sides:**

- a. Each team must submit **both** a Plaintiff brief and Defendant brief.
- b. Teams will argue motions based upon the briefs at the beginning of the pretrial hearing.

**2. Forum:**

The problem will be set in the Middle District of Florida. To the extent that the Competition rules are silent, the Federal Rules of Civil Procedure and the local rules of the Middle District of Florida will apply.

**3. Problem:**

- a. The hypothetical facts on which the Competition is based will be drafted by a person or group of persons knowledgeable in the field of pretrial practice.
- b. The person(s) who drafts the problem will also prepare—or supervise the preparation of—a bench brief that will be provided to those who judge the competition rounds.

- c. Supplemental evidence may be drafted to create factual inconsistencies prior to oral argument. The supplemental evidence will be distributed to participants on September 20, 2010.
- d. The bench brief will also be provided to those who judge the brief. The competition judges will be different from the brief judges.

**4. Format:**

- a. The brief may not exceed **4,800 words** on 8-1/2 x 11-inch pages with one-inch margins at top, bottom, left, and right. **Footnotes DO count toward the word limit.** Note: Most word processing programs can provide you with a word count.
- b. The brief must be typed, using 14-point, Times New Roman font and be double-spaced. A team does not violate the double-spacing requirement by including written material that is properly single spaced, such as a block quotation or footnotes.
- c. Each brief must include the following sections, which **DO** count toward the word limit: statement of facts, summary of argument, argument with point headings, and conclusion.
- d. Each brief must also include the following sections, which **DO NOT** count toward the word limit: front and back cover pages, table of contents, questions presented, statement of jurisdiction, index of authorities, signature block, affidavit (see Addendum A), and appropriate appendices.
  - (1) **Limit on Use of Authorities:** Teams may not use—in briefs or oral argument—any case issued on or after July 1, 2010.
  - (2) **Citations:** All citations must conform to the most current version of **either** *The Bluebook: A Uniform System of Citation* or the *ALWD Citation Manual* (Aspen Publishers).
  - (3) **Identification:** To facilitate anonymous grading, names of the team members and the school they represent may appear only on the affidavit **that must be submitted at the same time as the original brief (see Addendum A).** **The affidavit should be clipped to the outside of the original brief; it should not be bound within the brief. Do not include the names of team members or the affidavit in the copies of the briefs.** Names of team members and the



school must not appear within the brief itself. **Each team will be assigned an identification number the week of September 6, 2010, that is to appear in the uppermost right-hand corner of the front brief cover.**

**5. Number and Service on Competition Committee:**

- a. Each team must submit two copies of their briefs directly to the Competition Committee the due date (see contact information below).
- b. **Every team** must send electronic copies of the team's briefs to [nptc@law.stetson.edu](mailto:nptc@law.stetson.edu) as an e-mail attachment in Word format. The content of the e-mail attachment should not differ from the content of the hard copies submitted to the Competition Committee (however, the affidavit should not be attached). **Do not** send the brief in PDF.
- c. The electronic versions of the briefs must be **received** by the Competition Committee no later than 12:00 noon EST, on September 17, 2010. The Committee will post each brief on the Stetson web site (see web site location URL on page ii above).
- d. **In addition, every team** must send one hard copy of each of the team's briefs to the Competition Committee. The package must be postmarked by September 17, 2010.
- e. All briefs sent to the Competition Committee should be addressed to:

Professor Brooke Bowman  
National Pretrial Competition 2010  
Stetson University College of Law  
1401 61st Street South  
Gulfport, Florida 33707

**6. Service on Other Teams:**

Teams should not send copies of their briefs to any other team. As noted in paragraph C(5)(c) above, the Competition Committee will post each brief on the Stetson web site.

**7. No Changes after Submission:**

Once the briefs have been submitted to the Competition Committee, no

revisions, supplements, or additions will be allowed. In addition, no written material outside the brief will be accepted.

**8. Grading:**

- a. Each brief will be scored by a panel of judges knowledgeable in the areas of pretrial practice and federal civil procedure.
- b. Individuals who judge the briefs will not judge the competition rounds.
- c. The team's scores (for both briefs) will be averaged and that average will be the brief score for that team used throughout the Competition. However, the brief score will not be used to determine the Final Round winner.
- d. Briefs will be graded for both content and style. The factors the brief judges will consider include, but are not limited to: legal substance; style; grammar; spelling; forum; use of authority and extent of research; issue analysis; logic and reasoning; clarity and organization; persuasiveness; thoroughness; and compliance with Competition rules.
- e. Brief scores will not be released until after the Competition is completed. At that point, the Competition Committee will release a list that reflects each school's ranking.
- f. The minimum score on any brief will be 60.

**D. PRETRIAL ARGUMENT PROCEDURES**

**1. Time and Place:**

- a. All oral presentations will be held on the Stetson University College of Law campus in Gulfport, Florida, on October 8–9, 2010.
- b. Courtroom assignments will be provided during lunch on October 8.
- c. Two preliminary rounds will be held on October 8.
- d. The semifinal and final rounds will be held on October 9.

**2. Time per Team:**

- a. Each round will be limited to 180 minutes; each team will have 90 minutes. Thirty minutes of that time will be for the motion

argument; the remaining 60 minutes will be for the presentation of evidence.

- b. For the motion portion of the round, each party will have 30 minutes in which to present the party's arguments. Up to 2 minutes of that 30 minutes may be reserved for rebuttal. The order of the arguments will be as follows:
  - i. Plaintiff issue 1<sup>1</sup>
  - ii. Defendant issue 1
  - iii. Plaintiff rebuttal issue 1
  - iv. Defendant issue 2
  - v. Plaintiff issue 2
  - vi. Defendant rebuttal issue 2

There will be no sur-rebuttal for either party.

- c. During the motion portion of the round, a bailiff will keep time for each party<sup>2</sup> and provide the following time cards: 7, 5, 3, 1, and stop.
- d. If the judge is unable to rule based upon argument and response, then the judge will inform counsel to call witnesses to settle disputed issues of fact.
- e. During the evidentiary portion, each side must call two witnesses and conduct direct examination. Opposing counsel will conduct cross examination. Re-direct and re-cross will be permitted at the discretion of the judge.
- f. The bailiffs will continue to keep track of the time during the evidentiary portion. Objections will stop the clock.
- g. At the end of the cross-examination of the second witness, the bailiffs will tell each team how much time they have left for closing arguments. One counsel for each side will be allowed to make final arguments to the court. With that said, it is strongly recommended that if a team has more than 10 minutes for the closing argument, the team should not use more than 10 minutes.
- h. Nothing in this rule requires a 50/50 split of time between co-counsel.

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<sup>1</sup> During the motion arguments, two students will present the arguments—one student will argue issue 1, and the other student will argue issue 2.

<sup>2</sup> There will be two bailiffs in each room—one for each party.

### 3. Anonymity:

- a. All team members and individuals affiliated with a team are prohibited from speaking with the judges before a round.
- b. Although counsel may introduce themselves to the Court in the usual manner (by team number), the team's law-school affiliation may not be mentioned at any time during the competition, until the team is eliminated from the Competition.
- c. Aside from post-round critiques, individuals affiliated with the team should not speak with judges about any substantive matters, until the team is eliminated from the Competition.
- d. Further, all team members, coaches, advisors, and observers must refrain from identifying a team's school at any time and in any manner, including, but not limited to, wearing any identifying items, such as school clothing, patches, or pins, or carrying identifying material (such as a notebook with a school logo).
- e. The bailiffs in each room will provide each team with a "Plaintiff" or "Defendant" table card that also contains the school's team number. The card should be placed on counsel table facing the judges at the beginning of the round and should remain on the table throughout the round.
- f. Judges may schedule a break between the end of the motion arguments and before the presentation of evidence. The coaches, advisors, and observers are not permitted to confer with the team members during this break. Also, team members **are not permitted** to use cell phones or other similar devices during the break.

### 4. Judges and Judging Criteria:

- a. Barring unforeseen circumstances, each round will be judged by at least three persons. One judge will be on the bench; the other two judges will be off to the side.
- b. Judges will be provided with a copy of the bench brief and the problem.
- c. Oral argument judges will NOT be provided with copies of the teams' briefs.

- d. Each judge will receive a score sheet outlining the factors to be considered during the judging process; the score sheet will also identify what excellent, good, and average scores should be in each category.
- e. The factors to be considered include, but are not limited to: poise and courtroom manner; analysis, organization, and clarity; thoroughness; control of argument; persuasiveness; professionalism; response to questions; and knowledge of facts and controlling law.
- f. The judge's scores for the motion argument and the evidentiary presentation will be added together to determine that judge's score for that team. The scores of all the judges from the oral presentation will be averaged to determine the oral-presentation of the team's score.

**5. Critiques:**

Each judge will be requested to provide a short oral critique at the end of each round. Oral presentation scores will not be released until after the Competition is complete.

**6. Announcements:**

- a. During the Preliminary Rounds, the winner of each round will be announced at the conclusion of that round.
- b. After both Preliminary Rounds have been completed, the four teams advancing to the Semifinal Rounds will be announced towards the end of the reception on October 8.
- c. After the Semifinal Rounds have been completed, the two teams advancing to the Final Round will be announced during lunch on October 9.
- d. All awards—individual and team—will be presented during the Banquet/Awards ceremony. All teams are encouraged to attend the Banquet/Awards ceremony.

**7. Stetson's Participation:**

- a. Stetson may not enter a team in the Competition.
- b. If, however, a team should drop from the Competition and leave an odd number of competing teams, or should an odd number of

teams otherwise be registered and ready to compete, Stetson may enter one or more bye teams in the Competition to ensure that an even number of teams is competing. A bye team may not advance past the Preliminary Rounds and its members will not be eligible for any award. Members of the bye teams will not write a brief; the brief score used for a bye team will be the average of all briefs submitted by teams in the Competition.

**8. Exhibits:**

Exhibits and other similar devices **may** only be used during the evidentiary portion of the argument. Only hard copy exhibits, i.e., flip charts, foam board, posters, etc., are allowed; no electronic exhibits. If the team is bringing exhibits, the team **is responsible** for bringing everything its members need to display the exhibit(s) (for example, an easel).

**E. SEQUENCE OF ORAL ROUNDS/ADVANCEMENT**

**1. Scoring Breakdown:**

a. Except for the Final Round, scores for each round will be determined by counting the team's brief score as one-third, the motion argument as one-third, and the presentation of evidence as one-third. In other words, the brief score will be one-third of the score and the oral presentation will be two-thirds of the score. Specifically, the scoring will be as follows:

(1) The briefs will be scored out of 100 points. Each brief will be read by multiple judges and the scores will be averaged to create the brief score used in the competition.

(2) The oral presentation will be scored out of 200 points, 100 points for the motion arguments and 100 points for the evidentiary presentation. The judges' scores from the oral presentations will be averaged to create the oral presentation for that round.

(3) Here is an example of how the scores for a round will be calculated:

(a) Team A's brief score (out of 100 points):

i. Team A's plaintiff's brief received the following scores: 90, 85, and 92.

ii. Team A's defendant's brief received the following scores: 80, 78, and 85.

iii. Team A's brief score is: 85 (the average of the six scores).

- (b) Team A's oral presentation score (out of 200 points):
    - i. Team A's oral presentation scores were: 180, 195, and 174.
    - ii. Team A's oral presentation score for the round would be: 183 (the average of the three judges' scores).
  - (c) Team A's score for that round would be 268 (or the brief score of 85, plus the oral presentation score of 183).
- b. The judges of the oral presentations will not have read the teams' briefs and will not know the teams' brief scores.
- c. In the Final Round, the winner will be determined solely on the scores from the oral presentation.

## **2. Preliminary Rounds:**

- a. Two Preliminary Rounds will be held.
- b. Each team will argue in each Preliminary Round.
- c. Team match-ups will be determined by chance during the coaches' meeting on October 8.
- d. During the first two Preliminary Rounds, teams will argue once for each side.
- e. Each team will be scored on a combination of its average brief score and average oral score (see E(1)(a) above).
- f. Each team's score will be compared to its opponent's score in that round, and the differential will be determined.
- g. When determining which teams advance, the teams with the best won-lost records will advance to the Semifinal Rounds.
- h. In the event of a tie in won-loss records, the team winning the highest percentage of judges' ballots during the two Preliminary Rounds will advance.
- i. If a tie occurs on ballots, the team with the highest positive point differential over its opponents during the two Preliminary Rounds will advance.

### **3. Semifinal Rounds:**

Teams advancing to the Semifinal Rounds will be ranked 1 through 4, based upon their combined Preliminary-Round scores. Team 1 will compete against team 4; team 2 will compete against team 3. Teams 1 and 2 will select which side they wish to represent in the Semifinal Rounds.

### **4. Final Round:**

- a. The winners of each Semifinal Round will advance to the Final Round.
- b. The winner of the Final Round will be determined solely on the basis of oral presentation in the Final Round. The judges will caucus to determine the winning team and the best oralist in the Final Round. The judges are not obligated to use score sheets during the Final Round.
- c. The winner of the Final Round will be designated the winner of the Third National Pretrial Competition.

## **F. AWARDS**

The following awards will be presented at the Banquet/Awards ceremony on October 9:

- First Place
- Second Place
- Two semifinalist teams
- Best brief
- Best advocate preliminary round 1 (to be eligible for a best oralist award, the oralist must participate in both portions of the oral presentation—i.e., argue a motion and present evidence)
- Best advocate preliminary round 2 (to be eligible for a best oralist award, the oralist must participate in both portions of the oral presentation—i.e., argue a motion and present evidence)
- Best advocate semifinal round (to be eligible for a best oralist award, the oralist must participate in both portions of the oral presentation—i.e., argue a motion and present evidence)
- Best overall advocate



## **G. OUTSIDE ASSISTANCE**

### **1. Assistance on Briefs:**

- a. A team may receive only the following assistance on the brief:
  - (1) Team members may discuss with their coach/advisor and with others affiliated with their school (so long as other rules contained herein are not violated) general principles of Federal Civil Procedure. The coach may not dictate which Federal Rules of Civil Procedure apply.
  - (2) The coach/advisor may not provide general guidance on the overall organization or assist with the actual writing of the brief. Only members of the team may edit the briefs and correct citation format.
- b. A team may not hold oral practice rounds before its briefs are submitted to the Competition Committee.

### **2. Affidavit:**

- a. Each team member must sign a copy of the enclosed affidavit, which must be submitted with the original brief to the Competition Committee.
- b. By signing the affidavit and submitting the briefs to the Competition Committee, each team member certifies that the brief has been prepared in accordance with the Competition rules, and that it represents the work product solely of such team's members.
- c. A blank affidavit is attached as Addendum A.

### **3. Assistance on Oral Argument:**

A team may be assisted in the preparation of its oral argument, except as limited by Section G(4) below.

### **4. No Collaboration with Other Teams:**

No member or coach of any team still eligible to participate or actually participating in the Competition may attend any practice or argument of another team or receive information from any person who has attended such practice or argument. In addition, while a team is still active in the Competition, no team member, coach, or other person affiliated with the

team may “scout” other active teams.

## **H. CHALLENGES AND DISPUTE RESOLUTION**

### **1. Briefs and Pre-Oral Argument Challenges:**

- a. Any brief or pre-oral argument challenge or complaint must be submitted in writing to the Competition Committee no later than 5:00 p.m. EST on October 1, 2010.
- b. Should the allegedly offensive conduct occur between October 1 and the start of the first Preliminary Round, the challenge or complaint should be submitted within 24 hours of its discovery.
- c. The challenge or complaint should be directed to the Competition Committee and should specify in as much detail as possible the nature of the challenge or complaint. No other person should be copied on the challenge or complaint.
- d. After reviewing the challenge or complaint, the Competition Committee will, if necessary, contact other affected teams and issue a ruling.
- e. The ruling of the Competition Committee will be final and may not be appealed.

### **2. Oral Arguments and Other Competition Challenges:**

- a. Challenges or complaints concerning any oral argument or conduct during the Competition must be reported to the Competition Committee within 10 minutes of the conclusion of the round in which the allegedly offensive conduct occurs.
- b. Challenges or complaints that occur during the Competition that do not relate to a particular oral argument should be reported to the Competition Committee as soon as possible, but in no event later than 15 minutes before the next-scheduled oral argument round.

### **3. Conflicts of Interest:**

A judge’s alleged conflict of interest should be reported to the Competition Committee before that particular round commences. Otherwise, the conflict is deemed waived.

**4. Penalties:**

Penalties may range from warnings, to point deductions, to disqualification, depending on the nature and severity of the offense. Multiple offenses by a single team will warrant more severe penalties.

**5. Waiver:**

Failure to comply with the procedures in this section (Section H) will waive the challenge or complaint.

**I. MISCELLANEOUS**

**1. Use of Problem:**

The problem for this Competition may not be used by any participating school, for any reason, including intra-school competitions, without the express written consent of the Competition Committee.

**2. Scores:**

Scores will not be made available, either orally or in writing, until the Competition is completed. After the Competition, the Competition Committee will provide a spreadsheet containing the judges' scores from the oral rounds to each school's designated representative. This is in addition to the list that reflects each school's ranking on the briefs. The goal is that the scores will be made available to each team at the Banquet/Awards ceremony after the final round. If this is not possible, the scores will be e-mailed to a team representative within a week of the competition.

**3. Professionalism:**

All teams should conduct themselves ethically and professionally.

**4. Costs:**

All costs associated with the Competition should be borne by the schools or by individual team members. Stetson will not reimburse participants for costs associated with the Competition.

**ADDENDUM A:**

**AFFIDAVIT**

We have read the National Pretrial Competition Rules. Our submitted briefs were prepared in accordance with the Competition Rules, and we have not received any unauthorized assistance.

School: \_\_\_\_\_

**Please print your names below**

Team Members: (1) \_\_\_\_\_

(2) \_\_\_\_\_

(3) \_\_\_\_\_

(4) \_\_\_\_\_

Coaches: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signatures (1) \_\_\_\_\_

of team (2) \_\_\_\_\_

members: (3) \_\_\_\_\_

(4) \_\_\_\_\_

Date: \_\_\_\_\_

Brief Number: \_\_\_\_\_

Plaintiff brief  
word count: \_\_\_\_\_

Defendant brief  
word count: \_\_\_\_\_

**Gulfport Campus**

1401 61st Street South

Gulfport, Florida 33707-3299

(727) 562-7800

**From North:**

From Tampa, take I-275 traveling south over the Howard Frankland Bridge to St. Petersburg. Take Exit 19 (22nd Avenue South) and bear to the right onto 22nd Avenue South. Continue for 2.6 miles (street name will change to Gulfport Blvd.). Stetson Law is located on the right at 1401 61st Street South. Turn right on 61st Street South. The main campus is on your left and the Law Library is on the right with limited parking available next to the Law Library. The main entrance to the lobby is directly across from the Law Library through the horseshoe drive through.

*Note:* Do not take the 22nd Avenue North exit.

**From South:**

From Bradenton, take I-275 traveling north to St. Petersburg. Take Exit 18 (26th Avenue South). Ignore the sign for Stetson directing you to the right. Take a left off the exit ramp onto 26th Avenue South. Turn right at the first light onto 34th Street South (also called US 19). Turn left at the light onto 22nd Avenue South. Continue for 2.6 miles (street name will change to Gulfport Blvd.). Stetson Law is located on the right at 1401 61st Street South. Turn right on 61st Street South. The main parking lot and campus are on your left and the Law Library is on the right with limited parking available next to the Law Library. The main entrance to the lobby is directly across from the Law Library through the horseshoe drive through