

LSU LAW CENTER TRIAL ADVOCACY BOARD

IRA S. FLORY MOCK TRIAL COMPETITION RULES

RULE 1: TEAMS

Rule 1.1 (Competition Team Definition): A Competition Team shall consist of two (2) LSU Law Center students, who each must be at least in their second year of study (i.e.; 2Ls) and in good academic standing. LLM candidates may compete in the Flory Trial Competition only with the express written permission of the Director of Advocacy Programs. No Competition Team member substitutions will be permitted once Competition Team registration closes.

Rule 1.2 (Witnesses): Each Competition Team is responsible for providing two (2) witnesses for each trial in which they are scheduled to compete. All witnesses must be students currently enrolled at the LSU Paul M. Hebert Law Center. No other persons shall be permitted to participate as witnesses absent express written permission from the Director of Advocacy Programs, which shall be given in extreme extenuating circumstances only. Competition Team members who have been eliminated in prior rounds of a competition may serve as witnesses in later rounds of that same competition only with the express written permission from the Director of Advocacy Programs.

Rule 1.3 (Scheduling Conflicts): Each Competition Team must inform the Trial Advocacy Board, via email to trialadvocacy@law.lsu.edu or in their registration form, of any and all scheduling conflicts for all Flory Trial competition dates no later than 48 hours before the beginning of the first preliminary round. The Trial Advocacy Board will make every reasonable effort to accommodate these scheduling conflicts, but under no circumstances will the date and/or time of the Final Round be moved. In the event that a scheduling accommodation is impossible, that Competition Team shall be considered to have forfeited the competition.

Rule 1.4 (Withdrawal and Forfeit): In the event one or both Competition Team member(s) withdraw(s), fail(s) to appear, or is/are otherwise unavailable for a Flory Trial round at any time up to 24 hours before that round, that Competition Team shall be considered to have forfeited the competition. Competition Team members are warned that withdrawals and forfeits without good cause may result in restrictions on their further participation in LSU Law Center Advocacy Programs competitions and other events.

- a. Upon the withdrawal or forfeit of a Competition Team, the Trial Advocacy Board will make a reasonable effort to find a replacement team or otherwise reschedule rounds as set forth in Rule 4.

RULE 2: GENERAL PRE-TRIAL MATTERS

Rule 2.1 (Governing Law): The Flory Trial Competition Case File shall specify what rules of evidence and procedure govern the conduct of each trial. The Flory Trial Competition Case File shall also specify what cause(s) of action, jury instructions, or other law control(s) for the trial. Competition Teams cannot seek to add, abandon, or otherwise alter the stated causes of action,

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jury instructions, or other controlling law, or seek any responsive verdicts other than those specifically stated within the case file. The defense may, however, rest its theory of case upon the applicable burden of proof.

Rule 2.2 (Jurisdiction and Venue): The Flory Trial Court is deemed to have jurisdiction over the case, all parties, all witnesses, and all causes of action included within the Case File unless otherwise specifically noted in the case file. All trials will be conducted as if a jury were present. The presiding judge will make no ruling that precludes the trial from being presented to conclusion.

Rule 2.3 (Pre-Trial Motions and Housekeeping): Competition Teams cannot present any motions to the court prior to the beginning of the trial. Competition Teams may, however, discuss “housekeeping matters,” such as swearing of witnesses, use of the well, sequestration, etc., with the presiding judge before trial begins. No substantive or procedural law may be discussed during these housekeeping matters.

Rule 2.4 (Written Materials): No written briefs, written motions, appearance forms, bound case files, or other materials may be presented to the judge(s). Each judge shall be provided an unmarked copy of the Case File and a scoresheet by the Trial Advocacy Board in advance of the trial. Competition Teams may provide duplicates of individual exhibits to the presiding judge while an evidentiary foundation is being laid.

Rule 2.5 (Observation of Trials): Other than the Final Round, all Flory Trial competition rounds are closed to all persons other than Competition Teams, witnesses, judges, members of the Trial Advocacy Board, and the Director of Advocacy Programs. Competition Teams and witnesses cannot view any trials other than those in which they are directly competing/participating, with the exception of the Final Round. The Flory Trial Final Round is open to the public.

RULE 3: CONDUCT OF TRIALS

Rule 3.1 (Time): Each Competition Team shall have forty-five (45) minutes in which to present their case. The following shall not be deducted from a Competition Team’s time: housekeeping matters, objections, responses to objections. The Trial Advocacy Board shall provide a Board Member who will serve as the bailiff in every Flory Trial round; the bailiff’s determination of time shall be final.

Rule 3.2 (Order of Trial): Every Flory Trial shall be conducted in the order set forth below. To the extent the governing rules of evidence or procedure may set forth additional or other stages of trial, such provisions are nullified. The order of trial is as follows:

- a. Housekeeping Matters (*see Rule 2.3*),
- b. Opening Statement for the Plaintiff/Prosecution,
- c. Opening Statement for the Defense,
- d. Examination of the Witnesses for the Plaintiff/Prosecution,
- e. Mid-Trial Motions for the Defense, if any,

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- f. Examination of the Witnesses for the Defense,
- g. Mid-Trial Motions for the Plaintiff/Prosecution, if any,
- h. Closing Argument for the Plaintiff/Prosecution,
- i. Closing Argument for the Defense, and
- j. Rebuttal Closing Argument for the Plaintiff/Prosecution (if reserved in housekeeping).

Rule 3.3 (Competition Team Member Responsibilities): Each member of a Competition Team must deliver EITHER the opening statement or the closing argument (but not both), AND conduct one direct examination, AND conduct one cross-examination. Only the Competition Team member who is handling the examination of a witness may object to a witness's testimony or respond to objections made during a witness's testimony. Competition Team members may request to confer with co-counsel.

Rule 3.4 (Exhibits): The presiding judge has sole discretion regarding the admissibility of all exhibits and testimony during the trial. Trial exhibits are limited to those materials included within the case file and any demonstratives created by counsel or a witness during the trial, as provided below:

- a. Competition Teams may not create, alter, modify, or change any portion of the case file in any way. Counsel may request redaction of an exhibit following an evidentiary ruling by the presiding judge; any such redaction shall be made constructively.
- b. Any demonstratives created by counsel or a witness must be created during the trial, not beforehand, and any such demonstratives must conform in all respects to the facts as set forth in the case file.
- c. If a Competition Team plans to create a demonstrative, that Competition Team must provide all materials necessary to create such a demonstrative.
- d. Competition Teams are encouraged, but not required, to make use of classroom/courtroom technology to the extent such technology is available (e.g.; document cameras, classroom dry-erase boards, etc.). Competition Teams should confer with the Trial Advocacy Board in advance of their trials if they plan to use courtroom technology.
 - a. The Director of Advocacy Programs will instruct competition Teams competing in the Final Round on the use of the Robinson Courtroom's technology.
- e. Competition Teams are permitted to enlarge exhibits and documents contained in the case file, as long as such enlargements do not otherwise alter the exhibit or document. A Competition Team choosing to make enlargements must bear all costs of such enlargements.
- f. A Competition Team's opponents are permitted to make use of a Competition Team's enlargements and demonstratives, but such teams may not permanently alter such enlargements or demonstratives in any way (e.g.; teams cannot make marks or erase demonstratives).

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Rule 3.5 (Fact Invention): Competition Teams and witnesses may not invent or create facts. The case file is a “closed universe” of facts and student-attorneys may use only the materials provided in the file except where the file states otherwise. All Competition Team members and witnesses shall be extraordinarily careful to be fair, accurate, and comprehensive in staying within the bounds of the case file. When in doubt as to whether the file supports a question, an answer, or an argument, all participants shall err on the side of not asking the question or arguing the fact.

- a. Competition Team members are permitted to make “negative” inferences; that is, questions about things a witness did not do are permitted

Rule 3.6 (Witness Testimony): Witnesses shall endeavor to fairly and truthfully answer all questions properly asked, to the extent such questions comport with the facts of the Case File and to the extent questions asked are not ruled upon as objectionable by the presiding judge.

- a. A witness may not “invent” a fact, an individual, or an exhibit not mentioned in the file nor offer testimony or evidence from that “invented” individual or about the exhibit.
- b. A team may not invent anything about a witness’s background that is not specifically stated in the file.
- c. Witnesses are not allowed to take any materials to the witness stand or use/refer to notes or his/her deposition while testifying at trial. Student-attorneys may, however, use a deposition to refresh the witness’s memory or impeach the witness.
- d. If the court grants a request for sequestration of witnesses during housekeeping, all sequestered witnesses may remain in the courtroom but shall to the best of their ability act as though they had been sequestered.
- e. If a Competition Team member asks a witness a question that requires fact invention or is otherwise not included within the four corners of the Case File, that witness must answer “I don’t know” or “I don’t recall.”
- f. A witness may testify to a fact which, although not in the witness’s statement or deposition, is part of the Case File (for example, is expressly stated in another witness’s statement or appears in an exhibit), to the extent such witness might have personal knowledge of such a fact and subject to Rule 3.8.

Rule 3.7 (Objections Generally): Objections must be brief, limited to the legal basis, and applied to the specific facts at issue.

Rule 3.8 (Impeachment by Omission): The objection “facts outside the Case File” or its equivalent is not permitted, and judges will be instructed to deny any such objection. In the event a witness creates a fact, a Competition Team member may impeach that witness “by omission.” The witness must admit, if asked, that the facts testified to are not contained in his/her statement. The witness must also admit, if true, that the advocate who prepared the witness to testify, advised the witness to add or make up the fact to which an objection has been made.

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- a. Notwithstanding a general prohibition of re-cross- examination, where on re-direct examination an advocate offers evidence which (1) was not a subject of cross-examination, (2) is outside of the record, and (3) is a statement inconsistent with the witness's prior written statement, a brief re-cross-examination shall be permitted, *strictly limited* to addressing the inconsistency through impeachment by omission.

RULE 4 – COMPETITION SCORING PROCEDURE

Rule 4.1 (Definitions):

- a. A “ballot” is the score from one judge of the Competition Teams participating in a single Flory Trial competition match. The ballot form shall be created by the Director of Advocacy Programs prior to the first preliminary round, and shall be used in every competition match for the duration of the competition.
- b. A “win” is determined by comparing the total score for the plaintiff/prosecution Competition Team with the total score for the defense Competition Team on one ballot. The team with the higher total score will receive a “win”; the team with the lower score will receive a “loss.” If the teams have equal combined scores, that ballot is tied.
- c. A “bye” is a win awarded to a Competition Team whose opponent forfeits when other accommodations cannot be made. A team receiving a bye will not receive points from that match towards oralist awards (if any), point differentials, or average scores.

Rule 4.2 (Preliminary Round Scoring Process):

- a. In the preliminary rounds, each Competition Team shall compete twice, and will present each side of the case once. For example, in Preliminary Round One, a particular Competition Team might present the case for the plaintiff/prosecution. In Preliminary Round Two, that same team would present the case for the defendant.
- b. In the event of a team's forfeit during the Preliminary Rounds, the Trial Advocacy Board may offer the opportunity to compete twice on the same side to all eligible teams. The first team to accept such an offer will have their lowest ballot *for that side of the case* dropped. If no teams are willing to substitute, the opponent team in the forfeited match will receive a bye.
- c. In the preliminary rounds, no more than one (1) volunteer attorney-judge shall judge each match. Following the Preliminary Rounds, the top eight teams shall advance into the Quarterfinal Round of the Competition based on team rank. Team rank in the preliminary rounds shall be determined as follows:
 - i. Teams will be ranked first by their win/loss ratio (i.e.; the total number of winning ballots divided by the total number of ballots).
 - ii. For teams with the same win/loss ratio, teams will then be ranked according to their point differential record. Higher point differential ranks higher. The point

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differential for a ballot is determined by the difference between the prosecution/plaintiff combined score and the defense combined score on the ballot. A team that won the ballot would have a positive point differential. A team that lost the ballot would have a negative point differential. The point differential record is determined by adding the point differentials of every ballot.

- iii. For teams with both the same win/loss ratio and same point differential record, teams will be further ranked according to the average team score. Higher average score ranks higher. The average team score is determined by taking the mean of every score on every ballot for each student-attorney team (i.e.; the sum of all points divided by the total number of ballots).
- d. Following the conclusion of the Preliminary Rounds, teams will be power-seeded and paired by rank; thus, the first-ranked team and the eighth-ranked team would compete against each other in Octofinal Round Match A; the second-ranked team and the seventh-ranked team participate in Octofinal Round Match B; and so on. Teams' power-seeding ranks that were established during preliminary rounds will remain the same through elimination rounds. A sample bracket can be found at the end of these Rules.

Rule 4.3 (Advanced Round Scoring Process):

- a. Following the conclusion of the Preliminary Rounds, the competition will proceed into Advanced Rounds, which shall consist of a Quarterfinal Round (top eight teams), a Semifinal Round (top four teams), and a Final Round (top two teams).
- b. The higher-ranked team in each match of each Advanced Round chooses whether it will compete as prosecution/plaintiff or as defense. This selection must be made at least twenty-four (24) hours prior to the next elimination round.
- c. An odd number of judges shall judge every Advanced Round. Judges in all Advanced Rounds shall utilize the same ballot form as was used in the Preliminary Rounds. The winner of an Advanced Round match is the Competition Team who wins the majority of the ballots from that Advanced Round match. If in extenuating circumstances an Advanced Round must be judged by an even number of judges, advancement in such a round will be controlled by (1) number of winning ballots, then if a tie (2) highest average team score.
- d. In the event of a forfeit in an Advanced Round, the opposing team will automatically receive a bye.

RULE 5 – OUTSIDE ASSISTANCE

Rule 5.1 (Official Rule and Fact Clarifications): Teams may submit questions about these rules or for clarifications of facts contained the Case File via email to trialadvocacy@law.lsu.edu. Any answers/clarifications given shall be sent to all registered teams by the Trial Advocacy Board and posted to the Flory section of the Advocacy Programs website, and such responses will be binding upon all teams. Questions about the Case File will be accepted until 48 hours prior to the first

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Preliminary Round. Requests for rule clarifications will be accepted at any time throughout the Competition.

Rule 5.2 (Other Assistance): Teams may ask any person *general* questions about the rules of evidence, trial procedures, and the Flory competition process. However, any answers to any questions made by competitors shall be considered unofficial and non-binding unless the question is submitted via the official clarification process set out in Rule 5.1. Teams cannot receive any other assistance from any person. In particular, teams cannot receive any assistance regarding specific objections to make or specific methods to employ in relation to facts and exhibits in the Case File. Teams cannot receive any substantive case assistance from their witnesses during the course of a match.

- a. For example, a team *is permitted* to ask their Evidence professor to generally explain a particular hearsay exception, but *cannot* ask the professor what exception(s) to the hearsay rule might permit them to introduce a receipt included in the Potential Exhibits section of the Case File.

RULE 6 – COMPLAINTS PROCEDURE

Rule 6.1 (Process for During-Match Rules Violation Complaint): Competitors are advised that complaints for violations of these rules that occur during a match are strongly discouraged, as most perceived violations (such as fact invention, improper objections, etc.) can and should be dealt with by making timely objections and impeachments during the trial.

- a. In the event a Competition Team feels that it has a complaint of a rules violation that occurred during a match and that the violation could not have been cured by the methods discussed above, such a complaint no later than ten (10) minutes after the conclusion of the trial, so as to permit time for the Vice-President to confer with the judge(s) in the room. No action will be taken on any complaint made outside of this ten minute window.
 - a. If a team wishes to submit a complaint based on specific critiques/comments made by a judge, that team shall have ten (10) minutes from the conclusion of judges' feedback to lodge a written complaint.
- b. All complaints must be made in writing to the Vice-President of Internal Competitions or their designated representative. The complaint must specify what rule was violated, how it was violated, and what means (if any) were employed to cure the violation during the round.
- c. Any complaints submitted under this rule will be ruled upon in the first instance by the Vice-President of Internal Competitions or their designated representative. The Vice-President's decision may be appealed, in writing via email, to the Director of Advocacy Programs. This appeal must be made no later than twelve (12) hours after the Vice-President's decision.

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Rule 6.2 (Process for Out-of-Match Rules Violation Complaint): a. In the event a Competition Team feels that a competition rule has been violated by another team outside of a match, that team may submit a complaint via email to trialadvocacy@law.lsu.edu. The complaint must specify what rule has been violated, by whom, and how. The Vice-President for Internal Competitions will rule upon such complaints in the first instance. The Vice-President's decision may then be appealed, in writing, to the Director of Advocacy Programs. This appeal must be made no later than twelve (12) hours after the Vice-President's decision.

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SAMPLE ADVANCED ROUNDS BRACKET:

