



WALSH FAMILY LAW MOOT

Rules

I. PARTICIPATION

Teams

Any student registered in the LL.B. or J.D. program at any Canadian law school is eligible to participate in the moot.

Each law school may provide two (2) teams of two (2) students (“counsel”) to participate in the competition. The selection of the team members is left to the discretion of the mooted societies of the respective law schools. Each team from each school will argue for the appellant and the other team from each school will argue for the respondent. Counsel will not be allowed to argue or switch between representing the appellant or the respondent.

Each team will be assigned a number by the Walsh Family Law Moot Committee. Teams shall use only their team numbers for identification purposes during the moot. No team shall reveal their law school affiliation during the moot. Social events, lunches, dinners and award ceremonies are excluded from this rule.

Notwithstanding the foregoing, each law school may also utilize one additional counsel. Except for oral arguments during the moot, the additional counsel may engage in research and/or factum writing. The additional counsel may engage in oral arguments during the moot competition where a counsel on the law school team is unavailable due to extraordinary circumstances beyond the counsel’s control.

Ontario’s family law legislation (including federal legislation and Supreme Court of Canada case-law) and the Family Law Rules will be followed for the moot.

Location

The location of the Walsh Family Law Moot is the Ontario Court of Appeal located at 130 Queen Street West, Toronto.

Organization of the Moot

The Walsh Family Law Moot is organized by the Association of Family and Conciliation Courts, Ontario Chapter. The Walsh Family Law Moot Committee, consisting of judges, family law lawyers and academics, will determine the rules for the competition. The Chair of

the Walsh Family Law Moot Committee is Steve Benmor. Any questions regarding these rules should be directed to Steve Benmor at steve@benmor.com.

II. WRITTEN MATERIALS

Case

The moot case will be chosen by the Walsh Family Law Moot Committee. Each two person team will draft a written factum for the moot.

Factum markers will be members of the Walsh Family Law Moot Committee, who are not students or academics. Factum markers may also be non-members of the Committee at the discretion of the Chair.

Once submitted to the Walsh Family Law Moot Committee, the facta may not be altered in any way.

Format of Facta

- a) Facta must be typed and submitted on white, standard letter size paper (8½ by 11 inches).
- b) The font and size of the text of all parts of the factum, excluding the footnotes must be Times New Roman, 12 point.
- c) The font and size of the text of the footnotes must be Times New Roman, 10 point.
- d) The text of all parts of each factum must be double-spaced, except for the text of footnotes and headings, which may be single-spaced, but there must be double spacing between each heading and the body text of the factum.
- e) Each page of the factum shall have margins of at least one inch or 2.54 centimeters on all sides, excluding page numbers.

Parts of the Facta

The factum shall consist of the following parts:

- a) Overview;
- b) Statements of Facts;
- c) Points in Issue;
- d) Arguments in Brief;
- e) Order Requested;
- f) Table of Authorities; and
- g) Appendices (if any).

Length of the Facta

The entire factum (excluding cover page, table of authorities and appendices) shall not exceed twenty (20) pages.

Cover Pages

Each factum shall have a cover page with the following:

- a) The title of the document (e.g. Factum for Respondent or Factum for Appellant)
- b) Team Number;
- c) Name of the court (Walsh Family Law Moot Supreme Court of Canada);
- d) The appropriate style of cause;
- e) The year of the competition.

Appeal Records and Books of Authorities

Appeal Records and Books of Authorities are not required.

Delivery of Facta

Each party shall use Courtside EDX to exchange their facta with the opposing party. In addition, one electronic copy of each team's factum must be submitted to Steve Benmor of the Walsh Family Law Moot Committee. Due dates for the delivery and exchange of the facta are:

February 12, 2016 – File copy of Appellant Factum with Courtside EDX and email copy to Steve Benmor at steve@benmor.com and courier 6 hard copies to Steve Benmor, Benmor Family Law Group, 1836 Bathurst Street, Toronto, Ontario M5P 3K7

February 26, 2016 – File copy of Respondent Factum with Courtside EDX and email copy to Steve Benmor at steve@benmor.com and courier 6 hard copies to Steve Benmor, Benmor Family Law Group, 1836 Bathurst Street, Toronto, Ontario M5P 3K7

Note: Late delivery or additional copies of factums, appeal records and/or books of authorities will not be accepted.

III. ORAL RULES

Procedure/Time Limits

The Walsh Family Law Moot shall consist of 2 rounds. In the first round, each team argues either for the appellant or the respondent. A team from another law school will argue for the opposing party.

Each counsel shall be allotted no more than 15 minutes of the prescribed maximum of 30 minutes per two person team. The time limit is to be strictly enforced by the timekeeper, subject to direction from the bench.

An additional 5 minutes will be allowed for a reply at the discretion of the bench. No surrebuttal will be allowed.

In the second round, each team will argue for the same party as in the first round (i.e. if a team argued for the appellant in the first round, that team will also argue for the appellant in the second round). However, in the second round, each team will be paired with a different team. Counsel are encouraged to incorporate into the second round any feedback received from the judges following the first round.

Although the timekeeper will be keeping track of time, counsel are ultimately responsible to ensure that they keep to the time limit.

Scope of Argument

The scope of oral argument is loosely limited to that which is present in the provided case. The oral argument may be presented in any order, but must not vary in substance from that which is in the facta. References to cases or materials not listed in the facta will not be allowed.

The appellant's rebuttal is limited to points raised by the respondent which were not addressed by the appellant.

Communication between Counsel

Communication between counsel at the counsel table and between counsel not making submissions and the court is not allowed. This does not preclude the passing of legal material between team members.

IV. SCORING AND PENALTIES

Team members are scored individually.

Scoring shall consist of 2 parts: the scoring of the written facta and the scoring of the oral arguments. Penalties shall be deducted from the scores. Final scores will be expressed as a number out of 100.

The score for the written facta shall apply to each team member of the 2 member team. For example, if the appellant's factum receives a score of 15/20, both of the appellant's counsel shall receive a score of 15/20.

All facta shall be reviewed and assigned a score on a scale in accordance with the Marking Guide – Factum.

If a single marker scores a factum, the score for the factum shall be the score assigned by the single marker. If there is more than one marker, the marker's score for the factum shall be the average of all of the markers' scores.

Factums are worth one-third (1/3) of the overall mark and oral arguments are worth two-thirds (2/3) of the overall mark.

Each judge shall assign each oralist a score on a scale of 16 to 40 points in accordance with the Marking Guide – Oral Argument.

The score for the 2 member team's oral arguments shall be the average of all of the judges' scores.

The following penalties are to be assessed in the court's discretion and recorded on the scoring sheet:

Factums:

- | | | |
|-----|---|-------------------|
| (a) | Failure to submit facta on time: | 2 points per day |
| (b) | Failure to abide by requirements for facta: | 2, 4 or 6 points |
| (c) | Excessive length of facta: | 2 points per page |
| (d) | Failure to identify team by number: | 3 points |
| (e) | Failure to abide by rules for facta | 2 points |

Oral Arguments:

- | | | |
|-----|---------------------------|------------------|
| (f) | Time violations: | 2, 4 or 6 points |
| (g) | Scope violations: | 6 points |
| (h) | Communication violations: | 2 points |

V. AWARDS

The Walsh Family Law Moot Cup will be presented to the school with the highest cumulative points for both facta and oral arguments.

Awards will also be presented to the first and second runner-up schools with the second and third highest cumulative scores for both facta and oral argument.

Individual awards will be presented to the oralists with the first, second and third highest scores.

Awards will also be presented to the appellant team with the best written factum and the respondent team with the best written factum.



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Marking Guide – Factum

Team Names: _____

Team #: _____

1. Stylistic Considerations

- Did the factum comply with all formal requirements?
- Were proper sentence and paragraph structure and sequence used?
- Did the factum contain grammatical or spelling errors?
- Was the language clear and comprehensible (effective use of “plain English” principles)?

Please score between 1 and 4:

1=Inadequate

2=Adequate

3=Good

4=Excellent

1 2 3 4

COMMENTS (IF ANY)

2. Authorities and Citations

- Were sufficient and proper legal citations applied consistently throughout?
- Did counsel rely on appropriate and strong authorities?
- Was a sufficiently broad range of authorities cited?

Please score between 1 and 4:

1=Inadequate
2=Adequate
3=Good
4=Excellent

1 2 3 4

COMMENTS (IF ANY)

3. Organization of Issues

- Was there a clear and correct statement of the facts and issues?
- Were the issues organized and did they flow in a logical order?
- Were the issues discretely divided or were they convoluted?
- Was there appropriate use of sub-headings, etc.?

Please score between 1 and 4:

1=Inadequate
2=Adequate
3=Good
4=Excellent

1 2 3 4

COMMENTS (IF ANY)

4. Development of Arguments

- Were the arguments presented in a persuasive and compelling manner?
- Did counsel apply the correct substantive law in crafting legal arguments?
- Was appropriate weight given to each issue with a focus on counsel's strongest arguments or were there unnecessary arguments?
- Did counsel effectively apply the law to the facts?
- Were the arguments creative and/or original or was it merely a restatement of the lower court decisions?

Please score between 2 and 8:

2=Inadequate

4=Adequate

6=Good

8=Excellent

2 4 6 8

(This question is given more weight than the other questions.)

COMMENTS (IF ANY)

TOTAL – FACTUM = ____/20



WALSH FAMILY LAW MOOT

Marking Guide – Oral Argument

Presenter: _____

Date/Time/Room: _____

Team #: _____

1. Speaking Ability and Delivery:

- Did counsel address the bench and opposing counsel appropriately?
- Did counsel interrupt the bench?
- Did counsel display appropriate court etiquette in general?
- Did counsel make eye contact with the bench?
- Did counsel maintain composure under stress?
- Did counsel employ appropriate speed and tone in his or her submissions?
- Was counsel able to speak from memory or a brief outline or was counsel reading his or her submissions?

Please score between 3 and 7 (3 being lowest; 5 being average; 7 being highest):

3 4 5 6 7

COMMENTS (IF ANY)

2. Organization of Arguments:

- Did counsel provide an introduction or ‘road map’?
- Were the arguments organized in a logical sequence?
- Did counsel sufficiently integrate oral arguments with written arguments?
- Did counsel conclude with a concise and effective summary of the arguments?

Please score between 3 and 7 (3 being lowest; 5 being average; 7 being highest):

3 4 5 6 7

COMMENTS (IF ANY)

3. Questions from the Bench:

- Was counsel adequately prepared to answer questions from the bench?
- Did counsel address the issue or were answers evasive?
- Were questions handled properly and did counsel re-direct the court’s attention back to the issues effectively?
- Did counsel make concessions where appropriate and in an effective manner?

Please score between 8 and 16 (8 being lowest; 12 being average; 16 being highest):

8 10 12 14 16

COMMENTS (IF ANY)

4. Preparation & Development of the Arguments:

- Was counsel sufficiently familiar with the issues?
- Were the arguments developed in a persuasive manner?
- Were concessions made only where necessary and in the proper manner?
- Did counsel efficiently allocate time among the arguments with a focus on the strongest arguments?
- Was effective use made of the best authorities and the best policy arguments?
- Did counsel sufficiently integrate the facts into his or her arguments?
- Did counsel address and appropriately dispose of opposing counsel's arguments?

Please score between 2 and 10 (2 being lowest; 6 being average; 10 being highest) :

2 4 6 8 10

COMMENTS (IF ANY)

TOTAL – ORAL PRESENTATION = _____/40