



## 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. One 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 permitted to argue both sides or to 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 for 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 2022 Competition will take place at Osgoode Hall in Toronto, Ontario, and will be followed by an awards ceremony nearby. Details and instructions will be provided closer to the date of the competition.

##### 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 determines the rules for the competition each year. Any questions regarding these rules should be directed to the Chair, Clayton R. Spencer, at [clayton.spencer@bell.net](mailto:clayton.spencer@bell.net) or [clayton@claytonspencer.com](http://clayton@claytonspencer.com).

## **II. WRITTEN MATERIALS**

### **Case**

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

Factum markers are lawyers and judges selected by the members of the Walsh Family Law Moot committee. Factum markers do not generally judge the oral competition.

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 of the 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) Statement 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 (Supreme Moot 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 email Clayton Spencer at [clayton.spencer@bell.net](mailto:clayton.spencer@bell.net) or [clayton@claytonspencer.com](mailto:clayton@claytonspencer.com) to submit their factum. Within 24 hours of submission, the factum will be submitted to the opposing team by the Moot Committee. Due dates for the delivery and exchange of the facta are:

**FOR APPELLANTS - Thursday, February 3, 2022 by 5:00 p.m.** – Email copy to Clayton Spencer at [clayton.spencer@bell.net](mailto:clayton.spencer@bell.net) or [clayton@claytonspencer.com](mailto:clayton@claytonspencer.com).

**FOR RESPONDENTS - Thursday, February 17, 2022 by 5:00 p.m.** – Email copy Clayton Spencer at [clayton.spencer@bell.net](mailto:clayton.spencer@bell.net) or [clayton@claytonspencer.com](mailto:clayton@claytonspencer.com).

Note: We will not be using Courtside EDX this year. Please email the facta directly. No hard copies are necessary this year. 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 will 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 150.

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 40/50, both of the appellant's counsel shall receive a score of 40/50.

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 0 to 50 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 for the second highest cumulative score and second highest oralist score.

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

## **VI. CONSENT TO PHOTOGRAPHY**

AFCC Ontario will be using photographs and videos of all participants' images and names as part of its website, newsletter and communications, both within the legal community and the public at large. The agreement by a law student, coach, or law school to participate in this competition includes the agreement to the publication of photographs and videos in all its marketing material by AFCC Ontario. By agreeing to participate in the Walsh Family Law Moot and Negotiation Competition, each law school, student, coach and volunteer agrees to appear in photographs, video and media circulated by AFCC Ontario with no limitation and compensation and without further consent.