

THE CATHOLIC
UNIVERSITY
OF AMERICA



OFFICIAL RULES

SEVENTH ANNUAL ELLEN A. (NELL) HENNESSY EMPLOYEE BENEFITS MOOT COURT COMPETITION

March 1-2, 2024

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CONTACT INFORMATION

Please direct questions regarding these Rules, registration, the Competition waitlist, the Competition Problem, Team Composition, or Competition logistics to:

Vice Chancellor of the Ellen A. (Nell) Hennessy Employee Benefits Moot Court Competition
Bronson Bathras
cua.hennessymootcomp@gmail.com

On March 1-2, 2024, the Seventh Annual Ellen A. (Nell) Hennessy Employee Benefits Moot Court Competition (the “Competition”) will take place in Washington, D.C. at The Catholic University of America, Columbus School of Law (“CUA”). The Competition is co-sponsored by the American College of Employee Benefits Counsel (“ACEBC”) and CUA. It provides law students from across the country with an opportunity to practice and improve their brief writing and oral advocacy skills. The Competition is named in memory of Nell Hennessey—a fearless advocate for the rights of employee benefit plan participants and retirees. The official rules governing the Competition are as follows:

I. Eligibility

- A. The Competition is open to 28 teams. Each team shall consist of at least two, and not more than three, student members from the same law school. Each team member must be enrolled in a full or part-time program at an American law school, and must be a candidate for a Juris Doctor or LLM.
- B. Each law school can enter up to two teams in the Competition.

II. Registration

- A. Teams can register by completing an intent-to-compete form. A link to this form is available on the Competition website: eahmcc.org.
- B. At registration, each team must designate one team contact to whom information and notices regarding the Competition may be sent and with whom questions and concerns may be discussed (“Team Contact”). Each team must provide a telephone number and email address for the Team Contact. All communications to the team will be addressed to the Team Contact. The team is responsible for monitoring the provided telephone number and email address for communications regarding the Competition.
- C. At registration, teams should list the names of the team competitors, if known. A team may identify or substitute its individual competitors up until the team submits its written brief for the Competition. Such identifications or substitutions may be made by giving written notice to the Competition Vice Chancellor at cua.hennessymootcomp@gmail.com. After a team has submitted its brief, substitution of team members will be permitted only upon a showing of good cause and with the written consent of the Steering Committee.
- D. Teams may register for the Competition beginning on Friday, September 1, 2023. Registration will remain open until the 28 available Competition slots have been filled. After the 28 slots have been filled, teams may register for the waitlist. Teams on the waitlist will be notified if and when Competition slots become available on a first-come, first-serve basis.
- E. Registration is \$400 for each team. Fee waivers are available upon written request. To request a fee waiver, please email a written request to acebc.hennessymootcourtcomp@gmail.com.

- F. Once registered, a team may withdraw from the Competition until December 1, 2023, by sending an email to the Competition Vice Chancellor communicating the intent to withdraw. A team that withdraws on or before December 1, 2023, will receive a full refund of its registration fee. Teams will only be permitted to withdraw from the Competition after December 1, 2023, under exceptional circumstances. A team seeking to withdraw from the Competition after December 1, 2023, must set forth those circumstances in an email to the Competition Vice Chancellor. A team that withdraws after December 1, 2023, will not receive a refund of its registration fee.

III. The Competition

The Competition consists of two components: (1) a written brief and (2) rounds of oral argument. Both components will be based on the same Competition Problem.

A. Distribution of Competition Materials

1. Competition Materials will be formally distributed to all teams by Friday, October 13, 2023. The Competition Materials may be publicly available on the Competition website prior to the formal distribution.
2. Each Team Contact must confirm receipt of the Competition Materials by sending an email to cua.hennessymootcomp@gmail.com by the later of (a) Monday, October 16, 2023, or (b) five calendar days after completing an intent-to-compete form.
3. The Competition Materials consist of the following:
 - (a) These Rules
 - (b) The Competition Problem and Record
 - (c) The Competition Schedule
 - (d) The written brief scoring rubric
 - (e) The oral argument scoring rubric
4. Each team will be assigned a team number when the Competition Materials are distributed. This team number should be used to identify the team in all aspects of the Competition and in communications with Competition management.

B. Written Briefs

1. *Overview*
 - (a) Each team will be randomly assigned to serve as counsel for either appellant or appellee at the time the Competition Materials are distributed. If two teams from the same school are registered for the Competition, they will be assigned different sides. Each team must draft a brief in support of their assigned side.

2. *Submission of Briefs*

- (a) Each team must submit one copy of their brief and their brief certificate by 11:59 p.m. EST on Friday, January 12, 2024, via email to cua.hennessymootcomp@gmail.com.
- (b) The document name for the brief and brief certificate should be in the format “Team_Number_Appellant/Appellee_Final_Brief.pdf” and “Team_Number_Appellant/Appellee_Brief_Certificate.pdf.” For example, for a hypothetical Team 1 that has been assigned Appellant, their brief and brief certificate should be named “Team 1_Appellant_Final_Brief.pdf” and “Team 1_Appellant_Brief_Certificate.pdf,” respectively. The subject of the submission email should also be in the format “Team_Number_Appellant/Appellee_Final_Brief.” Thus, the subject of the submitting email for hypothetical Team 1 should be “Team_1_Appellant_Final_Brief.”
- (c) The Vice Chancellor will confirm receipt of each brief within 24 hours of receipt. No team will be allowed to alter its brief after it has been submitted.
- (d) All briefs will be posted on the Competition website within one week after the brief due date. Posted briefs will be identified only by team number. Teams may review briefs from other competitors to prepare for the oral argument component of the Competition.
- (e) Briefs filed after the submission deadline will be penalized 2 points for each hour after the submission deadline the brief is submitted.

3. *Brief Format*

- (a) All briefs must be submitted in PDF format and must be text-searchable.
- (b) Except as otherwise stated herein, briefs must be in the format required by the Federal Rules of Appellate Procedure (“FRAP”) and the Local Rules of the United States Court of Appeals for the District of Columbia Circuit.
- (c) The relevant text of all statutes and constitutional provisions may be placed in an appendix instead of the body of the brief. It is not necessary to attach the Record to the brief.
- (d) Citations must be in the format prescribed by the most recent edition of *The Bluebook: A Uniform System of Citation*.
- (e) No brief shall exceed 9,000 words.
- (f) Neither briefs nor brief certificates should reveal the team’s law school or any of the team’s individual members. Instead, the assigned team number should be listed where appropriate on the brief and brief certificate (e.g. on the brief cover page).

4. *Brief Certificates*

- (a)** In addition to a brief, each team must submit a brief certificate containing the following information:
 - (i)** A statement that the work product contained in the team’s brief is in fact the work product of the members of the team;
 - (ii)** A statement that the team has complied fully with its law school honor code or the honor code of CUA;
 - (iii)** A statement that the team has complied with all Rules of the Competition;
 - (iv)** A statement certifying that the brief complies with the word limitations. The certification must state the number of words in the document.

5. *Scoring of Briefs*

- (a)** Briefs will be scored anonymously by at least two judges. Using the Competition scoring rubric, judges will score briefs on a 100-point scale in the 13 categories set forth below. Briefs will be penalized, and have points deducted from their overall brief score, as set forth in the penalties section below. The complete brief scoring rubric is available on the Competition website at eahmcc.org.

Brief Scoring Categories		Possible Points
1	Cover Page	2
2	Table of Contents	2
3	Table of Authorities	2
4	Statement of Issues Presented for Review	5
5	Statement of the Case	10
6	Summary of Argument	10
	Argument	
7	Argument Structure	15
8	Issue Recognition	15
9	Persuasiveness	15
10	Use of Authority and Proper Citations	15
11	Conclusion	2
12	Brief Certificate	2
13	Compliance with Formatting Requirements	5
	Total	100

Brief Scoring Penalties		Point Deductions
1	Late filed brief	2 pts per hour
2	Word limit violation	1 pt per 100 words
3	Submitting brief for incorrect party	10
4	Revealing law school or team members	10

- (b) Teams will be provided their brief scores following the completion of the Competition.

C. Oral Argument

The oral argument component of the Competition will take place over the course of two days, March 1-2, 2024, at The Catholic University of America, Columbus School of Law. The first day will consist of two preliminary rounds in which all teams will compete. The second day of the Competition will consist of single-elimination quarterfinal, semifinal, and final round. A complete Competition schedule that includes the dates and times of all oral argument rounds is available on the Competition website at eahmcc.org.

1. *Format of Oral Arguments*

- (a) For each round, each team will be allotted thirty (30) minutes of oral argument in each round. Only two members of a team may participate in any round. Each of the two team members must argue for at least ten (10) minutes in each round in which they participate. Judges may interrupt arguments to pose questions. Judges may allow additional argument time at their discretion.
- (b) The team assigned to represent appellant will present first. This team may ask to reserve up to five (5) minutes of the team’s allotted time for rebuttal. The team must notify the bailiff before the round begins of the intention to reserve rebuttal time. In addition, the team must request rebuttal time from the judge or judges at the beginning of its oral argument. Failure to do so will waive the right to rebuttal time.
- (c) One bailiff will be present during each round of oral argument. The bailiff will be responsible for keeping time. The bailiff will advise each competitor when there are fifteen (15) minutes, ten (10) minutes, five (5) minutes, and one (1) minute remaining in the argument. It is each team’s responsibility to keep track of its own time allocations between team members. However, the bailiff shall advise the judge(s) at the close of oral argument whether each team complied with the requirement that each participant argue for at least ten (10) minutes.
- (d) Judges are encouraged to briefly critique all advocates after the completion of each round of oral arguments.

2. Scoring of Oral Argument

- (a) The oral argument of each individual team member will be scored by the judge or panel of judges assigned to preside over each round of oral argument. Using the Competition scoring rubric, judges will score each oral argument on a 100-point scale in the five categories set forth below. Teams will be penalized, and have points deducted from their oral argument score, as set forth in the penalties section below. The complete oral argument scoring rubric is available on the Competition website at eahmcc.org.

Oral Argument Scoring Categories		Possible Points
1	Substance of Legal Arguments Issue recognition and understanding Use of relevant facts from the record Citation to and explanation of appropriate authority Citation to and explanation of policy considerations	40
2	Organization of Presentation Structure and clarity of presentation Use of time Effective introduction and conclusion Awareness of strengths and weaknesses of case	15
3	Responsiveness to Judges' Questions Responsiveness to questions raised Thoroughness in responding to questions raised Ability to return to argument after questions	15
4	Responsiveness to Opponent Anticipation of opponent's arguments Ability to respond to and counter opponent's arguments	15
5	Advocacy Composure and professional presentation Persuasiveness Ability to be heard and understood Deference to Court, compliance with courtroom etiquette	15
Total		100

Oral Argument Scoring Penalties		Point Deductions
1	Late arrival	1 pt per minute
2	Time division violation	10
3	Revealing law school to judge	10

- (b) If a competitor personally knows a judge in the oral argument component of the Competition, the Competitor must notify the Vice Chancellor immediately so arrangements can be made to recuse the judge and assign a new judge if necessary. Failure to notify the Vice Chancellor of a competitor's personal acquaintance or familiarity with a judge may result in disqualification. Judges are also advise to immediately notify the Vice Chancellor if they personally know an individual competitor.
- (c) Teams will be provided their oral argument scores for each round following the completion of the Competition.

3. *Structure of Oral Argument Rounds*

- (a) *Preliminary Rounds.* All 28 teams will compete in two preliminary rounds on the first day of the Competition. The preliminary rounds of oral argument will be randomly matched. Each team should be prepared to represent oral argument in support of both parties to the litigation. During the preliminary rounds each team will present oral argument once in support of the party for which the team prepared a written brief ("on-brief"), and once in support of the party for which the team did not prepare a written brief ("off-brief"). Team scores during the preliminary rounds will be based on each team's written brief (50%) and oral argument (50%).
- (b) *Quarterfinal Rounds.* The top eight teams at the end of the preliminary rounds will advance to a single-elimination quarterfinal round. The quarterfinal rounds will be power-matched base on the team scores in the preliminary rounds. Team scores during the quarterfinal rounds will be based on the team's written brief score (25%) and oral argument score (75%). The team with the higher score based on this formulation will be deemed the winner of the round.
- (c) *Semifinal Round.* The winners of the four quarterfinal rounds will advance to a single-elimination semifinal round. Team scores during the semifinal rounds will be based on each team's written brief score (25%) and oral argument score (75%). The team with the higher score based on this formulation will be deemed the winner of the round.
- (d) *Final Round.* The winners of the two semifinal rounds will advance to a final round. Team scores during the final round will be based entirely on each team's oral argument. The team with the higher score will be deemed the winner of the Competition.
- (e) For the quarterfinal, semifinal, and final rounds, teams will be allowed to argue on-brief to the extent possible. If two teams competing against each other in one of these rounds were assigned the same party, the Vice Chancellor will conduct a coin toss to determine the party designations for the oral argument.

- (f) In the event of a tie in the quarterfinal or semifinal rounds, the team with the higher oral argument score will be deemed the winner. In the event of a tie in the oral argument scores, the panel of judges will select a winner. Similarly, in the event of a tie in the oral argument scores in the final round, the panel of judges will select a winner.

IV. Awards

Following the Final Round, the following Competition Awards will be presented.

- A. *First Place Team* – The winner of the final round will be awarded First Place, receive a \$1,500 cash prize, and an all-expenses-paid trip to the ACEBC® annual black-tie gala awards dinner for the award presentation.
- B. *Second Place Team* – The runner-up in the final round will be awarded Second Place and receive a \$1,000 cash prize.
- C. *Third Place Teams* – The two teams that advanced to the semifinal round, but did not advance to the Final Round will each be awarded Third Place and receive a \$500 cash prize.
- D. *Best Brief* – The team with the highest average score in the written brief component of the Competition will be awarded Best Brief and receive a \$500 cash prize. In the event of a tie, the tied briefs will be rescored by a panel of three judges.
- E. *Best Oral Advocate* – The individual with the highest average oral advocacy score during the preliminary rounds will be awarded Best Oral Advocate and receive a \$500 cash prize. An individual competitor must argue at least twice in order to be eligible to receive the Best Oral Advocate award. If there is a tie, the competitor from the team with the higher brief score will receive the Best Oral Advocate award.

V. Responsibilities of Participants

- A. All competitors are bound by their law school honor codes with respect to their conduct during the course of the Competition. If a law school does not have its own honor code, it must abide by CUA's honor code, which can be found at <https://www.law.edu/academics/catalog-announcements/2023/rules-of-professional-conduct.html>.
- B. At no point during the Competition should teams disclose their law school to any judge. Teams should not list their law school on their written brief or brief certificate. Teams should not reveal their law school at any point during oral argument. Instead, teams should identify themselves by their assigned team number.

- C. Team members must write their own briefs and prepare their own oral arguments. Law school faculty members, fellow students, attorneys, or other individuals may not review, edit, or otherwise assist in the preparation of a team’s brief. Likewise, such individuals may not prepare the team members’ oral arguments for them. Participants may discuss issues and ideas, including the legal issues in the Competition Problem with faculty, fellow students, or others, and may use the assistance of such individuals to prepare for oral arguments in the form of mooting. However, no other form of external assistance may be provided to the competitors.
 - 1. *Artificial Intelligence.* Use of artificial intelligence (“AI”) platforms including but not limited to ChatGPT or ClickUp during brief writing and preparation of oral argument is **strictly prohibited**. All brief submissions will be checked for use of AI assistance through a third-party detector for plagiarism and AI use. Use of AI platforms is grounds for disqualification at the discretion of the Vice Chancellor.
- D. Law schools may conduct preliminary rounds among their own students for the purpose of mooting, or to determine team membership. Schools may not conduct practice or preliminary rounds with students from other schools who are competing in the Competition. No team member, coach, or advisor of a team participating in the Competition may attend any argument of any other team prior to or during the Competition, or receive information about any such argument from any other person about the teams from other schools. However, once a team has been eliminated from the Competition, its members, coaches, or advisors are free to observe any and all remaining rounds of the Competition.

VI. Competition Governance

- A. A Competition Steering Committee is responsible for managing the Competition and applying and enforcing these rules. The Steering Committee is comprised of certain members of the ACEBC Moot Court Committee and certain members of the Moot Court Board of CUA, including the Vice Chancellor of the Competition (“Vice Chancellor”). The Vice Chancellor for the 2024 Competition is Bronson Bathras.
- B. The Vice Chancellor will accept written questions regarding the Competition Problem or Rules until Friday, January 5, 2023. Logistical questions concerning the Competition will be accepted until Friday, February 23, 2023. All such questions must be e-mailed to cua.hennessymootcomp@gmail.com. Questions will be answered within three (3) days of receipt, and each team will receive a copy of all questions asked and corresponding answers. Requesting advice on substantive legal questions about the Competition Problem, strategy, or tactics is considered to be soliciting outside assistance and may be subject to sanctions.
- C. The Steering Committee has the discretionary authority to modify or waive any of these Rules as necessary. The Committee will provide each participating team with any modifications or waivers.