Judges Instructions

(*This is a copy of the instructions that we asking each tournament host to deliver during the "judges orientation period; we prepared them for you to look at in advance of the competition so that you might raise questions during the orientation*)

Today you are asked to perform two functions. First, you are helping to **administer the hearings** to make sure that the competitors keep to our rules that are designed to ensure fairness throughout the competition, and so that we can run the tournament in an efficient manner. Second, you are asked to **score the hearings**. Your decisions will determine which teams advance to the Championship Tournament.

In helping to ***administer each hearing***, we would ask that you help enforce the rules that we have established for competitions sanctioned by the American Collegiate Moot Court Association.

- For instance, we have assigned each of the teams a number rather than having them compete openly under the name of their school. We are asking that you help protect their anonymity. Please do not, before or after oral argument, ask advocates or their coaches to identify their home school or their seeding. For scoring purposes, teams should be identified by their team number and the names of the team members. Ask them to print their names and to state how they will divide their argument time on the board before the hearing (if a board is provided).

- Timekeepers should be provided to provide time updates. If there is no timekeeper at your hearing, opposing counsel may keep time. Justices are asked not to keep time. Instruct the timekeeper to display the time cards so that they are clearly visible to the speaker and to you, and to say "time" clearly when time has expired. Each individual advocate is to receive time warnings. Thus, the five-minute warning, for instance, is to occur per individual advocate and not when the team has five minutes left, etc.

- Each team has 20 minutes to present its argument. It may divide its time as its wishes, but each individual advocate must present a minimum of 7 minutes of oral argument. Petitioners may reserve a maximum of 3 minutes of "rebuttal" from their 20 minute total, if it makes such a request, but only one team member may deliver the rebuttal. Teams do NOT have to identify who will deliver the rebuttal at a panel's outset. Advocates who fail to go the minimum of seven minutes or exceed thirteen minutes should be penalized unless they exceed their time because of timekeeper error or because the Court kept them at the podium with additional questions. It is in your discretion to allow a competitor a short time to finish a specific point if time is expired. Justices may permit a brief extension of oral argument if a contestant's time is exhausted while he/she is answering a judge's question and he/she requests such an extension. If contestants are not answering a question, they are expected to stop immediately when time is called. If possible please do NOT have competitors face the audience.

- This is a "closed case" problem to enable students to compete on a level playing field. Thus, you should award points based on the effective use of the primary cases (listed at the end of the problem). Students may refer to secondary cases (those cited within primary cases), but they must direct you back to the primary case which cites the secondary case. Students are prohibited from reading from the secondary cases, and if they cite secondary cases at all, they should use only information which is contained specifically in the primary cases. Any inclusion of facts, case law, legal principles, or other materials relevant to the secondary case, but not discussed in any of the primary cases, cannot be used. Please do not ask about case law which is not part of the primary case list, nor ask questions about secondary cases unless an advocate has introduced the secondary case. Questions about specific points regarding secondary cases should be limited to issues raised by an advocate and not extend beyond related issues. All other outside materials, including but not limited to statistics, law review articles, news reports, web-based sources, dictionaries, and statutes, are beyond the record and should not be used at all. Students should be penalized with

lower scores to the extent they go outside the record of what is contained in the primary cases. A list of secondary cases cited within primary cases is available from the Tabulation Room should it become necessary to clarify concerns. If students rely unduly on secondary cases or outside materials, and if judges focus on these outside materials and subsequently reward competitors for going beyond the record, it undermines the fundamental purpose of why the American Collegiate Moot Court Association closed the case problem.

- Each team will argue in three separate hearings as listed on the tournament schedule of hearings, so it is important to keep the hearing moving. Each team will argue Petitioner and Respondent once, and the sides shall be determined by a coin flip in the third round. After the round is over, ask the teams to go outside and fill out and sign your ballot. We are asking that you please do not consult with the other judges on your panel about an individual's or team's performance until you have signed the completed ballot. Then have advocates return in for a short constructive critique. We urge you to limit such post-round critiques to about 5 minutes so that the competitors can move quickly to their next rounds. Once you provide this feedback, please send the advocates on to their next hearing as designated on the schedule.

- Please do not start your next round until your ballot is completed and has been picked up or turned in. There is no need to add up scores yourself. We will tabulate them later with a computer. If you need extra ballots let the tournament director(s) know.

Of course you are also asked to ***score the round***. In so doing, we would ask to keep the following in mind:

- You are not charged with determining a winner on the merits, rather you are to judge the quality of the presentation based exclusively on the criteria on the scoring sheet. Even though we try to make the problem as balanced as possible, sometimes the fact pattern or case law may favor one side. Advocates have no say in the creation of the problem. Further, advocates have no choice about the side of the case they argue.

- Please do not penalize a team if you have seen it argue previously. If you are scheduled to see a team more than once during the preliminary rounds, or otherwise feel like you cannot objectively judge a team, please inform the Tournament Director before the round begins.

- It is important that each team receives the score it deserves. If students perform well, please reward them accordingly. If advocates are below average, it is equally important that their scores reflect that fact. Please keep in mind that these are undergraduate students; please keep your standards high, but realistic. Students who are deemed excellent should be scoring in the 90s in each of the scoring categories; those who are good should be graded in the 80s, satisfactory in the 70s, poor in the 60s or below. A scoring guideline is provided for you on the back of your ballot.

- Please be professional in your feedback. Comments that reinforce an advocate's strengths are always appreciated. Typically, this is not the time for exceedingly negative feedback along the lines of "you have no future in the law." If you deem it necessary and appropriate to comment on an advocate's personality, mannerisms, or appearance, please consider discretely directing your comments to the advocate's coach (if one is present).

- Please do not tell the contestants who won or lost the round.

- We ask that you please look at the ballot carefully and make sure that you have marked it accurately. That is the only way that those in the tabulation room might accurately reflect your wishes.

- Moot court involves appellate simulation. Accordingly, please evaluate whether attorneys who might use tactics that are successful at trial, such as reliance on humor, pacing the room, emotion, or personalizing clients or opposing counsel, are in fact effective and appropriate appellate advocates. Students are to argue to the Court, not with it. This means taking direction from

the bench and showing proper respect and awareness of their role vis-à-vis the Court in the process of oral argument.

- Please ask questions. There is nothing worse than a "dead" bench, and you must grade the students on question answering. You may ask questions whenever you wish and expect contestants to be attentive and not talk when you talk. It is suggested that justices allow students to get through their "roadmaps" before moving into questioning. Please remember that they only have 20 minutes per team, including questioning, so we ask you to keep your questions short and to the point. Please do not cross-examine the advocates. Students are expected to know all issues – but bear in mind that teammates are responsible for separate issues. Please do not ask about standard of review, do not ask students to speculate about why the facts are as they are, and do not ask questions that are outside the record—the participants are undergraduate students who have never taken a course in law school. Please be considerate of your fellow judges: do not monopolize oral argument and refrain from arguing with your fellow justices.