

JULIUS ALEXANDER ISAAC MOOT

Official Rules 2021

2020-2021 Black Law Students' Association of Canada

I. INTERPRETATION

A. Purposes and Objectives

The Julius Alexander Isaac Moot (“the Isaac”) is administered by the Black Law Students’ Association of Canada (“BLSA Canada”) through its appointed National Moot Director and National Moot Committee. The Isaac is designed to allow law students develop and apply a critical race or anti-discrimination analysis in a litigation context. It provides participants with the opportunity to interact with jurists from all levels and practitioners from across Canada. The goal is to build a cadre of litigators who are able to advance critical race approaches in their legal practice and better serve the diverse Canadian public.

The Official Rules are designed to facilitate the fair and proper conduct of the competition and shall at all times be interpreted in accordance with these purposes and objectives.

B. Interpretation of Rules

1. Referees

There will be a panel of up to three referees available up to and during the competition, responsible for the interpretation and enforcement of the Official Rules. The BLSA Canada National Moot Director and Moot Committee shall serve as referees.

2. Rules

Any question that arises during the competition concerning the interpretation or enforcement of these Official Rules will be decided by a majority decision of the Referees. No other persons (e.g. Timekeepers, administrative assistants, Judges or others) have the authority to interpret the Official Rules. Any reliance by a team on direction provided by a person or persons other than the Referees will not prevent a penalty from being imposed if the Official Ruling of the Referees differs from that of such other person or persons. All Official Rulings are final and binding.

3. Additional Powers

The Referees may promulgate such other measures as they may deem advisable for the fair and orderly conduct of the competition, provided that these do not conflict with any of the Official Rules and are in the best interests of the Moot.

II. PROCEDURES AND GUIDELINES

A. Jurisdiction of the Court

The Moot is an appeal to The Diversity High Court of Canada. No decision of any Canadian Court, including the Supreme Court of Canada, is binding on the Diversity High Court of Canada.

B. Fact Problem

The fact problem (the “Official Problem”) upon which the Moot will be based, will be written or chosen by a legal academic or practitioner with established expertise in critical race theory or equality/social justice theory and practice. The subject matter will raise issues of racism and other equality matters that are of timely interest. The Official Problem will be delivered to all participating schools.

C. Clarification

1. Official Problem

Participants may submit requests for clarification of matters that are unclear in the Official Problem as required to enable them to submit a proper argument. Such requests must be made in writing to the National Moot Director. Direct communication with the other Referees, including the author of the Official Problem, is not permitted. The request for clarification must include a brief explanation as to why the clarification is necessary for a proper understanding and development of the legal issues involved. Requests for clarification shall be answered selectively, at the discretion of the Referees and the author(s) of the Official Problem. Any answers will be distributed to all participating teams. Requests for clarification will be received by Friday, November 27, 2020. Any requests made after that date may not be acknowledged or may be subject to penalties at the discretion of the Referees.

2. Official Rules

Participants may submit requests for clarifications regarding the Official Rules by Friday, November 27, 2020. Such requests must be made in writing to the National Moot Director. It must include a brief explanation of why the clarification is necessary. Requests for clarification will be forwarded to the Referees for their consideration. Such requests shall be selectively answered, at the discretion of the Referees. Any answers will be distributed to all participating teams. Any requests for clarification after the deadline may be subject to penalties.

D. Eligibility

Any law school recognized by the Federation of Law Societies, accredited by the American Bar Association or their equivalents in other jurisdictions are entitled to send up to two teams to the competition. Graduate students registered in that program are eligible, at the discretion of their law school. No team can be comprised of members from more than one law school.

A team shall consist of a maximum of four (4) students, with two team members pleading on behalf of the Appellant and Respondent, respectively. Students are not permitted to switch roles once the facta have been submitted. Teams may include an additional member, at its discretion, as “counsel” who would have full participatory rights.

E. Application

All participating schools must have purchased paid the registration fee per team no later than Friday, November 6, 2020, unless otherwise permitted by the National Moot Director.

F. Team Identification

Each team in the competition will be assigned an identification code by the National Moot Director. This identification code must be used on all Facta and at all times during the competition. Neither the personal name of the participant or the school name shall appear on any submissions, on the person (such as name tags or insignia) or be referenced during the competition itself. The names of the team participants are not to appear on the Facta. The Facta are not to be signed with any geographic identifiers. Failure to comply with these requirements may result in a penalty, up to and including disqualification.

G. Outside Assistance

1. No person or persons other than the team members may participate in the preparation or presentation of any aspect of the team facta or oral arguments. The team facta (including research, interpretation, drafting and editing) and the oral arguments of each mooter must be the work of the team members only.
2. Notwithstanding subparagraph (1) above, it is permissible for team coaches, faculty members and others to discuss in general terms the issues raised in the Official Problem, to suggest possible research sources, and to provide instruction relating generally to advocacy techniques and the preparation of persuasive oral and written arguments. Any persons acting as judges in oral argument “practice rounds” shall be advised both orally and in writing by the team of the requirement that such “practice rounds” must so confine their comments and feedback.

3. In circumstances where there are two teams from the same school, collaboration between and amongst both teams and their coaches is permitted, subject to the general caveats of this section.
4. Teams shall not conduct “practice rounds” in front of persons who will be judges in the current year’s moot. It is the responsibility of teams to make such inquiries of potential “practice round” judges as necessary to comply with this rule. Teams shall submit a final list of all judges from the “practice rounds” to the National Moot Director prior to the competition. In addition, no team shall request that persons serving as authors of the Official Problem or Facta Evaluators assists with “practice rounds” or otherwise assist in the team’s preparation.

III. FACTA

A. Required Facta

Each team shall prepare an Appellant’s Factum and Respondent’s Factum.

B. Form

1. General

Each Appellant’s factum and Respondent’s factum shall consist of:

- a) Cover page limited to the following details: the name of the court appealed to; the style of cause; the title of the document (i.e. “Factum of the Appellant” or “Factum of the Respondent”); and the team identifier.
- b) Table of Contents setting out the headings used in Part I – IV of the factum
- c) Part I – Overview;
- d) Part II – Statement of Facts (a concise statement of facts by the Appellant or a statement by the Respondent of their position with respect to the Appellant’s statement of facts, together with a concise statement of such other facts considered relevant;
- e) Part III – Statement of Points in Issue;
- f) Part IV – Argument;
- g) Part V – Order(s) Sought (a concise statement of the order(s) desired);
- h) Part VI – List of Authorities and Statutes to be referred to (the full text and/or copies of statutes, regulations, or other reference materials should not be included in Part VI); and
- i) A blank final page.

2. Length

Part I to V of the factum will be no more than twenty (20) pages in total length. The papers of the factum shall be numbered with continuous Arabic numerals, beginning at Part I and ending on the final page of Part VI.

3. Spacing

Part I to V of the factum must have a 1½ line spacing; except for: (i) references, footnotes, and titles more than one line in length, which may be single spaced; and (ii) quotations of fifty (50) words or more, which may be single spaced and shall be indented 1/2 additional inches on both the left and right margins. All portions of the factum other than Parts I to V may be single spaced.

4. Type

All parts of the factum, except the cover page, and including the footnotes, shall be in Times New Roman 12-point font.

5. Printing and Page Format

Electronic copies of the Facta must be submitted in Microsoft Word format. Hard copies of the facta shall not differ from the electronic copy submitted. Any tracked changes must be removed from the electronic copy. Hard copies shall be printed on white paper, 8.5 x 11 in size, and must be fastened by cerlox binding.

Margins: each page of the factum shall have margins of at least 1 inch on all sides excluding page numbers.

Colours of cover and back pages: the cover page and back page of the Appellants factum shall be on buff/beige paper. The cover page and back page of the Respondent's factum shall be on blue paper.

6. Citations

All citations shall be made in accordance with the *Canadian Guide to Uniform Legal Citation*, which is the Official Citation Guide adopted by BLSA Canada.

Should a provision of the *Canadian Guide to Uniform Legal Citation* conflict with any Official Rule herein, the Official Rule shall prevail.

C. Submission of Facta

Teams must send their Appellant and Respondents facta – in PDF and Microsoft Word (.doc or docx) formats – to moot@blsacanada.com by Monday, January 4, 2021 at 4:30PM EST. Electronic facta must be labeled and submitted with the anonymous identifier provided by the BLSA Canada Moot Administrator in the following format: “Team [insert identifier code] Appellant Factum” and “Team [insert identifier] Respondent Factum”.

D. Revision of Facta

No team shall revise, add, delete or in any manner alter its facta after submission.

E. Ownership of Facta

All rights with respect to the facta remain with the team save for the entitlement of BLSA Canada to electronically post on its website and communicate orally and in writing with reference to its authors or anonymously, at its discretion, with direct relevance to the Isaac Moot Competition in the year it was submitted.

IV. ORAL ARGUMENT

A. Procedure

1. Rounds

The competition shall consist of preliminary rounds of oral argument, followed by a final round between the two highest ranking teams. The team standings will be determined according to the Rule VI, below. Every effort will be made to have no team meet any other team more than once prior to the final round.

2. Argument

Any team member may act as an oralist during any round. Eligibility for the oralist award is dependent upon having argued at least twice during the competition. Only two oralists may argue during any single round.

3. Time

Each team shall be allowed forty-five (45) minutes per round for oral argument. This time limit may be extended by the Judges in their discretion to a maximum of ten (10) minutes per round. No single oralist shall argue longer than twenty-five (25) minutes of the forty-five (45) minutes given to each team.

Included in the forty-five (45) minutes is a reply for the Appellant. Prior to the beginning of each round, the Appellant may reserve time for reply; no more than ten (10) minutes may be reserved. Respondents are not entitled to make a sur-reply and shall not reserve time for a sur-reply. If the Judges in their discretion extend total team time beyond forty-five (45) minutes, then and only then may an oralist argue longer than twenty-five (25) minutes.

4. Judges

The Judging panels shall consist of justices, lawyers and/or law professors. Whenever possible, the preliminary rounds will include a panel of three (3) Judges. The number of Judges for the final round, normally five (5), shall be at the discretion of BLSA Canada.

Judges in the preliminary and final round are encouraged to provide feedback to participants regarding their performance at the completion of rounds of oral argument if time and scheduling permits.

When addressing a Judge, mooters shall call the Judge “Justice [surname]”.

B. Counsel

During each round, one other team member may sit as counsel at the counsel table with the two oralists. The person acting as counsel must be one of the team members.

C. Scope of Argument

The scope of a participant’s oral argument is not limited to their factum. The scope of the Appellant’s reply *is* limited to the scope of the Respondent’s oral argument.

H. Scouting Prohibited

It is prohibited for team members to attend the rounds of opposing teams against whom they will argue. Deliberate scouting of opposing teams will be considered unsporting behavior and may result in penalties under section VI, below.

Recording of oral arguments is strictly prohibited, except with the advance permission of the Referees and the two participating teams. It is incumbent on teams to inform the colleagues from their schools. Penalties may even be incurred by teams for recording members of their school.

I. Courtroom Communication

Participants will be required to remain on mute when not presenting their arguments.

Oral and written communication may take place between the counsel table and an oralist while the oralist is presenting their argument.

No oral or written communication may take place between the counsel table and any coach, spectator or team member who is not at that counsel table during the round.

No materials of any kind may be submitted directly to the Judges by team members, including during oral argument.

F. Electronic devices

No electronic device shall be used at counsel table to search for content or authorities not prepared or compiled in advance of a round.

G. Spectators

Given the change in format, spectators will be restricted to team members and coaches.

H. Robes

Robes are not to be worn by the participants during the competition. However, business attire is required.

V. PENALTIES

A. Procedure

1. General

The Referees, on their own initiative or upon receiving a complaint, may assess a penalty for any violation of the Official Rules. The Referees shall make every effort to allow the team(s) or individual(s) accused of Official Rules violations to submit a response prior to the penalty determination. Following such reply, an Official Ruling shall be made by the Referees from which no appeal may be taken. The Official Ruling, which shall be prepared at the first reasonable opportunity, will inform the team(s) involved of the penalty. The Referees shall provide oral or written reasons at their discretion.

2. Complaints

Complaints pertaining to oral argument or other violations of these Official Rules must be reported immediately or at the first reasonable opportunity.

Any violations of the Official Rules occurring during oral argument that is not brought to the attention of the Referees immediately following the round will not be considered by the Referees and cannot result in the assessment of penalty points against the violating team.

A request to the Judges for a ruling on a breach of the Official Rules is not appropriate and may result in an assessment of penalty against the requesting team.

B. Quantum

1. General

The number of penalty points to be assessed against a team for a violation of the Official Rules will be at the discretion of the Referees. The Referees shall make every effort to assess penalties in a fair manner with regard to maintaining the integrity of the competition. In considering the quantum of penalty, the following factors will be taken into account:

- a) prejudice caused to the other teams in the competition;
- b) advantage gained as a result of the Official Rules violation;
- c) inadvertence or misadventure;
- d) occurrences beyond the control of the team(s) or individual(s) concerned;
- e) inconvenience caused to the organizers and to the other teams involved; and
- f) all the circumstances surrounding the violation including any reply submitted pursuant to paragraph A (1) above

2. Late Facta Submission

The quantum for a penalty in the case of a factum submitted later than the deadline will normally be assessed at two (2) points per day.

VI. SCORING

A. Score Determination

Factums – 100 points total

Factums are scored out of 50. Judges will decide on a score for each factum based on scoring criteria. Teams will receive a score out of 100 based on the sum of both Appellant and Respondent factum grades.

Oral Argument – 100 points total

Oral arguments are scored out of 100. Judges will decide together on a single score for each participant based on the scoring categories. Teams will receive a score out of 100 based on the average of both participants.

B. Penalties

1. Factums

Penalty points assessed against a factum will be subtracted from each factum Judge's score for the factum before the scores are averaged into the final score awarded to the penalized factum. For example, if three judges independently award the scores of 37, 39, and 41 to a factum which is penalized three (3) points for lateness, those scores will become 34, 36, and 39 respectively before they are averaged.

2. Oral Argument

Penalties assessed during oral argument may be either team penalties or individual penalties as determined by the Referees:

(a) In the case of team penalties, the amount of the penalty will be subtracted from the overall score awarded by the oral argument Judges to each mooter during the round in which the violation occurred. For example, if the Judges awarded overall scores of 70 and 75 to the two members of a team penalized two (2) points, the oralist scores for that round for all purposes will be recorded as 68, 73 respectively.

(b) In the case of individual penalties, the amount will be subtracted from the score awarded by the oral argument Judges to the penalized mooter during the round in which the violation occurred. The score of a non-penalized team member will not be altered by the assessment of an individual penalty against a teammate.

3. Other

In the case of penalties not arising specifically out of a factum or a particular round or oral argument, such as for unsporting behavior, the Referees shall assess penalties by subtracting penalty points from the total points awarded to the penalized team in whatever round the Referees, in their discretion, deem appropriate.

C. Winner of the Round

The winner of each round will be the team with the highest aggregate score. If the two teams remain tied after comparing aggregate scores for the round, the round will be declared a tie.

D. Winner of the Competition

Following the completion of all preliminary rounds, the teams will be ranked from highest to lowest according to the procedure below. The winner of the final round, as determined by the final round judges, will be the winner of the competition.

1. Total Aggregate Score

The final score for each team will consist of a combination of factum scores and oral argument scores. Teams can earn a total of 200 points, calculated as follows:

Total sum of factum scores plus Total oral argument score = **Aggregate Score**

2. Highest Factum Score

In the event of an aggregate score tie between two teams, the team with the highest combined factum score shall be ranked higher.

3. Highest Oral Argument Score

In the event of a factum score tie between two teams, the team with the highest oral argument score shall be ranked higher.

4. Discretion

If two teams are still tied after comparing scores by applying rules 1-3 above, determination of the rank as between the two teams will be made by the referees in consultation with the judges.

E. Top Factums

The winners of the Top Factum award shall be the team with the highest total factum scores, computed by totaling all of the factum scores received from the facta graders.

In the event of a tie, the winner of this award will be determined by the referees in consultation with the judges who awarded the highest scores.

F. Top Oralist

The winner of the Top Oralist award will be the person with the highest individual oral scores.

In the event of a tie, the winner of this award will be determined by the referees in consultation with the judges who awarded the highest scores.