



## **POLICIES AND PROCEDURES**

### **EUGENE GRESSMAN APPELLATE MOOT COURT COMPETITION**

**SPRING 2024**

#### **Brief Overview of the Competition**

**This intra-scholastic moot court competition is an annual, tournament-style writing and oral argument competition during which a pair of students forms a team, writes a brief, and progresses through rounds of oral argument. On Wednesday, January 3, 2024, the record, which consists of an appellate opinion containing facts and analysis of two legal issues, will be distributed to all participants on the course Canvas page. Each team will be assigned either Petitioner or Respondent and will have until February 7, 2024, to write and submit an appellate brief reflecting the legal arguments of their respective side. Then, oral arguments will begin on February 24, 2024, and will progress in a march-madness-style format. Each pair will continue in the competition until it is eliminated, or the pair makes it to the Final Round.**

#### **Rules: Notice, Changes, Questions, and Candor**

1. Each participant is responsible for reading and understanding the Gressman Competition (“the Competition”) rules. Each participant is responsible for checking their Seton Hall email account and Canvas page ON A DAILY BASIS for announcements that may change, modify, or explain these rules, for announcements about argument dates and times, and for any other announcements concerning the competition. Participants are deemed to have notice of the contents of these rules and the contents of any notice posted on Canvas.

2. Questions concerning the Competition should be e-mailed to the Student Gressman Director, Alexandra Franchino at alexandra.franchino@student.shu.edu. Responses will be provided, via e-mail, within 24 hours. If the Student Director cannot respond in a timely or sufficient manner, Faculty Advisor, Lara Pennington will address your matter. Please reference “Gressman” in the subject of your e-mail. To the extent that they affect everyone, questions and responses will be posted on Canvas within 24 hours or by 12:00 p.m. the following Monday, if e-mailed over the weekend.
3. Substantive questions will not be answered unless they concern a genuine ambiguity. For questions concerning a genuine ambiguity, responses will be posted on Canvas in keeping with the procedure set forth above.
4. Participants of the Competition are held to the same standards as an officer of the Court. Each participant shall treat the Student Director, Faculty Advisor, other participants, and judges with dignity, respect, and candor, as required by the Model Rules of Professional Conduct.

### **Course Credit, Withdrawal from the Course and the Competition**

1. Students receive one credit for participation in the Competition. To receive credit each competitor must fully participate in both parts of the Competition: (1) each competitor must substantively participate in the preparation and timely submission of a team brief that reflects a good faith effort; and (2) each competitor must participate in oral arguments and remain in the Competition until eliminated. The course is graded on a pass, fail, or “D” basis. Those who fail to meet the course requirements will fail the course.
2. Participants may withdraw from the Competition no later than the end of the Add/Drop period. Withdrawal from the course after this date will be permitted only under extenuating circumstances and with the approval of the Faculty Advisor and the Associate Dean.

## Distribution of the Problem

1. The problem will be posted on Canvas on Wednesday, January 3, 2024, at 12:00 p.m.
2. Each team pairing (“pair”) will be designated either Petitioner or Respondent and receive an anonymous number via email. Submission of a brief on behalf of the wrong party automatically deducts **20 points** from your total brief score.
3. Pairs who register for the Competition after January 3, 2024, will be provided access to Canvas, a designation as either Petitioner or Respondent, and an anonymous number immediately upon notification that they have entered the Competition. These pairs will not have extra time to submit their brief.
4. All competitors must attend only **one** of the two class meetings on either Monday, January 22, 2024, at 6:30 p.m. OR Tuesday, January 23, 2024, at 5:00 p.m. A Microsoft Teams (“Teams”) meeting invitation will be provided before the meeting date.

## Brief Due Dates

1. Briefs are due via email on or before Wednesday, February 7, 2024, at 12:00 p.m.
2. All briefs should be provided via email in **.pdf** format to Professor Pennington. Her email address is [Lara.Pennington@shu.edu](mailto:Lara.Pennington@shu.edu).

## Penalties

1. Briefs that are submitted up to twenty (20) minutes late *without a prior approved extension of time* are subject to a penalty of **TEN points** deducted from the brief score. Any briefs submitted more than 20 minutes late *without*

*a prior approved extension of time* will be penalized **TWENTY points**. Any briefs submitted after 11:59 p.m. on February 7, 2024 will be penalized **THIRTY points**.

2. **NO briefs will be accepted after 8:00 a.m. on Sunday, February 11, 2024.** Participants who have not submitted a brief by 8:00 a.m. on February 11, 2024, and have not received an *extension of time*, will not pass the course.

### **Extensions of the Deadline and Excuses for Late Submissions**

1. The Gressman Faculty Advisor, Professor Pennington, will consider extensions of the deadline for submission of the brief in the case of extenuating circumstances, such as severe illness or family emergency. Please note that a doctor's note may be requested in the event of severe illness. Outside work commitments do not constitute extenuating circumstances.
2. All requests for extension of the deadline must be **submitted in writing** (via email) to the Gressman Faculty Advisor. Such requests must be submitted no later than 6:00 p.m. on Sunday, February 4, 2024. A decision will be rendered to the team by the Gressman Faculty Advisor.
3. The Gressman Faculty Advisor will consider excuses for lateness where no prior extension has been obtained in the case of sudden, unexpected, and unanticipated circumstances.

### **Brief Requirements**

1. The brief must fully discuss all issues raised by the problem and must be the **original work** of the competitors. Submitting a brief that discusses issues outside the scope of the problem will result in point deductions at the discretion of the graders.

2. **The brief must contain the following sections:**

- Cover Page
- Table of Contents
- Table of Authorities
- Statement of Jurisdiction
- Standard of Review
- Question Presented
- Statement of the Case (including both factual background and procedural history; competitors should include page citations to the Record)
- Summary of the Argument
- Argument (including Point Headings)
- Conclusion (including signature line and anonymous number)

3. A pair's brief must be at least **twenty (20) pages long**, but no more than **twenty-five (25) pages long**. The 20-25-page limit does NOT include the Cover Page, Table of Contents, or Table of Authorities. DO NOT include the Record on Appeal as an appendix but do cite to the Record on Appeal in your Brief. Each partner should write approximately 50% of the brief.

4. The brief must be typewritten in **12-point font**, on unlined, unruled 8-1/2 x 11" paper with **1" margins** on all sides. The brief should include page numbers. Please double-space, use Times New Roman or Century Schoolbook font, and justify the text. Quotations of more than 50 words shall be indented and single-spaced. Footnotes may be single-spaced, but, as in legal practice, should be used rarely.

5. All citations in the brief must conform to THE BLUEBOOK current Edition.

6. **The pair's assigned anonymous number must appear in the upper right-hand corner of the cover AND in the header of the pair's brief. THE NAMES OF THE TEAM MEMBERS SHOULD NOT APPEAR ANYWHERE ON THE BRIEF.**

7. **In an attempt to preserve anonymity in grading, DO NOT share your pair's anonymous number with any members of the Appellate**

**Advocacy Moot Court Board, including the Gressman Faculty Advisor, prior to the Opening Round of oral argument.** An attempt to reveal the identities of the brief authors to a Board Member may result in disqualification from the Competition.

### **Obtaining your Adversary's Brief**

1. Once the first-round pairings are posted on or before Wednesday, February 21, 2024 at 12:00 pm on Canvas, each team will receive their adversary's brief via email.
2. In subsequent rounds, after pairings are posted, pair's must exchange briefs with their adversary at least 48 hours before the scheduled oral argument. Failure to exchange briefs will result in a **TEN-point** deduction from the oral argument score for that round.

### **Plagiarism**

1. Passages in a brief that are taken verbatim from another source must appear in quotation marks and properly reference that source. This includes passages taken verbatim from the Record on Appeal. Passages that paraphrase another source or otherwise utilize ideas expressed in another source of any kind must properly and clearly reference that source. Failure to reference sources properly is plagiarism.
2. To the extent that it relates, Seton Hall University School of Law's Honor Code ("Honor Code") governs this Competition. The Honor Code can be viewed at <https://law.shu.edu/docsnoncommonspot/policies/honor-code.pdf>.
3. Violations of the plagiarism rules and the Honor Code may result in immediate expulsion from the Competition, entry of the grade of "F" for the course, and reference to the Academic Dean for further disciplinary action.

## Use of Unpublished Materials

1. In the past, students have obtained materials that are unpublished and not easily available on the internet to aid them in the preparation of their briefs and arguments. The Competition neither prohibits nor encourages the use of these materials. **They may, however, be used only under the following conditions:**
  - a) A team using such materials must, at their own expense, obtain an extra copy of the materials and place the copy on reserve in the library;
  - b) The team must advise the Student Director so other competitors know that the material is available; and
  - c) The pair's brief (and that of any other team using the material) must contain reference to the use of the material, both in the form of a citation in the body of the brief and a reference in the Table of Authorities to the brief under a separate heading entitled "Other Sources Utilized."

**These rules do not apply to “unpublished” opinions that appear on Lexis Nexis or Westlaw, as long as such opinions are properly cited to enable others to easily locate them on these databases.**

2. Violations of the rules regarding the use of unpublished materials may result in appropriate sanctions.

## Consultation with Faculty, Students, & Attorneys

- Students **MAY NOT** consult with faculty, attorneys, or other students when writing the brief or preparing the oral argument.
- However, once a pair is eliminated from the Competition, a competitor may ask a faculty member to review their part of the brief for use as a writing sample.

## Oral Argument

1. All oral arguments for the 2024 Gressman Competition will take place in-person unless safety concerns preclude conducting arguments in this manner. In that case, arguments will take place via Teams, and Teams meeting invites will be sent prior to each oral argument round. However, any students approved for virtual learning for the Spring Semester will have the option to participate in the oral argument rounds of the 2024 Gressman Competition via Teams, but must appear in person if they argue in the semifinal and/or final rounds.
2. Each pair must compete in the **Opening Round of oral argument and remain in the Competition until eliminated**. Failure to appear in the Opening Round or to remain in the Competition until eliminated will result in a failing grade for the course.
3. In the event that an uneven number of pairs register for the course, it will be necessary for one pair to argue a second opening round. Pairs will first be asked to volunteer. However, in the event that there are no volunteers, a pair will be randomly assigned. Note: arguing a second opening round offers a tactical advantage because only the pair's best argument will be considered. In the event that multiple pairs volunteer, a pair will be randomly selected.
4. A pair that fails to appear for oral argument or that appears late for oral argument automatically forfeits the round and will be required to show good cause for their absence to the Gressman Faculty Advisor in order not to receive a failing grade. **A pair is considered late if they are not present FIVE minutes after the argument is scheduled to begin.**
5. Participants, and those eliminated, may **not** observe the official oral arguments of other pairs participating in the Competition.



## **Scheduling of Oral Argument**

1. Oral arguments will commence on **Saturday, February 24, 2024** at Seton Hall Law. Room assignments for the arguments will be provided upon check-in.
2. Arguments are expected to proceed according to the schedule set forth at the end of these rules. Any changes in this schedule will be posted on Canvas.
3. After the Opening Round pairings are posted, absolutely no changes in the schedule will be granted absent *exigent* circumstances or to accommodate religious observances. Class and work conflicts do not constitute exigent circumstances. Note that it is the student's responsibility to check the schedule and timely inform the Student Gressman Director of any conflicts.

## **Rules Pertaining to Emergencies**

Given the pre-determined schedule based upon the administration's approval of the given dates, the Faculty and Student Gressman Directors have very little, if any, control over accommodating last-minute emergencies. The Directors will do their best to accommodate, if possible. If accommodations cannot be made, forfeiture might be the only solution, given the time-sensitive nature of the competition. Nevertheless, it is in the best interest of participants to promptly notify the Student Gressman Director of any emergencies that may hinder a team's ability to participate or argue at their selected time slot, so that the Student Gressman Director has as much time as possible to allot to the accommodation efforts.

A team may not withdraw from the competition without special permission from the Gressman Faculty Director.

## **Oral Argument Time Requirements**

1. All arguments will be presented to panels of 2-4 attorneys, professors, and/or judges.

2. The judges are asked not to consider the substantive merit of the parties' respective positions when assessing a pair's performance. In other words, the judges are asked not to consider which team would prevail on the legal issues because pairs have been arbitrarily assigned to sides. **The judges will not see the briefs that are submitted by the pairs arguing before them, nor will they know any pair's brief score.** The judges' knowledge of the problem will be derived from their own knowledge of the law in the area and from the bench memorandum prepared by the Gressman Student Director and his or her team.
3. A total of **fifteen (15) minutes** is allotted to each competitor for oral argument, 30 minutes total for each team. Each competitor must argue for at least ten minutes.
4. Petitioner may reserve up to three (3) minutes of time for rebuttal argument. If Petitioner wishes to request rebuttal time, the Petitioner must request it **from the Court (not the bailiff) before beginning their pair's substantive argument.** Failure to request rebuttal time will result in a forfeiture of the opportunity to rebut. Petitioner may request that the rebuttal time be deducted from their allotted time or that of their partner, but not from both. Only one partner may give the rebuttal in an oral argument round. Nevertheless, if one partner gave the rebuttal in one round, that does not negate the other partner from doing it in the next. In other words, either partner may give the rebuttal in an oral argument round, no matter who rebutted in the previous round. Further, even if the rebuttal pertains to the issue handled by the non-rebutting partner, the rebutting partner may still rebut.
5. The problem is set for argument in the United States Supreme Court. The panels will include judges of the federal and state courts of New Jersey or New York, distinguished alumni, and members of the Bar. Accordingly, participants' conduct should respect the dignity and formality of the occasion; *participants' attire should be that which a practicing attorney would wear in an actual argument before the United States Supreme Court.*

## Opening and Elimination Rounds

1. At the end of the Opening Round argument, all pairs will receive a total combined score (oral argument score plus brief score). The 32 pairs with the highest combined score will be selected to advance. The top 32 pairs will be announced via Canvas. If there are not 32 pairs in the Competition, **all** pairs will compete in a second compulsory round.
2. After the completion of the Opening Round and/or a second compulsory round, the pairs will be seeded (based on both the brief and oral argument scores pursuant to the grading system outlined below in the Scoring of Each Round section), and all rounds will be single elimination. Winners will be notified at the end of each round. The seeded rounds will be the Round of 32 (32 pairs), Sweet Sixteen (16 pairs), Quarterfinals (8 pairs), Semifinals (4 pairs), and Finals (2 pairs).
3. All pairs will argue on-brief for the Opening Round. In other words, each pair will present an oral argument on the side for which they wrote the brief.
4. After the completion of the Opening Round, pairs may be assigned to argue “on-brief” or “off-brief.” For example, if 10 pairs represent the Respondent and only 6 pairs represent the Petitioner, it is **not** safe to assume that the 6 pairs representing the Petitioner will argue “on-brief” because the seeding might pair those pairs to oppose one another. In the event that one pair is required to argue “off-brief” after the Opening Round, this will be determined by a coin toss. Therefore, pairs **must be prepared to argue either side** if they advance beyond the Opening Round.
  - a. **TIP FOR ADVOCATES:** It is in your best interest to prepare an understanding of the opposing side’s argument for your personal use at an early stage in the competition, so you are not stuck having minimal time to prepare an argument for the other side if you end up having to argue off-brief.

## Scoring of Briefs

1. Briefs are scored anonymously on a 1 – 100-point scale. Briefs will be evaluated on the basis of legal analysis and argument, citation form, adherence to court rules, writing (including grammar, punctuation, and spelling), and identification and use of legal authority. All briefs will be scored anonymously by several members of the Appellate Advocacy Moot Court Board. Again, an attempt to identify the authors of a brief to a Board Member prior to Opening Round may result in disqualification from the Competition.
2. The Best Brief Award will be based on the scoring sheets provided by the grading members of the Appellate Advocacy Moot Court Board. All pairs who have written and submitted a brief are eligible for this team award. One Best Brief Award will be given to a Petitioner team, and one to a Respondent team.

## Scoring of Oral Argument

1. Oral argument is scored by the two to four attorneys, professors, or judges who preside over each argument. Scoring of oral argument is on a 1 – 60-point scale. A blank copy of the judges' scoring sheet is posted on Canvas. Each judge evaluates the performance of each student advocate and assigns a point value to that performance. The score for each competitor of a team will be added together to determine whether the team will advance in the Competition.
2. A pair's oral argument score will consist of scores from the **current round only**. This means that a pair's oral argument score from previous rounds will not be factored into future rounds. However, all oral argument scores, except the final round, will be used to determine the Best Oral Advocate Award.
3. The Best Oral Advocate award will be based on scoring sheets provided to the judges for this purpose. Only participants who have completed three rounds of oral argument are eligible for this award. For purposes of determining the Best Oral Advocate, the final round of argument will not be taken into consideration. The Best Oral Advocate award is an individual award, not a pair award. The Best Oral Advocate award will be awarded to one Petitioner and one Respondent.

## Scoring of Each Round

1. The scoring system is designed so that the brief score constitutes 40% of the combined score, and the oral argument score constitutes 60% of the combined score. In each round of oral argument, except the final round, the pair that receives the highest combined score wins the round. **In the event of a tie, the pair with the highest brief score shall proceed.** However, in the final round, only the oral argument score will be considered in determining the winning team.
2. The oral argument judges are not allowed to see the brief scores. The weighing of the brief scores and the oral argument scores in the determination of the combined score is consistent with the rules of national moot court competitions. The allocation of 40% weight to the brief score is also consistent with the principle that an effective appellate advocate must have both brief-writing and oral advocacy skills.
3. Brief scores, oral argument scores, and combined scores are kept confidential; neither the scores, nor the scoring sheets, are revealed to the participants in the Competition at any time during or after the Competition.

## Interscholastic Moot Court Competitors

1. Finalists and Semi-Finalists are generally considered for, though not guaranteed, the opportunity to represent Seton Hall Law at one of the Interscholastic Moot Court Competitions. Any questions regarding the Interscholastic Moot Court Board should be directed to Professor Jodi Hudson, the Director. The Gressman Competition is not otherwise part of the Interscholastic Moot Court Board.

## Dates of Arguments

- February 24 – Opening Round (**You must be available on this date unless you have a religious observance conflict. Please advise ASAP of any conflicts.**)
- **February 26** – Opening Round (**You must be available on this date unless you have a religious observance conflict. Please advise ASAP of any conflicts.**)
- February 28 – Round of 32 (or second compulsory round)
- March 12 – Round of 16
- March 21 – Round of 8 (quarter-final round)
- March 26 – Round of 4 (semi-final round)
- April 3 – Final Round

### Summary of Dates and Deadlines

1. **Problem Distribution:** Wednesday, January 3, by 12:00 p.m. via Teams.
2. **Briefs Due:** Wednesday, February 7 by 12:00 p.m. via email to Professor Pennington.
3. **Mandatory Meeting:** Monday, January 22, 2024, at 6:30 p.m. **OR** Tuesday, January 23, 2024 at 5:00 p.m. via Teams.
4. **Deadline for Withdrawing from the Course:** End of the Drop/Add period.
5. **Oral Argument Dates:** Please see above and note that these dates may change as the circumstances require. Changes will be posted on Canvas and/or emailed to each participant.

Questions about the Competition should be directed to Alexandra Franchino, Gressman Student Director, or Professor Lara Pennington, Gressman Faculty Advisor.