

AMERICAN BAR ASSOCIATION
LAW STUDENT DIVISION

2016-17

**ARBITRATION
COMPETITION**

C O M P E T I T I O N

RULES



ARBITRATION COMPETITION RULES
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AMERICAN BAR ASSOCIATION LAW STUDENT DIVISION

ARBITRATION COMPETITION RULES

BACKGROUND / ADMINISTRATION

The American Bar Association Law Student Division developed this competition in 2005 to provide law students with arbitration education and training and to promote excellence in arbitration advocacy. This competition simulates a realistic arbitration hearing. Participating students learn how to be an advocate representing a client in an arbitration. They prepare and present an arbitration case and are involved in opening statements, witness examinations, exhibit introductions, evidentiary presentations, and summations. They should also experience what it is to be a professional, competent, and ethical advocate.

The ABA Law Student Division and the Arbitration Competition Subcommittee of the Competitions Committee conduct this competition.

The Arbitration Competition Subcommittee consists of at least three members who are appointed by the Chair of the Law Student Division. The members of the Arbitration Competition Subcommittee assist the ABA, the Law Student Division Chicago office, and Regional Host Schools in administering the Regional Competitions. A member will attend or be available by telephone for each Regional Competition.

Team coaches and advisors of competing teams are prohibited from judging or assisting in the administration of competitions in which their teams are competing, subject to Rule 12.

The ABA Law Student Division and the Arbitration Competition Subcommittee directly administer this competition at the national level.

The Law Student Division Chair may appoint a law student as National Student Director, who shall assist the Chicago Office, the Arbitration Competition Subcommittee, and host schools with the competition. The National Student Director is responsible to keep the Law Student Division informed through tri-annual reports as to the progress of the Arbitration Competition and may attend the National Finals Competition. The term of the National Student Director runs from June 1 to May 31.

1. ELIGIBILITY AND ABA MEMBERSHIP

Only law students who are candidates for a Juris Doctor degree and who are enrolled during the fall semester or quarter of the Regional Competition are eligible to participate.

Although they may compete at the regional level, students who graduate or visiting students who return to their degree-granting institution in between the Regional Competition and National Finals Competition cannot be substituted at the National Finals Competition. These students are encouraged to confirm eligibility and reimbursement with their schools.

All American Bar Association-approved law schools are eligible to enter up to two teams in the competition. The committee has discretion to allow additional teams as necessary. The entry fees are posted to the Law Student Division's website (www.ambar.org/lstdac).

To enter the competition, the dean of the participants' law school must approve the application and a full or part-time faculty member or a lawyer approved by the law school must agree to serve as the Faculty Contact. The Law Student Division Chicago Office must *receive* the entry form and fee by the deadline posted to the competition's website (www.ambar.org/lstdac). Failure to adhere to this rule may result in disqualification.

Acceptance of entry forms and fees received later than the deadline is at the discretion of the Law Student Division and the Arbitration Competition Subcommittee. All team members and alternates are required to be Law Student Division Premium members. Team member and alternate names and their ABA membership numbers are due to the Law Student Division Chicago Office at least three weeks before the first Regional Competition.

2. TEAMS / ALTERNATES

A team consists of four law students attending the same ABA-approved law school. Each team will be comprised of two students who play the roles of lawyers and two students who act as witnesses for their respective side in each round. The lawyers and witnesses may change their roles from round to round but must keep their same roles during a round.

Schools are urged to register at least one alternate. Only law students who have been registered as an alternate may be substituted for a regular team member under the following circumstances:

1. Any time before the Regional Competition Begins;
2. Once the Regional Competition has begun, but only for an unavoidable circumstance¹ or any other reason that may be deemed an unavoidable circumstance by the ABA Arbitration Competition Subcommittee Chair; or

¹ Unavoidable circumstances are limited to an unforeseen obligatory academic exercise; a civic or legal duty, absence from which might result in civil liability or criminal culpability; the serious illness or injury of the competitor or a relative or close friend; inability to travel, for a reason other than lack of funding or poor planning; advanced pregnancy or advanced pregnancy of a competitor's spouse or partner; or a religious obligation.

3. Between the Regional Competition and National Finals Competition but only for unavoidable circumstances or any other reason that may be deemed an unavoidable circumstance² by the ABA Arbitration Competition Subcommittee Chair. An unavoidable circumstance does not include graduating early or a visiting student returning to his or her degree-granting institution. The ABA Arbitration Competition Subcommittee must be notified immediately of any substitutions.

If substitution is not permitted or if an alternate is not available, a team may continue with only 3 members with 2 members playing the role of the attorneys and 1 playing both witnesses. A team may not compete with only 2 members.

Team members who competed at the Regional Competition must also compete at the National Finals Competition subject to Rule 2(3). If a team member did not compete in the Regional Competition, a team member may not compete in the National Finals Competition, unless the team competed with three team members due to unavoidable circumstances, then the one team member who did not participate due to unavoidable circumstances may compete in the National Finals Competition.

Alternates may observe only the team for which they are eligible to substitute.

3. TEAM PAIRINGS

The Law Student Division will assign each team a random designation. This method will be the sole method of identifying the team to all competition judges during the competition. Anyone affiliated with a team, including team members, coaches, and observers, may not directly or indirectly divulge their law school's identity to the judges. Refer to Rule 7(J). Violation of this rule shall result in a penalty, up to and including disqualification.

The Law Student Division will provide each Host School with a pairing schedule. Pairing schedules for 10, 12 and 14 teams can be found in Appendix B.

Each team will advocate for both the claimant and respondent in different rounds. Opposing sides will be randomly matched for the first and second rounds. No team will advocate against the same team twice in the preliminary rounds of the competition, unless unusual circumstances require such pairing and the teams represent different sides.

If an odd number of teams is scheduled to compete, the host school should endeavor to provide an extra team to compete in the two preliminary rounds to avoid a bye situation. There is no fee if the extra team competes only in the preliminary rounds. However, if the

² Unavoidable circumstances are limited to an unforeseen obligatory academic exercise; a civic or legal duty, absence from which might result in civil liability or criminal culpability; the serious illness or injury of the competitor or a relative or close friend; inability to travel, for a reason other than lack of funding or poor planning; advanced pregnancy or advanced pregnancy of a competitor's spouse or partner; or a religious obligation.

extra team qualifies to advance to the semifinal round, it may do so only if the entry fee for the extra team has been paid prior to the start of the Regional Competition. If an extra team cannot be provided, two different teams selected by lot will receive byes in the preliminary rounds. If a team drops out after the pairings have been set, the teams that would have faced the team that dropped out will receive the byes. The teams receiving a bye will receive 3 judges' votes and a score equal to the total score from the round in which they actually compete.

For the semifinal round, the team ranked first will compete against the team ranked fourth. The team ranked second will compete against the team ranked third. These pairings apply even if two teams from the same school would compete against each other. For the final round, the two winning teams from the semi-final round will compete against each other.

In the semifinal round, the top seeded teams from the preliminary rounds choose the side of the case they want to represent, except that if two opposing teams competed head-to-head in an earlier round, the teams must represent the other side of the case from the side they previously represented. The teams choosing sides must notify the opposing teams within five minutes of being asked and may not change their minds after notifying the opposing teams.

In the final round, the selection of side shall be made by coin toss by the Competition Administrator with both teams being present. The highest seeded team (from the preliminary rounds) advancing from the semifinal round will call the coin in the air. The winner of the coin toss selects the party it will represent.

The first place team from each Regional Competition will advance to the National Finals Competition. If additional teams are needed, the Law Student Division and the Arbitration Competition Subcommittee will select one or more teams as needed from the Regional Competitions.

4. CASE FILE

The Arbitration Competition Subcommittee is responsible to develop the case file for the Regional and National Finals Competitions. The case file will contain all the facts, evidence, claims and defenses, and legal issues available to both sides. No confidential information exists.

All ABA Law Student Division Competition Problems (also known as case files, scenarios, fact patterns, and records) are copyright protected under U.S. copyright laws. Audio, visual, or written versions of these problems may NOT be posted and/or shared online or digitally distributed in any manner without express written permission from the ABA Law Student Division except for use in preparation for the Arbitration Competition for the year in which the problem was released. Failure to comply with this requirement may result in immediate disqualification from the competition or may subject you to civil and/or criminal liability under 17 U.S.C. §100 *et. seq.*

The persons and events depicted in a case file are purely fictional and are prepared solely for the educational exercise being conducted in the competition. Any resemblance to actual persons, living or deceased, is unintentional and purely coincidental.

The competition involves the arbitration of a civil dispute. The same case file will be used in the Regional Competitions and the National Finals Competition. Each team must be prepared to represent both sides of the case.

Teams may timely submit clarification inquiries regarding material matters relating to the case file in advance of the competition. Such inquiries must be submitted via the online problem clarification request form by a coach or faculty advisor no later than 10 days after the case file is distributed to teams. One form must be submitted for each question. No school, regardless of the number of teams it has in the competition, may submit more than five questions. Each subpart of a question is counted as a question. Inquiries and responses shall be posted on the ABA Law Student Division Arbitration Competition website and available to all participants. The online problem clarification request form is posted to the Arbitration Competition home page at www.ambar.org/lsdac.

5. FORMAT

The Regional and National Finals Competitions consist of two preliminary rounds, with each team advocating against two different teams, subject to Rule 3. After the preliminary rounds, the top four teams advance to a single-elimination semifinal round, with the two winning teams meeting in a single-elimination final round.

6. COMPETITION SCHEDULE

Each round takes 180 minutes and includes a 120 minute arbitration hearing, 30 minutes for the Arbitrator Judges to complete evaluation forms, and a 30-minute critique of the students by the Arbitrator Judges.

Host School Administrators shall give notice of the Regional Competition schedule to all participating schools at least four weeks prior to the competition, and a sample schedule can be found in Appendix A.

7. COMPETITION PROCEDURES

A. Hearing

1. The Arbitrator Judges act as Arbitrators for the hearing and as Judges to **evaluate and critique the students. They comprise the Arbitration Judges Panel** (“Panel”).
2. The Chair of the Panel (“Chair”) shall be selected by the Regional Host School Competition Administrator or the National Finals Competition Administrator and shall preside over the hearing procedures and rule on any objections.

3. The case will be presented to the Panel as if they are the Arbitrators who would decide the merits of the case.
4. The Panel may ask questions of the lawyers only during their opening statements and summation but may not ask questions of the witnesses at any time.
5. The Chair shall swear in or affirm all witnesses at the beginning of the hearing before the openings: “Do you swear or affirm that your testimony shall be the truth?”

B. Time

1. Each team will have 60 minutes to present its case during a hearing. The time limit will be strictly enforced, although not all the time has to be used.
2. **Responsibility rests with the student lawyers to decide how they use their 60 minutes and to stay within their allotted time.** A *suggestion* for how that time may be allocated is as follows:

Opening Statement:	5 minutes
Direct and redirect examination of two witnesses	25-30 minutes
Cross-examination of two witnesses	15-20 minutes
Summation	10 minutes
3. The Panel should ensure the teams do not exceed their allotted 60 minutes. If resources or neutral volunteers are available, timekeeping devices or timekeepers may be provided by the host, but no individual identified with a team participant may act as timekeeper in that hearing. In addition, the Chair shall appoint an Arbitrator Judge to act as Timekeeper, who should use the Timekeeping Sheet in Appendix E.
4. The Chair determines when a team has used up its time and shall interrupt and stop a team that has exceeded its 60-minute time limit. If team members believe they were wrongfully stopped short of their allotted 60 minutes, team members must immediately raise that objection to the Panel. The decision of the Chair is final and non-reviewable and cannot be challenged under these rules.
5. The available time includes objections and rulings. If an opposing team makes numerous objections, the Chair has the discretion to allow the team that has lost time due to the objections an additional amount of time equal to the time lost. The Chair may also exercise discretion to allow extra time for a cross examining team where the opposing team’s witnesses unnecessarily draw out cross examination by answering beyond the question asked. (Alternatively, where a witness is talking excessively on cross examination, the Panel should allow the cross examining lawyer to control and/or cut off the witness to stay within the allotted time.) Finally, if the Panel asks several questions during Opening Statement and/or Summation, the Panel may wish to allow extra time to compensate.

C. Proceedings

1. Teams must confine their presentation to the facts and legal issues contained in or supported by the case file. **Teams may not add claims or defenses not asserted**

in the case file and may not enhance their position by presenting evidence or arguments about other facts or legal issues.

2. In each round, each student lawyer is to conduct one direct and one cross-examination, and either the opening or summation.
3. Each team is to have two different students act as the two witnesses, subject to Rule 2.
4. No team may waive/defer opening or summation or decline to offer or examine a witness.
5. Claimants sit on the judges' left; Respondents sit on the judges' right.
6. Lawyers will sit during all phases of the hearings and need not stand for any objection or presentation. If the setting permits, lawyers and witnesses may stand for an exhibit presentation or during opening and summation at the discretion of the Chair.
7. No motions relating to the case, including motions to dismiss and motions to amend, may be made before, during, or after the hearing.
8. There is no brief or memo writing requirement as part of the competition.
9. The Panel Members may lower the score of a team that violates these rules.

D. Openings and Summation

1. The claimant's lawyer begins with an opening statement immediately followed by the opening statement by the respondent's lawyer.
2. After both sides present their evidence, the respondent's lawyer gives a summation immediately followed by a summation by the claimant's lawyer.
3. No summation rebuttal is allowed.

E. Evidence

1. Each team may present all relevant and reliable evidence. The parties may stipulate to the admissibility of exhibits, or they may reserve the right to argue admissibility to the Panel.
2. The Chair determines the admissibility of evidence and rules on objections, may consult with the other Panel Members, and is guided by, but not bound by, the Federal Rules of Evidence.
3. Lawyers may make appropriate objections, which must be brief and supported by an evidentiary basis. Responses should be permitted by the Chair only where an offer of proof is appropriate.
4. A team may ask the Panel to take arbitral notice of uncontroverted facts.

F. Applicable Law and Procedure

1. Arbitrations will be conducted in accordance with generally acceptable arbitration procedures.
2. The question of what substantive law applies is an issue that can be argued by the lawyers and will not be decided by the Panel before the arbitration. Within the bounds of the rules contained in Rule 7 and other Rules of the Arbitration

- Competition Rules, the lawyers may argue what they deem appropriate regarding why their client should win. Lawyers may argue by analogy the law of real jurisdictions.
3. The Panel may award attorney fees only if the applicable law and the case file facts permit the award of fees.
 4. A party may not ask for additional damages or any other relief beyond what is sought in the arbitration claim or counterclaim; however, a party may ask for lower damages or less relief.
 5. The application of the rules to a specific case and its presentation by a team shall be determined by the Chair, and the procedural rulings by the Chair are final and cannot be subsequently challenged by a team or reviewed by anyone else.

G. Examinations

1. Only one lawyer may ask questions on direct examination.
2. Only this same lawyer may object to cross-examination questions.
3. Only the lawyer conducting the cross-examination may object to direct examination or redirect examination questions.
4. Only the lawyer who conducted the direct examination may conduct redirect examination, within the allocated time, limited to relevant matters raised by the cross-examination that are not repetitive of the direct examination.
5. No re-cross examination is allowed.

H. Witnesses

1. Each team must call the two listed witnesses and may not call an opposing witness as an adverse witness or any other witness.
2. The parties and witnesses are gender neutral, unless indicated differently in the case file.
3. Witnesses may not bring with them to the witness chair any written answers to questions, witness notes, or any part of the case file. A witness may testify about and use any exhibit that is relevant and proper for the examination, which the lawyers offer the witness.
4. Witnesses on direct examination may only be asked about and testify to: (1) the facts contained in the case file; (2) additional, consistent facts that are a clear and obvious inference from the direct facts provided; and (3) non-material facts relating to the background of the witness that are appropriate for the fact situation. Be aware that the evaluation form contains the following language, “Based on your observation, do you believe the team violated the ethical standards of the legal profession? For example, did the team misrepresent material facts or invent self-serving material facts?”
5. Witnesses on cross-examination may be asked if counsel who conducted the direct examination suggested that additional, non-existent (outside of the record) facts be offered on direct. Witnesses may also be impeached with case file documents that establish the non-existence of the facts. The witness may only respond that the statement or document does not contain the fact and may not

explain the absence of the fact. For example, a witness may not respond “I wasn’t asked.”

6. If a witness on cross-examination is asked about facts that are not contained in the case file and that were not added during direct examination, the witness may respond by adding an appropriate detail in response to the question.
7. A witness on redirect examination who is impeached during cross-examination may be asked to explain the basis of an inference drawn from the facts.
8. During redirect examination, the opposing lawyer may object to any new facts introduced during redirect and seek a ruling from the Chair that the re-direct has exceeded the scope of cross-examination.
9. Witnesses shall not be sequestered, and teams are not to request sequestration.

I. Exhibits

1. All documents, statements, discovery responses, depositions, diagrams, photographs, signatures, and other materials included as part of the case file are deemed to be originals and authentic. All documents, records, and other materials that were sent to or by a witness are deemed to have been received or sent by that witness. The case file may contain facts that vary from these instructions and, if so, the case file controls.
2. Teams are encouraged to develop, introduce, and use demonstrative exhibits and visual aids that assist in the presentation of evidence and arguments and that help the Panel understand the case. Case file materials may be enlarged or used as long as they are identical or are substantially identical and do not distort the facts or law. Demonstrative exhibits and visual aids are limited to information that is contained directly or by reasonable inference in the case file.
3. An opposing team may not use another team’s exhibits or visual aids, unless both teams agree.
4. A team is responsible to bring any exhibit or visual aid, easel, computer, laptop, document camera, screen, extension cords, table, presentation remote, or any other equipment. The Host School may or may not provide any equipment. There may be no separate table for use of presentation equipment. Some rooms will be more adaptable than others.
5. Teams are permitted to use technology to assist in the presentation of their case, including basic presentation software, but the Manufacturer’s Suggested Retail Price of the software should not exceed \$500. Please see Rule 20 for prohibited technology.
6. Teams may provide a copy of any written or prepared exhibits, visual aids, or other materials that are introduced or used during the hearing to each of the Arbitrator Judges or to the Panel. These materials may be presented at the beginning of the hearing or during the hearing as they are used, at the discretion of the Panel and/or the teams.
7. Teams can use their own arbitration notes, copies of which are not to be provided to the Panel. If the Panel asks for a copy or asks to see a book, student lawyers are to advise the Panel that they cannot see student notes.

J. Team Identification

1. Participants, coaches, and observers shall not divulge the identities of their schools directly or indirectly during the competition to the Arbitrator Judges. The identity of team schools is not to be divulged to an Arbitrator Judge until that Judge has completed all judging for that competition. If an Arbitrator Judge asks a team member which school the team member represents, the member should respond that the rules do not permit the divulging of that information until the competition is completed.
2. Host Schools should endeavor to avoid any appearance of unfairness resulting from hosting the competition. A Host School coach or faculty member who would be readily identifiable by the Arbitrator Judges is to avoid being seen with that Host School's team(s), and someone who is not readily identifiable may accompany the Host School team(s) to the hearings.
3. Material at counsel table may not contain any personally identifying logos, school names, or anything that may indicate from which school the team originates. Prohibited items include class rings, pens, binders with the school's logo or team colors, and the like.

K. Evaluation

Immediately after the arbitration hearing, the students, coaches, and any observers shall leave the room and the Arbitrator Judges shall individually complete the Team Evaluation Form for each team. Thirty minutes are available for the scoring and evaluation by the Arbitrator Judges.

8. SCORING

Teams are evaluated and scored based on the quality of their presentations and not on the merits of the side they represent. The Evaluation Form is located in Appendix D.

Teams are scored and evaluated as follows:

Each Arbitrator Judge individually scores each team on an evaluation form. Ties are not permitted. The team with the higher score will be deemed the winner on that judge's ballot. The winner of the round is the team with the majority of the ballots.

Teams are ranked as follows:

1. Win/loss record (this number will be 0, 1, or 2);
2. Number of judges' votes (this number will be between 0 and 6);
3. Overall team score/points;
4. Previous head-to-head competition (To easily record the head-to-head team comparison, the Competition Administrator should use the team pairing schedule and highlight the winning team from each room.);
5. Strength of schedule, based on number of ballots won by opponent;
6. Random coin toss.

All determinations by Arbitrator Judges relating to the scoring of the teams and their performances are final and binding and are not subject to review, complaint, or protest except as provided in Rules 11, 13, and 14.

Because the third determinative measure is total points, the competition requires three scores for each team in the preliminary rounds. If there are more than three Arbitrator Judges in a round, the Host Administrator will employ a random selection process to determine which judge's evaluation form and comments will be excluded before any scores are examined, reviewed, or tabulated. The excluded forms and comments should not be shared with the affected teams.

If there are only two Arbitrator Judges, the third score will be an average of the two actual scores ("Two Judge Panel Rule"). For the purpose of this rule, averaging means adding together the scores given by the two judges and dividing by two. The result shall be rounded up or down to the hundredth decimal. For example, an average score of 2.3333 would be 2.33 and a score of 2.6667 would be rounded to 2.67.

For the semifinal and final rounds only, whenever possible host administrators shall impanel an odd number of Arbitrator Judges. The winner shall be determined by a majority of winning votes. In the event of an even numbered panel of more than three judges, one arbitrator judge's scores will be randomly excluded as set forth above. In semifinal and final rounds involving two judges, apply the Two Judge Panel Rule.

9. CRITIQUES

Immediately after completing the scoring and evaluation forms, the Panel shall meet with both teams together and offer critique and feedback. Thirty minutes is available for these critiques, with each team receiving up to 15 minutes of comments and suggestions.

Only coaches and others associated with the teams being critiqued may attend the critique sessions. No other competing teams, coaches, or persons associated with competing teams or law schools may attend the critique. However, anyone may attend the critique session of the last and final hearing of a competition.

10. ANNOUNCEMENT OF RESULTS

The Competition Administrator must announce the teams that will advance to the semifinal round. The Administrator must make available to the competitors a copy or copies of the Win/Loss Record & Master Score Sheet in Appendix F ("Master Score Sheet"). Administrators may post a single copy of the Master Score Sheet in such a manner that all coaches/teams may review the scores.

Students should receive copies of their Evaluation Forms and the original Comment Sheets on site. However, the original Evaluation Forms shall be retained by the Regional Host Competition Administrator and transmitted to the Chicago office at the conclusion

of the competition in either hard or scanned copy. The Chicago Office does not need the Comment Sheets.

- 1) Regional Host Competition Administrators are expected to make photocopies of the completed Evaluation Forms in between the rounds after the scores have been entered into the Master Score Sheet.
- 2) The photocopied Evaluation Forms, original Comment Sheets, and a photocopy of the Master Score Sheet should be distributed to their respective teams following the conclusion of the second round. The photocopied Evaluation Forms, original Comment Sheets, and photocopy of the Master Score Sheet from the semifinal and final rounds should be distributed following each round to their respective teams. The easiest way to distribute the forms is to insert them into individual envelopes, which have previously been labeled with each team's designation.

11. THE SCORE SHEET REVIEW PERIOD

Score sheets may be reviewed for mathematical errors for fifteen (15) minutes following the distribution of the Master Score Sheet. If a mathematical error is identified during the Review Period, corrections shall be made before beginning the semifinal round. Corrective computations shall be an open process. Failure to raise any objection to the computations on the Master Score Sheet within the Review Period shall be a defense to any subsequent protests following the preliminary rounds.

12. ARBITRATOR JUDGES

The Host School is responsible for obtaining experienced and knowledgeable Arbitrator Judges. In advance of the competition, the judges will receive explanatory materials, including the judges' version of these rules. At the competition, the judges will be briefed before the rounds begin.

Each hearing should be observed and evaluated by a panel of three Arbitrator Judges, at least two of whom should be lawyers. The professional activities of any non-lawyer Arbitrator Judge should involve arbitration. These Judges will evaluate the performance of the participants according to the applicable standards and criteria. Judges should provide feedback only during the scheduled critique period at the conclusion of the round. Judges should follow the rules of the competition rather than local rules to which they may be more accustomed.

No one who judged a team in a preliminary round should judge that team in a semifinal or final round, unless there are no other judges available. No person employed by or attending one of the participating law schools may act as a judge for a team from that law school. Team coaches may not act as judges, unless in an emergency when not doing so would prevent the competition from being run, and only if they do not judge their own students.

Arbitrator Judges who recognize any law student should notify the administrator **before** the hearing begins so that they can be moved to another hearing room.

13. OMBUDS

An Ombuds rules on and resolves complaints, rule violations, and disputes that occur during a competition. If a member of the Arbitration Competition Subcommittee is present during the competition, that member shall be the Ombuds, provided the dispute/complaint does not involve that member's school. If no Subcommittee member is present, the Competition Administrator shall appoint an Ombuds and an Alternate. Ombuds and Alternates may be a faculty member from the Host School, a professional from the community, or the Competition Administrator. The Ombuds shall act in accord with these rules, unless the matter involves an Ombuds who has a conflict of interest as determined by the Competition Administrator, in which case the Alternate shall act.

14. RESOLVING COMPLAINTS, VIOLATIONS, AND DISPUTES

A violation of these rules governing the Arbitration Competition may subject a violator to a sanction as determined by the Ombuds. Sanctions may include a loss instead of a win, a lowering of the team score, disqualification from the competition, or any other appropriate sanction. Any sanction shall be commensurate with the violation, and the Ombuds will determine the degree of prejudice incurred by an opposing team or benefit gained by the violating team. The Ombuds may also determine that the violation was unintended or harmless error. A decision need not be made if the violation did not affect the result of a round or the outcome of the competition. The decision of the Ombuds is final and will not be reviewed except under extraordinary circumstances and in the discretion of the Arbitration Competition Subcommittee.

A violation of a rule by a coach, observer, or other member of a law school associated with a competing team may subject that team from the law school to a sanction depending on the severity of the violation. Anyone may notify the Ombuds of a purported violation.

All protests arising out of the competition round are considered waived unless the protest is brought to the attention of the Ombuds before the beginning of the judges' critique.

The Ombuds, in consultation with anyone deemed appropriate by the Ombuds, shall decide whether a violation has occurred and issue a penalty or resolve the dispute in a timely manner. The decision shall be made based on the nature of the offense or rule violation and: (1) whether the report is timely, (2) whether the offended team could have or did neutralize the effects of the offense, (3) what best promotes the objectives of the competition, and (4) what is fair to all teams.

The Ombuds may discuss the violation or dispute with the Panel and allow it to consider the matter in making its decision. **If the sanction is to be disqualification, the Ombuds, before imposing the sanction, is to attempt to immediately contact an Arbitration**

Competition Subcommittee Member, who may overrule the decision of the Ombuds and impose a different sanction. The Ombuds must attempt to contact all of the Subcommittee Members on call before sanctioning a team. If an Arbitration Competition Subcommittee Member is unavailable, the decision of the Ombuds is final.

The Competition Administrator is to advise the Law Student Division Chicago Office of any dispute and its resolution in a post-competition report.

Complaints and protests should only be made for a significant violation of the rules, and are not intended to and should not become part of the competition. The failure of a team or law school to timely report a violation or dispute in accord with these rules shall be a waiver of the provisions of these rules.

15. TEAM COMPETITION

Each school may select its participants in any way it chooses. Many schools use an intraschool competition to select the student attorneys and witnesses, and it is highly recommended. To encourage competitive team selection, upon request, the Law Student Division will provide entering schools with a past case file.

16. REGIONAL COMPETITION

Regional Competitions occur in November. The ABA Law Student Division assigns each school to a regional site. No travel arrangements should be made until the school has received written confirmation of its regional assignment from the Chicago office. Requests for a region change must show good cause and should be submitted in writing to the Chicago office within 3 days of the regional assignment. The dates and locations of the Regional Competitions are posted to the Arbitration Competition homepage.

The ABA wants to ensure that the responsibility for hosting the Regional Competitions is shared among the competing schools. Each participating school is expected to host a Regional Competition approximately every five years. For the convenience of the schools, the ABA will seek to schedule Regional Hosts up to five years in advance. Any school that cannot host when scheduled is responsible for finding another host for that year. The Law Student Division reserves the right to disqualify a school from participating in the competition for up to two (2) years if it fails to host as scheduled and does not find a replacement host.

The Law Student Division provides assistance and a Regional Competition Administrative Guide to the host schools. The host school is to designate a faculty or staff member to act as the Regional Host School Competition Administrator. This Administrator may not be a faculty advisor or coach to a participating team but may be assisted by faculty, staff, and students not competing. Each Regional Host School Competition Administrator will also be assigned an Arbitration Competition Subcommittee member as a consultant and advisor.

17. NATIONAL FINALS COMPETITION

The first place team from each Regional Competition shall be invited to participate in the National Finals Competition, which will typically occur towards the end of January. Additional invitations may be issued as provided in Rule 3. These invitations are generally not sent until after Thanksgiving.

The ABA Law Student Division will distribute information about the National Finals Competition, such as the schedule, location, facilities, and lodging arrangements to the advancing teams. Questions concerning the National Finals Competition should be directed to the Chicago office.

18. TEAM COACHES

Each team must have a coach, who may be a full or part-time faculty member or other person, including students, approved by a law school to coach the students. A team may have more than one coach and one person may coach multiple teams from the same school. Local arbitrators and attorneys experienced in arbitrations may be willing to serve as coaches.

A coach should accompany the team to the Regional and National Finals Competitions, and more than one coach may attend the competitions. The same or a different coach may attend the Regional and National Finals Competitions.

Team coaches and advisors of competing teams are prohibited from judging or assisting in the administration of competitions in which their teams are competing, except as provided in Rule 12. Team coaches and advisors are also prohibited from attending the arbitrator judge's briefing.

19. ASSISTANCE

Before the competition rounds, the coach can work with, assist, and direct the students, critique mock preparations, arrange for the students to consult with others for assistance, and provide any other similar educational assistance.

During the competition, coaches may advise, communicate with, and observe their teams only as provided in these rules.

20. PROHIBITED COMMUNICATION AND ATTENDANCE

Communication during the arbitration hearings are prohibited. No one - including team coaches, supervisory personnel, alternate team members, friends, associates, and observers - may communicate in any way with any of the participants during the 120 minute period from the commencement of the arbitration hearing until the teams are excused by the judges after summations.

Mobile phones, smart phones, tablet computers, and other electronic communication devices may be used during the Competition for timekeeping or presentation purposes only. Electronic devices must be placed in a non-transmitting mode (i.e., “airplane mode”) with instant messaging and e-mail functions turned off. Competitors may bring stop watches to keep time.

Scouting is prohibited. No participant or other person associated with a participant may attend an arbitration hearing involving any other school’s team, except for the final round or if all teams from the school have been eliminated. This rule also applies to any team receiving a bye.

Communication with the Panel is strictly limited. No participant or other person associated with a participant may speak to a judge outside of the hearing during the period from commencement of the arbitration hearing through completion of the teams’ critique by the Arbitrator Judges.

No participant, team coach, or any other person connected with a participating school with more than one team may communicate with another of its school's teams until all of the school's teams have completed the round.

Teams that have been eliminated may attend subsequent rounds. If there is another team from the same school, contact between the eliminated team and a participating team is prohibited until the round is completed.

Communications in violation of this rule may result in disqualification.

21. VIDEORECORDING

The Law Student Division may record the Regional and National Finals Competition round(s). A student’s decision to enter and participate in the competition constitutes consent to this recording. As a condition of publication and for no monetary compensation to participants, this consent grants the ABA the nonexclusive worldwide rights to reproduce, distribute, and sell any visual material in connection with the student’s participation, in whole or in part, in any media, as part of a course book or any other publication published under the auspices of the ABA and to license these rights to others. This consent also grants the ABA the right to use the student’s name, voice, and image in connection with the published competition materials.

22. AWARDS

Each registered team member and alternate in the Regional Competitions will receive a certificate to be awarded at the time of the Regional Competition. Each winning team in the Regional Competition will receive a trophy for the school, as well as individual certificates for the team members. These awards will be distributed during the National Finals Competition.

The first place team from the National Finals Competition will receive a trophy for the school and individual certificates for the team members. The second place team from the National Finals Competition will receive a certificate for the school and individual certificates for the team members.

23. EXPENSES

Participant Expenses. Law schools or participants are responsible for their travel, lodging, food, and incidental costs incurred in the competitions. The ABA Law Student Division does not reimburse these expenses. Expense funds may be obtained from sources outside the law school, such as alumni groups, bar or arbitration associations, law firms, and others.

Host School Expenses. The Law Student Division provides a subsidy of \$150 per participating team to help the Regional Host School defray the costs of holding the competition. Additionally, the entry fee for the Host School's first team is waived. Host schools are expected to provide refreshments and lunches during the day and a reception during the course of the competition.

24. PROFESSIONAL CONDUCT

The ABA Model Rules of Professional Conduct govern the conduct of all participants including students, faculty advisors, team coaches, administrators, and observers. Everyone who participates is expected to act professionally at all competition-related events.

25. RULES INTERPRETATION

The Arbitration Competition Subcommittee, in its sole discretion, shall interpret these rules and may create additional rules to govern situations not covered by these rules or to ensure fairness in the competition. Its decisions are final.

26. CANCELLATION

If a law school that has entered the competition decides not to compete, that law school must notify the Law Student Division Chicago Office by email no later than the competition entry deadline. The entry fee, less a \$50 administrative service charge, will be refunded only if the withdrawal notice is timely received. No refunds will be made after the entry deadline except for extraordinary circumstances as determined by the ABA Law Student Division.

27. INFORMATION

Questions concerning schedules, facilities, and accommodations for the Regional Competitions should be directed to the Regional Host School Administrators. The ABA

Law Student Division routinely copies Host School Administrators on the communications to schools with their regional assignment.

Questions about the Arbitration Competition in general, rules interpretation, and the National Finals Competition may be directed to:

American Bar Association
Law Student Division
Attn: Arbitration Competition
321 North Clark Street, 18th Floor
Chicago, Illinois 60654
312/988-5621
ac@americanbar.org.

Competition information is available on the competition's web site at www.ambar.org/lsdac.

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Appendix A

Arbitration Competition Schedule

All competition rounds (preliminary, semifinal, and final) follow the schedule outlined below.

Morning Schedule

8:00 am to 9:00 am	Welcome Competitors & Coaches
8:30 am to 9:00 am	Arbitrator Judges Briefing
9:00 am to 11:00 am	Arbitration Hearing (teams, coaches, and observers leave room at the end of the hearing, but return in 30 minutes for the critique.)
11:00 am to 11:30 am	Arbitrator Judges Break and Independently Complete Evaluation Forms
11:30 am to 12:00 pm	Arbitrator Judges Critique Both Teams Together (maximum of 15 minutes per team)

Afternoon Schedule

12:00 pm to 1:30 pm	Lunch--Competitors & Coaches
1:30 pm to 2:00 pm	Arbitrator Judges Briefing
2:00 pm to 4:00 pm	Arbitration Hearing (teams, coaches, and observers leave room at the end of the hearing, but return in 30 minutes for the critique.)
4:00 pm to 4:30 pm	Arbitration Judges Break and Independently Complete Evaluation Forms
4:30 pm to 5:00 pm	Arbitration Judges Critique Both Teams Together (maximum of 15 minutes per team)

Reception – Announcement of Semi-Finalists, Publishing of Master Score Sheet, and Distribution of Evaluation Forms and Comment Sheets to follow

Appendix B

Arbitration Competition Team Pairings 10-Team Regional Competition

	Room 1	Room 2	Room 3	Room 4	Room 5
Round 1	Aqua vs. Blue	Chartreuse vs. Evergreen	Fuchsia vs. Green	Ivory vs. Khaki	Lavender vs. Magenta
Round 2	Magenta vs. Ivory	Blue vs. Fuchsia	Evergreen vs. Lavender	Green vs. Chartreuse	Khaki vs. Aqua

Round 1 Claimant
Round 2 Respondent
Aqua
Chartreuse
Fuchsia
Ivory
Lavender

Round 1 Respondent
Round 2 Claimant
Blue
Evergreen
Green
Khaki
Magenta

**Arbitration Competition Team Pairings
12-Team Regional Competition**

Round 1	Room 1 Aqua vs. Blue	Room 2 Chartreuse vs. Evergreen	Room 3 Fuchsia vs. Green	Room 4 Ivory vs. Khaki	Room 5 Lavender vs. Magenta	Room 6 Navy vs. Orange
Round 2	Orange vs. Ivory	Blue vs. Navy	Evergreen vs. Lavender	Green vs. Aqua	Khaki vs. Chartreuse	Magenta vs. Fuchsia

Round 1 Claimant
Round 2 Respondent

Aqua
Chartreuse
Fuchsia
Ivory
Lavender
Navy

Round 1 Respondent
Round 2 Claimant

Blue
Evergreen
Green
Khaki
Magenta
Orange

**Arbitration Competition Team Pairings
14-Team Regional Competition**

	Room 1	Room 2	Room 3	Room 4	Room 5	Room 6	Room 7
Round 1	Aqua vs. Blue	Chartreuse vs. Evergreen	Fuchsia vs. Green	Ivory vs. Khaki	Lavender vs. Magenta	Navy vs. Orange	Purple vs. Red
Round 2	Red vs. Lavender	Khaki vs. Aqua	Evergreen vs. Navy	Blue vs. Purple	Green vs. Ivory	Magenta vs. Chartreuse	Orange vs. Fuchsia

Round 1 Claimant
Round 2 Respondent

Aqua
Chartreuse
Fuchsia
Ivory
Lavender
Navy
Purple

Round 1 Respondent
Round 2 Claimant

Blue
Evergreen
Green
Khaki
Magenta
Orange
Red

Appendix C
Arbitration Competition
Instructions for Arbitrator Judges

Thank you so much for being an Arbitrator Judge, because we could not have a successful competition without you! Below is an overview of the competition and what your role will be:

1. **ARBITRATION PANEL:** The arbitration panel should consist of 3 members, with 1 acting as Chair to make evidentiary and other decisions during the hearing. If a panel has fewer than 3 members, 1 member should still be appointed Chair. Decisions of the Chair are final.
2. **HEAD-TO-HEAD:** You will watch two teams compete head-to-head in an arbitration hearing. Teams have prepared both sides of the case; however, they have been assigned which side they will represent in this round. You are to evaluate the teams on their advocacy skills and not on the merits of the case.
3. **TEAM COMPOSITION:** Teams are comprised of 4 students, 2 who will act as attorneys, and 2 as witnesses. In a rare situation, a team may only have 3 members, with 2 members acting as attorneys and 1 member playing both witnesses.
1. **TEAM IDENTITY:** Teams will be assigned a neutral designation so you do not know what law school they attend. Please do not ask the students where they are from. However, if you recognize any law student, notify the administrator **before** the hearing begins so that you can be moved to another hearing room.
2. **TEAM SIDES:** Claimants will sit to the judges' left and Respondents to the judges' right.
3. **FORMAT OF ROUND:** The round will last for 180 minutes:
 - 120 minutes for the hearing (60 minutes for each side to present its case),
 - 30 minutes for the judges to independently complete their Evaluation Forms and Comment Sheets with the teams, coaches, and observers out of the room, and
 - and 30 minutes of judges' feedback and critique with both teams in the room as the same time (with the Panel giving each team about 15 minutes of feedback).

Teams may use their 60 minutes anyway they wish and are responsible for keeping track of their own time; however, the Arbitration Chair should make sure that teams do not exceed their 60 minutes. One Panel Member should be appointed Timekeeper.

7. **HEARING PROCEDURES/RULES:** The specific competition procedures regarding the hearing, time, proceedings, evidence, exhibits, and grading are contained in Rule 7 of the Arbitration Competition Rules. If you do not have a copy, ask for one. However, here is an overview of some of those rules:
 - a. The Chair shall swear in or affirm all witnesses at the beginning of the hearing before the openings: "Do you swear that your testimony shall be the truth?"
 - b. **Lawyers will sit during all phases of the hearings and need not stand for any objection or presentation.** However, at the Chair's discretion, lawyers and witnesses may stand for an exhibit presentation or during opening and summation.
 - c. Panel Members may ask appropriate questions of the student lawyers only during opening and summation, but may not ask the witnesses any questions during their examinations.

- d. The student attorney who is responsible to direct or cross-examine a witness may make appropriate objections. **Keeping in mind that this is an arbitration and not a civil trial, you are guided, but not bound by, the Federal Rules of Evidence.**
 - e. Objections that the evidence presented is not contained in the case file or that a team is violating a competition rule should rarely be sustained and only if the violation is substantial and there is no other remedy for the claimed violation. Opposing teams may impeach a witness if the witness introduces facts beyond her/his statement.
 - f. Teams may and are encouraged to bring and use visual aids, including power point presentations. They are responsible to bring and operate any equipment. While the use of technology is permitted, scoring should focus on student lawyer advocacy skills, and their use of sophisticated software should not be overvalued.
8. **EVALUATION FORMS AND COMMENT SHEETS:** Once the 120 minute hearing is complete, teams should be excused from the room so that you can independently complete your Evaluation Forms and Comment Sheets. Please make sure the team that you thought should win the round has the higher score. No ties or half points are allowed. The Evaluation Forms will be collected by the Host Administrator **before** you bring the teams back for their critique. During your critique, please do not divulge which team received the higher score.

You may keep your Comment Sheets with you while you provide the teams feedback; however, please do not give the teams your Comment Sheets as they will be picked up by the Host Administrator before you leave and distributed to the teams later. Please provide constructive criticism and feedback to the teams on these Comment Sheets because they are the only written feedback they will receive.

Again, thank you for agreeing to be an Arbitration Judge during this competition, because we couldn't do it without you!

ABA Law Student Division Arbitration Competition Team Evaluation Form

Arbitrator Judge _____ Date ___/___/___ Room _____ Round _____

The number 10 is at the high end of the performance scale, and the number 1 is at the low end of the scale. You should grade the performance of a law student advocate (and not the expected performance of a new or experienced lawyer) with 5 being an average, good grade. No half points or decimals.

10 Superior 8 Excellent 6 Very Good 5 Good 4 Fair 2 Marginal 1 Poor

***** NO TIES BETWEEN TEAMS *****

1 st Claimant Name (Opening Statement)	2 nd Claimant Name (Summation)	Claimant Team Color	Respondent Team Color	1 st Respondent (Opening Statement)	2 nd Respondent (Summation)
		Opening Statement (Only one student may be scored for the opening statement; the other student is scored for the summation) Well organized and structured Persuasive and interesting story/avoided arguing the case Explanation of understandable facts Explanation of supportive law Effective responses to any questions			
		Direct Examinations Proved prima facie case Presented persuasive and interesting case Sufficiently detailed and orderly questioning Proper question form/avoided leading the witness Submitted relevant and reliable evidence Avoided objectionable questions, statements, evidence Proper foundation and effective use of exhibits Appropriate redirect, if needed			
		Cross-Examinations Effective supportive cross-examination Effective discrediting cross-examination Proper leading and understandable questions Submitted relevant and reliable evidence Proper foundation and effective use of exhibits Proper strategic decision to object or not object Effective structure and order			
		Attorney and Witness Interaction Witness well prepared and credible Witness provides complete, yet concise, answers Effective witness direct examination Witness composure during cross-examination			
		Summation (Only one student may be scored for the summation; the other student is scored for the opening statement) Well organized and structured Appropriate balance of facts, law, and reasons Persuasive and interesting Complete, yet concise Effective Responses to any questions			
		Skill in Meeting the Opponent's Case Skill in responding to the actual evidence/testimony presented as well as opposing counsel's arguments/case theory			
		Overall Presentation Well Prepared for Case and Issues that Arose Effective Overall Presentation			
1 st Claimant Total	2 nd Claimant Total			1 st Respondent Total	2 nd Respondent Total
Claimant Team Total		<u>NO TIES BETWEEN TEAMS</u>		Respondent Team Total	

Cannot exceed 120 points

Cannot exceed 120 points

***** Team with the highest points is the winner on your ballot. Ensure the team point total aligns with your decision. *****

TEAM EVALUATION—COMMENT SHEET

These comments provide the only written feedback the teams will receive. Please complete each category with brief constructive comments. These comments will be useful during your oral critique of the teams, and you may tell the students whatever comments you have written. Be sure your oral critique and written comments are consistent.

CLAIMANT TEAM

Arbitrator Judge _____ Date ___/___/___ Room _____ Round _____

Team Designation _____ Round _____

	Student Lawyer 1	Student Lawyer 2
Opening Statement or Summation		
Direct Examination		
Cross-Examination		
Attorney and Witness Interaction		
Skill in Meeting the Opponent's Case		
Overall Presentation		

TEAM EVALUATION—COMMENT SHEET

These comments provide the only written feedback the teams will receive. Please complete each category with brief constructive comments. These comments will be useful during your oral critique of the teams, and you may tell the students whatever comments you have written. Be sure your oral critique and written comments are consistent.

RESPONDENT TEAM

Arbitrator Judge _____ Date ___/___/___ Room _____ Round _____

Team Designation _____ Round _____

	Student Lawyer 1	Student Lawyer 2
Opening Statement or Summation		
Direct Examination		
Cross-Examination		
Attorney and Witness Interaction		
Skill in Meeting the Opponent's Case		
Overall Presentation		

Appendix E
Arbitrator Judges' Timekeeping Sheet

The Chair will appoint a member of the Arbitration Judges Panel to serve as Timekeeper. Each team will have 60 minutes to present its case during the hearing, although not all the time has to be used. The timekeeper should use this sheet to keep track of the time and should stop each team after its 60 minutes has elapsed.

Claimant's Team: _____ Respondent's Team: _____

OPENING STATEMENT		
	Claimant _____	Respondent _____
CLAIMANT'S CASE		
	Direct & Redirect	Cross
Claimant's 1 st Witness:	_____	_____
Claimant's 2 nd Witness:	_____	_____
TOTALS	_____	_____
RESPONDENT'S CASE		
	Cross	Direct & Redirect
Respondent's 1 st Witness:	_____	_____
Respondent's 2 nd Witness:	_____	_____
TOTALS	_____	_____
SUMMATION		
	Claimant _____	Respondent _____
TOTALS	_____	_____

Appendix F
Arbitration Competition
Win/Loss Record & Master Score Sheet

Team Designation	Round 1 Votes*					Round 2 Votes*					Preliminary Totals	
	Judge 1 W/L / Score	Judge 2 W/L / Score	Judge 3 W/L / Score	Overall Wins/Points	Round 1 Winners**	Judge 1 W/L / Score	Judge 2 W/L / Score	Judge 3 W/L / Score	Overall Wins/Points	Round 2 Winners**	Total # of Judges' Votes	# of Preliminary Rounds Won***
Aqua												
Brown												
Chartreuse												
Chestnut												
Fuchsia												
Green												
Ivory												
Khaki												
Lavender												
Magenta												
Navy												
Orange												
Purple												
Turquoise												
Yellow												
Violet												

Grey												
Olive												
Pink												
Scarlet												

*Enter each individual judge's vote (win = W / loss = L) on the top side of the diagonal; and the score from that judge's score sheets in the bottom of the diagonal.

**Mark a W for the winner of each round. (There should be an equal number of Ws and Ls for each round.)

***Enter number of rounds won.

Arbitration Competition
Semifinal and Final Round Brackets

Semifinal Round

Final Round

Regional / National Winner

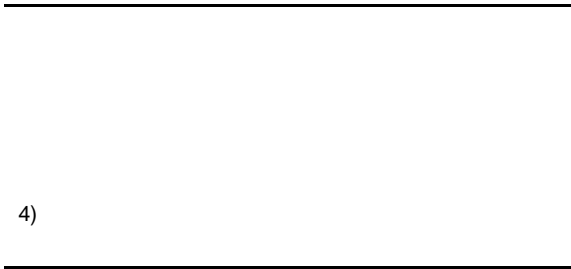
Team Color

Point Total

Team Color

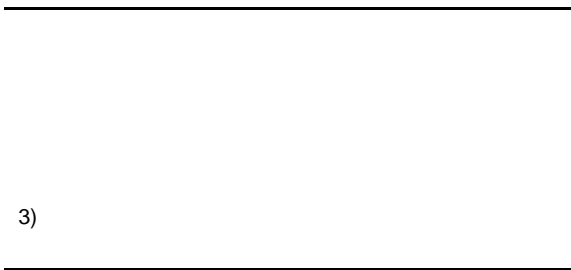
Point Total

1)

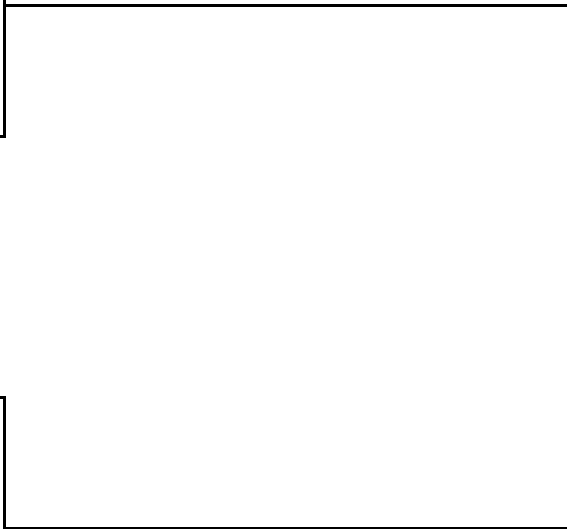


4)

2)



3)



Appendix G Room Setup Option

