

**American Bar Association  
Law Student Division**

**2017-18**

# **NEGOTIATION COMPETITION**

## **Rules and Standards for Judging**



Revised September 2017

**AMERICAN BAR ASSOCIATION  
LAW STUDENT DIVISION**

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**AMERICAN BAR ASSOCIATION  
LAW STUDENT DIVISION**

**RULES OF THE NEGOTIATION COMPETITION**

**RULE 1. INTRODUCTION**

The Negotiation Competition, in existence since 1984, promotes greater interest among law students in legal negotiation and provides a means for them to practice and improve their negotiating skills. The competition simulates legal negotiations in which law students, acting as lawyers, negotiate a series of legal problems. The problems consist of a common set of facts known by all participants and confidential information known only to the participants representing a particular side. All of the problems deal with the same general topic, but the negotiation situation varies with each round and level of the competition.

**RULE 2. ADMINISTRATION**

The ABA Law Student Division and the Negotiation Competition Subcommittee of the Competitions Committee for the ABA Law Student Division conduct this competition. The Law Student Division's Chair appoints members of the Negotiation Competition Subcommittee.

The Negotiation Competition Subcommittee, together with Regional Host School Administrators, administers the competition at the regional level. A member of the Subcommittee be available by telephone for each Regional Competition. Faculty coaches and advisors of competing teams are prohibited from judging or assisting in the administration of the competitions in which their teams are competing.

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

**RULE 3. NATIONAL STUDENT DIRECTOR**

The Law Student Division Chair may appoint a law student as National Student Director, who will assist the Chicago Office and the Negotiation Competition Subcommittee with the competition. If appointed, the National Student Director is responsible for keeping the Competitions Committee informed as to the progress of the Negotiation Competition Subcommittee and for attending the National Competition. The term of an appointed National Student Director will run from June 1st to May 31st.

**RULE 4. ELIGIBILITY**

**A. Student Eligibility**

Participation is limited to ABA Law Student Division Premium members pursuing a JD at an ABA accredited law school and enrolled at the time of the Regional Competition. Students pursuing an LLM or students already licensed in the US are not eligible to compete.

**Participation in the Law Student Division competitions is limited to American Bar Association *premium* members.** Thus, law students registered to compete in this competition, including alternate team members, must be *premium* members of the ABA Law Student Division. The annual fee to be a premium member of the ABA Law Student Division is \$25.00. To join, please call the ABA Service Center at 800.285.2221 or visit the ABA website at [www.ambar.org/join](http://www.ambar.org/join). Failure to comply with this requirement may result in disqualification from this competition. Further, law schools must provide the names and premium membership numbers of their competitors and alternates by October 9th.

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 Competition cannot be substituted at the National Competition. These students are encouraged to confirm eligibility and reimbursement with their schools.

### **B. Registration Process**

To enter the competition, a team must obtain approval from the law school's dean and find a faculty member to serve as an advisor. Teams must submit entry forms no later than the announced deadline. **If a law student is listed as the faculty contact on the entry form, the team may be disqualified.** In addition, payment must be received by the entry deadline. If payment is not received, the school's registration may be canceled. Acceptance of entry forms received after than the announced deadline is at the discretion of the Negotiation Competition Subcommittee, and if accepted, a late registration fee of \$50 will be imposed.

## **RULE 5. TEAMS**

A team consists of two law students attending the same ABA-approved law school.

### **A. Alternates and Substitutions**

Only a law student who has been registered as an alternate may be substituted for a regular team member at any time prior to the start of the Regional Competition. **Due to life's uncertainties, schools are urged to register at least one alternate, and alternates must be premium members of the ABA Law Student Division at the time of registration. Schools will not be allowed to register an alternate after the October 11th deadline, even if an unavoidable circumstance, such as death in the family, birth of a child, emergency surgery, etc. occurs after the deadline.**

No team member substitutions will be allowed once the Regional Competition begins, except for an unavoidable circumstance or any other reason that may be deemed an unavoidable circumstance<sup>1</sup> by the Negotiation Competition Subcommittee. Unavoidable circumstances do not include graduating early or a visiting student returning to his or her degree-granting institution. The ABA Negotiation Competition Subcommittee must be notified immediately of any substitutions.

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<sup>1</sup> 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.

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

If, between October 11th and the start of the Regional Competition or during the Regional Competition, a team member becomes unable to perform due to an unavoidable circumstance, an alternate may substitute for that team member. If an alternate is not available, the team may continue with only one member.

If a team member did not compete in the Regional Competition, he or she may not compete in the National Competition unless he or she was unable to compete in the Regional Competition due to an unavoidable circumstance and an alternate was not substituted. Team members may not be substituted following the Regional Competition, except for an unavoidable circumstance or any other reason that may be deemed an unavoidable circumstance by the Negotiation Competition Subcommittee. Again, only registered alternates may substitute in the case of unavoidable circumstances.

### **B. Additional Teams**

The Chicago office of the ABA Law Student Division, in consultation with the Negotiation Competition Subcommittee, may permit one or more additional eligible teams to participate in the competition if the number of teams registered does not equal a multiple of four or if unforeseen circumstances require a change in the number of teams participating. Schools seeking to enter a third team into the competition must indicate this on their competition entry form and must pay a \$50 deposit. Such additional teams may represent any school participating in the competition, including the host school. If additional teams are necessary, a host school that indicates its desire to enter a third team into the competition shall have the first opportunity to provide an additional team. If additional teams are still needed, regional schools that request an additional team and pay the \$50 deposit will be randomly selected from those schools that indicated on the competition entry form a desire to enter an additional team. The process of random selection will continue until the total number of teams equals a multiple of four.

### **C. Team Cancellation**

A team withdrawing from the competition must give notice to the Chicago office as soon as possible.

There is always the possibility that because of illness or other emergency a team will cancel its participation prior to or on the day of the competition. The ABA Law Student Division shall endeavor to identify an additional team to replace the cancelling team. If a replacement team cannot be identified and if the team withdrawing from the competition is from a school having one or more teams remaining in the competition, the school will be forced to split one team to compete in place of the withdrawing team. This means the school may be required to have teams of one person competing. If the withdrawing team is the only team from a competing school, the competition administrator will seek another registered team to split apart to compete as single-person teams during the preliminary rounds of the competition.

After the problem has been distributed, only those teams representing the side of the team that canceled will be eligible for participation as individuals. If more than one team volunteers, the

team will be chosen by lot. If no team volunteers, the team will be chosen by lot from all teams representing the side of the team that failed to appear. If one of the single-person teams qualifies for the final round of the Regional Competition or the National Competition, both team members must proceed to the final round. If both of the single-person teams qualify for the final round, both shall proceed as solo competitors. In the event a single-person team under this rule begins competing, the absent team forfeits.

## **RULE 6. TEAM IDENTIFICATION AND PAIRING ROUNDS**

### **A. Team Identification**

The Law Student Division will assign each team a random designation and provide each Host School with the team designations via the sign-in sheet. 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. Violation of this rule shall result in a penalty, up to and including disqualification.

### **B. Concerns about Identity of Host School's Team(s)**

The seriousness of this violation is increased if the disclosure is by a team from the Host School. A Host School should endeavor to avoid any appearance of unfairness resulting from hosting the Regional Competition. For example, seemingly innocent remarks regarding the campus or town may imply affiliation with the school. In addition, a host school faculty advisor who would be readily identifiable by the judges should avoid letting the judges know to which team the faculty advisor is connected. An appropriate course of action may be to appoint a student coach to accompany teams from the Host School during the competition.

### **C. Team Pairings**

#### **1. Regional Team Pairings**

The Chicago office of the Law Student Division will pair the teams for the two preliminary rounds and will provide each Host School with the pairings for the Regional Competition. The Regional Competition pairings can be found in the competition rules or administrative guidelines. No team will negotiate against the same team in both the first and second preliminary rounds of the competition.

Each negotiation round consists of two individual negotiation sessions. Thus, each team will compete directly against one team in its session and indirectly with two teams in the other session. Please refer to the pairing schedules in the Appendix.

The four teams that advance to the final negotiation round will be the teams that have the lowest cumulative numerical totals in the two preliminary rounds, without regard to the side previously represented.

Unless two teams from the same law school advance to the final round, the Regional Administrator shall randomly assign sides of the negotiation problem to the teams in each of the final round negotiation sessions. Further, unless two teams from the same law school advance to the final round, teams competing in the Regional Competition final round will be



power-protected. Accordingly, the highest-ranking team will negotiate with the fourth-ranked team, and the second-ranked team will negotiate with the third-ranked team. The highest ranking team will choose whether to negotiate with the fourth-ranked team during the first or second negotiation session; the other two teams will compete in the other negotiation session.

If multiple teams from the same law school advance to the final round, the Regional Administrator will apply the following rules in priority as they are listed.

- If two teams from the same school advance, they will both represent the same side and cannot go head-to-head.
- If three teams from the same school advance, one of the school's three teams will need to compete with another team from the same school. In this situation, the teams with opposing facts shall be reminded that they are strictly forbidden from communicating their confidential facts to each other in any way, from the moment the facts are distributed to the conclusion of the final round. This rule also applies to the school's coaches and advisors, as well as team members. Teams shall be reminded that no one other than judges and host administrators should have access to both sets of confidential facts. Anyone associated with a school that has teams representing different parties shall not become privy to both sets of confidential facts (see Rule 7(A) and Rule 23(A)). This rule is intended to avoid actual or apparent unfairness from one school being privy to both sides of the facts.

## **2. National Team Pairings**

The Chicago office of the ABA Law Student Division will pair the teams for the two preliminary rounds. No team will negotiate against the same team in both the first and second preliminary rounds of the competition. Further, no team will negotiate against another team from its region in the preliminary rounds of the National Competition.

After the second preliminary round at the National Competition, the sixteen best teams will advance to a semifinal round, and the following procedure will be used for team distribution into rooms.

- The four highest-ranking teams will initially be placed into different rooms (i.e., the highest-ranking team in Room 1, the second highest-ranking team in Room 2, the third highest-ranking team in Room 3, and the fourth highest-ranking team in Room 4). In addition to receiving the confidential facts for the side to which the team will represent in the semifinal round, Rooms 1 and 3 will receive one side of the final round problem and Rooms 2 and 4 will receive the other side of the final round problem.
- All other teams will be randomly placed in the rooms in the semifinal round, except that teams who have directly negotiated against each other in either of the preliminary rounds will not be re-matched in the semifinal round, and multiple teams from the same law school will be placed in different rooms and will receive the same side of the problem for both the semifinal and the final round.
- If possible, in the final round at the National Competition, teams that have previously directly negotiated with each other will not negotiate directly with each other again. Similarly, teams from the same law school should not directly negotiate with each other.
- All teams advancing to the semifinal round will receive confidential facts for both the semifinal round and the final round. As a result, Rooms 1 and 3 will be assigned to the

same side for the final round.

- The winning team from each semifinal round room advances to the final round, with teams from Rooms 1 and 2 competing directly against each other and teams from Rooms 3 and 4 competing directly against each other.
- The highest-ranking team advancing to the final round, based on its ranking after the two preliminary rounds, will choose whether to negotiate during the first or second negotiation session.

The semifinal and final round bracket diagram at the end of these rules provides a visual guide as to how the teams advance and which sides they represent.

## **RULE 7. COMPETITION PROBLEM**

### **A. Timing for Releasing Preliminary Round Competition Problem to Teams**

Approximately three to four weeks before the Regional and National Competitions, each participating school will receive two preliminary round negotiation problems. The problems will consist of the following:

- A common set of facts known by all competitors, which will be labeled General Information for All Parties; and
- Confidential information known only to the competitors representing a particular side. Legal background material or citations may be provided to competitors. In some instances, additional research may be appropriate. Judges will have access to all problem materials provided to competitors. Judges will also receive a Judges' Summary. No one having access to confidential information for both sides may act as a coach or competitor, or share such information with coaches or competitors.

For the Regional Competition, competitors will also receive General Information for All Parties for the final round. For the National Competition, competitors will receive General Information for All Parties for both the semifinal and final rounds.

### **B. Distributing Final Round Problem at the Regional Competition**

At the Regional Competition, the confidential facts for the final round will be distributed immediately after the four advancing teams are announced and the Tally Sheet Review Period has expired.

### **C. Distributing Semifinal and Final Round Problems at the National Competition**

At the National Competition, the confidential facts for both the semifinal and final rounds will be distributed immediately after the sixteen advancing teams are announced and the Tally Sheet Review Period has expired.

### **D. Facts and Controlling Law for the Problems**

Although the problems may refer to actual places, for purposes of the competition, assume that there is no mandatory authority. Any exceptions will be explicitly stated in the problem.

The persons and events depicted in the problems 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.

### **E. Questions about Negotiation Problems**

Submission of inquiries relating to the problems must be submitted by a coach or faculty advisor via the online problem clarification request form by 3 p.m. CST on the date that is seven calendar days following the date the problem is distributed to teams. No school, regardless of the number of teams it has in the competition, may submit more than a total of three questions, and those questions may not contain subparts.

Coaches/faculty advisors will be required to submit the following information when seeking clarification:

- School name;
- Problem side;
- Round;
- Whether general facts or confidential facts; and
- Page number requiring clarification.

**Under no circumstance will additional facts be provided, and clarifications will be provided only if absolutely necessary—as determined by the ABA Negotiation Competition Subcommittee—to clarify a bona fide and fundamental question.** If any such question is identified, the ABA Law Student Division’s Associate Director will send a clarifying answer to either all designated faculty advisors or those faculty advisors representing the affected side. Competition administrators will not answer questions about the problem at the regional competitions.

### **F. ABA Ownership of Negotiation Problems**

The Negotiation Competition Subcommittee is responsible for developing the negotiation problems for the Regional and National Competitions. The Subcommittee may also provide an intra-school negotiation problem for purchase on the ABA website.

The copyright to all such negotiation competition problems is held by the American Bar Association and copyright protected under U.S. copyright laws. Audio, visual, or written versions may NOT be posted online or distributed in any manner or format without express written permission from the ABA Law Student Division. Failure to comply with this requirement may result in immediate disqualification from the competition and notice to your law school administration.

## **RULE 8. NEGOTIATION FORMAT**

### **A. General Negotiation Format**

The Regional Competition will consist of three rounds; the National Competition will consist of four rounds. Each round will consist of 80 minutes of active competition, followed by 20 minutes for judges to rank the teams and give feedback to them. The general negotiation format is as follows:

- a 50-minute negotiation session (which may include one 5-minute break per team);

- a 10-minute period for teams to analyze their performance in private;
- a 20-minute self-analysis period (10 minutes per team) in the presence of the judges;
- a 10-minute period when judges rank the teams; and
- a 10-minute period when judges give feedback to both teams simultaneously.

Each team will negotiate once in Round 1 and once in Round 2. At the Regional Competitions, only the four teams selected under Rule 10(A) will advance to the third and final round. At the National Competition, the highest-ranking sixteen teams will advance to the semifinal round as explained in Rule 10(B).

### **1. Breaks During Rounds**

Each team may take one break of no more than 5 minutes. The 50-minute negotiating period will continue during any such break. Both teams must leave the room during the break.

### **2. Observers' Attendance During Round**

Because of the potential for disruption of the competition, faculty advisors and others electing to observe the negotiations are discouraged from leaving the room from the beginning of each negotiation session through the end of the entire self-analysis period. Faculty advisors and other observers who unavoidably must enter the room late, leave early, or temporarily excuse themselves should do so discreetly and without disruption. Such persons must avoid all communication regarding the competition until the end of the completed round, which includes both the 80 minutes of active competition, any breaks taken during the round, and the time for the judges' feedback. See Rule 23(A).

After the completion of both self-analyses, all competitors and observers must leave the competition room until the judges have completed their score sheets and are ready to provide feedback to the teams, at which time competitors and observers may return to the room. Further, during this time coaches, faculty advisors, and observers shall not communicate with competitors.

### **3. Permissible Team Supplies During Rounds**

During a negotiation round, competitors may use the following:

- blank flip charts or black/white boards to write on during the round;
- any handwritten or typed notes for their own reference; and
- calculators or stopwatches.

These supplies will not be provided at the Regional Competitions or the National Competition.

No technological devices may be used, including laptop computers, tablets, mobile phones, smart phones, personal digital assistants, and similar electronic communication devices, except for timekeeping purposes. Further, any technological device used for timekeeping must be kept in "airplane mode."

No prepared materials may be presented or handed out during the negotiation session or self-analysis, except as specifically authorized by the problem. Self-analysis may only reference materials created or used during the negotiation session.

#### **4. Timekeeping**

Responsibility rests with the student competitors for adherence to allotted time periods for negotiating sessions and breaks. However, one of the judges on each panel must be selected to keep track of the time. Under no circumstance will a negotiation session last longer than 50 minutes, excluding the self-analysis period and judges' feedback. Each half of the negotiation round lasts 1 hour and 40 minutes. The timekeeper judge shall stop the negotiation 50 minutes after the student competitors greet each other, regardless of where students are in the negotiation process. If volunteers are available, timekeepers may be provided, but no individual identified with a competitor may act as timekeeper in a negotiation involving such competitor. The only exception is if a Host School provides timekeepers for all rooms including those in which its teams compete. Decisions by the judges as to elapsed time and as to when the negotiation should end are final and non-reviewable.

Responsibility for timekeeping during the self-analysis period rests jointly with the competitors and the timekeeping judge, each having the responsibility to terminate the period at the end of 10 minutes.

#### **B. Self-analysis**

##### **1. Self-analysis Process**

Following the 10-minute preparation for self-analysis, each team will have 10 minutes in which to analyze for the judges the team's performance in the negotiation. This will take place outside the presence of the opposing team. However, coaches and any other permissible observers for both teams may remain in the room for both self-analyses. The team with the letter designation closest to the beginning of the alphabet will present its self-analysis first.

##### **2. Self-analysis Content**

During the 10-minute self-analysis, competitors should directly address the judges and answer the following two questions: (1) "In reflecting on the entire negotiation, if you faced a similar situation tomorrow, what would you do the same and what would you do differently?" (2) "How well did your strategy work in relation to the outcome?" The judges will not be expected to prompt answers to these two questions. Competitors should also be prepared to answer questions from the judges concerning their performance. For scoring purposes, the judges may consider anything said during this session.

### **RULE 9. COMPETITION SCHEDULE**

#### **A. Overview of Standard Schedule for Regional Competition**

A Regional Competition consists of three rounds. See the Appendix for a sample competition schedule. It assumes that Round One will be held on the morning of the first day, Round Two in the afternoon of the first day, and the final round on the morning of the second day. However, this schedule is not mandatory and may be varied. For example, a particular region might want to begin on a Friday afternoon with Round One, hold Round Two on Saturday morning, and schedule the final round on Saturday afternoon. As long as the time allocation and sequence of events remain the same, a regional host might also schedule a later start for the final round to give the participating teams more time to prepare.

## **B. Team Orientation**

The competition administrator shall organize one orientation session prior to the first round. No one other than the student competitors, alternates, coaches, and person(s) conducting the orientation session may attend. The administrator shall review the competition schedule, room locations, and procedure for the day. During the orientation session, Rules 8(A)(2) (Observers' attendance during round) and 23 (Prohibited Communication and Attendance) MUST be reviewed with the participants. Participants shall be afforded the opportunity to ask questions about logistics and administrative issues. **In adherence with Rule 7(E), the administrator shall not answer any questions relating to the negotiation problems.**

## **C. Judges' Briefing**

Judges will be briefed before each round in conformity with the Negotiation Competition Instructions for Briefing Judges (located in the Regional Competition Administrative Guide, which is posted to the Law Student Division website).

## **D. Specific Schedule for Regional Competitions**

Regardless of the timing of the rounds, notice of the schedule to be used in a Regional Competition must be given to all participating schools and the ABA Chicago headquarters *at least three weeks* prior to the competition.

## **E. Announcement of Preliminary Round Results**

A reception or informal gathering must be held following the conclusion of the second preliminary round, and at this time, the four teams advancing to the final round will be announced.

## **F. Semifinal and Final Round Schedules**

The schedule for the semifinal round (which occurs only at the National Competition) and final round is the same as the morning or afternoon schedule for the preliminary rounds, except the team orientation may be eliminated.

# **RULE 10. SCORING AND JUDGING STANDARDS**

Teams are evaluated and scored based on the quality of their presentations and not on the merits of the side they represent.

## **A. General Scoring and Advancing at the Regional Competition**

Each panel of judges will observe four teams either in the first round or the second round. Judges will rank the teams from one to four in order of effectiveness in the negotiating session, with a score of one being assigned to the most effective team. At the end of the second round, the four highest-ranking teams will advance to the final round.

## **B. General Scoring and Advancing at the National Competition**

During the first two rounds of the National Competition, each panel of judges will observe four teams either in the first round or the second round. Judges will rank the teams from one to four

in order of effectiveness in the negotiating session, with a score of one being assigned to the most effective team. At the end of the second round, the sixteen highest-ranking teams will advance to the semifinal round.

### **C. Unequal Number of Judges in Each Round**

If there is an insufficient number of judges on the day of the competition, or if there are different numbers of judges in each room (or in each round), judge assignments and scoring adjustments should be made with the objective of achieving an equal number of rankings for all teams (a) in each room and (b) in each round.

If necessary, scoring adjustments to the results in the first round and the second round should be made as follows:

1. If there are fewer than three judges in any room, rankings should be averaged to create an equal number of rankings in each room and in each round. For example, if there is one room with two judges and four rooms with three judges, the scores of the two judges should be averaged to create a third score for that room. 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.
2. If more than the required number of judges appears on the day of the competition and there are an unequal number of judges in each room, rankings should be averaged to create an equal number of rankings in each room and each round. For example, if there are five judges in two rooms and four judges in three rooms, the scores of the four judges should be averaged to create a fifth score for that room.
3. The number of rankings should be adjusted if there are inequalities between rounds. For example, if there are three judges per room in one round and four judges per room in the other round either actual or as adjusted under 1 or 2 above, a fourth score should be created by means of averaging for each room in the three-judge round.

### **D. Scoring for Single-person Teams for Criteria IV (Teamwork Score)**

In the event of a single-person team, the judge will average criteria I, II, III, V, and VI, and enter that result (to the nearest whole number) as the teamwork rating on the Scoring Sheet.

### **E. Scoring Process for the Semifinal Round**

A semifinal round takes place only at the National Competition. Scoring for the semifinal round will also be based on the judges' ranking of one to four, regardless of the number of judges in each room. The semifinal round team rankings will be announced immediately following the tabulation of results, and the results will be based only on the judges' rankings in the semifinal round in each room. The winner of each semifinal round room will advance to the final round.

### **F. Scoring Process for the Final Round**

Scoring for the final round will also be based on the judges' ranking of one to four, regardless of the number of judges in the room. The final round team rankings will be announced

immediately following the tabulation of results, and the results will be based only on the judges' rankings in the final round.

### **G. Tie-breaking procedures**

***Tie-breaking procedure based on head-to-head results after first and second rounds only.*** A tie may occur when determining the four teams advancing to the final round at the Regional Competition, or the sixteen teams advancing to the semifinal round at the National Competition. To break the tie, the competition administrator will determine the teams for the final round, giving preference to teams (among the tied teams) that won in head-to-head competition. For example, assume that teams A and B are tied for fourth place. If teams A and B have met in a round in which team A received a better ranking than team B, team B would be eliminated from the final round.

***Tie-breaking procedure based on the judges' Scoring Sheets after the two preliminary rounds and, if necessary, after subsequent rounds.*** If the method outlined above is unsuccessful or if it is necessary to break a tie to determine the rankings in the final round, the following procedure must be followed:

The tie must be broken by computing the team with the lowest total numerical rating on the six scales on the judges' Scoring Sheets, using only the scoring sheets of the teams involved in the tie. The Tie-Breaking Calculation Form attached at the end of these rules should be used in this calculation.

1. Enter the six circled whole number ratings on each Scoring Sheet from the first two rounds. However, in the event a single-person team is involved in the tie, rating scale IV (Teamwork) shall be omitted from the cumulative total calculation for all of the teams involved in the tie. (If a judge has used the space between numbers, select the closest whole number. If the rating is equally distant from two numbers, toss a coin.) Compute a total for each scale. To break a tie in the final round, use only Scoring Sheets from the final round. Enter the judges' numerical ratings in the "Round 1" columns and leave "Round 2" columns blank. If any of the judges fails to properly complete ratings for any category on the Scoring Sheet (e.g., self-analysis), then that criterion will not be used in breaking the tie.
2. Calculate a cumulative total from the totals for each of the six scales. The team with the lowest cumulative total is the winner.
3. If the calculation outlined above still results in a tie, the winner will be determined from among those tied by choosing the team achieving the best (lowest) rating in the OUTCOME OF THE SESSION category, calculated in accordance with the provisions of this rule. If a tie still remains, both teams shall be declared co-winners.

If ties must be broken to determine teams advancing to the semifinal round at the National Competition, these tie-breaking protocols will be employed.



#### **H. Timing of Ranking Sheets, Score Sheets, and Comment Sheets Pick Up**

The judges' Ranking Sheets and Scoring Sheets will be collected **before the** judges provide comments to the last two teams they evaluate. The judges may retain their Comment Sheets for use when giving feedback to the teams. The judges' Comment Sheets will be collected after feedback has been provided to the teams and will be distributed to the teams later.

#### **I. Distribution of Judges' Scoring Sheets and Comments**

The competition administrator will distribute the original judges' Comment Sheets and copies of the judges' Scoring Sheets to the competitors at the conclusion of the preliminary rounds. The judges' Ranking Sheets will not be distributed to competitors. The competition administrator shall send all Ranking Sheets and Scoring Sheets to the Chicago office within five days of the end of the competition, which will be retained for up to 90 days.

### **RULE 11. ANNOUNCEMENT OF RESULTS**

#### **A. Announcing Results after Two Preliminary Rounds**

A reception or informal gathering must be held following the conclusion of the second preliminary round. At that time, the four teams advancing to the final round or the sixteen teams advancing to the semifinal round at the National Competition will be announced. **After the announcement, the competition administrator must make available a copy of the tally sheet indicating all teams' rankings and distribute the judges' Scoring Sheets, Comment Sheets, and a copy of the Ranking sheet to their respective teams.** Administrators may post one or more copies of the Tally Sheet in such a manner that all coaches/teams may review the scores or may provide a copy to each team. The coaches will have fifteen minutes from the distribution of the tally sheet to file a challenge, as described below in Rule 12.

#### **B. Announcing Results after Semifinal Round at the National Competition**

The winners of the four semifinal round rooms will be announced during the lunch that follows the semifinal round. They will advance to the final round.

#### **C. Announcing Results after Final Round**

The rankings of the final round teams will be announced following the final round.

### **RULE 12. TALLY SHEET REVIEW PERIOD**

A Tally Sheet Review Period shall be for fifteen minutes following the distribution of the tally sheet so that teams may contest any mathematical errors that may appear. If a mathematical error is identified during the Tally Sheet Review Period, corrections shall be made before beginning the final round (or semifinal round at the National Competition). Corrective computations shall be an open process that may be attended by the coaches of the teams involved. If the computational errors cannot be resolved, the Negotiation Competition Subcommittee representative shall be contacted. Except for mathematical errors, no other

objections or complaints about the competition shall be raised during the Tally Sheet Review Period. Failure to raise any objection to the computations on the tally sheet within the Tally Sheet Review Period shall be a defense to any subsequent protests based on mathematical errors following the preliminary rounds

### **RULE 13. COMPETITION JUDGES**

#### **A. Number of Judges**

Each round (consisting of two negotiation sessions among a total of four teams) should be observed and evaluated by a panel of *no fewer* than three judges, at least two of whom must be lawyers. The professional activities of any non-lawyer judge should regularly involve negotiation. To the extent possible, the Host School is responsible for selecting judges who are experienced and knowledgeable in negotiation skills.

#### **B. Judge Eligibility**

No member of the faculty (full, part-time, or adjunct), administration, or staff of the Host School shall act as a judge for a team from that person's law school. And because there is no way to know whether a Host School's teams will advance to the final round, to avoid any potential conflicts of interest, no member of the faculty (full, part-time, or adjunct faculty; law school administration; or law school staff) of the Host School shall act as a judge for the final round.

#### **C. Role of Judges**

The judges will evaluate the competitors' performance according to the standards and criteria provided. Judges shall not interact with the teams during the negotiations; however, they may ask teams questions about the negotiation during that team's self-analysis.

### **RULE 14. FEEDBACK**

After completing the Scoring Sheets for each negotiation session, the judges shall meet with both teams in the same room and at the same time. Judges will have a total of 10 minutes to provide feedback to guide the competitors in furthering their negotiating skills.

### **RULE 15. MEMBERS OF THE APPEALS BOARD**

At each Regional Competition, an Appeals Board must consist of at least three faculty advisors or coaches from law schools other than the Host School. No member of the Appeals Board may be a person associated with a complaining school or the alleged offending school. If all faculty advisors and coaches are disqualified by virtue of the preceding sentence, then the Appeals Board must consist of not more than three competition judges who are present and willing to participate. During the Regional Competitions, a member of the Negotiation Competition Subcommittee will be available by phone to answer any questions about the Rules. At the National Competition, the Appeals Board will be comprised of the members of the Negotiation Competition Subcommittee.

## **RULE 16. RESOLVING COMPLAINTS, VIOLATIONS, AND DISPUTES**

### **A. Process for Filing a Complaint at the Competition**

Any violation that may affect the results should be resolved on the day of the competition by the Appeals Board appointed by the competition administrator. Competitors and faculty advisors/coaches waive the right to appeal any matter arising in the course of a competition round by failing to file a timely objection with the competition administrator. Complaints must be filed as soon as practicable after the completion of the round that is the subject of the complaint. Every effort should be made to file a complaint while the judges are still available for consultation by the competition administrator and the Appeals Board.

### **B. Timing of Appeals Board Convening**

The Appeals Board will convene only after the conclusion of the second preliminary round of negotiations and will only hear a complaint that is not rendered moot by virtue of the results of the competition. A complaint will be considered moot if the affected teams would not otherwise advance to the next stage of the competition. The Appeals Board should not be informed of the rankings or point totals prior to its decision.

The Appeals Board must convene in private to prevent any potential public embarrassment of a team. The Appeals Board, in its discretion, may discuss the matter with interested parties.

### **C. Scope of Violations Appeals Board May Consider**

In general, the Appeals Board will not hear any appeal relating to an alleged violation that is within the discretion of the judges.

***Rules violations other than those within the judges' discretion.*** With respect to complaints not related to an alleged ethics violation identified by the judges (including ethical violations discovered later, but not identified by judges), the Appeals Board has full discretion to determine appropriate sanctions. In assessing the severity of the penalty, the Appeals Board should consider whether the complained of conduct was purposeful or inadvertent and whether it resulted in substantial prejudice affecting the result. Possible dispositions for valid complaints range from reprimands to assessment of penalty points to disqualification. Disqualification is mandatory for violation of Rules 23(A) and 23(B). A Negotiation Competition Subcommittee member should be informed before a disqualification takes place.

***Potential ethical violations.*** In the event a judge observes a potential ethical violation, the judge must briefly explain the unethical conduct on the judge's Scoring Sheet, and the competition administrator must contact a member of the Negotiation Competition Subcommittee to discuss the conduct before any sanction can be imposed on a team.

### **D. Team Disqualification**

If the Appeals Board disqualifies a team, all teams below the disqualified team shall move up one place in the standings. In the event that the Appeals Board assesses a team with penalty points,

the penalty points will be added to the affected team's overall score.

#### **E. Appeals Board Decision Appeal and Review**

The decision of the Appeals Board will be final and will not be reviewed except under extraordinary circumstances and in the discretion of the Negotiation Competition Subcommittee.

If an appeal is reviewed by the Negotiation Competition Subcommittee, the determination of the Appeals Board will not be overturned unless the Negotiation Competition Subcommittee decides the determination is arbitrary or blatantly incorrect. A request for review of an Appeals Board's decision must be sent to the Negotiation Competition Subcommittee, in care of the Law Student Division, at [nc@americanbar.org](mailto:nc@americanbar.org) or American Bar Association, Law Student Division, 321 North Clark Street, Chicago, Illinois 60654. In no event will a request for review be considered unless it is received by the ABA Chicago office by 5:00 pm CST on the Tuesday following the decision of an Appeals Board.

The Host School Administrator must advise the Law Student Division Chicago Office of any dispute and its resolution in a post-competition report.

#### **F. Time for Filing Complaints to ABA**

Any complaint affecting the final results of either a Regional Competition or the National Competition must be received in writing by the ABA Chicago office no later than 5:00 pm CST on the Tuesday following the end of the competition.

### **RULE 17. TEAM SELECTION**

Each school may select its team(s) in any way it chooses. However, an intra-school competition is highly recommended. Negotiation problems that may be used in intra-school competitions can be purchased from the ABA.

### **RULE 18. REGIONAL COMPETITION**

#### **A. Regional Assignments**

Regional Competitions generally 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 three days of the regional assignment. The dates and locations of the Regional Competitions will be posted on the ABA Negotiation Competition homepage.

#### **B. Hosting Expectations for Regional Competitions**

The ABA Law Student Division will divide participating schools into regions for the Regional Competitions. The success of the Regional Competitions depends on the willingness of the schools to act as hosts, either alone or in cooperation with a local bar association, law firm, or other sponsoring organization. The Law Student Division will publish a hosting schedule for each region. 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 years if it fails to host as scheduled and does not find a replacement host.

### **C. ABA Law Student Division Assistance to Host Schools**

The Law Student Division will work with the school designated to host the competition in a particular region to ensure that administrative tasks are understood. The school, firm, or other organization assuming administrative responsibility will be provided with a Regional Competition Administrative Guide.

A subsidy of \$75 per participating team will be provided by the ABA Law Student Division to help the host school defray the costs of holding the competition. Additionally, the entry fee for the host school's first team will be waived. Host schools must provide lunch during the day and schedule an informal gathering after the preliminary rounds at which the advancing teams are announced. Host schools are encouraged to serve beverages and snacks during the latter event.

### **D. Location and Timing of Host School Team(s) to Compete**

Any school hosting the competition has the option to send its team(s) to another Regional Competition instead of participating at the host school's site. This option is subject to space availability.

### **E. Host School Administrator**

The host school should designate a faculty or staff member to act as competition administrator, although a student-run board may attend to the actual operation of the competition. In addition, each administrator will be assigned a Negotiation Competition Subcommittee member who will be available as a consultant and advisor to the competition administrator.

Faculty coaches and advisors of competing teams are prohibited from judging or assisting in the administration of competitions in which their teams are competing. In other words, competition administrators may not be coaches or competitors in the competition.

### **F. Deviating from Competition Rules**

Host schools may not vary the format, except as explained in these rules, e.g. Rule 9, and the Regional Competition Administrative Guide.

## **RULE 19. NATIONAL NEGOTIATION FINALS COMPETITION**

### **A. Identifying Teams Invited to Participate in the National Competition**

The first place team from each Regional Competition will be invited to participate in the National Competition. After review of the results of the Regional Competitions, the Negotiation Competition Subcommittee may issue additional invitations to create a number of teams competing that equals a multiple of four.

### **B. Structure of National Negotiation Competition**

The National Competition will be administered by the ABA Law Student Division and the

Negotiation Competition Subcommittee, and the competition will be held in conjunction with the ABA Midyear Meeting. See Rules 9 and 10 for details about the semifinal and final rounds. The National Competition will take place over a Friday and Saturday. These rules may be modified in whole or in part for purposes of the ABA National Negotiation Competition.

### **C. Logistical Information**

The ABA Law Student Division will distribute information approximately three to four weeks before the National Competition. Teams advancing to the National Competition will receive logistical information such as the schedule, location, facilities, and lodging arrangements. Questions concerning the National Negotiation Finals Competition should be directed to the Chicago office.

## **RULE 20. INTERNATIONAL COMPETITION**

The highest-ranking United States team will advance to the International Negotiation Competition, which typically is held in late June or early July.

## **RULE 21. FACULTY COACHES/ADVISORS**

Each team is encouraged to have a coach. A coach may be a full or part-time faculty member or a lawyer approved by a law school to coach the students. Further, a team may have more than one coach and one person may coach two teams from the same school.

If possible, a coach or faculty advisor should accompany the team to the Regional and National Competitions, and more than one coach may attend the competitions. The same or a different coach may attend the Regional and National Competitions.

Coaches and faculty advisors of competing teams are prohibited from judging or assisting in the administration of competitions in which their teams are competing. They are also prohibited from attending the competition judges' briefing.

## **RULE 22. ASSISTANCE**

Prior to the competition, a team may receive advice and suggestions from any source, including practicing lawyers, faculty members, and team coaches. During the competition, coaches and faculty advisors may advise, communicate with, and observe their teams only as provided in these rules.

## **RULE 23. PROHIBITED COMMUNICATION AND ATTENDANCE**

### **A. Communication**

#### **1. Prohibited Communication during a Round**

*Communications with competitors.* No one, including team coaches and other persons associated with a competitor, may give advice or instructions to, or attempt to communicate in any other way, including using any form of technology, with any of the competitors during the period from commencement of the negotiation session through the completion of the

judges' feedback to the competitors.

***Communications with judges.*** Team coaches, competitors, and other persons identified with a team may not speak to a judge during the period from commencement of the negotiation session through the completion of the judges' feedback to the competitors. Competitors may respond to questions about the negotiation posed by the judges during the self-analysis session, but competitors may not ask questions of the judges during the round until the feedback period, and then only if the judges grant permission.

***Communications in the case of multiple teams from the same school.*** A coach, faculty advisor, or any other person associated with a team who observes a team may communicate with the team immediately after the negotiation session has concluded, i.e., after the judges have provided feedback to the competing teams. If a law school has multiple teams competing and the teams compete in different sessions of the round, no coach, faculty advisor, or other observer associated with the team who watched the first team compete may communicate with the team competing in the second session until the entire negotiation round is over. However, if a school with two teams has only one coach and the teams compete in different sessions of the round, the coach may provide feedback to the first team that competed. The second team may not be present during this feedback session, and the coach, members of the first team, or anyone associated with the first team cannot communicate with the second team until after the entire negotiation round is complete. If a school has three teams advancing within a competition and it becomes necessary under Rule 6(C) for the teams from that school to represent opposite sides during the negotiation, a coach, assistant, or individual otherwise associated with the teams will be prohibited from reading or otherwise becoming privy to both sides of the confidential facts.

## **2. Consequences of Engaging in Prohibited Communication**

The mere act of communication or receipt of information proscribed by this rule will constitute a violation, regardless of the substance thereof and regardless of whether initiated by a competitor or by any other person affiliated with a competitor. Violation of this rule may result in disqualification by the Appeals Board (See Rule 16 for procedures). Harmless error will not be a defense to a complaint based on violation of this rule because of the appearance of impropriety occasioned, even by casual exchanges unrelated to the substance of the negotiation.

### **B. Attendance**

#### **1. Attending Rounds**

Competitors may attend only their scheduled negotiation sessions. No person associated with a competitor, such as coaches, family members, or close friends, may attend a negotiation session other than a session in which that school's teams are involved, except for the final round. Mere membership in a student body does not constitute association with a competitor. If a school has multiple teams participating in the competition, persons identified with those teams (other than the competitors themselves), such as coaches, family members, or others, may attend any of the negotiation sessions in which that school's teams are involved. At all times, it is the competitor's responsibility to comply with Rule 23(A) and to refuse any attempts at prohibited communication.

Attendance proscribed by this rule will constitute a violation, which may result in disqualification. Please see Rule 16 for procedures.

## **2. Scouting Prohibited**

Scouting in any form is strictly prohibited. Scouting is the observation and sharing of information with a competitor about another team in the competition, during the competition, whether intentional or inadvertent. The responsibility rests on the team to refuse any attempted prohibited communication.

## **3. Attending Final Round**

Teams that have already been eliminated may attend the final round. If there is another team from the same school in the final round, communication between the eliminated team and the participating team is prohibited from the beginning of the final round until the conclusion of the final round, which includes the judges' feedback to the competitors.

## **RULE 24. VIDEO RECORDING**

Both the Regional and National Competitions may be video recorded. A student's decision to enter and participate in the competition constitutes consent to video recording. As a condition of publication and for no monetary compensation, 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. Consent also grants the ABA the right to use student's name, voice, and image in connection with the published competition materials.

No video or audio recording by teams or spectators is permitted.

## **RULE 25. AWARDS**

Each registered team member and alternate in the Regional Competitions will receive a certificate to be awarded at 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 Competition.

The first place team at the National Competition will receive a trophy for the school and as well as individual certificates for the team members.

## **RULE 26. EXPENSES**

All competition expenses, including lodging, travel, and incidental costs, are the responsibility of the competitors and will not be reimbursed by the ABA Law Student Division.

## **RULE 27. PROFESSIONAL CONDUCT**

In general the ABA Model Rules of Professional Conduct govern the conduct of all



participants including students, faculty advisors, team coaches, administrators, and observers. Thus, everyone who participates in or observes a negotiation competition is expected to uphold the highest level of professionalism during the competition and at all competition-related events.

Although Comment 2 to Model Rule 4.1 (Truthfulness in Statements to Others) explains that a party's intentions as to an acceptable settlement of a claim are ordinarily not taken as statements of material fact, when negotiating, competitors should not misrepresent their authority to settle as expressed in the negotiation problems. Not misrepresenting one's authority upholds the integrity of the negotiation competition.

In addition to violations under Rule 16, the Negotiation Competition Subcommittee may consider and sanction any violations of professional conduct during the competition or any competition-related activity. Possible sanctions for violations range from reprimands to loss of rank to revocation of an invitation to the National Competition.

#### **RULE 28. RULES INTERPRETATION**

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

The Regional Host School Administrators, competition judges, Negotiation Competition Subcommittee members, and Law Student Division staff shall apply these rules during the competitions. Their decisions are final unless properly challenged and reviewed in accord with Rule 16.

#### **RULE 29. CANCELLATION**

Unless covered by Rule 5(C), 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.

#### **RULE 30. INFORMATION**

Questions concerning schedules, facilities, and accommodations for the Regional Competitions should be directed to the Regional Host School Administrator for each respective region.

Questions about the Negotiation Competition in general, rules interpretation, and the National Competition should be directed to:

American Bar Association  
Law Student Division  
Attn: Negotiation Competition  
321 North Clark Street  
Chicago, Illinois 60654  
312-988-5621 or nc@americanbar.org

Competition information is also available on the competition's web site at [www.ambar.org/lsccompetitions](http://www.ambar.org/lsccompetitions).

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**AMERICAN BAR ASSOCIATION  
LAW STUDENT DIVISION**

**NEGOTIATION COMPETITION  
TIE-BREAKING CALCULATION FORM**

**STEP ONE:**

Enter the six circled, whole-number ratings for each scale, and compute a total for each. However, in the event a single-person team is involved in the tie, scoring scale IV (Teamwork) shall be omitted from the cumulative total calculation for all of the teams involved in the tie. If a judge has used the space between numbers, select the closest whole number. If the rating is equally distant from two numbers, toss a coin. Compute a total for each scale. In the final round, enter the judges' ratings in "Round 1" columns and leave "Round 2" blank.

Team Letter: \_\_\_\_\_

	<u>ROUND 1 JUDGES</u>					<u>ROUND 2 JUDGES</u>					TOTAL
	1	2	3	4		1	2	3	4		
Scale											
I	_____	+_____	+_____	+_____	+_____	+_____	+_____	+_____	+_____	=	_____
II	_____	+_____	+_____	+_____	+_____	+_____	+_____	+_____	+_____	=	_____
III	_____	+_____	+_____	+_____	+_____	+_____	+_____	+_____	+_____	=	_____
IV	_____	+_____	+_____	+_____	+_____	+_____	+_____	+_____	+_____	=	_____
V	_____	+_____	+_____	+_____	+_____	+_____	+_____	+_____	+_____	=	_____
VI	_____	+_____	+_____	+_____	+_____	+_____	+_____	+_____	+_____	=	_____

**STEP TWO:**

Calculate a cumulative total by adding the totals for each of the six scales. The team with the lowest cumulative total is the winner.

**STEP THREE:**

If a tie still remains, see Rule 10(G).

**AMERICAN BAR ASSOCIATION  
LAW STUDENT DIVISION**

**NEGOTIATION COMPETITION**

**STANDARDS FOR JUDGING**

**How does the scoring system work?** In a negotiation round, you will observe a total of four teams negotiate, in two separate negotiation sessions. You will complete a Scoring Sheet, on which you will score each team on six specific aspects of the negotiation on a 1-7 scale. The Scoring Sheet will be used to break ties and to provide feedback to the competitors. You are also encouraged to provide written feedback on the Comment Sheet. When both negotiating sessions have ended, each team's rank (1-4) should be written in the space provided on the Ranking Sheet. These rankings will be the primary factor in determining which teams will advance beyond the preliminary rounds and who will win this competition. If you observed an ethical violation during a negotiation and you explained the unethical conduct on the Scoring Sheet, you may take the violation into account when ranking the four teams you observed.

In regard to both the Scoring Sheet and the Ranking Sheet, we are interested in your independent judgment. Therefore, judges should not discuss their ranking with each other until the Scoring Sheets and the Ranking Sheet have been completed and collected. Judges may, however, generally discuss the negotiations they observe.

**What do the numbers on the Scoring Sheet scales indicate?** On the Scoring Sheet scales, the number 7 is at the low or poor performance end of the scale; the number 1 is at the high end of the scale. The number 4 rating, neutral, should be used if the performance was a somewhat evenhanded balance of positive and negative qualities. Indicate your rating by circling the appropriate number. Remember: **the lower the ranking, the better the score.**

**Are the judging standards premised on the assumption that there is one correct approach?** These standards are based on the premise that there is not one "correct" approach to effective negotiation in all circumstances. Instead, the strategies and techniques used will vary with the nature of the problem, the specific mix of personalities involved, and other circumstances. Whatever approach is used, however, negotiation effectiveness can be judged at least in part by the outcome of the session, regardless of whether agreement was reached. A good negotiation outcome is one that:

- Is better than the best alternative to a negotiated agreement (with this party);
- Satisfies the interests of
  - the client – very well
  - the other side – acceptably (enough for them to agree and follow through)
  - third parties – tolerably (so they won't disrupt the agreement);
- Adopts a solution that is the best of all available options;
- Is legitimate – no one feels "taken";
- Involves commitments that are clear, realistic, and operational;
- Involves communication that is efficient and well understood, and
- Results in an enhanced working relationship or an agreement to negotiate further.

**How do the teams receive feedback?** The Scoring Sheets and Comment Sheets provide the only written feedback the teams will receive. Therefore, please complete each category and make comments, when appropriate. However, do not give the Scoring Sheets or Comment Sheets to the competitors yourselves, as they will be collected after the negotiation round and distributed to the competitors later. Your comments should also prove useful in the oral critique you deliver to the teams at the end of each negotiation session. While you can fill out the first five scales during the 10-minute period when the teams are preparing their self-analyses, Scale VI, Self-Analysis, should be filled out only after you have seen this final aspect of the negotiating session. Scale VII, Negotiating Ethics, should also be filled out after you have seen the team's complete performance, including the Self-Analysis.

AMERICAN BAR ASSOCIATION NEGOTIATION COMPETITION

**RANKING SHEET**

Judge's Name: \_\_\_\_\_ Date: \_\_\_\_\_ Room #: \_\_\_\_\_

**Negotiation judged:** Regional Round #1 \_\_\_\_\_ #2: \_\_\_\_\_ Regional Final: \_\_\_\_\_  
National Round #1 \_\_\_\_\_ #2: \_\_\_\_\_ National Semifinal: \_\_\_\_\_ National Final: \_\_\_\_\_

*This sheet should be completed only after observing all four teams.*

Based on my personal opinion, having observed the negotiation between teams \_\_\_\_\_ & \_\_\_\_\_ and between \_\_\_\_\_ & \_\_\_\_\_, I rank the teams I observed as follows:

1 = Most effective team: \_\_\_\_\_

2 = Next most effective team: \_\_\_\_\_

3 = Third most effective team: \_\_\_\_\_

4 = Least effective team: \_\_\_\_\_

**Suggested criteria:**

- Remember to consider each team's ethical conduct in assigning rankings. Examples include the following: 1) misrepresenting material facts, 2) exceeding settlement authority, or 3) inventing self-serving material facts.
- Remember that parties need not reach an agreement, and that in some situations, the best outcome might be no agreement at all. Judges should focus on each team's planning and the negotiation process itself, rather than on whether the teams reach an agreement.

**A good negotiation outcome is often one that:**

- Is better than the best alternative to a negotiated agreement;
- Satisfies the interests of
  - the client – very well
  - the other side – acceptably (enough for them to agree and follow through)
  - third parties – at least tolerably (so they won't disrupt the agreement);
- Adopts a solution that is the best of all available options;
- Is legitimate – no one feels "taken";
- Involves commitments that are clear, realistic, and operational;
- Involves communication that is efficient and well understood; and
- Results in an enhanced working relationship, so the parties and/or their lawyer can deal with future differences more easily.

The competition administrator will collect the Ranking Sheets BEFORE the judges provide feedback to the last two teams in each negotiation round.

AMERICAN BAR ASSOCIATION NEGOTIATION COMPETITION

SCORING SHEET

Judge's Name: \_\_\_\_\_ Date: \_\_\_\_\_ Team Letter: \_\_\_\_\_

Negotiation judged: Regional Round #1 \_\_\_\_\_ #2: \_\_\_\_\_ Regional Final: \_\_\_\_\_
National Round #1 \_\_\_\_\_ #2: \_\_\_\_\_ National Semifinal: \_\_\_\_\_ National Final: \_\_\_\_\_

Please complete scales I-V while the teams are preparing for the self-analysis.

I. NEGOTIATION PLANNING

How well-prepared was this team, judging from its performance and its apparent strategy?

7 Very Unprepared 6 Unprepared 5 Somewhat Unprepared 4 Neutral 3 Somewhat Prepared 2 Prepared 1 Highly Prepared

II. FLEXIBILITY IN DEVIATING FROM PLANS OR ADAPTING STRATEGY

Was this team able to adapt its strategy to, for example, new information or to unforeseen moves by the opposing team?

7 Very Inflexible 6 Inflexible 5 Somewhat Inflexible 4 Neutral 3 Somewhat Flexible 2 Flexible 1 Highly Flexible

III. OUTCOME OF SESSION

To what extent did the outcome of the session, regardless of whether agreement was reached, serve the client's goals?

7 Very Poorly Served 6 Poorly Served 5 Somewhat Poorly Served 4 Neutral 3 Somewhat Served 2 Served 1 Fully Served

IV. TEAMWORK

How effective were the negotiators in working together as a team, in sharing responsibility, in communicating with each other, and providing mutual backup?

7 Very Ineffective 6 Ineffective 5 Somewhat Ineffective 4 Neutral 3 Somewhat Effective 2 Effective 1 Highly Effective

V. RELATIONSHIP BETWEEN THE NEGOTIATING TEAMS

Did the way this team managed its relationship with the other team contribute to or detract from achieving its client's best interests?

7 Strongly Detracted 6 Detracted 5 Detracted Somewhat 4 Neutral 3 Contributed Somewhat 2 Contributed 1 Strongly Contributed

AMERICAN BAR ASSOCIATION NEGOTIATION COMPETITION

SCORING SHEET

Criteria VI and VII should be completed after the teams have finished the self-analysis period.

VI. SELF-ANALYSIS

Students will spend this 10-minute period addressing, directly to the judges, responses to the following questions:

- (1) "In reflecting on the entire negotiation, if you faced a similar situation tomorrow, what would you do the same and what would you do differently?"
- (2) "How well did your strategy work in relation to the outcome?"

Based on the team's self-analysis during the review session, how adequately has it learned from today's negotiation?

7	6	5	4	3	2	1
Very Inadequately	Inadequately	Somewhat Inadequately	Neutral	Somewhat Adequately	Adequately	Very Adequately

VII. NEGOTIATING ETHICS

Based on your observation, do you believe the negotiating team observed or violated the ethical standards of the legal profession? For example, 1) did the team misrepresent material facts? 2) did the team exceed its settlement authority? or 3) did the team invent self-serving material facts? Please circle one:

TEAM OBSERVED ETHICAL STANDARDS      or      TEAM VIOLATED ETHICAL STANDARDS

If you think a team potentially violated an ethical standard, please briefly explain the team's conduct:

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PLEASE be sure to complete ALL categories before turning in this form.

The competition administrator will collect this Scoring Sheet BEFORE the judges provide feedback to the last two teams in the negotiation round.



**JUDGE'S COMMENT SHEET**

Judge's Name: \_\_\_\_\_ Date: \_\_\_\_\_ Room #: \_\_\_\_\_

Team Letter: \_\_\_\_\_

Regional Round #1 \_\_\_\_\_ Round #2 \_\_\_\_\_ Regional Final \_\_\_\_\_  
National Round #1 \_\_\_\_\_ Round #2 \_\_\_\_\_ Semifinal \_\_\_\_\_ National Final \_\_\_\_\_

Please use the space below for comments:

I. STRENGTHS:

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II. AREAS FOR IMPROVEMENT:

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The competition administrator will collect this Comment Sheet AFTER the judges provide feedback to the last two teams in the negotiation round.

**AMERICAN BAR ASSOCIATION  
LAW STUDENT DIVISION**

**NEGOTIATION COMPETITION SAMPLE SCHEDULE**

**Regional Schedule: Day 1 Morning**

8:00 - 8:55	Hospitality suite; Team welcome/orientation starts promptly at 8:30
8:30 - 8:55	Judges' briefing Team orientation session
8:55 – 9:00	Judges and competitors go to competition rooms. Conduct conflict check.
9:00 - 9:50	Negotiation. Each side may ask for one 5-minute break during this 50-minute period, and any such break will not extend the time. Both teams must leave the room during a break.
9:50 - 10:00	Preparation for self-analysis. (Judges begin filling out Scoring Sheets sections I-V and Comment Sheets.)
10:00 - 10:20	Two successive 10-minute self-analyses. The team with the letter designation closest to the beginning of the alphabet goes first.
10:20 - 10:30	Judges complete Scoring Sheets and Comment Sheets.
10:30 - 10:40	Judges comment on first negotiation to both teams at the same time.
10:40 - 10:45	Break. New teams come in.
10:45 - 11:35	Negotiation. Each side may ask for one 5-minute break during this 50-minute period, and any such break will not extend the time. Both teams must leave the room during a break.
11:35 - 11:45	Preparation for self-analysis. (Judges begin filling out Ranking Sheets, Scoring Sheets sections I-V, and Comment Sheets.)
11:45 - 12:05	Two successive 10-minute self-analyses. (The team with the letter designation closest to the beginning of the alphabet goes first.)
12:05 - 12:20	Judges complete Ranking Sheets and Scoring Sheets and decide on final ranking of teams. Ranking Sheets and Scoring Sheets are collected. Judges may keep their Comment Sheets.
12:20 - 12:30	Judges comment on second negotiation to both teams at the same time. At the completion of this session, the Comment Sheets will be collected for distribution to the competitors at a later time.

***Break for lunch and scoring***

**Regional Schedule: Day 1 Afternoon**

2:00 - 2:25	Judges' briefing
2:25 - 2:30	Judges and competitors go to competition rooms. Conduct conflict checks.
2:30 - 3:20	Negotiation. Each side may ask for one 5-minute break during this 50-minute period, and any such break will not extend the time. Both teams must leave the room during a break.
3:20 - 3:30	Preparation for self-analysis. (Judges begin filling out Scoring Sheets sections I-V and Comment Sheets.)
3:30 - 3:50	Two successive 10-minute self-analyses. (The team with the letter designation closest to the beginning of the alphabet goes first.)
3:50 - 4:00	Judges complete Scoring Sheets and Comment Sheets.
4:00 - 4:10	Judges comment on first negotiation to both teams at the same time.
4:10 - 4:15	Break. New teams come in.
4:15 - 5:05	Negotiation. Each side may ask for one 5-minute break during this 50-minute period, and any such break will not extend the time. Both teams must leave the room during a break.
5:05 - 5:15	Preparation for self-analysis. (Judges begin filling out Ranking Sheets, Scoring Sheets sections I-V and Comment Sheets.)
5:15 - 5:35	Two successive 10-minute self-analyses. (The team with the letter designation closest to the beginning of the alphabet goes first.)
5:35 - 5:50	Judges complete Ranking Sheets and Scoring Sheets and decide on final ranking of teams. Ranking Sheets and Scoring Sheets are collected. Judges may keep their Comments Sheets.
5:50 - 6:00	Judges comment on second negotiation to both teams at the same time. At the completion of this session, the Comment Sheets will be collected for distribution to the competitors after the four finalists are announced.

***Break for refreshments, scoring, announcement of preliminary round results.***

### **Regional Schedule: Day 2 Morning**

8:00 - 8:30	Hospitality suite
8:30 – 8:55	Judges' briefing
8:55 – 9:00	Judges and competitors go to competition rooms. Conduct conflict checks.
9:00 - 9:50	Negotiation. Each side may ask for one 5-minute break during this 50-minute period, and any such break will not extend the time. Both teams must leave the room during a break.
9:50 - 10:00	Preparation for self-analysis. (Judges begin filling out Scoring Sheets sections 1-5 and Comment Sheets.)
10:00 - 10:20	Two successive 10-minute self-analyses. The team with the letter designation closest to the beginning of the alphabet goes first.
10:20 - 10:30	Judges complete Scoring Sheets and Comment Sheets.
10:30 - 10:40	Judges comment on first negotiation to both teams at the same time.
10:40 - 10:45	Break. New teams come in.
10:45 - 11:35	Negotiation. Each side may ask for one 5-minute break during this 50-minute period, and any such break will not extend the time. Both teams must leave the room during a break.
11:35 - 11:45	Preparation for self-analysis. (Judges begin filling out Ranking Sheets, Scoring Sheets sections 1-5 and Comment Sheets.)
11:45 - 12:05	Two successive 10-minute self-analyses. (The team with the letter designation closest to the beginning of the alphabet goes first.)
12:05 - 12:20	Judges complete Ranking Sheets and Scoring Sheets and decide on final ranking of teams. Ranking sheets and Scoring Sheets are collected. Judges may keep their Comment Sheets.
12:20 - 12:30	Judges comment on second negotiation to both teams at the same time. At the completion of this session, the Comment Sheets will be collected for distribution to the competitors at a later time.

***Break for lunch, scoring, and announcement of final round results.***

**AMERICAN BAR ASSOCIATION  
LAW STUDENT DIVISION**

**NEGOTIATION COMPETITION TEAM PAIRINGS**

**16-Team Schedule**

Note: The ABA Law Student Division will assign letters to teams.

	<u>Room 1</u>	<u>Room 2</u>	<u>Room 3</u>	<u>Room 4</u>
<b>Round 1</b>	Teams A & B Teams C & D	Teams E & F Teams G & H	Teams I & J Teams K & L	Teams M & N Teams O & P

<b>Round 2</b>	Teams C & L Teams M & F	Teams G & P Teams I & B	Teams K & H Teams A & N	Teams O & D Teams E & J
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*Must have new judges for the second round.*

<u>Side 1 Teams</u>	<u>Side 2 Teams</u>
A	B
C	D
E	F
G	H
I	J
K	L
M	N
O	P

INSTRUCTIONS: When assigning team designations, start with schools that have three teams in the competition, followed by schools with two teams in the competition.

**3-team Designations.** If schools have three teams in the competition, those teams should be randomly assigned to the following team designations.

Side 1 Teams: A, G, M and C, I, O

Side 2 Teams: B, H, J and D, L, N

*If more than four schools have three teams in the competition, all team designations should be assigned by random drawing.*

**2-Team Designations.** If schools have two teams in the competition, those teams should be randomly assigned to the following team designations, if they were not previously assigned to a 3-team school.

Side 1 Teams: A, G / C, E / I, O / K, M

Side 2 Teams: B, H / D, F / J, P / L, N

**AMERICAN BAR ASSOCIATION  
LAW STUDENT DIVISION**

**NEGOTIATION COMPETITION TEAM PAIRINGS**

**20-Team Schedule**

Note: The ABA Law Student Division will assign letters to teams.

	<u>Room 1</u>	<u>Room 2</u>	<u>Room 3</u>	<u>Room 4</u>	<u>Room 5</u>
<b>Round 1</b>	Teams A & B Teams C & D	Teams E & F Teams G & H	Teams I & J Teams K & L	Teams M & N Teams O & P	Teams Q & R Teams S & T

<b>Round 2</b>	Teams G & T Teams M & J	Teams O & D Teams I & R	Teams S & P Teams A & F	Teams K & H Teams Q & B	Teams C & L Teams E & N
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Side 1 Teams    Side 2 Teams

A	B
C	D
E	F
G	H
I	J
K	L
M	N
O	P
Q	R
S	T

INSTRUCTIONS: When assigning team designations, start with schools that have three teams in the competition, followed by schools with two teams in the competition.

**3-Team Designations.** If schools have three teams in the competition, those teams should be randomly assigned to the following team designations.

Side 1 Teams: A, G, I / E, O, Q / K, M, S

Side 2 Teams: B, F, L / H, N, T / J, P, R

*If more than six schools have three teams in the competition, all team designations should be assigned by random drawing.*

**2-Team Designations.** If schools have two teams in the competition, those teams should be randomly assigned to the following team designations, if they were not previously assigned to a 3-team school.

Side 1 Teams: A, G / C, I / E, K / M, S / O, Q

Side 2 Teams: B, L / D, F / H, R / J, P / N, T

**AMERICAN BAR ASSOCIATION  
LAW STUDENT DIVISION**

**NEGOTIATION COMPETITION TEAM PAIRINGS**

**24-Team Schedule**

Note: The ABA Law Student Division will assign letters to teams.

	<u>Room 1</u>	<u>Room 2</u>	<u>Room 3</u>	<u>Room 4</u>	<u>Room 5</u>	<u>Room 6</u>
<b>Round 1</b>	Teams A & B Teams C & D	Teams E & F Teams G & H	Teams I & J Teams K & L	Teams M & N Teams O & P	Teams Q & R Teams S & T	Teams U & V Teams W & X
<b>Round 2</b>	Teams S & P Teams E & J	Teams W & D Teams I & N	Teams C & X Teams M & R	Teams G & L Teams Q & V	Teams K & H Teams U & B	Teams O & T Teams A & F

Side 1 Teams   Side 2 Teams

A	B
C	D
E	F
G	H
I	J
K	L
M	N
O	P
Q	R
S	T
U	V
W	X

**INSTRUCTIONS:** When assigning team designations, start with schools that have three teams in the competition, followed by schools with two teams in the competition.

**3-Team Designations.** If schools have three teams in the competition, those teams should be randomly assigned to the following team designations. Team designation groups should be assigned in the order listed.

Side 1 Teams: C, E, K / M, S, U / A, G, I / O, Q, W

Side 2 Teams: B, F, L / N, T, X / P, R, V / D, H, J

**2-Team Designations.** If schools have two teams in the competition, those teams should be randomly assigned to the following team designations, if they were not previously assigned to a 3-team school. Team designation groups should be assigned in the order listed.

Side 1 Teams: A, G / C, E / I, O / K, M / Q, W / S, U

Side 2 Teams: B, L / D, J / F, X / H, V / N, T / P, R

**AMERICAN BAR ASSOCIATION  
LAW STUDENT DIVISION  
NEGOTIATION COMPETITION**

**National Competition Team Pairings**

Round 1 (Friday morning)

Round 2 (Friday afternoon)

Semifinal Round - (Saturday morning; 16 teams/4 Rooms)

- Top 16 teams advance.
- Top 4 teams will be placed in 4 different rooms, based on rank. (Top-ranked team in Room 1; Fourth-ranked team in Room 2; Second-ranked team in Room 4; Third-ranked team in Room 4.)
- When possible, the remaining 12 teams will be assigned to rooms so that two teams who previously competed directly against each other will not directly compete against each other during the semifinal or final round. Further, room assignments will avoid having teams from the same law school compete against each other in either the semifinal or final round.
- Teams from the same law school are given the same side, but are placed in different rooms.
- Rooms 1 & 3 will receive one side of the final round problem; rooms 2 & 4 will receive the other side of the final round problem.

Final Round - (Saturday afternoon; 4 teams)

- Winners of rooms 1 & 3 will be paired against winners of rooms 2 & 4.
- Teams must keep the final round side assigned during the semifinal round.

	<u>Room 1</u>	<u>Room 2</u>	<u>Room 3</u>	<u>Room 4</u>	<u>Room 5</u>	<u>Room 6</u>
<b>Round 1</b>	Teams A & B Teams C & D	Teams E & F Teams G & H	Teams I & J Teams K & L	Teams M & N Teams O & P	Teams Q & R Teams S & T	Teams U & V Teams W & X
<b>Round 2</b>	Teams S & P Teams E & J	Teams W & D Teams I & N	Teams C & X Teams M & R	Teams G & L Teams Q & V	Teams K & H Teams U & B	Teams O & T Teams A & F

The pairings for the semifinal and final rounds below are provided as a visual aid only. It presumes the highlighted teams are the four highest ranking teams after the two preliminary rounds.

**Semifinal**

<b>Round</b>	<u>Final Round Side 1</u>	<u>Final Round Side 2</u>
	Teams <b>A</b> & H   Teams <b>X</b> & Q	Teams <b>V</b> & T   Teams <b>U</b> & F
	Teams P & I   Teams E & N	Teams M & K   Teams D & J

**Final**   Teams H & V

**Round**   Teams N & F



**AMERICAN BAR ASSOCIATION  
LAW STUDENT DIVISION  
NEGOTIATION COMPETITION**

**National Competition  
Semifinal and Final Round Brackets**

