

Competition Rules

2009 GW National Religious Freedom Moot Court

You should read all of the Competition Rules carefully. You are responsible for knowing the current Rules as well as the penalties assessed for violating the Rules. Please remember that no one can contribute to the brief in any way other than the two registered team members.

The GW Religious Freedom Moot Court Competition reserves the right to amend or modify these rules in the discretion of competition officers. Any amendments or modifications of the rules will be posted to the competition website and emailed to competitors.

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I. THE PROBLEM

The problem is in the form of a Supreme Court order granting certiorari, and a decision from the fictional Fremont State Supreme Court. The only *binding* law regarding the Constitution that applies to the Fremont Supreme Court is that of the United States Supreme Court.

The Fremont Court is considering a district court ruling from the fictional 4th District Court for the State of Fremont. Materials from the lower court proceedings are included in the joint appendix of the Fremont Court decision. These materials include: (1) An employment contract between the fictional Naylor Anointed Apostolic Church and one Bobbie Laborde; (2) excerpts from the charter of the fictional Apostolic Christian Assemblies of America denomination; (3) excerpts from the constitution of the Naylor Anointed Apostolic Church; and (4) Fremont State Code Sec. 413, regarding discrimination in employment.

The purpose of the Fremont Supreme Court opinion and its joint appendix is to provide a procedural and factual record, and to identify some of the legal arguments that you may wish to develop on appeal.

Certainly, you will have to research and expand upon the legal arguments considered by the Fremont court. Indeed, some of the legal conclusions in the opinion may be incorrect assertions of the law and/or valid conclusions taken out of context.

You will need to research and argue the true state of the law as it would apply to the matter at hand.

The opinion that you have been given cites many cases and pursues many lines of reasoning, some of which are rather novel. While many of the leading cases for a particular theory are in fact cited, it is essential that you supplement these cases with independent research and analysis.

Each team will be ASSIGNED to brief one side of the problem, either the position of the Petitioner or the position of Respondent. Teams, however, must be prepared to present oral arguments for both the Petitioner's and Respondent's positions in the preliminary round of competition. Competitors who advance to the Quarterfinal, Semifinal and Final rounds will be assigned a position to argue.

Do not address the issues of standing, mootness, ripeness, or jurisdiction. Only address the issues presented by the problem. **YOUR BRIEF SHOULD ADDRESS ONLY THOSE ISSUES THAT HAVE BEEN IDENTIFIED BY THE SUPREME COURT IN ITS ORDER GRANTING CERTIORARI.**

You are not allowed to argue additional challenges to the District Court proceedings not preserved for appeal. If a constitutional or statutory challenge was not made to the district court, it has not been preserved. You also may not dispute the facts of the case. However, you may challenge the legal conclusions that the trial and appellate courts have drawn from these factual findings. Failure to stick to the issues that have been preserved for appeal will result in a deduction of points.

Because competitors only have a limited amount of time to research the issues and write each brief, it is suggested that each competitor carefully choose which arguments to advance and how to balance his/her time between competing legal theories.

Furthermore, because the issues presented in the problem are inextricably linked, it is recommended that each team approach the problem as a unit and strive to develop its legal arguments together.

II. BRIEFS

- A. Generally: Only the two team members registered for the competition may participate in drafting and editing the team's brief. **NO PREPARATORY OR EDITORIAL ASSISTANCE FROM ANYONE, INCLUDING FACULTY, JUDGES, ATTORNEYS OR LAW STUDENTS, IS ALLOWED.** Failure to abide by any of the rules regarding brief preparation will result in a deduction from the team's total brief score. The team with the best brief will be recognized with the "Best Brief" award.
- B. Petitioner/Respondent Assignment: Teams will only be responsible for preparing either the petitioner's brief or the respondent's brief. Teams will be designated as Petitioner or Respondent by Wednesday, November 19, 2008.

- C. Team Identification: Each team will be assigned number by Wednesday, November 19, 2008. This letter will be used to identify teams during the brief scoring phase of the competition. When turning in the brief, each team should use this assigned letter on the brief's cover page and certification page. **DO NOT INCLUDE COMPETITOR NAMES, SCHOOLS, OR OTHER IDENTIFYING INFORMATION ANYWHERE ON THE BRIEFS. ONLY USE TEAM LETTERS.** Teams violating this rule will be penalized.
- D. Issues/Questions Presented: Two distinct issues are presented for the competitors to answer.
1. Whether the First Amendment limits adjudication of civil actions with respect to the ministerial employment decisions of a religious organization.
 2. Without regard to an employee's ministerial status, whether the First Amendment protects religious organizations against judicial enforcement of statutory and contractual obligations to avoid discrimination on the basis of sexual orientation.
- E. Brief Collection: **The team's brief is due on Friday, January 9, 2009 by 5:00 P.M. (EST).** Each team must submit a PDF copy of its brief electronically to the Competition Chairs at gwrfdc@gmail.com. Each team must also physically mail ten (10) hardcopies of its finished brief to:

GW Religious Freedom Moot Court
C/O J. Reuben Clark Law Society
2000 H Street NW
Washington, D.C. 20052

All ten hardcopies must be submitted simultaneously, and must be postmarked by Friday, January 9, 2009. Briefs should be mailed **PRIORITY MAIL** to ensure their timely arrival. All briefs, once submitted, become the exclusive property of the George Washington Religious Freedom Moot Court Competition.

- F. Late Brief Policy: Again, briefs must be submitted by 5:00 P.M. (EST) on Friday, February 9, 2009. Failure to submit a brief on time

will result in a five (5) point deduction (out of 100 possible) for each fifteen (15) minutes, or part thereof, that the brief is late. Briefs will be accepted until 6:30pm. Teams are encouraged to e-mail in their briefs earlier than the deadline to avoid last minute problems. If you are experiencing technical difficulties in e-mailing your brief, PLEASE CALL (202) 536-5538 to speak with Derek Jamison, the competition Co-Chair. **NOTE: All briefs submitted electronically must be IDENTICAL to those that are physically mailed.**

- G. Service of Briefs: Teams will be served with the briefs of their first Preliminary Round opponent at least one week prior to oral arguments. The PDF of the opponent's brief will be emailed to both members of the team.
- H. Formatting Generally: Except as specified in these rules, formatting requirements in Rules 24 and 33 of the Supreme Court control.
- I. Page Limit: THE TOTAL NUMBER OF PAGES FOR THE BODY MUST NOT EXCEED THIRTY (30) PAGES. Each brief will contain two components within the argument section corresponding to Issue I and Issue II. THE ARGUMENT SECTION MUST BE AT LEAST EIGHTEEN (18) PAGES LONG. For every page exceeding thirty, we will deduct five (5) points from the brief score.
- J. Content of Briefs: All briefs must contain the following items (Items marked with an asterisk (*) count toward the BODY page count)
- (1) Title Page (which should include the following information)
 1. The alphabetic letter assigned to the team
 2. Identification of which issue each advocate addressed
 - (2) Table of Contents
 - (3) Table of Authorities
 - (4) *Questions Presented
 - (5) *Opinions Below
 - (6) *Statement of Jurisdiction
 - (7) *Constitutional Provisions Involved
 - (8) *Statement of the Facts
 - (9) *Summary of the Argument
 - (10) *Argument
 - (11) *Conclusion

- K. Page Numbering: The briefs shall be paginated as follows:
- (1) Cover page – No page numbering.
 - (2) Front Matter – The front matter of the brief consists of organizational and structural information. This includes the table of contents, and table of authorities. The front matter must be numbered using lower case roman numerals (i.e., i, ii, iii, etc.).
 - (3) Body – The body of the brief is composed of the questions presented, opinions below, constitutional provisions involved, statement of the facts, summary of the argument, argument, and conclusion. The body must be numbered using standard Arabic numerals (i.e., 1, 2, 3, etc.).
- L. Parties: In the briefs and in oral arguments, advocates should refer to the appealing party as **Petitioner** and the responding party as **Respondent**, rather than appellant and appellee.
- M. Font: All briefs MUST be composed in 12 point Times New Roman font. This applies to all portions of the brief, including the page numbers and sections that may not count toward the page limit.
- N. Spacing: The text and footnotes of the brief must be double-spaced, except for point headings and quotes in excess of 50 words in accordance with the Bluebook, which may be single-spaced.
- O. Justification: All briefs must be left justified. This means that the right margin should appear ragged. This applies to both the body and footnotes.
- P. Margins: All margins must be one-inch (1”) wide.
- Q. Paper Size: Briefs must be composed on 8½ x 11 inch paper.
- R. Cover and Back Pages: The cover page and back page of all Petitioners’ briefs must be blue paper. The cover page and back page of all Respondents’ briefs must be red paper.
- S. Binding: The brief should be securely stapled in the upper left-hand corner. Please do NOT use pleading paper.

- T. Citations: All sources shall be cited in conformity with Harvard Law Review Association, A Uniform System of Citation (18th ed.), commonly referred to as “The Bluebook.”
- U. Revisions: Once a brief is submitted, it is the final brief that will be accepted. Accordingly, briefs may not be revised at any point during the competition.
- V. Technical Requirements: Technical requirements include proper Bluebook citation, font, margins, paper, construction, proper content (i.e., title page, questions presented, table of authorities, statement of etc.) and timeliness. The technical detail score constitutes 10% of the brief score. If you have questions regarding format compliance, you are encouraged to e-mail the competition at gwrfmc@gmail.com.
- W. Appeals: Appeals of any disqualifications and/or point deductions must be made in writing to the Competition Chairs. All appeals must be in writing. The Moot Court organizing committee will review such written appeals within three (3) school days of their receipt. A majority of the committee will decide all such appeals. Decisions of the committee are final.

III. PLAGIARISM AND ACADEMIC HONESTY

Plagiarism will not be tolerated. Any indication of plagiarism, including the failure to attribute credit to a source when required, could result in immediate disqualification, and may be referred to the perpetrator’s home institution. Any concerns or questions regarding plagiarism should be referred to the Competition Chairs.

IV. ORAL ARGUMENTS

- A. Arguing Both Sides: Each side will be expected to come prepared to argue both sides of the problem. Ideally, each team will be arguing the side which they briefed during their first set of oral arguments. They will then switch sides and argue the opposing position against a different team during the second set of arguments.
- B. Allotment of Time: Each team will have a total of 30 minutes to present its argument. The 30 minute allotment is divided as follows:

- (1) Division of time: Each team member must argue for at least 10 minutes, but not more than 15 minutes. Failure to adhere to these requirements will result in a substantial deduction of points.
- (2) Rebuttal: During each argument round, one member of the Petitioner's team may rebut the Respondent's arguments.
 1. Petitioner's team may reserve up to 3 minutes of rebuttal time to be deducted from their team's total 30-minute allotment and specifically deducted from the 15-minute allotment of the actual team member who rebuts.
 2. In order to reserve rebuttal time, the member of the Petitioner's team who presents the first argument (i.e., Issue I), must orally request of the judges and the timekeeper that rebuttal time be reserved and indicate which competitor will give the rebuttal so that time may be deducted correctly. If the Petitioner fails to reserve time at the outset, no rebuttal time will be available.
 3. Only one member of the Petitioner's team may rebut the Respondent's argument.

C. Order of Arguments: Oral arguments will proceed in the following order:

- (1) Petitioner – Issue I
- (2) Petitioner – Issue II
- (3) Respondent – Issue I
- (4) Respondent – Issue II
- (5) Petitioner Rebuttal (if requested)

D. Content of Arguments: Competitors must argue the issue that corresponds with the issue they drafted in the brief. (i.e., The Competitor who briefed Petitioner's Issue I must argue Petitioner's Issue I). Competitors may not swap issues with their teammates once briefs are submitted.

- (1) Issue Overlap: Competitors should be on notice that the issues in this problem are inextricably linked. It is likely that Judges will ask Competitors questions that cannot be classified as purely Issue I or Issue II, but rather an overlap of both issues. As such, Competitors are advised to be aware of the legal problems and arguments present in both issues.

- E. Dress: Dress as you would for an actual appearance in a court of law.
- F. Best Advocate: Each team member will independently be eligible to receive the Best Advocate Award. This determination will be made based on a consideration of all of a competitor's oral argument performances.
- G. Spectators: All rounds are open to spectators. Spectators must wear an assigned "Spectator" badge during the oral arguments. Coaches likewise may attend all rounds in which their team is participating but they may not sit at counsel's table.
- H. Bailiff's Time Warnings: Bailiffs will keep time during the oral arguments and will use cards to inform competitors of how much time they have remaining. The specific time warnings will be: 10 minutes, 7 minutes, 5 minutes, 2 minutes, 1 minute, and 30 seconds. When the competitor's time is up, the bailiff will verbally announce "time." Once time has been called, the competitor may request additional time from the Chief Justice. The allowance of more time is solely at the discretion of the Chief Justice.

V. **SCORING**

- A. Generally: Competitors will be scored on the basis of team performance. Team scores, however, will be calculated by considering the performance of each team member in both brief writing and oral advocacy. These scores will then be used to determine which teams will advance beyond the preliminary round of oral arguments.
- B. Technical Accuracy: The Moot Court Committee will review briefs for technical accuracy, which comprises 10% of the total written brief score. Technical accuracy includes proper adherence to the Bluebook and section II of these rules.
- C. Substantive Brief Score: The substantive scores are determined solely by judges selected from actual judges, attorneys, and law professors. The competition committee members have no input into or control over these scores.

- D. Weighted Scoring: In the preliminary rounds, team scores will be calculated weighing their oral performance (60%) and their brief scores (40%). In the quarterfinal and semifinal rounds, oral advocacy will constitute 70% of the weighted score. In the championship round, it will account for 80% of the weighted score.
- E. Calculating Scores: The Competition Committee aims to have three (3) judges in each round of competition. Each judge will be responsible for judging a set of team briefs and oral performances. In the event that a given oral argument round only has two judges present, an average of the brief scores and oral performance scores given by the two judges will serve as the third set of scores. Thus, each team should complete the competition with at least three brief scores and three oral performance scores.
- (1) Averaging: The average of the three scores will serve as the final team score in each round. Any penalties (see “Penalties” below) imposed by the competition committee will be deducted from the averaged brief score in the first round.
- F. Brief Scoring Guidelines: For the brief, the total possible score is 100 points. In scoring the team’s brief, the judge may consider a number of factors. A non-exhaustive list of these factors is outlined on the “SAMPLE BRIEF SCORE SHEET” which will be distributed along with these rules.
- (1) The best brief award will be given to the highest scoring brief.
- G. Oral Performance Scoring Guidelines: For the oral argument, the total possible score is 100 points. In scoring an advocate’s oral performance, the judge may consider a number of factors. A non-exhaustive list of these factors is outlined on the “SAMPLE ORAL PERFORMANCE SCORE SHEET” which will be distributed along with these rules.
- H. Penalties: The competition committee may assess such penalties, including disqualification, as it deems reasonable and appropriate. Penalties shall only be imposed by the competition committee. The decision of the committee as to penalties shall be final. Judges will not be informed of penalties imposed by the committee, and penalties will be deducted from the final brief score. The maximum penalty for

any combination of violations is fifteen (15) points. The following are the penalties that may be assessed:

- (1) Five (5) point penalty for writing the brief for the wrong side.
- (2) Five (5) point deduction for every fifteen (15) minutes, or part thereof that a brief is submitted late by e-mail. The timeliness of an electronically submitted brief will be judged according to the electronic tag on the email as received by the committee.
- (3) Five (5) point deduction for every day that ten (10) brief copies are submitted late by post. The timeliness of hardcopy briefs will be judged by the postmarked date.
- (4) Five (5) point deduction for filing fewer than ten (10) briefs with the competition at the address specified.
- (5) Five (5) point deduction for each instance of including competitor names, schools, or other identifying information anywhere on the briefs.
- (6) Three (3) point deduction for failing to include the correct team letter or party on the brief cover.

VI. COMMUNICATION

All questions related to the problem, the rules, and/or the administration of the competition should be directed to Derek Jamison, Competition Co-Chair, at gwrPMC@gmail.com. Please note that when questions are sent, the answer, along with the question, will likely be posted on the Moot Court website for the benefit of all other competitors. The identity of the individual asking the question will be kept private. Should an individual question require additional confidentiality, please indicate such in the email.

Announcements will be made to all competitors by a posting on the Moot Court website (www.religionmootcourt.org). Topics may include:

- (1) Revisions to the problem;
- (2) Rules or problem clarification;
- (3) Meeting announcements;
- (4) Changes in team assignments;
- (5) Results of oral argument rounds; or
- (6) Scores

VII. AFFIDAVIT

Each team must include, along with the ten (10) copies of its brief, a one-page, signed affidavit stating the following:

We hereby certify that the brief for team (assigned letter) is the product solely of the undersigned and that the undersigned have not received any faculty or other assistance in connection with the preparation of the brief. Moreover, we affirm that we have read and understood the GW Religious Freedom Moot Court Competition rules and will abide by them.

Team Member #1

Team Member #2

VIII. COMPETITION CALENDAR

- Friday, November 14, 2008 - Problem and Rules distributed via email
- Wednesday, November 19, 2008 - Team Letters and Brief Assignments distributed via email
- Friday, January 9, 2009 - Brief Due by 5:00 P.M. (EST) via email
- Friday, February 6, 2009 - Preliminary Round of Oral Arguments
- Saturday, February 7, 2009 – Quarterfinal, Semifinal and Final Rounds of Oral Argument