



Spring 2024 Ira S. Flory Mock Trial Competition Rules

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1. Team Composition

- a. A **“Flory Team”** consists of 2 attorney advocates. Attorney advocates must be 2Ls, 3Ls, or LLM candidates at the LSU Law Center.
 - i. LLM candidates must have the permission of the Assistant Dean for International Programs to participate in this competition.
- b. Each Flory Team must provide 2 witnesses for each match. Witnesses may be played by any LSU Law student (1Ls, 2Ls, 3Ls, LLM candidates, JD/MBA candidates, etc.).
 - i. Teams may freely change the persons playing their witnesses between matches.
 - ii. Witnesses from teams who have been eliminated can play witnesses in subsequent rounds if necessary. Such witnesses are limited by the scouting rule (Rule 2(e), below) and shall not share any tactics or knowledge gained from prior trials with their new counsel.
 - iii. Eliminated competitors can play witnesses in subsequent rounds if necessary, but a team seeking to use an eliminated competitor as a witness must get permission from Prof. Brooks. Such witnesses are limited by the scouting rule (Rule 2(e), below) and shall not share any tactics or knowledge gained from prior trials with their new counsel.
- c. All witness roles can be played by persons of any gender, unless explicitly stated otherwise in the Case File.
- d. Each Flory Team must inform the Board of Advocates of all scheduling conflicts at least 72 hours before the date of the 1st Preliminary Round. The Board of Advocates will accommodate such conflicts where possible.
 - i. The Final Round cannot be rescheduled.
- e. If a Flory Team withdraws, fails to appear, or is otherwise unavailable for a match, and the Board of Advocates cannot accommodate such a conflict, that Flory Team shall be considered to have forfeited the competition.
- f. Flory Team members are warned that withdrawals and forfeits without good cause may result in restrictions on their further participation in Advocacy Programs competitions and programs.

2. Pre-Trial Matters and Logistics

- a. The Case File will specify what rules of evidence and procedure govern the trial.

- b. Flory Teams cannot seek to change or abandon the jury instructions, causes of action, or other controlling law, or seek any responsive verdicts other than those specifically stated within the Case File.
- c. Housekeeping matters are not permitted. The Case File's stipulations will cover all normal housekeeping matters.
- d. The case file may specify rules on the use of pre-trial and mid-trial motions *in limine*. If the case file permits such motions, any time allocated for such motions is separate from the time allocated to teams to present their cases.
- e. All trials will be held in-person at the LSU Law Center, at times to be scheduled by the Board of Advocates. This rule is subject to change as COVID-19 protocols dictates.
- f. "Scouting" is prohibited. Flory Teams cannot view any trials other than those in which they are directly competing/participating.
- g. The Final Round is open to the public. All other rounds are closed to all persons other than competitors, witnesses, judges, and competition administrators. Guests may be permitted in rounds with the prior permission of the Director of Advocacy Programs *and* the consent of both teams competing in that room. The scouting rule applies to all such guests.

3. Conduct of Trials

- a. Each Flory Team will have **45** (forty-five) minutes to present their case. Time begins to run when opening statements begin. The clock stops for objections and will resume after the judge rules.
- b. All-Loss Rule
 - i. A Flory Trial Match starts when all judges have arrived at their assigned matches and all matches are given the signal to start by a representative of the Board of Advocates.
 - ii. A Flory Trial Match must be completed no more than **120** minutes after the Board of Advocates representative signals that the match has started. The 120 minutes count down from the moment the plaintiff begins their opening statement, and this timer does not stop for any reason. (That is: the 45-minutes-per-side time remains in effect, and the 45-minute clock stops for objections and rulings, but the 120-minute clock will continue to run.)
 - iii. A match is deemed "completed" upon the completion of closing arguments for both sides (including any rebuttal).

- iv. If a trial is not completed within 120 minutes of its start, **both teams** competing in that trial will have 1 winning ballot subtracted from their total wins.
- v. No presiding judge or scoring judge may grant relief from the operation of this rule. No presiding judge or scoring judge may allocate any team extra time to present its case.
- vi. The imposition of an All-Loss penalty may be appealed to the Director of Advocacy Programs. Any such appeal must be made via email to jeffbrooks@lsu.edu within 12 hours of the imposition of an all-loss penalty. Such appeals are disfavored and will only be granted upon a showing of substantial evidence that the opposing team deliberately “ran the clock.” This means that training your witnesses to “run the clock” on the opposing team, or otherwise deliberately running the clock (e.g., by making lots of spurious objections), will result in your team losing the match.
- c. The Case File will specify the order of the trial in the procedural stipulations. Teams cannot change the order of the trial.
- d. Each attorney-advocate must:
 - i. Give the opening OR the closing (but not both), **and**
 - ii. Direct-examine only 1 witness, **and**
 - iii. Cross-examine only 1 witness.
- e. The team member conducting a direct examination must be the advocate to make objections to that witness’s cross examination, and the team member who cross-examines must be the advocate to make objections to the witness’s direct examination. (Team members are permitted to confer with co-counsel.)
- f. Motions for a directed verdict, a judgment as a matter of law, or a judgment of acquittal are not permitted and will not be entertained.

4. Exhibits, Witnesses, and Evidence

- a. Trial exhibits are limited to those materials included within the Case File. Teams cannot change or alter the contents of the Case File in any way.
 - i. Counsel and witnesses may use dry-erase boards, large notepads, etc., to create demonstrative evidence during trial. Demonstrative evidence does not include recreations or models of any physical evidence in the case, and any such recreations or models are not permitted. (For example, if the case involves a flashlight, a team may

not bring a flashlight with them to the competition or create a flashlight to be used during the round.)

- ii. Teams may enlarge exhibits and documents contained in the Case File if such enlargements do not alter the exhibit/document.
 - iii. Teams shall bear all costs associated with the creation of demonstratives and enlargements.
 - iv. If a team creates a demonstrative or uses an enlargement, their opponent in that round must be given the opportunity to use the demonstrative or enlarged exhibit, but the opposing team may not permanently alter it in any way.
- b. Witnesses may bring a clean and unmarked copy of their statement/deposition/affidavit from the Case File with them to the witness stand. Witnesses cannot bring any other materials to the stand, including but not limited to scripts. Counsel should still use refreshment and impeachment as necessary and may show witnesses exhibits as needed.
- c. Witnesses may not be recalled, so the scope of cross examination is not limited to the scope of direct examination. Re-direct examinations are permitted at the discretion of the presiding judge, but they are limited by the scope of the previous examination. Re-cross examination is allowed exclusively for the purposes of impeaching a witness by omission if a fact is invented on redirect.
- d. *Voir dire* of witnesses is permitted at the discretion of the presiding judge.
- e. Invention of Fact
- i. On direct examination, a witness may only testify to (a) material facts contained in their witness statement, and (b) material facts that are necessary inferences from their witness statement.
 - 1. For the purposes of this rule, a witness statement is a witness's affidavit, expert report, deposition, interview transcript, etc.
 - 2. A fact is a "necessary inference" if another and a different inference cannot be reasonably drawn from the facts stated. It is inescapable and inevitable. No inferred fact may be material, which is defined (a) as a fact that changes the merits of either side of the case or (b) that bears on the credibility of any witness or litigant.
 - 3. A necessary inference is NOT any fact that you might wish to be true, nor is it a factual inference that is merely possible or

consistent with facts in the fact pattern. For example, if your witness is a police officer, it is a necessary inference that the officer went to and graduated from the police academy. However, it is not a necessary inference that the officer graduated at the top of their class from the academy.

- ii. On cross examination, witnesses **must** remain responsive and cannot contradict their witness statements.
 1. During cross examination, an advocate may question the witness about *non-events* that are necessary inferences based on the Case File. If a witness is asked on cross examination about the absence of information, the witness must admit that such information is absent. The witness is prohibited from saying “I do not know” or “that was not asked at my deposition.”
 - a. For example, if a police officer witness is testifying and the record is completely silent relating to whether offices gathered DNA samples, it is a necessary inference that the police officer witness did *not* collect DNA samples from the crime scene. In this example, it is permissible to ask the police officer witness “You never collected any DNA samples, correct?” This is permissible because the witness statements are full and complete statements of everything the witness knows. Therefore, the absence of information in the record pertaining to the collection of DNA means DNA was not collected.
 2. Advocates may not invent facts or use outside resources in their questions to *enhance* the cross examination of a witness.
 - a. For example, if a police officer witness is testifying and the record is completely silent relating to DNA samples, an advocate shall not reference topics outside of the Case File such as: the reliability of DNA, the scientific theory of DNA, the process of DNA collection, etc. In this example, it is *not* permissible to ask the police officer witness, “You’re aware that margin of error for DNA tests can be as high as five percent, correct?” This is not a necessary inference.
- iii. There is no “invention of fact” objection. Should an improper invention of fact occur, the appropriate remedy is impeachment (by prior inconsistent statement or by omission), and judges will be

instructed that impeachment should be used to address inventions and will be empowered to change scores accordingly.

1. If a witness is impeached for invention of a fact, the witness must admit that they made up the fact or that the fact is untrue.
- f. Witnesses must not disclaim any statements they have given in their witness statements (i.e., witnesses are barred from saying that their opinion or testimony has changed or that they did not mean what they said previously in their witness statement.)
- g. Witness shall not intentionally and unreasonably refuse to answer questions during cross examination and may not take any action designed to exhaust the time of the cross-examining advocate's team such as repeatedly asking to be refreshed or shown their deposition or statement. Teams that encourage a witness to violate this rule are subject to sanctions, including but not limited to violation of the All-Loss Rule (see Rule 3(b)(vi)).
- h. Flory Teams are required to instruct their witnesses on the above rules.

5. Preliminary Rounds

- a. In the preliminary rounds, each Flory Team shall compete in two matches, and will present each side of the case once. For example, in Preliminary Round 1, a Flory Team might present the case for the prosecution. In Preliminary Round 2, that same team would present the case for the defendant.
- b. One (1) and only one volunteer attorney shall judge each Preliminary Round match. No team can have the same attorney judge twice in the Preliminary Rounds.
- c. Each judge will complete a scoring ballot, which will provide a total score for each Flory Team. The team with the higher score in a match wins that match. Ties are not permitted.
- d. A "win" is determined by comparing the prosecution's total score to the defense team's total score for the judge's ballot in a match.
- e. Preliminary Rounds team rankings are determined as follows:
 - i. Total wins (2-0, 1-1, 0-2), then
 - ii. Average team score, then
 - iii. Point differential.

- f. In the event of a team's forfeit, the Board of Advocates may offer the opportunity to compete twice on the same side to all eligible teams. The first team to accept such an offer will have their lowest ballot for that side of the case dropped. If no teams are willing to substitute, the opponent team in the forfeited match will receive a bye. A bye counts as 1 win, with no point differential or average team score.

6. Advanced Rounds

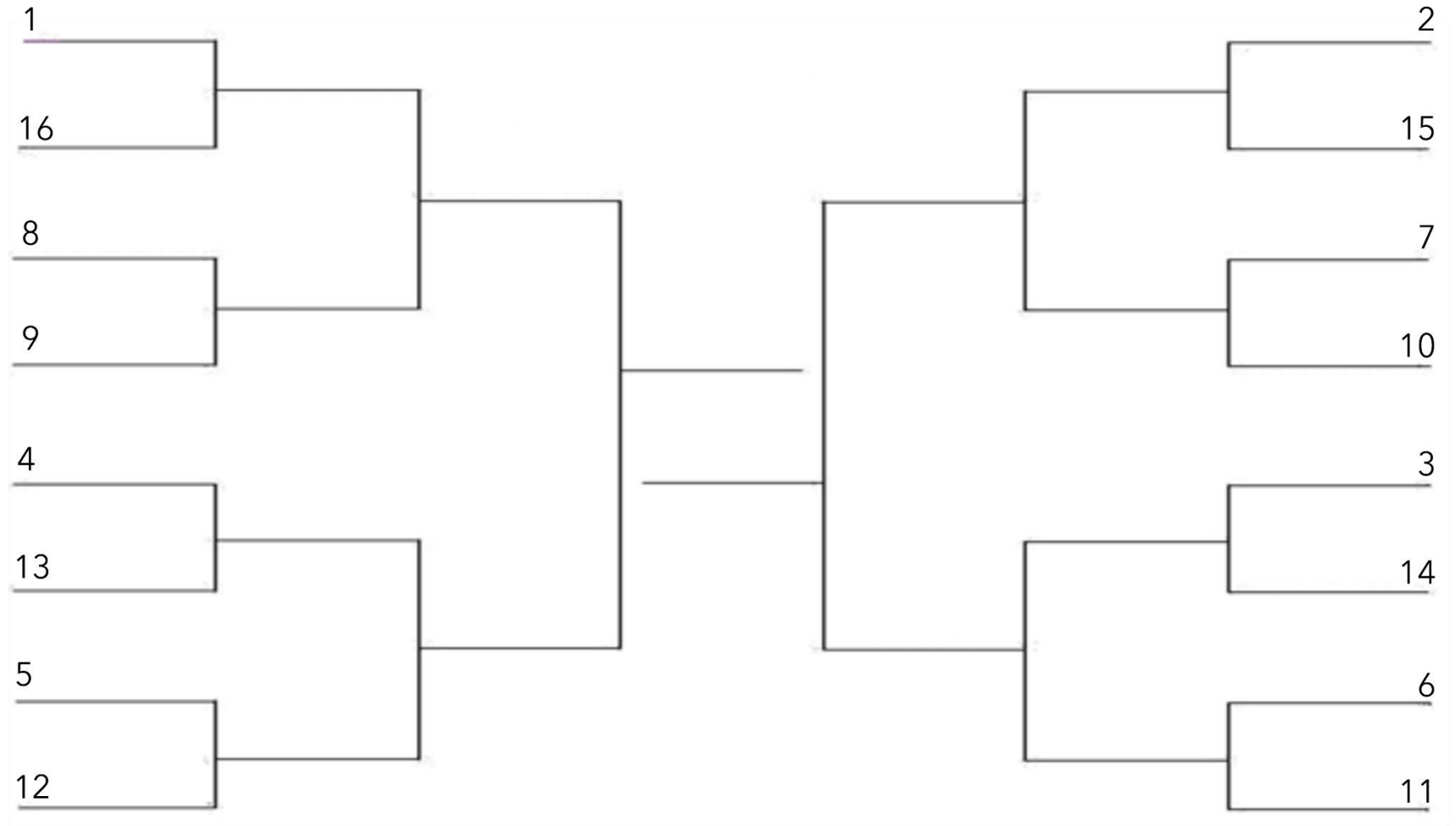
- a. After the Preliminary Rounds, teams will be power-seeded and paired by team ranking. Teams' power-seeding ranks that were established during Preliminary Rounds will remain the same throughout the Advanced Rounds.
- b. The higher-ranked team in each match of each Advanced Round chooses whether it will compete as prosecution/plaintiff or as defense. This selection must be made at least twenty-four (24) hours prior to the next Advanced Round.
- c. An odd number of attorney judges shall judge every Advanced Round.
- d. The winner of an Advanced Round match is the Flory Team who wins the majority of the ballots from the judges in that Advanced Round match.
 - i. If in extenuating circumstances an Advanced Round must be judged by an even number of judges, advancement in such a round will be controlled by (1) number of winning ballots, then (2) highest average team score.
- e. In the Final Round, the judges may, at their discretion, select a winner by a simple majority vote without using the scoring ballot.

7. Assistance and Protests

- a. Teams may submit questions about these rules or for clarifications of facts contained the Case File via email to advocacyprogram@lsu.edu. All responses will be sent to and will bind all teams.
- b. Teams cannot receive any assistance from any person regarding specific objections to make or specific procedures to use in relation to the facts of the Case File.
 - i. There are a number of trial advocacy resources available in the [Advocacy Resources Folder](#) and in the Reserve Room of the Law Library.
- c. Complaints for violations of these rules that occur during a match are *strongly discouraged*, as most perceived violations (such as fact invention,

improper objections, etc.) can, should, and must be dealt with by making timely objections and impeachments during the trial.

- d. In the event a Flory Team feels that it has a complaint of a rules violation that occurred **during a match** and that the violation could not have been cured by the methods discussed in Rule 7(c), such a complaint must be made via email to advocacyprogram@lsu.edu no later than twenty (20) minutes after the conclusion of the trial.
- e. In the event a Flory Team feels that a competition rule (ex.; the rule on outside assistance) has been violated by another team **outside of a match**, that team must submit a complaint via email to advocacyprogram@lsu.edu as soon as possible.
- f. Complaints will be ruled on by the Director of Internal Trial Competitions and the Vice-President of Internal Competitions. Appeals of such rulings can be made to the Director of Advocacy Programs. Appeals must be made via email and made within 12 hours of such ruling.



A power-seed bracket for Advanced Rounds (assuming an “Octofinal” or Sweet Sixteen round).