

King & Wood Mallesons Open Mooting Competition 2016

Competitor Information Sheet

The King & Wood Mallesons Open Mooting Competition 2016 involves a simulated hearing before an appellate court where individual counsel argues particular points of law. The focus of the competition is the research and preparation of a List of Authorities, a brief Outline of Submissions and the presentation of oral argument. Given the significant degree of familiarity with the law required, mooters tend to devote themselves to preparation for the three days before the moot. The problems are set before the Court of Appeal, the Full Federal Court and occasionally the High Court, and are designed to promote argument in areas of the law that are unsettled or subject to recent developments. The competition aims to provide students with an opportunity to develop their research and analytical skills and their skills of persuasive argument in the formal environment of an appellate court.

This information sheet is designed to provide a brief overview of the competition and the procedure for the moot, and to answer some of the more common questions that competitors may have. For further details on what is expected at each stage of the proceedings, competitors should refer to the Assessment Sheet and the other resources available on the Blackstone website and in Closed Reserve in the Law Library. All competitors should be familiar with the Competition Rules and the Competitions Disqualification Policy.

The Competition

- Four competitors are assigned to each court as senior and junior counsel for the appellant or the respondent.
- In each round except the Grand Final, the two competitors that attain the highest scores in each court advance to the following round. There may be adjustments to this arrangement in Round 1 depending on competitor numbers.
- The court lists specifying the draw will be emailed to all competitors.
- The competitor who has been allocated as the “Senior Appellant” in his or her court must provide an associate.

**Problem and Preparation**

- The Open Mooting Coordinator will email the relevant materials to you at 2 pm three calendar days prior to your scheduled moot. Your brief will contain:
 - a) details of the court, date and venue of the moot;
 - b) details of the agreed facts and findings of the trial judge;
 - c) details of the grounds of appeal to be argued, respectively by senior and junior counsel; and
 - d) details of any relevant legislation.
- After you receive your brief, you should review the problem to highlight the relevant legal and factual issues for your ground of appeal. It is important to remember that all submissions in a moot are submissions concerning issues of law and not the facts of the problem. Counsel should assume that the facts as presented in the problem have been found by the trial judge, and an appellate court will not review a finding of fact when it does not have access to witnesses or any other evidence.
- The next step is to engage in some basic research. It is often useful to begin by consulting subject textbooks, legal encyclopaedias, and loose-leaf services. Note that textbooks, encyclopaedias and journal articles are secondary sources of law and should only be used to help form an understanding of the law.
- Remember that unless legislation is referred to in the moot problem, it should not be used as authority in the moot. Your primary authorities will therefore be cases. It is useful to keep in mind the hierarchy of courts and the difference between binding and persuasive authority. The problem will be framed as an appeal to the Court of Appeal, Supreme Court of Western Australia, the Full Court of the Federal Court of Australia or the High Court of Australia.

List of Authorities

- No later than 9 am on the day before the moot, competitors must email their opponent and the Open Mooting Coordinator a List of Authorities, detailing in appropriate form:
 - a) the court, matter number and names of the parties;
 - b) citations of the cases and legislation to which counsel intends to refer;
 - c) the date; and
 - d) counsel's name and position (senior/junior counsel for the appellant/respondent).

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- Competitors may wish to consult the sample List of Authorities for guidance.
- The email and attachment should be titled [COMPETITOR NAME] List of Authorities.
- During the moot, counsel may not refer in detail to authorities not appearing on their List of Authorities or that of their opponent.
- Note that counsel must provide copies of authorities referred to in their List of Authorities. Photocopies are acceptable; however competitors may also reserve volumes of law reports from the Law Library. Law Reports must be returned after the moot, before the library closes. Please note that borrowing law reports is a special privilege, abuse of which may result in disqualification in accordance with the Competitions Disqualification Policy.
- Try not to use too many cases: select only those that best support your argument. You will find that you do not have time to analyse more than five or six cases. Further, it is important to know the cases you cite in great detail: judges may question you on the facts of the case and probe your understanding of the underlying reasons for a decision.
- Make sure you give the most authoritative citation for your cases.

Outline of Submissions

- No later than 9 am on the day of the moot, competitors must email their opponent and the Open Mooting Coordinator an Outline of Submissions, detailing in appropriate form:
 - a) the court, matter number and names of the parties;
 - b) a summary of the facts relevant to counsel's submissions;
 - c) the structure of counsel's submissions;
 - d) the major arguments which counsel intends to raise, accompanied by appropriate reference to authorities;
 - e) the date; and
 - f) counsel's name and position (senior/junior counsel for the appellant/respondent).
- Competitors may wish to consult the sample Outline of Submissions for guidance.
- The email and attachment should be titled [COMPETITOR'S NAME] Outline of Submissions.

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- Most competitors will have three main submissions, with a number of points to be made in each submission. Sometimes, three submissions may be too many: do not be afraid to stop at two if you feel that that is sufficient.
- Although counsel is not obliged to adhere to the structure detailed in their Outline of Submissions exactly during the moot, they should do so as closely as possible. It is often best to argue your strongest submission first, in case you run out of time during the moot.

Procedure at the Moot

- Commencement

At 7 pm, the associate will call for silence and ask everyone to stand. The judge enters and bows, and all present bow in return. Once the judge has taken his seat, you may sit down. The associate will then announce the case, and the judge will call for appearances.

- Appearances

Senior counsel for the appellant will present appearances, followed by senior counsel for the respondent. A typical formula is, *"If your Honour please, my name is A and I appear, together with my learned junior B, for the appellant/respondent"*.

- Submissions

When the judge indicates that he or she is ready, senior counsel for the appellant presents his or her oral argument, followed by junior counsel for the appellant, and then senior and junior counsel for the respondent in turn.

- Timing

During the moot, the associate will warn you when '10 minutes' remain, '5 minutes' remain, '2 minutes' remain and at 'Time'. **Unless the judge grants you an extension to answer a question, you must sit down when your time expires.** Counsel will be penalised for exceeding the maximum time limits.

- Adjournment and Feedback

Following the closing addresses, the associate will ask everyone to stand, the judge will bow, and everyone else will return the bow before leaving the courtroom. When the associate calls everyone back in, the judge will offer some advice and general feedback. The scores will not be announced on the evening.

- Etiquette

Remember to observe the appropriate etiquette in referring to judges, counsel and cases.



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- Refreshments

Following the conclusion of the moot, the associate will invite judges, competitors and spectators to join the organisers for refreshments.

Assessment

- The presiding judge will complete an Assessment Sheet for each competitor. The Assessment Sheet is designed to ensure that all competitors are judged against the same criteria, and to afford the judge an opportunity to suggest areas in which competitors may improve.
- It is recommended that you seek feedback from the judge following your moot; however, the judge cannot give out results.
- Assessment Sheets will be available for competitors to collect once the results of the round have been announced.

Complaints and Appeals

- Any complaints or appeals must be submitted to the Competitions Vice President for determination within twenty-four hours of the matter giving rise to the complaint or appeal. Consult the competition rules for further information.

Dress

- While it is not necessary to robe for the competition, competitors must dress professionally, as appropriate for the formal environment of the court. Essentially this means dress conservatively; a suit or neat skirt/trousers and collared shirt for women and suit, shirt and tie for men.

Contact Information

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