

THE CATHOLIC  
UNIVERSITY  
OF AMERICA



Seigenthaler-Sutherland Cup  
National First Amendment  
Moot Court Competition

# **2021 – 2022**

# **Official Competition Rules**

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## OFFICIAL RULES

On **March 18–19, 2022**, the Seigenthaler-Sutherland Cup National First Amendment Moot Court Competition will take place in Washington, DC. The Competition will be hosted by the Moot Court Association Board of the Columbus School of Law and co-sponsored by the Columbus Schools of Law’s Center for Religious Liberty. The rules governing the Competition are as follows:

### I. Organization of Competition, Responsibilities of Management and Participants

- A. The Moot Court Association Chief Executive Officer and the Vice Chancellor of the Seigenthaler-Sutherland Cup First Amendment National Moot Court Competition (“Vice Chancellor”) will apply and enforce these rules with due consideration for the teams and the competition. The Chief Executive Officer and Vice Chancellor shall be responsible for the management of the competition. Any and all questions concerning the Competition should be brought to the attention of the Chief Executive Officer or the Vice Chancellor as soon as possible.

The Chief Executive Officer for this year’s competition is Frankie Orrico and the Vice Chancellor is Owen Salyers. Questions should be conveyed via email ([seigenthaler.sutherland@gmail.com](mailto:seigenthaler.sutherland@gmail.com)).

- B. Each team shall designate one (1) team contact to whom information and briefs may be sent and with whom questions, and concerns may be discussed. Each team shall also provide two (2) official email addresses for notices sent by the Moot Court Association pertaining to the Competition.
- C. All competitors must abide by the Rules of this Competition. In addition, all competitors are bound by their respective law school honor codes with respect to their conduct under the Rules of this Competition. Violation of either is punishable by disqualification.
- D. The process and deadlines for submitting an Intent-to-Compete application, and the method of selection for the 24-team<sup>1</sup> field for this year’s competition, are provided in the invitation-to-compete letter sent to all ABA law schools in the fall of 2021 and available online at the Columbus School of Law Moot Court Association Seigenthaler Sutherland website.<sup>2</sup>

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<sup>1</sup> The Moot Court Association Board reserves the right to expand the field beyond 24-teams for any reason. Teams admitted beyond the 24-team field will still pay the entry fee.

<sup>2</sup> The Competition website can be found at:

<https://www.law.edu/students/journals-and-moot-court/moot-court/moot-court-competitions/sutherland-cup/index.html>



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## II. Distribution of the Record and Rules

- A. A copy of the Problem and the Competition Rules will be distributed to each team contact. **Each team must confirm receipt of the Problem and Competition Rules.**
- B. The Vice Chancellor will accept written questions regarding the Problem or Competition Rules until January 25th, 2022, at 8:00 p.m. Eastern Standard Time. Logistical questions concerning the competition will be taken until March 11, 2022, at 8:00 p.m. EST.

**ALL** questions should be e-mailed to [seigenthaler.sutherland@gmail.com](mailto:seigenthaler.sutherland@gmail.com). They will be answered within **three (3) days of their receipt**. Answers will be forwarded along with the questions asked to all teams via e-mail.

Advice on substantive legal questions about the problem, questions about judging criteria, strategy, or tactics is not permitted, so please refrain from asking questions with respect to any of these topics; doing so constitutes soliciting outside assistance and is subject to sanctions.

## III. The Competition

### A. Rounds

1. *Structure.* The Competition will conduct preliminary rounds on **Friday, March 18, 2022** at The Catholic University of America, Columbus School of Law. Quarter-final and Semi-final rounds will take place on the morning of **Saturday, March 19, 2022**. The Final Round will take place in the afternoon of **Saturday March 19, 2022**.
2. *Preliminary Rounds.* A final schedule for competition rounds will be sent in advance of the competition dates, but competitors should prepare for the first preliminary round on **Friday, March 18, 2022**, to begin at approximately **1:00 PM EST**. Each team should be prepared to represent the parties on both sides of the litigation. Each team will compete at least once representing the party for which the team prepared a written brief (on-brief), and at least once for the party opposite the written brief (off-brief). Please note that participants are responsible for making a timely appearance at each round once the time is set. Late arrivals may be penalized at the discretion of the Chief Executive Officer and Vice Chancellors.
3. *Quarter-final Rounds.* The schedule will be updated in advance of the competition, but the current schedule is as follows: The first Quarter-final Round will commence at **9:00 AM EST** on **Saturday, March 19, 2022**, and the second Quarter-final Round will commence at **10:30 AM EST** on **Saturday, March 19, 2022**.



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4. *Semi-final Rounds.* Advancing teams will be announced after the Quarter-final Rounds have completed. The first Semifinal Round will commence in the afternoon from approximately **12:00 PM EST (Noon)** on **Saturday, March 19, 2022**. One of the winning teams of Quarter-final Round 1 will face one of the winning teams of Quarter-final Round 2. The other winning teams from the Quarter-finals will face off in the second Semi-final Round, which will take place at **1:30 PM EST** on **Saturday, March 19, 2022**. These match-ups will be determined by a coin toss.

To the extent possible, teams will be allowed to argue on-brief, but no guarantees are made. If any team will be required to argue off-brief, then, in the interest of fairness, the teams will draw or there will be a coin toss to determine their side designation. The two teams with the highest scores, as determined solely by their oral argument scores in the Semi-final Round, will advance to the final round.

5. *Final Round.* The schedule will be updated in advance of the competition, but the currently schedule is as follows: The final round will be held at approximately **3:00 PM EST** on **Saturday, March 19, 2022**. To the extent possible, the two teams advancing to the final round will argue on-brief, but no guarantees are made. The winner of the final round will be determined solely by the final round judges, based on the final round oral performances of the participating teams. There will be no numerical scoring of the final round.

#### B. Teams

1. Each team shall consist of **no more than three (3) student members**. Team members must be students enrolled in a full or part-time program at the law school they represent. **Only candidates for a Juris Doctor at an ABA-accredited law school may participate in this competition.** All three (3) team members may participate in the writing of the brief and may present oral argument. However, in any single round, only two (2) team members may argue. No substitution of team members will be permitted after the team has submitted its brief, except upon written consent of the Chief Executive Officer or Vice Chancellor.
2. *Side Designations, team numbers and communication:* On or about Friday, October 29th, 2022, the teams will be provided with the following via e-mail: (1) a randomly selected team number and; (2) the party that they will represent for the written brief. The side designations are randomly assigned and are not subject to alteration. The team number provided will be used to identify the participating school until the completion of the competition. **Revealing your school name at any point after team numbers are assigned may result in disqualification. Any communication relating to the competition between schools and between team members of different schools is prohibited.** All communication about the competition should be made directly to the Chief Executive Officer or Vice Chancellors via e-mail.

## C. Written Briefs

### 1. *Submission and Delivery of Briefs.*

Each team must submit, via e-mail, one (1) copy of the brief by 5:00 p.m. EST on January 31, 2022. Please note that the briefs must be sent electronically to: [seigenthaler.sutherland@gmail.com](mailto:seigenthaler.sutherland@gmail.com).

Please be sure that the electronic copy contains only the team number and not the school's or competitor's name. The subject of the email should be: "[School Number\_Respondant/Petitioner\_Final Brief]." The Vice Chancellor will send you a confirmation email. The subject of the email will be "[Team Number\_Confirmation of Receipt of Team Briefs]."

Upon receipt of each team's electronic brief, the briefs will be posted on the Competition Website on or about February 14, 2022.

### 2. *Format of Briefs.*

- i. Briefs **must** be submitted in PDF or Microsoft Word format.
- ii. The typeface used to produce the brief must be Times New Roman, 12 point font. Characters **must** produce a clear black image on white paper.
- iii. Briefs **must** have one-inch margins on all sides and the text **must** be double-spaced.
- iv. Footnotes **must** be single-spaced and use characters the same point size as the text.
- v. Briefs **must** be formatted for printing on 8 1/2-by-11-inch pages. Page limits will be counted using an 8 1/2-by-11-inch page format.
- vi. Briefs **must be** in the format required under the *Rules of the Supreme Court of the United States*<sup>3</sup>, which will apply insofar as they do not conflict with Competition Rules. This includes the color cover requirement as required by the USSC Rules. All briefs should contain the certificate discussed below.
- vii. **No brief shall exceed twenty-five (25) 8 1/2-by-11-inch pages, including footnotes and citations.** The following materials are not to be included when calculating the number of pages: cover page; table of contents; table of

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<sup>3</sup> Copies of these rules are available at [www.supremecourtus.gov](http://www.supremecourtus.gov).



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citations; appendix containing relevant statutory and constitutional provisions; and the certificate required by these Competition Rules.

- viii. The relevant text of all statutes and constitutional provisions may be placed in an appendix instead of the body of the brief. It is not necessary to attach the Record to the brief.
- ix. Citations will be complete and, in the format, prescribed by *The Bluebook: A Uniform System of Citation* (21st ed.). The typeface and abbreviation conventions will be in accordance with Rules 2.1 and 2.2 of *The Bluebook*. Underscoring may be used to indicate the use of italics, in accordance with B2 and B8.1.
- x. **United States Supreme Court cases decided after the dissemination of the problem on November 1, 2021 may not be incorporated into a team's written brief.**

Inclusion of United States Supreme Court cases decided after the dissemination of the problem on November 1, 2021 will result in an automatic 15 point deduction.

- 3. *Brief Certificates.* In addition to the briefs, each team shall submit a certificate containing the following information:
  - i. A statement that the work product contained in all copies of the team's brief is in fact the work product of the team members;
  - ii. A statement that the team has complied fully with their school's governing honor code<sup>4</sup>; and
  - iii. An acknowledgment that the team has complied with all Rules of the Competition.
- 4. *Scoring of Briefs.*
  - i. Brief scores shall constitute fifty percent (50%) of each team's score in Preliminary Round One and fifty percent (50%) of each team's score in Preliminary Round Two.
  - ii. A panel of judges will score the briefs. Briefs will be evaluated anonymously and graded on a scale of one (1) to one hundred (100) points. After a team's brief score has been determined, penalties for formatting and citation errors,

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<sup>4</sup> Identify yourself and your school by team number, not your school name.

as well as any penalties for rule violations, will be subtracted from the initial score given. No more than fifty (50) points maximum will be deducted for formatting penalties except those related to late submission of the brief.

- iii. The following chart provides the point deductions for format and citation errors:

FORMAT ERRORS	POINT DEDUCTIONS
Non-one-inch margin	2
Non-double-spaced text and single spaced footnotes	2
Non-12-point Times New Roman font including footnotes	2
Formatting other than for Non-8 ½-by-11-inch paper	2
Non-Compliance with Rule 33(g) of the <i>Rules of the United States Supreme Court</i>	5
Non-Compliance with Rule 24(1)(a)-(j) of the <i>Rules of the United States Supreme Court</i>	2 / per error
Pages in excess of 25 8 1/2-by-11-inch pages not including those pages discussed in Rule III(C)(2)(vii)	1 / page
Competitor names or name of team including law school on any location.	1 / per occurrence
Late submission of briefs to Vice Chancellors	5 / day
Submission of wrong side brief	10
Failure to include brief certificate to Vice Chancellors (Includes: 1) A statement that the work product contained in all copies of the team's brief are the work product of the members of the team only; 2) A statement that the team has complied fully with its law school honor code; and 3) An acknowledgment that the team has complied with all the Rules of the Competition).	1
Minor Citation Errors – does not impair the ability of the reader to identify or find the authority and that does not misrepresent the material.	½ point / per error
Major Citation Errors – affects the ability of the reader to find or identify the authority or misrepresents the material.	1 / per error
Inclusion of Supreme Court Cases issued after November 1, 2021.	15 / case

#### D. Oral Argument

1. *Location.* The Competition will be held at The Catholic University of America, Columbus School of Law, 3600 John McCormack Road, N.E. Washington, D.C. 20064.<sup>5</sup>
2. *Scoring*
  - i. Each team will argue once for the Petitioner and once for the Respondent during the preliminary rounds.
  - ii. The teams' score for the preliminary rounds will be based on the score for the brief and the score for the oral argument. In Round 1 and Round 2, the brief will constitute fifty percent (50%) of the score.
  - iii. For the quarterfinal and final rounds, the competition Vice Chancellor will assign teams to arguments on a random basis. To the extent possible, teams will be allowed to argue on-brief, but no guarantees are made. If any team will be required to argue off-brief, there will be a coin toss to determine side designations.
  - iv. The teams' score for the quarterfinal, semifinal, and final rounds will be based entirely on oral argument performance.
  - v. In the quarterfinal round the two teams with the highest score before each of the two panels of judges will advance to the semifinal round. In the semifinal round the two teams that win the arguments will advance to the final round.
  - vi. All scoring will be judged on a scale of 100 in whole numbers. If a judge provides a score other than a whole number, the number will be rounded to the nearest whole number. Each preliminary oral round will consist of three oral scores. There will be a minimum of two (2) oral judges in each room<sup>6</sup>. In the event that only two judges are present, the third score will be computed by averaging the two scores to create the third score. If there are three judges in the room then one score will be taken from each judge.

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<sup>5</sup> The Competition will be adhering to all local and University mandates and guidelines regarding masks and social distancing. These policies will be sent out to teams closer to the Competition date to ensure they are as accurate as possible.

<sup>6</sup> While the current intention is to have all judges be in-person at the competition, if circumstances arise requiring hybrid judging panels (i.e. some judges online and some in-person) the Vice Chancellor will work to ensure that all panels are equitably composed of online and in-person judges to ensure fairness in the competition.



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- vii. In the event of a tie in determining the top two teams, the following procedures will be used by the Vice Chancellor in the following order:
- a. An average of the three (3) oral argument scores from the three rounds (two preliminary rounds, one semifinal round) will determine the higher place.
  - b. If there is a tie, the higher place will be awarded to the team with the higher final brief score. That team will advance to the final round.
  - c. In the event that either of the top two teams has not been determined, the higher place will be awarded to the team with the higher score from the “Argument Structure” and “Response to Questions” section of the oral competition score sheets. That team will advance to the final round.
- viii. Third place will be determined by calculating the third highest score in the semifinals.

3. *Format of the Oral Arguments.*

- i. Each team will be limited to thirty (30) minutes of oral argument, to be divided among its members as the team wishes, but only two members may argue in any one round. Each of the two team members must argue for at least twelve (12) minutes for each round in which they participate. At their discretion, judges may interrupt arguments to pose questions and may allow additional time for the advocates’ response. Petitioner may ask to reserve up to six (6) minutes of the team’s allotted time for rebuttal. Prior to oral argument, the Petitioner must notify the Bailiff of the intention to request rebuttal time. Failure to do so will waive the right to rebuttal time.
- ii. One Bailiff will be provided for each virtual room during the oral competitions. The Bailiff will advise each competitor when they have fifteen (15) minutes, ten (10) minutes, five (5) minutes, and one (1) minute remaining. It is each team’s responsibility to keep track of its own time allocations between team members. Bailiffs will not assist teams in allocating time between team members.
- iii. All judges, both brief and oral, will be provided with a bench memorandum in advance. The bench memo will contain brief summaries of the major cases as well as explanations of the issues presented and discussions of what are anticipated to be some of the major arguments from both sides.

- iv. **United States Supreme Court cases decided after the dissemination of the problem on November 1, 2021 may not be incorporated into a team’s oral argument.**

Inclusion of United States Supreme Court cases decided after the dissemination of the problem on November 1, 2021 will result in an automatic 15 point deduction.

- v. Judges will be encouraged to critique all advocates after the completion of each of the preliminary rounds of oral arguments.

4. *Identity of Law Schools.*

- i. The identity of the law schools represented by the participating team members must not be revealed to the judges at any time before, during, or after the oral arguments. Identities may only be revealed upon final scoring of the entire competition. Team members should avoid sharing their law school name with anyone at the competition, to prevent judges from accidentally overhearing and inadvertently learning team identities.
- ii. A team member shall notify the Chief Executive Officer or Vice Chancellor immediately if that member knows a judge before whom that team member is arguing. Failure to do so could result in the disqualification of that member’s team.
- iii. Judges are also advised to notify the Chief Executive Officer or Vice Chancellor immediately if they recognize a competitor individually or the competitor’s school.
- iv. Penalty for disclosure: Disclosure of the team member’s school name, at any time before the completion of the final round, may result in disqualification.

5. *Guidelines for Judging Briefs and Oral Arguments.*

The problem, a bench memorandum, and a copy of these Rules will be provided for the use of those judging team briefs. Oral arguments judges will receive the same materials, but competitors should not assume that judges have seen the briefs of the teams whose oral arguments they are judging.

6. *Attendance at Oral Arguments.*

All rounds are open to be viewed by the public. Competitors, and their coaches or other affiliates, are not permitted to view the arguments of any other competitors prior to their own arguments.

All teams are encouraged to attend the final round of arguments, and any others they wish to attend once they have concluded their participation in the competition.

#### 7. *Announcements and Awards*

The team that wins the final round will be designated the Best Team. The Best Team, the team that wrote the Best Brief (as determined by the final brief scores) and the Best Oralist (based solely on the competitor's preliminary round oral argument scores) will be announced following the conclusion of the final round of the Competition. All other awards also will be awarded at that time. All participants and judges are invited to attend the second day of the competition, and the awards event and reception following the final argument.

Additionally, the Best Team shall receive a prize in the amount of **\$500** thanks to our generous co-sponsor, The Catholic University of America's Center for Religious Liberty.

#### **IV. External Assistance**

One of the purposes of this Competition is to develop the skills of appellate advocacy. Accordingly, the team members themselves must write their own briefs and prepare their own oral arguments. Faculty members, fellow students, attorneys or other individuals must not review, edit or otherwise assist in the preparation of a team's brief. Likewise, such individuals may not prepare the team members' oral arguments for them.

Participants may discuss issues and ideas relating to the Competition problem with faculty, fellow students, or others, and may use the assistance of such individuals to prepare for oral arguments in the form of mooting, question and answer sessions, etc. However, no other form of external assistance may be provided to the competitors.

#### **V. Emergency Back-up Plan: Virtual**

While the school is prepared to conduct the competition virtually, as discussed above the current intention is to hold a fully live in-person competition. In the event that University, D.C., or Federal regulations prevent the hosting of an in-person competition, all Teams will be notified via their listed contact and will be provided an updated version of these rules to reflect a shift to virtual formatting.

#### **VI. Interpretation of the Rules**

The Chief Executive Officer or Vice Chancellor will issue an interpretation of these Rules upon request. All Rule interpretations will promptly be provided to each team. Upon consultation with the Chief Executive Officer, the Vice Chancellor of the Competition has the discretionary authority to modify or waive any of these Rules as required. The Chief Executive Officer and the Seigenthaler-Sutherland Cup Vice Chancellor reserve the right to penalize teams through a deduction of points for any unprofessional conduct not consistent with the Rules, their spirit, or the norms of professional conduct.