

THE JEFFREY G. MILLER PACE NATIONAL ENVIRONMENTAL LAW MOOT COURT COMPETITION

OFFICIAL RULES

The following represent the official rules of The Jeffrey G. Miller Pace National Environmental Law Moot Court Competition (“Rules”).

RULE I. ORGANIZATION OF THE NATIONAL ENVIRONMENTAL LAW MOOT COURT COMPETITION

The Jeffrey G. Miller Pace National Environmental Law Moot Court Competition (“Competition”) is an annual inter-law school appellate moot court Competition sponsored by Pace University School of Law (“Pace”). The purpose of the Competition is to develop expertise in environmental law appellate advocacy. The Competition is coordinated by the National Environmental Law Moot Court Board (“Board”), which is comprised of Pace students, their faculty advisors and Pace Administration.

RULE II. THE PROBLEM

The Problem is prepared by the Board and provided to each Team for its use in preparing for participation in the Competition.

- A. Use of Problem for other than the Competition.** Schools may not use the current Problem for intramural runoff competitions or other academic purposes for the current year’s Competition; they may, however, use past Problems. Schools may use the current Problem, after completion of the National Environmental Law Moot Court Competition, for intramural competitions or other academic purposes, with appropriate attribution to Pace.
- B. Questions about the Problem.** The Board will accept questions relevant to the Problem until the deadline specified in the Fact Sheet.

RULE III. THE TEAMS

- A. Number and composition of Teams.** Each school may enter only one team (“Team”). The Team shall be composed of two or three law students, all of whom must be registered law students seeking a *Juris Doctor* degree and in good standing at their respective schools at the time of brief writing and oral argument. There are to be no alternate Team members. Each Team member must argue in at least one preliminary round.
- B. Substitution or addition of Team members.** There shall be no substitution or addition of Team members after the release date of the Problem, except for extreme hardship upon written permission of the Board. The Board recognizes that some schools may not have constituted a team by the release date of (on or about) October 2, 2015. In this instance, Rule III (B) applies as soon as the team is constituted but not later than October 26, 2015.

THE JEFFREY G. MILLER PACE NATIONAL ENVIRONMENTAL LAW MOOT COURT COMPETITION

- C. Team numbers.** Upon registration, each Team will be assigned a Team number. This number should be referenced in any correspondence with the Board. To preserve anonymity, the Team number will be used during the Competition and Teams may not reveal their schools to the judges.

RULE IV. THE BRIEFS

- A. General.** Each Team may write only one brief. The Team may choose which side to write for the brief, but will argue all sides of the Problem during the Competition's preliminary rounds. Only the members of the Team who will actually be arguing may participate in writing the brief. The use of the work product of any person other than a Team member to prepare the brief is strictly prohibited. Work product does not include materials of the type generally used by attorneys to prepare briefs and available for public use. Available for public use means accessible without privilege or reliance on a personal connection unique to the Team or Team member.
- B. Length and form of briefs.** Each team is required to submit both a Measuring Brief as well as other copies of the Team brief as specified in Rule IV (C).
- 1. Format.** All briefs shall comply with Federal Rules of Appellate Procedure 28 and 32, except as modified by these Rules.¹ All text and footnotes shall be in 12 point Times New Roman type. Briefs should preferably be double-sided. Total length of the brief, excluding the Table of Contents, Table of Authorities and Appendices, may not exceed thirty-five (35) pages. The brief shall be bound into a volume or fastened with three staples down the left margin. All citations shall be complete and in the form prescribed in the latest edition of the Harvard Law Association's Uniform System of Citation ("Bluebook"). Appendices may be used to recite the text of statutes, constitutional provisions, regulations and materials that are not generally available.
 - 2. The Measuring Brief.** As set forth in Rule IV (C)(1)(a)(i), each Team shall submit to the Board the printed original of its brief (marked "Measuring Brief" on front cover), which shall be used solely for the purpose of judging the criteria of this section. The Measuring Brief must comply with Rule IV (B)(1). The cover shall include the Team number at the upper right hand corner, with the school name and the names of individual Team members appearing at the lower right hand corner. The

¹ Briefs of Appellants and Appellees shall comply with Federal Rules of Appellate Procedure 28(a)(2)-(9), 28(d) and 28(e). Excluded are 28(a)(1), 28(a)(4)(C), 28(a)(10), 28(b)-(c) and 28(f)-(j). References to the record under FRAP 28 should be to the record of the court. The applicable parts of Rule 32 are Rule 32(a)(1)-(4), with the exception of 32(a)(1)(A) and 32(a)(2)(F). For the purpose of this Competition, Teams should use the cover colors on briefs specified here: Sylvanergy, L.L.C., blue; Save Our Climate, Inc., green; Shaney Granger, red. The name of the court shall be the United States Court of Appeals for the Twelfth Circuit. Recycled paper should be used.

**THE JEFFREY G. MILLER PACE NATIONAL
ENVIRONMENTAL LAW MOOT COURT COMPETITION**

name of the party for which the Team is writing the brief must also appear on the front cover. Each Team must also submit a CD-R (PC format only), labeled with the school name and team number, containing the Measuring Brief in Word 2007 or later.

- 3. Other copies.** Other copies of the brief shall be identical reproductions of the original Measuring Brief except that no identification of the Team or its members other than the Team number shall be included on the outside cover. Briefs shall not be signed, nor shall any identifying material appear in the briefs. Briefs may be duplicated on either one or two sides of the page. Each Team must also submit by e-mail a copy of its brief in PDF file format as specified in Rule IV (C)(2).
- 4. Certification.** Each Team submitting a brief in the Competition shall certify that such brief has been prepared in accordance with these Rules and that the work product is solely that of the Team's members.² The certification shall be bound or fastened in the Measuring Brief as the last page. No certification shall be included in any other brief except the Measuring Brief.

C. Service of briefs and certification.

1. Service upon the Board.

- a. Each Team shall serve upon the Board the following items:
 - i. The Measuring Brief, clearly marked "Measuring Brief";
 - ii. One (1) CD-R (PC format only), containing the Measuring Brief (pursuant to Rule IV (B)(2));
 - iii. Six (6) copies of the Team brief (pursuant to Rule IV (B)(3)); and
 - iv. The Team's original certification (pursuant to Rule IV (B)(4)).
- b. Briefs shall be sent in one single package bearing the Team name and number and postmarked no later than December 1, 2015.

² The certification shall state:

We hereby certify that the brief for _____ Law School 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. We further certify that the undersigned have read the Competition Rules and that this brief complies with these Rules.

Date _____

Team Member

Team Member

Team Member

THE JEFFREY G. MILLER PACE NATIONAL ENVIRONMENTAL LAW MOOT COURT COMPETITION

- c. The package shall be sent using **expedited** delivery from a shipper or postal service so that it arrives at the NELMCC office no later than two days from the date of the postmark.
 - d. Briefs served upon the Board shall be directed to:

Pace University School of Law
National Environmental Law Moot Court Competition
78 North Broadway, Preston 212
White Plains, New York 10603
 - e. Package containing briefs must bear a postmark or some other indicia proving date of mailing. The team must retain proof of mailing, such as a receipt with the transaction date from the shipper or postal service, and a tracking number assigned by the shipper for delivery verification.
 - f. Briefs postmarked with a date later than December 1, 2015 will be subject to a one-point deduction per day late pursuant to Rule VII. A Team that submits its briefs to a postal or shipping facility on time, but whose briefs are not postmarked until the next day, may be asked to furnish a copy of the receipt with the transaction date to the NELMCC Board in order to avoid the deduction.
2. **Service of briefs on opposing Teams.** Each Team must e-mail a copy of its brief (not the Measuring Brief) as an attachment in PDF file format by 11:59 p.m. EST, December 1, 2015 to the NELMCC e-mail address at nelmcc@law.pace.edu. The briefs will be made available to competitors on the Competition's web site.
 3. **Revision of briefs.** A Team may not revise its brief after its submission to the Board.

RULE V. SCORING

- A. **Briefs.** The Pace Environmental Law Review, the Pace International Law Review, the Pace Law Review and a committee of experienced litigators shall score all briefs submitted and select the best brief for each party opponent in the Competition. The brief score shall be used with the preliminary round scores to determine advancement to the quarterfinal round.³

³ Briefs will be scored on the following basis: Correct Bluebook citation, spelling, punctuation, and capitalization shall represent seventeen percent (17%) of the total brief score. Thoroughness of research, depth of analysis, and persuasiveness of argument shall represent eighty-one percent (81%) of the total brief score. Two percent (2%) of the total score will be for Measuring Brief factors.

THE JEFFREY G. MILLER PACE NATIONAL ENVIRONMENTAL LAW MOOT COURT COMPETITION

B. Preliminary rounds.

1. **Time and place.** All rounds of arguments shall be held on the campus of Pace.
2. **Number of arguments.** Each Team will argue in three preliminary rounds; each Team will argue a different party position each round. At the conclusion of the three preliminary rounds, the twenty-seven Teams with the highest total preliminary scores⁴ shall advance to the quarterfinal rounds.
3. **Ties.** Ties shall be broken in favor of the Team that has the highest aggregate point differences over its opponents in the three preliminary rounds.⁵ In the event that tying Teams have the same aggregate point difference over their opponents, the tie shall be broken in favor of the Team having the higher brief score.
4. **Byes, assignment of Teams for arguments.** Byes,⁶ if any, Team grouping, and party shall be randomly selected, except as qualified by Rule V (B)(2). No Team shall draw more than one bye during the preliminary rounds. Assignment for successive arguments shall be announced as soon as reasonably practicable following the completion of the preceding round.

C. Final rounds.

1. **Time and place.** The quarterfinal, semifinal and final rounds will take place on a schedule announced by the Board.
2. **Arguments.** Twenty-seven (27) Teams shall progress to the quarterfinal round and the party they represent will be randomly selected. The best Team from each trio in the quarterfinal round will be selected by the judges based on the oral argument and will advance to the semifinal round of the Competition. The best Team from each trio

⁴ Total preliminary scores shall be computed as follows: The brief score shall constitute forty percent (40%) of the total preliminary score. The combined score of the preliminary rounds shall constitute sixty percent (60%) of the total preliminary score (twenty percent (20%) for each of the three (3) rounds). The score each Team member receives in each preliminary round shall constitute fifty percent (50%) of that preliminary round score, which is ten percent (10%) of the total preliminary score.

⁵ Aggregate point differences shall be computed in the manner illustrated by the following example: If Team A defeated its closest first round opponent by a score of 80-75 and lost its second argument to the winning Team by a score of 78-80 and lost the third round to the winning Team by a score of 82-83, its aggregate point difference for the three rounds is +2 points (i.e., the net of the +5 point difference in its first argument, the -2 point difference in its second argument, and a -1 point difference in its third argument).

⁶ Any Team that draws a bye shall have its total preliminary score computed as follows: The brief score shall constitute forty percent (40%) of the total preliminary score. The score for each preliminary round shall constitute thirty percent (30%) of the total preliminary score. Otherwise, scoring shall be the same as described in Rule V (B).

THE JEFFREY G. MILLER PACE NATIONAL ENVIRONMENTAL LAW MOOT COURT COMPETITION

in the semifinal round will be selected by the judges based on the oral argument and will advance to the final round of the Competition.

D. Order, timing and results of arguments.

1. **Participants.** Any two members of a Team may participate in any argument, but two members must participate in each argument. In the case of three-member Teams, each member must argue at least once during the preliminary rounds. Each Team must address all the issues in the arguments, dividing them among the two Team participants any way it chooses, and determine the order of issues argued. A Team member not participating in an argument may be of counsel.
2. **Time allowed for arguments.** Oral argument shall be limited to a total of thirty minutes per Team, fifteen (15) minutes for each Team member, except as discussed below. Judges, at their discretion, may interrupt arguments to ask questions but may not allow additional time. Each party, by advance notification to the judges and bailiff, may reserve up to five (5) minutes for rebuttal. Additionally, the first team member to argue must request rebuttal time from the judges. Rebuttal time may be subtracted from either or both of the two arguing Team members' time allotment. (Example: Team Member #1 may argue for 14 minutes, Team Member #2 may argue for 13 minutes, thus reserving a total of 3 minutes for rebuttal by one Team Member). Only one Team member may rebut. If the first Team member to argue fails to designate from whose argument the rebuttal time will be deducted, the time will be automatically subtracted from the first Team Member. The official time of the round is the time indicated by the bailiff. No one other than the bailiff may display timecards or signal to the oralist how much time is left. Teams may use silent digital or analog watches at the podium or at counsel table.
3. **Results.** The Best Oralist for each courtroom in the preliminary rounds will be announced by the judges. The Best Oralist of the combined preliminary rounds will be announced by the Board after the conclusion of the rounds and must have argued in two of the three rounds to qualify. The scores for each team will not be announced, but shall be determined by the judges without knowledge of the brief score, and shall be arithmetically weighed and combined with the brief score by the Board under the formula described in Rule V (A) and (B) with scores computed to decimals or fractional points, as necessary, to determine the twenty-seven schools which will advance to the quarterfinal round. The winning Teams for the quarterfinal, semifinal and final rounds will be announced by the Board at the conclusion of each round. A single listing of all final brief scores and final overall scores after the preliminary rounds will be sent to participating Teams within three months after the Competition. No individual Team member's scores will be distributed.

THE JEFFREY G. MILLER PACE NATIONAL ENVIRONMENTAL LAW MOOT COURT COMPETITION

4. **Videotaping, audio taping and visual aids.** Video and/or audio taping of oral arguments is prohibited. Visual aids are not permitted during oral arguments.
5. **Computers, laptops, mobile phones, and other electronic devices in courtrooms.** Competitors may not use laptop computers, tablets, mobile/smart phones or any other electronic devices, especially those that are internet enabled or have real-time online communication capabilities, in the courtroom during the oral arguments. All electronic devices should be turned off until the conclusion of the round.
6. **Visitors in courtrooms.** Visitors may observe NELMCC rounds when there is sufficient space in the room and if the visitor has been approved prior to the commencement of the round by the NELMCC Board. Those wishing to observe must check in at the hospitality desk prior to the round. Visitors must turn off all mobile/smart phones or any other electronic devices and may not take photographs or videotape during the oral arguments until the conclusion of the round.

RULE VI. FACULTY OR OTHER ASSISTANCE

No Team shall receive assistance prior to filing its brief, including research, writing or any aspect of preparing the brief. No Team shall receive assistance of any kind during an oral argument at the Competition or during any recess thereof. To maintain team anonymity, coaches may not communicate with their team during the oral arguments.

RULE VII. PENALTIES

- A. The Board may assess such penalties, including disqualification, as it deems reasonable and appropriate in its sole discretion for failure to comply with the Rules or deadlines set pursuant to these Rules and other rules made pursuant to Rule IX hereof.
- B. All briefs in the Competition shall be subject to uniform penalties for each type of violation; penalties may be levied in whole or fractional points.
- C. The Board shall maintain records of the penalties imposed pursuant to this Rule for at least six (6) months.

RULE VIII. INTERPRETATION OF THE RULES

Requests for interpretation of these Rules should be addressed to the National Environmental Law Moot Court Competition, by mail using the address in Rule IV (C)(1)(b), or by e-mail to nelmcc@law.pace.edu. Pursuant to Rule VI, teams may not receive faculty assistance prior to the

**THE JEFFREY G. MILLER PACE NATIONAL
ENVIRONMENTAL LAW MOOT COURT COMPETITION**

filing of the brief; therefore, any questions related to brief writing are to be submitted by the competitors and not the coach or advisor. Requests should be made at the earliest date possible. All interpretations of these Rules and any waivers, consents, assessments of penalties, decisions or other actions taken by the Board in its administration of the Competition shall be in its sole and absolute discretion. Such interpretations, waivers, consents, assessments of penalties, decisions or actions shall be final, and all participants shall be bound thereby.

RULE IX. OTHER RULES

The Board may from time to time make any other rules and procedures deemed advisable for the conduct of the Competition, in its sole discretion.