



QUT TORTS MOOT COMPETITION

Queensland University of Technology Law School

21st – 25th August 2017

RULES

A. Competition Committee

1. Composition of Competition Committee

The Head of the QUT Law School and the Moot Director appointed by the QUT Law School for this competition are the Competition Committee members. Committee members must not be actively affiliated with any team registered to take part in the Competition.

2. Committee Powers

The Committee -

(a) has sole discretion to -

- (i) enforce all Rules;
- (ii) interpret the Rules;
- (iii) resolve any disputes that may arise during the Competition; and
- (iv) answer questions about, and clarify, the problem.

(b) has the power to change or supplement the Rules if any changes or supplements are necessary. The Rules will be posted on the competition web page, and changes or supplements will be communicated to participating teams as quickly as possible.

3. Committee Members' Participation

Members of the Committee will not judge any moot.

4. Web Page

Materials relevant to the administration of the Competition will be posted on the QUT website: <https://www.qut.edu.au/law/about/news-events/qut-torts-moot-competition> as they become available.

5. Questions and Enquiries

Any questions or enquiries about the Competition must be made in writing (e-mail is satisfactory) to the Committee. If a question or enquiry affects participating teams, the question or enquiry and its answer will be e-mailed to participating teams.

The Committee's address is -

QUT Torts Moot Competition
Attn: Mooting Director
QUT Law School
GPO Box 2434
Brisbane, Qld, 4001
Australia

Edwina Wong-See
Phone +617 3138 2068
E-mail: qut.tortsmoot@qut.edu.au

B. Team Composition

1. The competition is open to teams from law schools in Australia and countries with a common-law tradition in the South Pacific or Indian Ocean regions. Each eligible law school may register only one team in the Competition. The closing date for registration is **Friday 16 June 2017**. The Committee may at their discretion limit the number of competing law schools to twelve.
2. Each team must notify the Moot Director of an email address which will be used for all correspondence and service of documents.
3. A team consists of two to four law students, who must be enrolled as full-time or part-time LLB students, or as Juris Doctor students, in the law school they represent at the time of the Competition. However, no team member may have already completed an undergraduate legal qualification.
4. Only two team members may sit at the Bar table and present argument during a moot in the Competition.
5. All team members may participate in every other aspect of the Competition, including practice moots, research, and drafting.
6. Each team may have one or more coaches.
7. A team may receive the following assistance only on the outlines of argument -

- (i) Team members may discuss general principles of tort law with their coach and with others affiliated with their school.
- (ii) The coach may provide general guidance on the overall organisation of the outline, but may not assist with the actual writing. The coach may edit the paper and correct citation format.

C The Problem

1. The forum is the Queensland Moot Court of Appeal. That is, for the purposes of applying the rules of precedent, it may be assumed that the forum is the Queensland Court of Appeal.
2. The problem will involve the law of torts in Australia, and may refer to Queensland statutes that affect tort litigation. It will be posted on the competition web page on **16 June 2017**.
3. The same problem will be used for all rounds of the Competition, including the final.
4. The current or past Torts Moot problem may not be used by any participating law school for any reason, including intra-school competitions, without the written consent of the Committee.

D Team Numbers and Draw

1. Each team will be assigned a team number by the Moot Director. Teams will use this number on their outlines of argument. As far as possible, all participants will avoid letting judges know which Law Schools the teams appearing before them are from.
2. The draw for the general rounds will be notified to teams by, at the latest, **Monday 19th June 2017**. It will provide for each team to participate in up to four moots, arguing twice for the Appellant and twice for the Respondent.

E Outlines of Argument

1. Each team must electronically file an outline of argument for the applicant by 1 pm AEST on **Friday 18 July 2017**. Electronic filing means that the outlines must be emailed to the Moot Directors, at gut.tortsmoot@qut.edu.au
2. The Moot Director will email the relevant team's applicant's outline to each of the teams that will be arguing against that team as respondent by 5 pm on the same day.

3. Each team must file two outlines of arguments for the respondent, one responding to each of the appellant's outlines that they have received, by 1 pm on **Tuesday 8th August 2017** to qut.tortsmoot@qut.edu.au.
4. The Moot Director will email each respondent's outline to the relevant applicant team by 5 pm on the same day.
5. Outlines must be in Microsoft Word, unless alternative arrangements are made with the Moot Director. Each team must give a filename to its appellant outline in the form *teamTTappellantoutline.doc*, and its two respondent outlines *teamTTresponsetoteamUU.doc* and *teamTTresponsetoteamVV.doc* where TT is the team's number and for respondent outlines, UU and VV are the teams to whom they are responding.
6. Outlines need no cover sheet or back sheet, but must be headed in the following style:

IN THE QUEENSLAND MOOT COURT OF APPEAL
Between

Xxxxxxx, Appellant

And

Yyyyyyy, Respondent

**OUTLINE OF ARGUMENT FOR [APPELLANT/RESPONDENT]
– REPRESENTED BY TEAM TT**

where the names xxxxxxx and yyyyyyy are taken from the problem, and TT is the team number. The name of the Law School **must not** appear on the outline.

Outlines must be typed in no smaller than 10-point Arial font or 12-point Times Roman font and must be no more than 4 pages in length. They should consist of numbered paragraphs. They may be single-spaced, with a single spaced blank line between paragraphs.

An appellant's written outline of argument will:

- (i) briefly identify the issues said to arise for determination on the appeal
- (ii) set out the arguments for the applicant or appellant, giving a reference to any authorities relied upon and in particular, where it is contended that the judge below erred in law, the precise error or errors of law and the basis in principle or authority for that contention.

A respondent's written outline of argument will:

- (i) not repeat matters set out in the appellant's outline of argument;

- (ii) but instead should summarise the respondent's replies to the appellant's arguments and give reference to authorities relied on.

7. No separate lists of authorities are necessary.

8. Amendments to outlines of argument are not permitted except in accordance with Rule G5.

F. Moot Procedures

1. Place

1.1 All moots in the Competition (apart from the Final) will be held on the Queensland University of Technology Gardens Point Campus in the moot courts on level 5 of C Block, the Faculty of Law building.

1.2 During oral hearings, all persons in the Court who are not actively involved in the hearing itself (*ie* members of the Bench, the bailiff and counsel) must be seated *behind* the bar table.

1.3 No communication is permitted with counsel at the bar table during oral hearings. This *includes* communication to or from instructing solicitors.

2. Scouting

Speakers, reserves or any persons affiliated with a team must not attend any moot other than one in which their team is participating while that team is still competing.

3. Timing

3.1 Each team has thirty minutes in which to present its arguments. Each speaker must speak for at least ten minutes.

3.2 Senior Counsel for each team will announce the time breakdown for the team when entering appearances. In the case of the team representing the Appellant this will include the time, if any, not exceeding five minutes reserved for rebuttal.

3.3 At the start of each moot each team will hand up to the bench an appeal book containing -

- photocopies of the relevant material from all authorities and other materials referred to in argument, (eg legislation) ; and
- an index, or some other means (tabs etc) for finding relevant material.

3.4 Counsel will be heard in the following order:-

1. Senior Counsel for the Appellant
2. Junior Counsel for the Appellant
3. Senior Counsel for the Respondent
4. Junior Counsel for the Respondent

5. One or other counsel for the Appellant may then exercise a right of reply (rebuttal), during which no new arguments may be raised – ie it should be confined to responses to arguments raised by the respondents.
- 3.5 A judge may interrupt counsel at any time to ask a question. Judges are expected to ask sufficient questions to test counsels' understanding of matters relating to the problem, while allowing them fair opportunity to present their argument.
- 3.6 Counsel must not, except in response to questions, introduce arguments not contained in their outline, but should be prepared to answer questions on all points relevant to the problem, whether contained in their outline or not.
- 3.7 A bailiff/timekeeper will be present in the court, and display a card showing the time remaining when there is 5 minutes, 1 minute and no time left, after which Counsel must stop unless allowed to proceed by the bench. The bailiff/timekeeper must again show the TIME card at the end of any extra time allotted to counsel. As far as practicable, both teams will receive the opportunity for similar periods of extension of time, if appropriate.
- 3.8 The Appellant may waive rebuttal time at the close of the Respondent's argument. However, the Appellant may not reallocate rebuttal time after the start of the moot.
- 3.9 A speaker for the Respondent is not allowed time for surrebuttal.

4. Judges and Judging Criteria

- 4.1 Wherever possible, each moot will be held before a panel of three judges appointed by the Committee. However, for the purposes of these rules, judging panels may be composed of either three or two judges. The most senior judge present (based on date of admission, first call to the bar or commission as a QC/SC or judge as appropriate) will be the presiding judge.
- 4.2 Judges will identify any potential conflict of interest at the time of scheduling of hearings, and the Director will ensure that as far as possible no conflicts arise. Where a team believes that there is a conflict they may raise it with the Director for resolution. See below Rule H2.
- 4.3 Judges will be provided with a copy of the problem, the outlines of argument and the relevant cases before the hearing of each moot. The teams will announce appearances and hand up their appeal books at the start of the moot, as noted in rules 2.2 and 2.3 above.

4.4 Marking

- (a) Each Judge must complete an individual marking sheet for each participant in a moot. A copy of that sheet is Attachment A at the end of these Rules.
- (b) The presiding judge will add up the marks awarded by all judges using the marks totalling sheet (a copy of which is Attachment B at the end of these Rules).
- (c) The winning team in each moot is the team that has the highest total marks. A draw is possible, but judges are asked to reconsider the marks before announcing a draw.
- (d) The presiding judge will announce the winning team, but details of scores will not be made available, either orally or in writing, to the competitors until the Competition is completed, after which the Committee will provide scores and rankings to each school's designated representative.

4.5 CRITIQUE

A verdict on the issues of law raised by the problem is not expected, but each judge may provide a short oral critique of the mooters' performance at the end of each moot. Judges should NOT comment on the substantive issues raised by the problem.

G. Semi-finals and Final

1. At the conclusion of the general round, the teams will be ranked according to:
 - Number of wins and losses, and where equal on that basis:
 - Ratio of total points scored over points scored against them.
2. If there are sufficient teams in the competition, the four highest-ranked teams from the rounds will participate in the semi-finals. The top-ranked team will moot against the fourth-ranked team, and the second-ranked team will moot against the third-ranked team. In each semi-final, the team with the higher ranking will have the option of appearing as the Appellant or the Respondent in their semi-final.
3. The winners of each semifinal will moot in the final. In the final, the team with the highest semi-final marks will have the option of appearing as the Appellant or the Respondent in the final.
4. If there are insufficient teams for a semi-final round then the two highest ranking teams from the general round will go through to the final.
5. The procedural rules in section F above will apply in the semi-finals and final. However, teams may amend their outlines until final outlines are exchanged in accordance with this rule:

- A team appearing for the appellant must give a copy of its final outline to the respondent team as soon as practicable after the teams for each semi-final or final are announced.
- The respondent team must give a copy of its final outline to the appellant no less than two hours before the commencement of the semi-final or final. Electronic copies of all outlines must be sent to the Moot Directors.

H. Dispute resolution

1. Any dispute about the conduct or administration of the Competition, the interpretation of the Rules or the conduct of a particular moot must be referred to the Committee as soon as possible after issues for dispute arise, and at the latest, before the winners of the Competition are announced.

The decisions of the Committee, the Moot Director and the Judges are final and are not open to appeal.

2. A judge's alleged conflict of interest must be reported to the Moot Director before that particular moot starts. Otherwise, the allegation will not be heard.

Attachment A

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INDIVIDUAL MOOT MARKING SHEET

MOOT No

between Team (Appellant) and Team (Respondent)

Name:.....
(Senior/Junior^{*} counsel for Appellant/Respondent*)

^{*}Strike out whichever is not applicable

Criteria		Comments	Score
Relevant part of team's written outline	<ul style="list-style-type: none"> • Clear and concise • Correct citations • Logical/easy to follow • Persuasive legal argument 		/10
Content of oral argument	<ul style="list-style-type: none"> • Logical structure, effective overview and conclusion • Understanding of legal issues, their interrelationship • Legal arguments relate to the facts, are based on a sound knowledge of the law, and are reasonably arguable in the current state of the law • Understands, addresses and rebuts points of opponent 		/30
Speaking ability and delivery (including formal aspect of answering questions)	<ul style="list-style-type: none"> • Courtroom style and manner of delivery – 'conversation' with the bench while sufficiently formal and professional • Overall persuasiveness • Speaks with conviction and sincerity 		/30
Substantive aspect of answering questions from the bench	<ul style="list-style-type: none"> • Understands object of questions • Answers questions correctly, concisely and without evasion • Sufficiently flexible to the needs of the bench, while effectively integrating answers into argument • Remains composed under stress 		/30
		TOTAL	/100

General comments:

Attachment B

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MOOT MARKS-TOTALLING SHEET

MOOT No

The total marks awarded to each speaker by each judge must be added together and then the totals for each team must be calculated. The team with the highest number of marks is the moot winner.

Please announce the winning team but do not announce the details of the marks – but please feel free to give the mooters some general feedback on matters of presentation and style.

	Appellant – Team		Respondent – Team	
	Senior Counsel	Junior Counsel	Senior Counsel	Junior Counsel
Judge 1				
Judge 2				
Judge 3*				
Counsels' Totals (/300)				
Team Totals (/600)				

* If only 2 judges sit, insert the average of Judge 1's and Judge 2's marks here.

Signature of presiding Judge: