

## **HOW TO DRAFT A WINNING MOOT COURT MEMORIAL**

### **I. Memorial Background**

Memorials are in essence legal written documents that are prepared by the competing teams based upon the facts presented in the case, and subsequently utilized by teams to develop a framework for their oral pleadings. During a Moot Court Competition, participating teams must prepare and submit two Memorials per team; an Applicant Memorial and a Respondent Memorial. Participating teams must carefully allocate sufficient time to research and write the Memorials from the period that the case is released to the deadline for submitting the Memorials. Since this is an educational experience, the more time and dedication that a team devotes to writing the Memorials, the greater the self-reward and gratification participants will receive from their Moot Court experience.

There are numerous approaches that one can take when writing the Memorials, but participating teams should remember that the Memorials are an adjudicator's first contact with your arguments. To help the reader understand your arguments try to present clearly every step of how you reach your conclusions. Do not assume that the adjudicator is familiar with the sources you are citing or with the structure of your argument the way you have it in your mind. The Memorials should be persuasive, based upon sound and supported legal facts, and attempt to convince the court on the argument being developed. Prior to starting the actual research and writing of the Memorials, it is critical that teams read and fully understand both the Rules and Facts presented in the actual case. Failure to understand the particular rules of your moot court competition could result in unnecessary and careless penalty deductions. Additionally, it is essential that before teams set out on their research endeavor that participants familiarize themselves with the problem outlined in the case, create a detailed road map for how best to approach the problem, and allocate work between the respective team members.

### **II. The Sections of the Memorial**

Each Memorial will contain the following required sections in the following order: Front Page, Table of Contents, List of Abbreviations, List of Sources/Authorities, Jurisdiction of the

Court/Statement of Jurisdiction, Statement of Relevant Facts, Questions Presented, Summary of Argument, Argument, and Submissions. Below is some advice on preparing each of these.

#### A. Front Page

Teams are strongly encouraged to include the necessary information according to the Rules of the Moot Court, and not obsess about the attractiveness and visual aesthetics of the Front Page. Teams will not be awarded extra points for assemblage or utilizing ornate binding. The front page should include the team number; the year of the Competition; the name of the case; the title of the document (i.e., "Memorial for Respondent" or "Memorial for Applicant"); and the total number of words in the Argument and Submissions sections on the bottom right.

#### B. Table of Contents

While most national legal systems do not require a table of contents as a part of their written pleadings, this is a good learning exercise for participants. Having a table of contents allows the reader to quickly scan and therefore better grasp the organization, structure and logic behind the legal research in the Memorial. Thus, teams should be conscious of the initial impact that the headings in the table of contents can have upon the judges.

#### C. List of Abbreviations

Utilizing standard and common abbreviations is acceptable and at times strongly encouraged when composing the Memorial. Any abbreviation used by participants within the Memorial should be explained in this section.

#### D. List of Sources/Authorities

Each source or authority must be supported by bibliographical information that allows a reader to identify and locate the authority. This section allows participants, as well as judges, to get a clear sense of the extent of the research that was conducted to build the legal argument. The list of sources should be relevant and supportive of the case and should signify the diverse and comprehensive nature of the team's work. In this section, a good Memorial will have the relevant Memorial page number(s) from the Argument section where that source/authority appears. Listing sources which have not been supported by a team's argument and thereby falsely

alluding to the extent of a team's research initiative will be easily recognized by the Memorial grader, and reflect poorly upon a team's overall performance.

#### E. Jurisdiction of the Court/Statement of Jurisdiction

The participants are expected to work within the framework of the legal and judicial system specified by the official rules of the particular Moot Court competition they are participating in. While these types of statement of jurisdiction differ from competition to competition and from case to case.

#### F. Statement of Relevant Facts

The Statement of Relevant Facts should be limited to facts relevant to the Arguments section. When preparing this section, Mooters should consider that the Statement of Relevant Facts is not a regurgitation of the various statements and facts presented in the case. It is very good practice to develop a different Statement of Relevant Facts for the Applicant and Respondent. Opposite sides will typically place an emphasis on different aspects of the facts provided and this must ideally be reflected in the Statement of Relevant Facts for each side.

#### G. Questions Presented

Similar to the Table of Contents and List of Sources/Authorities sections, the Questions Presented section provides the Memorial grader with a critical understanding for how a respective team plans on approaching the case. The questions in this section are based upon the issues raised in the case, and will be subsequently answered and addressed in the latter Argument and Submissions sections. Teams must present the questions in a neutral manner. The questions should be precise, relevant to the facts, and ideally each question should not be more than a sentence. While each legal question might have further sub-questions, teams must state only the main legal questions in this section. Usually, there are 4-5 main legal questions in every problem.

#### H. Summary of Argument

When writing the summary of your argument, it is recommended that participants do not simply rely upon the headings and topic sentences in the Argument section. This summary is the

essential core of your entire argument, and should truly illuminate the ultimate purpose of your Memorial.

#### I. Argument

The Argument section is largely considered the most important aspect of the Memorial, and it is where participating teams are afforded the opportunity and space to truly display the quality and creativity of their legal research and analysis. Since the Argument and Submissions sections have a word limitation, it is vital that teams seek to create a quality, focused argument within the guidelines of the official rules of your Competition and as a result there are numerous methods for structuring your argument. Nevertheless, teams should arrange their points in a logical, justifiable structure, and look to legal authorities, such as standard text books, academic commentary, statutes and cases, for developing and assessing the relative strengths of their argument. Arguments should be presented in a rational and sound manner to further enhance the argument being forwarded. A strong Memorial recognizes arguments of the opposing side and tries to put forth arguments that will constitute a legally tenable response. Arguments that deviate from the problem, arguments that are repetitious, and arguments that are not legally supported will not rest favorably with the judges grading the Memorial. It is important to remember at all times that you must apply the facts to the legal arguments being developed.

#### J. Submissions/relief/prayer

Following the Argument section is the last section of the Memorial, the Submissions. In many Moot Court competitions, Submissions can also be commonly referred to as reliefs, prayers, or even prayers for relief. In essence, they refer to the various orders – on the basis of the arguments in the preceding section – teams seek from the court. Each order sought must be precisely drafted in one sentence per order, and must appear in the Questions Presented section.

### III. Citing Sources

Properly citing sources is necessary in any Moot Court competition, and since most arguments are based upon prior legal sources and authorities frequent citing is common practice in Memorials. After providing the first full citation in the footnotes, sources that are subsequently repeated can be abbreviated and utilize references, such as *ibid*. Detailed legal citation systems

exist such as The Bluebook: A Uniform System of Citation and the Oxford Standard Citation Of Legal Authorities (OSCOLA). Some Moot Court Competitions prescribe the particular citation system to be followed while others do not. Participants should look to their Competition's Rules for guidance on this. For Competitions that do not prescribe such a system, it is good practice to either adopt one of the above systems or adopt your own system. Either way, such a system must be consistent throughout the Memorial. When writing the Memorial, please take into consideration that everything presented to the judge should be supported by some sort of legal authority. Participants should therefore be able to provide a specific reference for their arguments if requested by the judge during the oral pleadings.

#### **IV. Reviewing, Submitting and Grading the Memorials**

When allotting the necessary time for researching and writing the Memorials, teams should also allocate a minimum of one week for reviewing, editing, and formatting the document prior to submission. We cannot stress enough the importance of carefully reading your team's Memorial for spelling and grammatical errors, and not solely relying upon word processors to run automatic spelling and grammar checks. When reviewing the Memorial, it is strongly encouraged that teams take into consideration the word limit, and associated deductions according to the rules. Additionally, while a prime objective of Moot Court participation is to strengthen one's ability to work in teams with various team members often writing different components of the Memorial, it is important that the Memorial reads in a uniform and coherent manner. If the Memorial reads in a fractured and fragmented manner, this will be received negatively by the judges and detract from the quality of the team's overall argument. Moot Court teams should be cognizant of the process for submitting the Memorials according to the official Rules of the Competition, as well as be aware of the Memorial grading process.

**Sources:** <http://pricemootcourt.socleg.ox.ac.uk>