



# witness examination rules

## **Witness Examination Competition Rules**

### **1. Competitors**

- 1.1. All members of Macquarie University Law Society (MULS) are eligible to compete.
- 1.2. Competitors must not have completed a law degree or equivalent qualification for legal practice in any jurisdiction.
- 1.3. The winning competitor will represent the University at the national ALSA conference and therefore must be enrolled in an undergraduate LLB degree or equivalent graduate LLB degree at Macquarie University at the time of the ALSA Competition in July of the next year.
- 1.4. If the winning competitor is not enrolled in an undergraduate law degree or otherwise cannot attend the ALSA Championships, the right to compete in the ALSA Competition shall pass to the runner up of the competition.
- 1.5. The Competitions Department shall have discretion and must determine who shall fill the position if the runner up cannot attend the ALSA Championships.
- 1.6. This competition is not a team competition. Each competitor must prepare for and compete individually.
- 1.7. There shall be a maximum number of 40 individual competitors in the Witness Examination Competition. This will be capped by order of registration.

### **2. Competition Structure**

- 2.1. The Witness Examination Competition shall consist of three (3) Preliminary rounds, one Quarter Final round, one Semi Final and a Grand Final.

2.1.1. In the event that an even number of competitors enter the Witness Examination championship, all competitors compete in the three preliminary rounds held at nominated times.

2.1.2. If an odd number of competitors enter the competition, one bye per round is declared. The bye is allocated randomly. A competitor with a bye will be deemed not to have competed in that round, and will not receive a score for that round. Competitors allocated a bye round must make themselves available for that round to compete in the event of another competitor not being able to compete.

2.1.3. If a competitor has been forfeited against, that competitor will be given an automatic win, unless the competitor has contravened any rules prior to the round.

2.2. The draw for each round is final but the Competitions Department may, at their discretion, alter the timetable but are under no obligation to do so.

### **2.3. Preliminary Round Procedures**

2.3.1. Competitors will be assigned prosecution / defence or applicant / respondent positions by random draw.

2.3.2. Competitors may not observe, nor are they to be briefed on, proceedings of a Preliminary Round in which they are not competing. This does not apply if competitors have already competed within that Round. Any contravention of this rule may result in disqualification.

2.3.3. Competitors will be randomly allocated to sides. Every endeavour will be made to ensure that a competitor is not disadvantaged by the draw and will not meet the same competitor twice in the Preliminary Rounds.

2.3.4. Eight (8) competitors will progress to the Quarter Finals. Four (4) competitors will progress to the Semi Finals. Two (2) competitors will progress to the Grand Finals.

2.3.5. Selection for the Quarter Final competitors will be determined by the Evaluation Process below.

## **2.4 Explaining the Evaluation Process**

### Tier One of the Evaluation Process

2.4.1. Tier one involves determining the win-loss ratio of every competitor that has competed.

2.4.2. For example, a competitor who wins three (3) of the three (3) preliminary rounds will have a one hundred per cent (100%) win-loss ratio. A competitor who wins two (2) of the three (3) preliminary rounds will have a sixty-six per cent (66%) win-loss ratio. A competitor who wins one (1) of three (3) preliminary rounds will have a thirty-three per cent (33%) win loss ratio. A competitor who wins no rounds will have a zero per cent (0%) win-loss ratio. Unless if the circumstances call for otherwise, a competitor who does not compete in a round will be considered to have lost that round. A competitor that forfeits a round will be considered to have lost that round, unless in exceptional circumstances.

### Tier Two of the Evaluation Process

2.4.3. Tier two involves determining the mean margin score (“MMS”) that each competitor has accumulated. This is calculated as the average margin of points by which a competitor won or lost. A competitor that wins a round will receive a positive score for that round. The losing competitor of that same round will receive a negative score. At the end of the preliminary rounds, the average margin will be calculated.

2.4.4. For example, if a competitor wins round one (1) by ten (10) points they will have a marginal score of positive ten (+10). If that competitor wins the second round by five (5) points, their aggregate marginal score by the end of round two (2) will be positive fifteen (+15). If the same competitor loses round three (3) by six (6) points, their aggregate marginal score will be positive nine (+9). That number will be divided by three (3 rounds), creating their MMS. Therefore, their MMS will be three (3). Unless if the circumstances call for otherwise, a competitor that does not compete, including those who forfeited, in a round will be considered to have a score of triple (3x) the negative of the absolute value of the average marginal score in that round.

2.4.4.1. For example: if Competitor A has forfeited round one, where the average marginal score was calculated to be +10, then Competitor A will receive a marginal score of -30 [3 x -(+10)] for Round 1. This is to hinder competitors from forfeiting any round without a reasonable cause.

## **2.5. Applying the Evaluation Process**

NB: The following rules are written assuming there is a Quarter Final round. If not, then the same process will apply to select four (4) competitors to proceed to the semifinal round.

2.5.1. In the event of there being exactly eight (8) competitors with the highest win-loss ratio, according to tier one of the Evaluation Process, these eight (8) competitors will proceed to the Quarter Finals

automatically.

2.5.2. In the event of there being LESS than exactly eight (8) competitors with the highest win-loss ratio, the competitors that proceed to the Quarter Finals will be selected according to the following process:

- 2.5.2.1. The competitor(s) with the highest (100%) win-loss ratio will automatically proceed through to the Quarter Finals pursuant to tier one of the Evaluation Process.
- 2.5.2.2. The competitor(s) with the second highest (67%) win-loss ratio will be ranked according to their MMS (tier 2). The highest-ranking competitors will proceed.
- 2.5.2.3. If, by the end of 2.5.2.2, there has been less than 8 competitors qualifying into the quarter-finals, then the competitor(s) with the third highest (33%) win-loss ratio will be ranked according to their MMS (tier 2). The highest-ranking competitors will proceed.
- 2.5.2.4. If, by the end of 2.5.2.3, there has been less than 8 competitors qualifying into the quarter-finals, then the competitor(s) with the fourth highest (0%) win-loss ratio will be ranked according to their MMS (tier 2). The highest-ranking competitors will proceed.

This process will only go on until eight (8) competitors qualify for the quarter-finals (if any), or until four (four) competitors for the semi-finals.

## **2.6. Finals Procedures**

- 2.6.1. The competitors proceeding from the preliminary rounds to the Finals will be announced after the conclusion of the preliminary rounds, and once the proceeding competitors have been approved according to the above process by the Competitions Department.
- 2.6.2. Competitors may not observe, nor are they to be briefed on, proceedings of a Final Round in which they are not competing. This does not apply if competitors have already competed within that Round, nor if they no longer remain in the competition. Any contravention of this rule may result in disqualification.
- 2.6.3. The eligible Final competitors will be ranked according to their MMS, irrespective of which tier they qualified. The draw for the first round of the Finals will be determined by 'folding' the rankings. For example, Competitor one (1) will verse Competitor eight (8), Competitor two (2) will verse Competitor seven (7) and so on. If there is no quarter final round, Competitor one (1) will verse Competitor four (4), Competitor two (2) will verse competitor three (3).

- 2.6.4. The Quarter Finalists will be allocated to a side to represent by random draw.
- 2.6.5. The winning competitor from each Quarter Final will advance to the Semi Final Round.
- 2.6.6. The Semi Final competitors will be ranked according to their scores in the Quarter Final rounds. The draw for the Semi Finals will be determined by 'folding' the rankings. For example, Competitor one (1) will verse Competitor four (4) and Competitor two (2) will verse Competitor three (3).
- 2.6.7. The Semi Finalists will be allocated a side to represent by random draw.
- 2.6.8. The winning competitor from each Semi Final will advance to the Grand Final Round.
- 2.6.9. The Grand Finalists will be allocated a side to represent by random draw.

### **3. Release of Questions**

- 3.1. Each round has a separate question.
- 3.2. Competitors in the preliminary rounds will receive their materials three (3) hours before their round is set to take place. Competitors are able to determine how much time they are to spend reviewing the problem. However, they must not contact the witness or meet with them until 30 minutes before the round (or trial) is to begin. Competitors must not discuss anything to do with the case with their witness until 30 minutes before the round. A breach of this rule will result in automatic disqualification.
- 3.3. Competitors in the finals rounds will receive their materials ninety (90) minutes before the commencement of the round. The allocation of time will be as follows:
  - 3.3.1. 60 minutes to review the problem; and
  - 3.3.2. 30 minutes to interview the relevant witness.
- 3.4. Materials given to competitors will consist of:
  - 3.4.1. The statement of their witness;
  - 3.4.2. The statement of the opponent's witness; and

3.4.3. The relevant sections of any Act(s).

3.5. All questions, regardless of whether in a preliminary round or final round, may be based on either criminal or civil law trials.

#### **4. Preparation of arguments**

4.1. All research and preparation for the rounds must be conducted solely by competitors. Competitors may receive general advice and assistance with respect to skills relevant to the competition prior to the release of the question. After the release of the question until the completion of the competition competitors may not receive any advice or assistance. Contravention of this rule may result in disqualification.

4.2. Competitors must not discuss the contents of the trial with any person other than their witness.

4.3. Competitors can only discuss their witness' statement with their witness, and cannot discuss the other side's witness statement with their witness.

4.4. Competitors and witnesses are not permitted to use or carry mobile phones during the preparation or the judging of a round.

4.5. Competitors cannot coach their witness what to say.

4.6. Any infringement of the above rules will result in automatic disqualification from future rounds.

4.7. Casebooks are not required before the Court.

#### **5. Judging**

5.1. All preliminary rounds will be heard by at least one judge.

5.2. Judges will be judges, magistrates, legal academics, legal practitioners or others with a demonstrated experience in judging and competing in witness examination.

5.3. A marking schedule will also be provided to all judges in marking individual competitors. Competitors are strongly advised to have regard to the marking criteria when preparing for the witness examination.

5.4. Each competitor's score will be submitted to the Competitions (Advocacy) Officer, or a person nominated by them.

- 5.5. Scores or rankings of competitors will be released only upon the conclusion of the competition, at the specific request of competitors or at the discretion of the Competitions Department.
- 5.6. If there is a panel of Judges judging the round, they must come to consensus as to the winner and reflect this in one score sheet.
- 5.7. Judges must award a winner. There can be no draws.

## **6. Witnesses**

- 6.1. Witnesses are to be supplied by the competitors. The competitions department may also supply its own witnesses if it is able to do so.
- 6.1.1 Subject to availabilities, in the event that a competitor cannot supply a witness, the Competitions Department may supply a witness.
- 6.1.2 If a competitor is unable to supply a witness, they must inform the Competitions (Advocacy) Officer at least 72 hours before the commencement of the round. This will provide the Officer with adequate time to request a subcommittee member to Act as a witness.
- 6.1.3 If a competitor fails to inform the Competitions (Advocacy) Officer of their inability to supply a witness before the cut off period, that competitor will be disqualified from competing in that round unless if the circumstances call for otherwise.
- 6.1.4 If no member of the Competitions Sub Committee is available to act as a witness, then the competitor who failed to provide a witness will be disqualified from that round.
- 6.2 The witnesses shall receive their materials by **5pm on the day before the commencement of the round.** Witnesses shall be emailed materials. It is the responsibility of competitors to provide their witness' accurate email address to the Competitions (Advocacy) Officer.
- 6.3 Witnesses are advised that their 'performance' commences as soon as they step into the meeting with their counsel. It is up to the competitor to suggest how a character be highlighted/toned down, as best suits the case on hand, in the opinion of the competitor.
- 6.4 Witness Statements are not presumed to be admitted into evidence.

## **7 The Witness Examinations**

7.1 There shall be one counsel for the complainant/prosecution and one counsel for the accused/defendant in each round of the competition to be randomly allocated to the competitor.

7.2 If the competitor arrives late during the preparation time, no extra preparation time will be given and the competition shall proceed as per the scheduled time.

7.3 The Witness Examination shall proceed as follows:

	Preliminary Round, Quarter Finals and Semi Finals	Grand Final
Opening by the prosecution.	2 mins	2 mins
Examination in chief by the prosecution.	10 mins	15 mins
Cross-Examination by the defence.	15 mins	25 mins
Opening by the defence.	2 mins	2 mins
Examination in chief by the defence.	10 mins	15 mins
Cross-Examination by the prosecution.	15 mins	25 mins
Preparation of Summation	2 mins	2 mins
Summation by the Prosecution.	3 mins	3 mins
Summation by the Defence.	3 mins	3 mins

7.4 It is the responsibility of competitors to keep track of time. Competitors must seek an extension of time from the judges before the time commences.

7.5 Three marks will be deducted for every minute or part thereof exceeding the time limit without the Judge(s) permission.

7.6 Counsel must give appearances.

7.7 At the end of the summation by the prosecution, counsel for the defence may seek permission from the judge to draw attention to contraventions of the rule in *Browne v Dunn* or misstatements of evidence or law in the summation by the prosecution. If granted, counsel for the defence may speak for only one minute, unless an extension is granted. Counsel for the defence may only respond to the summation by the prosecution.

7.8 The swearing of the oath for witnesses is dispensed with.

7.9 Counsel may object and must state the grounds of objection. The clock will be stopped during any objection.

7.10 No re-examination of witnesses will be allowed.

7.11 Judges may deduct points if counsel or witnesses on either side arrives late for a Witness Examination at their sole discretion. If counsel or witnesses arrive later than 30 minutes after the time the Witness Examination is scheduled to start, then that competitor shall be deemed to have forfeited.

7.12 The rounds will be scored as follows:

7.12.1	Opening Address	(10 Marks)
7.12.2	Examination in chief	(15 Marks)
7.12.3	Cross-examination	(25 Marks)
7.12.4	Closing Address	(10 Marks)
7.12.5	Manner and Expression	(20 Marks)
7.12.6	Case Theory	(10 Marks)
7.12.7	Knowledge and Understanding of Evidence Law	(10 Marks)

## **8 Timekeeping**

8.1 Responsibility for timekeeping and adherence to allotted time periods and breaks rests with the Judges. However, competitors are permitted to use a mobile phone or other electronic device for the sole purpose of indicative timekeeping.

8.2 If resources and volunteers are available, timekeepers and timekeeping devices may be provided and in such cases will be solely responsible for all time keeping and penalties.

8.3 Decisions by judges as to elapsed times are final and non-reviewable.

## **9 Observational Etiquette**

9.1 Observation of the Competition is encouraged, however potential for disruption must be minimized. Observers should not enter or leave the room whilst a competitor is speaking.

9.2 Judges may, if they wish, request that observers leave the room while they confer. Outside of this discretion, observers may watch all segments of a round.

## **10 Rooms, times and locations**

10.1 Rounds will take place at the Macquarie Ryde Campus, Macquarie City Campus, Macquarie Graduate School of Management City Campus, and any other room scheduled from time to time in the Sydney CBD.

10.2 The Competitions Department will accommodate competitors' availabilities to attend preferred locations where possible.

10.3 Competitors will make themselves available to compete at either the Sydney City or Ryde locations.

10.4 Preliminary rounds will occur on Monday and Wednesday at 5:30 pm and 7:30 pm.

10.5 Locations, dates and times for all rounds will be announced as early as possible.

## **11 Forfeiture**

11.1 Competitors will refer to the Macquarie University Law Society Appeals and Forfeiture Policy available at [www.muls.org](http://www.muls.org).

## **12 The Competitions Department**

12.1 The Competitions Department consists of the Director (Competitions), Competitions (Advocacy) Officer and the Competitions (Skills) Officer.

12.2 The Competitions Department may alter the competition rules at any time. Competitors affected by rule changes will be notified as soon as reasonably possible.

12.3 The Competitions Department shall determine questions and the draw for each round except where provided otherwise by these rules.

12.4 Any serious breaches of these rules may result in a ban from current and future MULS competitions at the discretion of the Competitions Department. Please refer to the MULS Appeals and Forfeiture Policy (available at [www.muls.org](http://www.muls.org)).

12.5 On any matter relating to the conduct and outcome of the Macquarie University Witness Examination Competition, the decision of the Competitions Department is final.

12.6 Any disputes should be made immediately to the MULS Director (Competitions) who shall then refer the matter to the Competitions Department. The Competitions Department shall attempt to provide a resolution in a timely and efficient manner.

## **11. Breaches of Rules**

11.1. Competitors that believe that a competitor(s) has breached any of these rules should refer to the MULS Appeals and Forfeiture Policy, available at [www.muls.org](http://www.muls.org).