

THE CATHOLIC
UNIVERSITY
OF AMERICA



Seigenthaler-Sutherland Cup
National First Amendment
Moot Court Competition

2022–23 Official Competition Rules



OFFICIAL RULES

On **March 17–18, 2023**, the Seigenthaler-Sutherland Cup National First Amendment Moot Court Competition will take place in Washington, D.C. at The Catholic University of America, Columbus School of Law. 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 official rules governing the Competition are as follows:

I. Organization of Competition, Responsibilities of Management and Participants

- A. The Vice Chancellor of the Seigenthaler-Sutherland Cup First Amendment National Moot Court Competition (“Vice Chancellor”) and Moot Court Association Chief Executive Officer and 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. All questions should be brought to the attention of the Vice Chancellor or Chief Executive Officer as soon as possible. All communication about the Competition should be directed to the Vice Chancellor or Chief Executive Officer.

The Vice Chancellor for the 2023 Competition is Samantha Soter and the Chief Executive Officer is Zoe Spirgel. All questions should be conveyed via email.¹

- 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-team² field for the 2023 Competition, are provided in the invitation-to-compete letter distributed in the Fall of 2022 and available online at the Columbus School of Law Moot Court Association Seigenthaler Sutherland website.³

¹ seigenthaler.sutherland@gmail.com.

² 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 registration fee.

³ The **Competition Website** is available at <https://www.law.edu/students/journals-and-moot-court/moot-court/moot-court-competitions/sutherland-cup/index.html>.

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 24, 2023, at 8:00 p.m. EST. Logistical questions concerning the Competition will be taken until March 10, 2023, at 8:00 p.m. EST.

ALL questions should be e-mailed to seigenthaler.sutherland@gmail.com. They will be answered within **three (3) business 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; 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 17, 2023**. Quarter-final and Semi-final rounds will take place on the morning of **Saturday, March 18, 2023**. The Final Round will take place in the afternoon of **Saturday, March 18, 2023**. Each round will be hosted at The Catholic University of America, Columbus School of Law.
2. *Preliminary Rounds.* A final schedule for competition rounds will be sent in advance of the Competition, but competitors should prepare for the first Preliminary Round on **Friday, March 17, 2023**, to begin at approximately **1:00 PM EST**.⁴ Each team should be prepared to represent both parties to 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”). Participants are responsible for making a timely appearance at each round. Late arrivals may be penalized at the discretion of the Vice Chancellor.
3. *Quarter-final Rounds.* The final schedule will be circulated in advance of the Competition, but the tentative schedule is as follows: The first Quarter-final Round will commence at **9:00 AM EST** on **Saturday, March 18, 2023**. The second Quarter-final Round will follow at **10:30 AM EST** on **Saturday, March 18, 2023**.

⁴ All times stated herein are subject to change.

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4. *Semi-final Rounds.* Advancing teams will be announced after the Quarter-final Rounds have concluded. The first Semifinal Round will commence at approximately **12:00 PM EST on Saturday, March 18, 2023**. During which, one of the winning teams of the first Quarter-final Round will face one of the winning teams of the second Quarter-final Round. 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 18, 2023**. The Vice Chancellor will determine these match-ups with a coin toss.

To the extent possible, teams will be allowed to argue on-brief, but no guarantees are made. If any team is required to argue off-brief, then, in the interest of fairness, the Vice Chancellor will conduct a coin toss to determine the sides of 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 official schedule will be updated in advance of the Competition. The final round will be held at approximately **3:00 PM EST on Saturday, March 18, 2023**. 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 arguments 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**. Each team member must be 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**. 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 Vice Chancellor.
2. Each school may register one (1) primary team to compete, with the option to register one (1) additional team to be placed on the waitlist. A separate Intent-to-Compete application must be submitted to register a second team. The Moot Court Board will select from the waitlist in the event of an opening, but no guarantees are made.
3. *Party Designations, Team Numbers and Communication:* On or about Friday, **October 28th, 2022**, all teams will be provided with the following information via e-mail: (1) a randomly selected team number and; (2) the assigned party that they will represent for the written brief. Party designations are assigned randomly and are not subject to change. The team number provided will be used to identify the participating school until the completion of the competition. **Revealing your school's name at any point after team numbers are assigned may result in disqualification. Any communication relating to the Competition between schools and/or between team members of different schools is prohibited.**



C. Written Briefs

1. *Submission and Delivery of Briefs.*

Each team must submit, via e-mail, one (1) copy of the brief by 11:59 PM EST on **January 31, 2023**. Briefs must be sent electronically to: 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 upon receipt. 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, 2023**. Briefs will be labeled by team number on the website and shall remain anonymous thereafter.

2. *Format of Briefs.*

- i. Briefs **must** be submitted in **PDF or Microsoft Word format**.
- ii. The typeface **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 be the same font 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 by the *Rules of the Supreme Court of the United States*,⁵ which apply insofar as they do not conflict with Competition Rules. This includes the color cover page 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 included when calculating the number of pages: cover page; table of contents; table of

⁵ Copies of these rules are available at www.supremecourtus.gov.

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 should 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.
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 law school’s governing honor code;⁶ and
 - iii. An acknowledgment that the team has complied with all Competition Rules.
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.

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, 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.
 - ii. **United States Supreme Court cases decided after November 1, 2022, may not be incorporated into a team’s written brief.** Inclusion of any United States Supreme Court case decided after November 1, 2022, will result in an automatic 15-point deduction.

⁶ Identify yourself and your school by team number, not your school’s name.

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

FORMAT ERRORS	POINT DEDUCTIONS
Non-one-inch margins.	2
Non-double-spaced text and/or single-spaced footnotes.	2
Non-12-point Times New Roman font, including footnotes.	2
Formatting on 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 law school name on any location.	1 / per occurrence
Late submission of briefs to the Vice Chancellor.	5 / day
Submission of wrong side brief.	10
Failure to include brief certificate to the Vice Chancellor (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 Case(s) issued after November 1, 2022.	15 / case

D. Oral Argument

1. *Location.* The Competition will be held at The Catholic University of America, Columbus School of Law, located at **3600 John McCormack Road, N.E. Washington, D.C. 20064.**⁷
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 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 party 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. The two teams that win arguments in the semifinal round will advance to the final round.
 - vi. All scoring will be judged on a scale of 100, using 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.⁸ If there are three judges hearing arguments, then one score will be taken from each judge. 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.

⁷ The Competition will adhere to all local and University mandates and guidelines regarding masks and social distancing. Any applicable policies will be circulated to all teams prior to the Competition date.

⁸ 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.



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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 team with the higher final brief score will advance to the final round.
 - c. If either of the top two teams has not been determined, the team with the higher score from the “Argument Structure” and “Response to Questions” section of the oral competition score sheets 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 single 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 room during the oral competitions. The Bailiff will advise each competitor when there are fifteen (15) minutes, ten (10) minutes, five (5) minutes, and one (1) minute remaining in the argument. It is each team’s responsibility to keep track of its own time allocations between team members. Each competitor should notify the bailiff of their intended oral argument time allotment. 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 memorandum will contain brief summaries of the major cases, explanations of the issues presented, and discussions of what are anticipated to be some of the major arguments from both sides.



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- iv. **United States Supreme Court cases decided after November 1, 2022, may not be incorporated into a team’s oral argument.**

Inclusion of any United States Supreme Court case decided after November 1, 2022, 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 immediately notify the Vice Chancellor or Chief Executive Officer if that member knows a judge before whom that team member is arguing. Failure to do so may result in the disqualification of that member’s team.
- iii. Judges are also advised to immediately notify the Vice Chancellor or Chief Executive Officer if they recognize an individual competitor 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, as well as any others they wish to attend once their participation in the competition has concluded.

7. *Announcements and Awards*

The team that wins the Final Round will be awarded First Place Overall. The First Place Overall 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, as well as the awards event and reception following the final argument.

The First Place Overall team shall receive an award in the amount of **\$500**, courtesy of 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, any such individuals may also 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 mootings, 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 Law School is prepared to conduct the competition virtually, 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 emails and will be provided an updated version of these Rules to reflect a shift to virtual formatting.

VI. Interpretation of the Rules

The 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 necessary. The Vice Chancellor reserve and the Chief Executive Officer reserve the right to penalize teams through a deduction of points for any unprofessional conduct inconsistent with the Rules, as well as with the spirit and/or norms of professional conduct.