

**The 2014-2015 Julius Alexander Isaac  
Diversity Moot Official Rules**

## Table of Contents

I. INTERPRETATION .....	4
A. Purposes and Objectives.....	4
B. Interpretation of Rules.....	4
II. PROCEDURES AND GUIDELINES.....	5
A. Jurisdiction of the Court.....	5
B. Administration.....	5
C. Fact Problem.....	5
D. Clarifications to Official Problem .....	5
E. Eligibility .....	5
F. Application.....	6
G. Team Identification .....	6
H. Outside Assistance .....	6
III. FACTA .....	7
A. Required Factums.....	7
B. Form .....	7
C. Submission of Factums.....	8
D. Revision of Factums.....	9
E. Ownership of Factums.....	9
IV. ORAL ARGUMENT .....	9
A. Procedure.....	9
B. Counsel.....	10
C. Scope of Argument.....	10
D. Scouting Prohibited.....	10
E. Courtroom Communication .....	10
F. Electronic Devices .....	10
G. Spectators .....	10
V. PENALTIES .....	11
A. Procedure.....	11
B. Quantum .....	11
VI. SCORING.....	12
A. Judges' Points.....	12
B. Penalties.....	12
C. Winner of the Round .....	13
D. Winner of the Competition.....	13

E. Top Factums .....	14
F. Top Oralist .....	14
ANNEX “A”: ORAL ARGUMENT SCORING INSTRUCTIONS TO JUDGES .....	15
ANNEX “B”: FACTUM SCORING INSTRUCTIONS TO JUDGES .....	17

# **The Julius Alexander Isaac Diversity Moot**

## **Official Rules – 2014-15**

### **I. INTERPRETATION**

#### **A. Purposes and Objectives**

1. The Julius Alexander Isaac Diversity Moot (“the Competition”) is administered by BLSAC (the Black Law Students Association of Canada) working in partnership with law firms, law schools and community organizations. It is designed to promote advocacy and excellence in the fields of diversity law, human rights and equity issues, and to provide participants with the opportunity to interact with jurist of the Federal and Supreme Courts of all the provinces and territories as well as experienced practitioners in those fields.
2. Our goal is to build a cadre of litigators engaged and able to advance critical race/equality approaches to their legal practice. We welcome the participation of all law students who which to develop a deeper understanding of the law in these areas.
3. The Official Rules are designed to facilitate the fair and proper conduct of the Competition and shall at all times be interpreted in accordance with these purposes and objectives.

#### **B. Interpretation of Rules**

##### 1. Referees

There will be a panel of up to three Referees available during the Competition days (February 20 and February 21, 2015) responsible for the interpretation and enforcement of these Official Rules. The Referees shall include the three members of the profession tasked with assisting during the Competition. It may include one or more the members of the Moot Faculty Advisory Committee.

##### 2. Rules

Any question that arises during the Competition concerning the interpretation or enforcement of these Official Rules will be decided by a majority decision of the Referees. These decisions will be called Official Rulings. Timekeepers, administrative assistants, Judges, or others have no power to interpret the Official Rules. Any reliance by a team on a ruling made by a person or persons other than the Referees will not prevent a penalty from being imposed if the Official Ruling of the Referees differs from that of such other person or persons. All Official Rulings are final and binding.

##### 3. Additional Powers

The Referees may promulgate such other measures as they may deem advisable for the fair and orderly conduct of the Competition, provided that these measures do not conflict with any of the Official Rules and are in the best interests of the moot.

## **II. PROCEDURES AND GUIDELINES**

### **A. Jurisdiction of the Court**

The moot is an appeal to The Diversity Moot Court of Canada. No decision of any Canadian Court, including the Supreme Court of Canada, is binding on The Diversity Moot Court of Canada.

### **B. Administration**

1. The Competition is administered by BLSAC through the BLSAC Moot Coordinator. The Coordinator is appointed through an election process conducted at the BLSAC AGM in February of each year. The Coordinator serves for a term of one (1) year subject to re-election.
2. The BLSAC Executive appoints a Moot Faculty Advisor, who is a senior member of the legal profession, to serve as the technical advisor to the Competition. The responsibilities of the Moot Faculty Advisor include but are not limited to:
  - (a) identifying the members of the Moot Faculty Advisory Committee
  - (b) coordinating the work of the Moot Faculty Advisory Committee
  - (c) supervising the development of the Official Problem
  - (d) responding to all questions for clarification
  - (e) managing the evaluation of the facts
  - (f) supporting/advising the BLSAC Moot coordinator
  - (g) advising on the selection of judges for the Competition
  - (h) provide advice as required by the BLSAC Executive related to the development and promotion of the Diversity Moot.

### **C. Fact Problem**

The hypothetical fact problem upon which the moot is based will be written by the Moot Faculty Advisory Committee and will concern a subject of timely interest (the “Official Problem”). The Official Problem will be delivered to all participating schools.

### **D. Clarifications to Official Problem**

1. Participants may submit requests for clarification on points that are unclear in the Official Problem and that must be clarified in order to submit a proper argument. Such requests must be made by email to the BLSAC Moot coordinator, and must be accompanied with a brief explanation as to why the clarification is necessary for a proper understanding and development of the legal issues involved.
2. Requests for clarification shall be answered selectively at the discretion of the Moot Advisory Committee and the authors of the problem. Any answers, accompanied by the question, will be distributed to all participating teams. Requests for clarification must be received by **Tuesday December 9, 2015 at 5pm.**

### **E. Eligibility**

1. All full-time students registered in an LL.B., J.D., B.C.L., or LL.L. Program in Canada or elsewhere, are eligible to participate in the Competition. A team consists of a minimum of 4 persons (two representing each of the Appellant or Respondent) . A fifth student can be added and serve as counsel and be seated the table, though not make oral argument, during the Competition.

2. Each team member must identify their role as Appellant, Respondent or Counsel at the time of registration. No switching is permitted in the assigned role after registration.
3. Team members may be chosen by any method approved by their law school, provided it does not conflict with the rules concerning outside assistance set out below.

## **F. Application**

1. All participating schools must register by **Friday November 21st, 2014 at 5pm**. Extensions to this deadline may be requested by contacting the Moot Coordinator and will only be granted in extenuating circumstances.
2. Given that each Party in the Competition is reliant upon the production of a factum and presentation of oral arguments by its opposing Party and vice-versa, but for extenuating circumstances, it is essential that participants be unable to withdraw from the Competition following the final date of registration.
3. Any requests for withdrawal from the Competition after the final date of registration shall be subject to the discretion of the Moot Advisory Committee and may result in an ethical violation. The penalty can include a ban on participation of that school in the Competition the following academic year.

## **G. Team Identification**

1. Each team in the Competition will be assigned a number at random by the BLSAC Moot Coordinator. This number must be used on factums and at all times during the Competition. The school name must not appear on the factums and must not be used to identify a team or a team member in any way (such as by name tag) during the Competition. In addition, the names of the students preparing the factums must not appear on the factums. Likewise, do not indicate city or place at which the factums are signed.
2. A penalty will be assessed by the Moot Advisory Committee against the factum of the offending party at their discretion.

## **H. Outside Assistance**

1. No person or persons other than the team members may participate in the preparation or presentation of any aspect of the team factums or oral argument. The team factums and the oral arguments of each mooter must be the work of team members only.
2. Notwithstanding subparagraph (1) above, it is permissible for team coaches, faculty members, and others to discuss in general terms the issues raised in the problem, to suggest possible research sources, and to provide instruction relating generally to advocacy techniques and the preparation of persuasive oral and written arguments. Any persons acting as judges in oral argument “practice rounds” shall be advised by the team of the requirement that such practice round judges must so confine their comments and feedback.
3. Teams are cautioned about how they use the services of librarians, computer research advisors and other legal resource specialists. Their interactions shall be restricted to answering specific questions to identify resources or the methodology to identify resources. Under no circumstances can they provide assistance in the development of arguments or the writing of facta.
4. Teams shall not conduct practice rounds in front of persons who will be judges in the current year’s moot. It is the responsibility of teams to make such inquiries of potential practice round judges as are necessary to ensure compliance with this rule. In addition, no team shall request that any

current member of the organizing firm of Koskie Minsky judge an oral argument practice round or otherwise assist in a team's preparation.

5. The team is permitted to exchange facta between the Appellant and Respondent as well as with colleagues from another team registered from the same law school. Under no circumstances should facta or communications be exchanges between different law school teams.

### **III. FACTA**

#### **A. Required Factums**

Each team shall prepare an Appellant's factum and a Respondent's factum.

#### **B. Form**

##### 1. General

Each Appellant's factum and Respondent's factum shall consist of:

- (a) The cover page shall be restricted to the following details: the name of the court appealed to; the style of cause; the title of the document (i.e. "Factum of the Appellant" or "Factum of the Respondent"); and the team number. Names of team members shall not appear on the cover page of the factums, nor anywhere else in the facta.
- (b) A Table of Contents setting out the headings used in Parts I-V of the factum;
- (c) Part I – Overview;
- (d) Part II - Statement of Facts (a concise statement of facts by the Appellant or a statement by the Respondent of her position with respect to the Appellant's statement of facts, together with a concise statement of such other facts as the team considers relevant);
- (e) Part III – Statement of Points in Issue;
- (f) Part IV – Argument;
- (g) Part V – Order(s) Sought (a concise statement of the order(s) desired);
- (h) Part VI – List of Authorities and Statutes to be referred to (the full text and/or copies of statutes, regulations, or other reference materials should not be included in Part VI); and
- (i) a blank back page.

##### 2. Length

Parts I-V of the factum shall be no more than twenty (20) pages in total length. The pages of the factum shall be numbered with continuous Arabic numerals beginning at Part I and ending on the final page of Part VI. Part II (Statement of Facts) cannot be more than 3 pages in total.

##### 3. Spacing

Parts I-V of the factum must be double spaced, except for: (i) references, footnotes, and titles more than one line in length, which may be single spaced; and, (ii) quotations of fifty (50) words or more, which may be single spaced and shall be indented 1/2 additional inches on both the left and right margins. All portions of the factum other than Parts I-V may be single spaced.

##### 4. Type/Font

All parts of the factum, except the cover page, and including any footnotes, shall be in Times New Roman 12-point font.

## 5. Printing and Page Format

Electronic copies of the factums must be submitted in .pdf format. Hard copies of the factum shall not differ from the electronic copy submitted. Hard copies shall be printed double-sided on white paper, 8½” x 11” in size, and must be fastened by cerlox binding.

### *a. Margins*

Each page of the factum shall have margins of at least one inch on all sides, excluding page numbers.

### *b. Colours of cover and back pages*

The cover page and back page of the Appellant’s factum shall be on green paper. The cover page and back page of the Respondent’s factum shall be on blue paper.

## 6. Citations

All citations shall be made in accordance with the current edition of the *Canadian Guide to Uniform Legal Citation*, which is the Official Citation Guide adopted by the Administrators.

## **C. Submission of Factums**

Each team shall deliver ten (10) hard copies of each of its Appellant’s and Respondent’s factums to the BLSAC Moot Committee. The hard copies and the electronic versions of the factums must be received by the deadlines stated below:

- Submission of an electronic (PDF) copy of the Appellant Factum – Friday, January 23rd, 2015 at 12:00pm.
- Submission of ten bound, hard copies of the Appellant Factum – Wednesday, January 28th, 2015 at 5:00pm.
- Submission of an electronic (PDF) copy of the Respondent Factum – Friday, February 6th, 2015 at 12:00pm.
- Submission of ten bound, hard copies of the Respondent Factum – Wednesday, February 11th, 2015 at 5:00pm.

Electronic copies of the respective factums must be submitted to [moot@blsacanada.com](mailto:moot@blsacanada.com), and the hard copies of the respective factums must be received by the dates indicated to the address below:

Julius Alexander Isaac Diversity Moot  
c/o Professor Anthony Daimsis  
University of Ottawa  
Faculty of Law, Common Law Section  
57 Louis Pasteur, Room FTX 105  
Ottawa, ON K1N 6N5

Electronic factums must be labeled and submitted with the following file names:

“Team [insert team #] Appellant Factum” and “Team [insert team #] Respondent Factum.”

The BLSAC Moot Coordinator will determine team pairings for the oral argument on a random basis. According to the “Schedule of Dates,” the appropriate factums will be forwarded electronically

by the BLSAC Moot Coordinator to those schools that they will be opposing in oral argument. The appropriate electronic copies of the factums shall be sent to the single email address provided by the team on its registration form for that purpose.

#### **D. Revision of Factums**

No team may revise, add, delete, or in any other manner alter its factums after submission. For greater clarity, the electronic and hard copies must be identical.

#### **E. Ownership of Factums**

All rights with respect to the factums submitted in the Competition remain the property of the individual teams. BLSAC is granted reasonable use for publication of the winning facta and/or promotion purposes of the Competition.

### **IV. ORAL ARGUMENT**

#### **A. Procedure**

##### **1. Rounds**

The Competition shall consist of preliminary rounds of oral argument, followed by a final round between the two highest ranking teams. The team standings will be determined according to Rule VI, below.

##### **2. Argument**

Only two oralists per team may argue during any single round. The team member designated as Counsel may only make oral argument upon the presentation of written documentation demonstrating the incapacity of one of their team members subject to the approval of the Moot Referees.

##### **3. Time**

Each team shall be allowed forty-five (45) minutes per round for oral argument. This time limit may be extended by the Judges in their discretion to a maximum of ten (10) minutes per round. No single oralist shall argue longer than twenty-five (25) minutes of the forty-five (45) minutes given to each team. Included in the forty-five (45) minutes is a reply for the Appellant. Prior to the beginning of each round, the Appellant may reserve time for reply; no more than ten (10) minutes may be reserved. Respondents are not entitled to make a sur-reply and shall not reserve time for a sur-reply. If the Judges in their discretion extend total team time beyond forty-five (45) minutes, then and only then may an oralist argue for longer than twenty-five (25) minutes.

##### **4. Judges**

The Judging panels shall consist of justices, lawyers, and other professionals. A panel of three (3) Judges shall be utilized wherever possible for the preliminary rounds. The number of Judges for the final round shall be in the discretion of the Moot Committee. Judges in the preliminary rounds and

the final round are encouraged to provide feedback to participants regarding their performance at the completion of rounds of oral argument.

## **B. Counsel**

During each round, one other team member may sit as counsel at the counsel table with the two oralists. The person acting as counsel must be one of the team members as identified on the registration form.

## **C. Scope of Argument**

The scope of a participant's oral argument is not limited to the scope of her/his factum. The scope of the Appellant's reply is limited to the scope of the Respondent's oral argument.

## **D. Scouting Prohibited**

Deliberate scouting of opposing teams will be considered unsporting behaviour and may result in penalties under section VI, below. It is prohibited for team members (as identified on the registration form or their coaches), including the person designated as counsel, to attend the preliminary rounds of opposing teams. No taping of oral arguments will be allowed under any circumstances except with the advance permission of the Referees and the two participating teams.

## **E. Courtroom Communication**

Oral and written communication may take place between the counsel table and an oralist while the oralist is presenting her oral argument. No oral or written communication may take place between the counsel table and any coach, spectator or team member who is not at that counsel table during a round. No materials of any kind may be submitted directly to the Judges by team members, including during oral argument.

## **F. Electronic Devices**

1. Devices such as laptops or tablet computers are permitted at the counsel table for the purposes of: (a) taking notes; and (b) for counsel's reference to notes, submissions, and authorities that were prepared or compiled in advance of the oral argument round.
2. No electronic device of any kind shall be used by any team member at counsel table during the oral argument round to access the Internet, to communicate with any individual, or to otherwise search for any content or authorities not prepared or compiled in advance of the round. Any device capable of connecting to the Internet shall have its send/receive functions turned off for the duration of the oral argument.

## **G. Spectators**

Subject to the availability of space, the Competition is open to the public. Spectators who are not respectful of the Competition may be asked to leave.

## V. PENALTIES

### A. Procedure

#### 1. General

The Referees, on their own initiative or upon receiving a complaint, may assess a penalty for any violation of the Official Rules. The Referees shall make every effort to allow the team(s) or individual(s) accused of Official Rules violations to submit a response prior to the penalty determination. Following such a reply, an Official Ruling shall be made by the Referees from which no appeal may be taken. The Official Ruling, which shall be prepared at the first reasonable opportunity, will inform the team(s) involved of the penalty. The Referees shall provide oral reasons. Violations reported after the Competition shall result in written reasons.

#### 2. Complaints

Complaints pertaining to oral argument or other violations of these Official Rules must be reported immediately or at the first reasonable opportunity to a Referee. Any violation of the Official Rules occurring during oral argument that is not brought to the attention of a Referee immediately following the round will not be considered by the Referees and cannot result in an assessment of penalty points against the violating team. A request to the Judges for a ruling on a breach of the Official Rules is not appropriate and may result in an assessment of a penalty against the requesting team.

### B. Quantum

#### 1. General

The number of penalty points to be assessed against a team for a violation of the Official Rules will be in the discretion of the Referees. The Referees shall make every effort to assess penalties in a fair manner with regard to maintaining the integrity of the Competition. In considering the quantum of a penalty, the following factors will be taken into account:

- a) prejudice caused to other teams in the Competition;
- b) advantage gained as a result of the Official Rules violation;
- c) inadvertence or misadventure;
- d) occurrences beyond the control of the team(s) or individual(s) concerned;
- e) inconvenience caused to the organizers and to the other teams involved; and
- f) all the circumstances surrounding the violation including any reply submitted pursuant to paragraph A(1) above.

#### 2. Late Facta

The quantum for a penalty in the case of a factum submitted later than the deadline will normally be assessed at two (2) points per day.

## VI. SCORING

### A. Judges' Points

There are six (6) possible Judges' points for each round. Judges' points are awarded as follows:

#### Oral Points – Six (6) Total

Two (2) points are given for each oral argument Judge that scores a team higher than its opponent in oral argument.

In extraordinary circumstances and with special permission of the Referees, two member Judging panels may be used for oral argument. Where a two Judge panel is used for oral argument, three points are given each time one of the Judges scores a team higher than its opponent.

#### Factum Points – 50 Total

Facta shall be scored by the Moot Advisory Committee with the assistance of external academics/practitioners as required and at their discretion. The facta will first be assessed individually and then the aggregate score will be determined by the Moot Faculty Advisor in deliberation with her colleagues. Each factum will be assigned a grade between thirty (30) and fifty (50), inclusive. An average factum score for the Competition is thirty-eight (38).

Scoring factors to be considered (without regard to the order of importance) include, but are not limited to:

1. correct and articulate analysis of the issues;
2. familiarity with and use of the relevant authorities;
3. knowledge of the substantive issues;
4. extent of research;
5. clarity;
6. ingenuity;
7. persuasiveness;
8. application of legal principles directly applicable to the facts; and
9. correctness of format, citations, and grammar.

### B. Penalties

#### 1. Facta

Penalty points assessed against a factum will be subtracted from each factum's score before determining the scores awarded to the penalized factum. For example, if three assessors award the scores of 38, 36, and 40 to a factum which is penalized two (2) points for lateness, the scores of that factum for all purposes will be 36, 34, and 38 respectively.

#### 2. Oral Argument

Penalties assessed during oral argument may be either team penalties or individual penalties as determined by the Referees:

- (a) in the case of team penalties, the amount of the penalty will be subtracted from the score awarded by each oral argument Judge to each mooter during the round in which the violation

occurred. For example, if the three oral argument Judges awarded scores of 38, 36, and 40 and 40, 36, and 38 to the two members of a team penalized two (2) points, the oralist scores for that round for all purposes will be recorded as 36, 34, and 38 and 38, 34, and 36 respectively.

- (b) in the case of individual penalties, the amount will be subtracted from the score awarded by each oral argument Judge to the penalized mooter during the round in which the violation occurred. The score of a non-penalized team member will not be altered by the assessment of an individual penalty against a teammate.

### 3. Other

In the case of penalties not arising specifically out of a factum or a particular round or oral argument, such as for unsporting behaviour, the Referees shall assess penalties by subtracting penalty points from the total points awarded to the penalized team in whatever round the Referees, in their discretion, deem appropriate. The assessment of these penalty points will affect the Judges' points totals only but may nevertheless lead to a change in the winner of a round.

### **C. Winner of the Round**

The winner of each round will be the team with the highest number of Judges' points for that round. If the two teams remain tied after comparing total Judges' points for the round, the team with the highest raw score in that round will be the winner of the round. If the two teams remain tied after comparing both Judges' points and raw score, the round will be declared a tie. A tie will be brought immediately to the attention of the Referees.

### **D. Winner of the Competition**

Following the completion of the preliminary rounds, the teams will be ranked highest to lowest according to the ranking procedure set out below. The two highest ranking teams will participate in the finals.

#### 1. Total Raw Score

Teams will be ranked according to total raw score, calculated as follows:

$$\begin{aligned} & \text{Total raw factum scores} + \\ & (\text{Total raw oral argument scores minus two (2) highest and two (2) lowest oral argument} \\ & \text{scores}) \\ & = \text{Total raw score} \end{aligned}$$

Total raw score is therefore out of 1300, comprised of 300 total possible points for both factums and 1000 total possible oral argument points (after subtraction of the two highest and two lowest oral argument scores).

#### 2. Judges' Points

If two or more teams remain tied after comparing total raw scores, the team with the greater number of Judges' points shall be ranked highest. (There are thirty- six (36) possible Judges' points per team for the Competition.)

### 3. One-on-One Tie-Breaker

If two winners cannot be chosen after comparing total raw scores and total Judges' points, then any tie will be broken in favour of any team who has competed against and beaten, in the preliminary round, another team with which it is tied.

### 4. Win/Loss/Tie Record

If two teams remains tied after applying paragraphs D(1) -(3) above, the team with the better Win/Loss/Tie record shall be ranked highest. A 4 -0 team (4 wins, 0 losses) is automatically ranked higher than a 3 -0-1 team (3 wins, 0 losses, 1 tie), which is ranked higher than a 3-1 team (3 wins, 1 loss), which is ranked higher than a 2-0-2 team, etc.

### 5. Discretion

If the teams are still tied after comparison of scores after applying paragraphs D(1)-(4) above, a determination of the rank as between the teams in question will be made by the Referees in consultation with the Judges.

## **E. Top Factums**

The winners of the top factum awards shall be the Appellant or Respondent team with the highest total factum score as determined by the Moot Advisory Committee.

## **F. Top Oralist**

The winner of the top oralist award will be those persons with the highest individual oral scores obtained through all rounds. The score shall be calculated as follows:

(Total of individual oral argument scores received minus the highest and lowest oral argument scores received)

---

(number of Judges that scored the oralist minus two (2))

An oralist must argue at least two rounds to be considered for an oralist award. In no event shall the determination be made solely on the score for the final round.

## **ANNEX “A”: ORAL ARGUMENT SCORING INSTRUCTIONS TO JUDGES**

Each team is given forty- five (45) minutes to argue, of which no more than ten (10) minutes may be reserved for reply by the Appellant. The Respondent is not entitled to make a sur- reply. No single oralist shall argue longer than twenty-five (25) minutes. Extensions of team time beyond forty- five (45) minutes, which in no case shall exceed ten (10) minutes beyond the total time allocated for presentation, shall be within the discretion of the Judges. The timekeepers will assist you with these timekeeping matters.

Strict anonymity of school identity shall be ensured as far as possible. Teams shall be identified through the rounds only by number, not by school name. During the argument, each Judge should tentatively score each oralist at the conclusion of his or her oral presentation. Following the argument, the Judges shall retire to deliberate. They shall then individually mark their scoring summaries without comparisons to the scoring summaries of their fellow Judges. The Judges do not return to the courtroom to declare a winner, however they may return to give reasons or to comment orally on the performance of the teams. We encourage Judges to attend the reception on Friday night and/or the awards dinner Saturday evening to informally discuss the moot with participants.

Judges are asked to carefully complete the individual sheets attached to the score sheets, which will be delivered to each mooter at the close of the Competition. Mooters value these personal comments as a very important part of the learning process. Please be as specific as you can; the time you spend providing these comments will be appreciated by the mooters. It is up to you whether or not you choose to indicate your name on the evaluation sheets.

Please evaluate each advocate independently rather than in comparison to the other advocates in the round (or other rounds you may have judged). A score between thirty (30) and fifty (50) (inclusive) should be assigned to each advocate. An average score for the Competition is thirty-eight (38). In order to ensure fairness in scoring between Judges and Judges’ panels, you should try to score all advocates that you judge such that the average of all the scores that you assign – in other words, your personal scoring average – is approximately thirty-eight (38).

Factors to be considered in assessing points (without regard to order of importance) include, but are not limited to:

1. correct and articulate analysis of the issues;
2. familiarity with and use of the relevant authorities;
3. knowledge of the substance of the topics in issue;
4. response to questions;
5. clarity;
6. ingenuity;
7. knowledge of the facts and of the legal principles directly applicable to the facts; and
8. persuasiveness and style.

References in a Respondent’s factum to an Appellant’s factum that is not before the panel should be disregarded for the purposes of the oral argument scores. Judges should be familiar with the problem, the law, and the teams’ factums before judging. The Bench Memorandum outlines most of the issues in the case and should be read carefully. However, the Bench Memorandum does not represent a resolution to the problem and should not be regarded as such.

Judges should feel free to question oralists at any point in the argument, but should also bear in mind the importance of affording oralists the opportunity to make their arguments. However, Judges are strongly encouraged to take an active role in the proceedings. A moot is not a public speaking contest. A mooter must have an excellent command of her material and must be able easily and smoothly to field questions from the bench. Bear in mind that mooters spend vast amounts of time perfecting their arguments; not to test them with penetrating questions results in a moot which is unrewarding for all participants.

**The substantive merits of the case shall not be considered in judging the oral argument.**

## **ANNEX “B”: FACTUM SCORING INSTRUCTIONS TO JUDGES**

Factums shall be scored individually by each factum Judge independently of her colleagues by assigning a grade between thirty (30) and fifty (50), inclusive. An average factum score for the Competition is thirty-eight (38). Scoring factors to be considered (without regard to the order of importance) include, but are not limited to:

1. correct and articulate analysis of the issues;
2. familiarity with and use of the relevant authorities;
3. knowledge of the substantive issues;
4. extent of research;
5. clarity;
6. ingenuity;
7. persuasiveness;
8. application of legal principles directly applicable to the facts; and
9. correctness of format, citations, and grammar.

**The substantive merits of the case shall not be considered in judging the factums.**