

**Melbourne University Law Students' Society**

# **Herbert Smith Freehills First Year Mooting Competition**



**Proudly sponsored by**



**HERBERT  
SMITH  
FREEHILLS**

## **Competitor Guidebook**

# TABLE OF CONTENTS

**WELCOME..... 3**

**COMPETITION STRUCTURE..... 4**

**KEY DATES..... 5**

**WHAT IS MOOTING?..... 6**

**APPROACHING THE PROBLEM..... 7**

**WRITTEN SUBMISSIONS..... 8**

**ORAL SUBMISSIONS..... 10**

**COMPETITION RULES..... 14**

**CONCLUDING REMARKS..... 18**

**APPENDICES..... 19**

## WELCOME

Welcome to the 2024 Herbert Smith Freehills First Year Mooting Competition!

This guidebook is the key point of reference for you and your team as you progress through the competition. This guidebook includes important information about the competition, rules and procedures and helpful advice. It is important you and your team members read this guidebook to understand what is expected of you during the competition.

This competition is a fun way to develop skills transferable to both your studies and work, and to engage and apply your legal skills outside of the classroom. We have selected problems relevant to core first year subjects: torts, obligations and contracts.

As you progress in the competition, you may be required to read ahead to topics with which you are not yet familiar. You will also be required to supplement your knowledge of law and cases from class with external research.

If you have any questions, please do not hesitate to contact us via email <firstyearmoot@mulss.com>. Though we will primarily use email to communicate with participants, we also recommend that you join the First Year Mooting Competition Facebook group for updates.

We hope you make the most of this competition and have fun!

Good luck!

**Grace Staton and Bridget Connelly**  
2024 First Year Mooting Co-Opts

[firstyearmoot@mulss.com](mailto:firstyearmoot@mulss.com)

## COMPETITION STRUCTURE

Every team will compete in **three** preliminary rounds. The top **eight** teams will progress to the finals rounds.

**In ALL ROUNDS**, teams must submit their written submissions **24 HOURS** before their moot to **BOTH** <firstyearmoot@mulss.com> and their opponent's primary contact.

*For example, teams competing on Wednesday at 6:15 PM must email their written submissions by 6:15 PM on Tuesday.*

Day your team is competing	Date of Problem Release	Date of Competition
<b>Round 1: Problem released 4 days before competition</b>		
Wednesday	1PM Saturday 16th March 2024	Wednesday 21st March 2024
Thursday	1PM Sunday 17th March 2024	Thursday 22nd March 2024
<b>Round 2: Problem released 3 days before competition</b>		
Wednesday	1pm Sunday 7th April 2024	Wednesday 10th April 2024
Thursday	1pm Monday 8th April 2024	Thursday 11th April 2024
<b>Round 3: Problem released 2 days before competition</b>		
Tuesday	1pm Sunday 21st April 2024	Tuesday 23rd April 2024
Wednesday	1pm Monday 22nd April 2024	Wednesday 24th April 2024
<b>Quarter Final: Problem released 2 days before competition</b>		
Wednesday	1pm Monday 22nd July 2024	Wednesday 24th July 2024
<b>Semi Final: Problem released 2 days before competition</b>		
Tuesday	1pm Sunday 4th August 2024	Tuesday 6th August 2024
<b>Grand Final: Problem released 2 days before competition</b>		
Thursday	1pm Tuesday 20th August 2024	Thursday 22nd August 2024

## KEY DATES

**Please Note:** these dates are subject to change. You should rely on subsequent emails and the Facebook group for the most recent set of dates.

### *Pre-competition*

26 February 1:00 PM	First Year Mooting Workshop
27 February 2:00 PM	Pair/Individual sign-up form opens
29 February 12:00 PM	Pair/Individual sign-up form closes
1 March 5:00 PM	Team applications open, and close when capacity exhausted <i>(In the past, capacity has been exhausted within several minutes of opening. Competitors who are unable to secure a spot will be put onto a waitlist.)</i>

### *Preliminary rounds*

20–21 March	Round 1 (Torts-based)
10–11 April	Round 2 (Obligations-based)
23–24 April	Round 3 (Torts-based)

### *Finals rounds*

24 July	Round 4 – quarter-finals ( <i>Content TBD</i> )
6 August	Round 5 – semi-finals ( <i>Content TBD</i> )
22 August	Round 6 – grand final ( <i>Content TBD</i> )

## WHAT IS MOOTING?

A moot is a mock courtroom scenario, with judges, barristers and instructing solicitors conducting an appeal.

In each round, two teams compete against each other before a judge or panel of judges. Teams are provided a hypothetical problem with a set of facts and grounds of appeal setting out the issues in dispute.

Prior to the moot, each team submits *written submissions* to the court and the opposing team. Then, teams in turn make *oral submissions*, during which the bench (a panel of judges) will ask questions. The Appellant makes their submissions first, followed by the Respondent.

Each team consists of two barristers – the Senior and Junior Counsel – and remaining team members will act as Instructing Solicitors. The barristers each make a 10-minute oral submission to the Court. The Instructing Solicitor assists with legal research and the preparation of the written submission. Instructing Solicitors do not speak during the moot but are advised to attend to provide support. Decisions of which team members adopt which role is completely at your discretion. However, team members are encouraged to rotate positions between rounds so that each member gets an opportunity to both present and assist.

## APPROACHING THE PROBLEM

### *Reading the Problem*

It is important to set aside time to read the moot problem several times over and familiarise yourself with the facts and identify the relevant legal issues. We recommend working collaboratively with your teammates to prepare both your written and oral submissions.

As the problems are based on torts, obligations or contracts content, you may be familiar with the legal issues. If you are not, you will need to undertake additional research, perhaps using your assigned textbook as a starting point.

### *Researching the Problem*

Strong research skills are essential in mooting. Research is important in preparing your written submissions and in the drafting of your oral submissions. You should aim to locate the relevant principles of the law including key case authorities and statutes. You should spend most of your time preparing written submissions, researching and understanding the law, as well as applying it to the facts.

The Melbourne University Law Library website includes several useful research guides: <https://law.unimelb.edu.au/law-library/research-tools/research-guides>.

It may be helpful to do your research in the following order:

#### **(1) General research**

- Start with your assigned textbook and class notes to familiarise yourself with the legal issues.
- Legal research databases such as Halsbury's Laws of Australia (available through LexisAdvance) provide a good overview of areas of law and can also be used as a starting point.

#### **(2) Specific research**

- During your general research you will likely come across specific principles, cases and legislation that will require more narrow research.
- Once you have gained a basic understanding of the problem, you should start doing more specific research on the legal issues. Though there are various ways of going about this, Westlaw and LexisAdvance are helpful platforms to search for relevant cases.
- Remember to also look at cases that are detrimental to your side and try to distinguish these cases to strengthen your argument.
- High quality moots will engage deeply with the actual case law instead of relying primarily on secondary material.

## WRITTEN SUBMISSIONS

Your written submissions are a brief and clear summary of all your legal arguments, including references to relevant cases and/or statutes.

You will email your written submissions to <firstyearmoot@mulss.com> and to your opponent's primary contact 24 hours before your scheduled moot. Your written submissions will also be sent to the judge(s), and you will also receive from your opponent their written submissions.

It is important to note that the drafting of written submissions is NOT just a formality.

Many competitors make the mistake of focusing less time and effort into the written submissions. Your written submissions represent the first and last impression that the judge has of your team. A well-drafted set of written submissions allows the judge(s) to follow your argument before and during your presentation. Remember, many moots can be lost or won with small margins. The written submission can be the deciding factor between winning or losing!

You can refer to the written submission sample provided on the MULSS website <<https://www.mulss.com/first-year-mooting>>.

### *Formatting*

The formatting of your written submissions contributes to your score in each round.

Teams should:

- Limit their submissions to between 2–3 pages;
- Use Times New Roman, 12 pt;
- Ensure paragraphs are appropriately spaced;
- Employ consistent and uniform paragraph numbering and indenting;
- Ensure that cases are indented with one case per line; and
- Use clear and informative headings and subheadings with the most relevant heading in bold.



## *Case citations*

Wherever possible, teams should use pinpoint referencing and ensure that their referencing is AGLC4 compliant.

Case citations should be formatted clearly, and presented in the following order:

- First case – most relevant, highest authority (for example, the High Court or Intermediate appellate court if the case has not been heard at the High Court);
- Second case – most relevant, lower authority;
- Followed by – increasingly less relevant authorities, including secondary authorities.

In a high quality moot, teams will rely primarily on primary material (i.e. cases) rather than on secondary material (i.e. journal articles).

## ORAL SUBMISSIONS

### *Order of the Moot*

1. The judges will say: silence all stand, then you should stand. The judges will bow and you should bow back. The judges will then announce the moot court is now in session, be seated please, at which point you should sit.
2. The judge will call the matter and ask for appearances. Senior Counsel for the appellant should stand and say 'If the Court pleases, my name is [Name of Senior Counsel]. I appear for the appellant with [Name of Junior Counsel], instructed by [Names of Instructing Solicitors] (if present)', before sitting down. Senior Counsel for the respondent then does the same.
3. The judge will then indicate that participants may begin. Senior Counsel for the appellant speaks first, followed by Junior Counsel for the appellant. Senior Counsel for the respondent speaks next, followed by Junior Counsel for the respondent.
4. Each speaker has a 10-minute time limit in which to present their argument and respond to questions. Speakers may ask the judge/s for a one or two-minute extension. However, these are granted at the discretion of the judge(s) and may be denied. Plan to fit your entire speech in less than 10 minutes to allow for questions.
5. At the conclusion of oral submissions (both by the appellant and respondent), the judges will stand and say: "this court is now adjourned". You will then bow to the judges. Then, teams will be asked to leave the courtroom, so the judge(s) can reach a decision and score participants.
6. Teams will then be invited back into the courtroom for feedback and the result.

### *Structuring Your Presentation*

It is important to note that a moot is not a verbatim recital of a pre-prepared speech.

A moot is a conversation between the bench and Counsel. Think about it this way: you, as Counsel, are trying to assist the Court in reaching a conclusion on a legal dispute, and you happen to think that your side should win! The judge(s) will regularly interrupt your presentation to ask questions. By working from a general outline of your presentation rather than a word-for-word speech, you will be in a better position to return to your argument following interjections and questions. This is why it is important to research thoroughly and understand the law and how it applies to your case.

Remember, both barristers in your team will be presenting on a different ground of appeal, for 10 minutes each. With two grounds of appeal, each barrister should address only one ground of appeal.

The general structure of your presentation should be as follows.

### **(1) Introduction:**

- Briefly introduce your argument and signpost what you are going to say. Signal clearly what you are arguing and the general structure of your argument to ensure the judge(s) can follow your reasoning.
- Senior Counsel should take the opportunity to briefly summarise the legal issues to be resolved and state which points they will be addressing, and which will be addressed by Junior Counsel.

### **(2) Argument:**

- Your argument should be *based* on your written submissions.
- You should signpost each new point in your submission, so the judge(s) can easily follow your argument.
- Rather than attempting to summarise everything in your written submissions, it is best to focus in oral submissions on the key points of contention and your strongest arguments.
- If the judge requires clarification or wants you to expand on a point, they will ask.
- Remember to keep your presentation clear, concise, and easy to follow. You might find that following the basic IRAC structure for each major point is helpful in this.

### **(3) Conclusion:**

- If time permits, briefly reiterate what you have submitted to the judge(s).
- A conclusion should be close to a mirror image of your introduction, even if the issues were not discussed in the same order.
- If you ran out of time and did not get time to address some of your points, you may very quickly refer the judge(s) to your written submission in your conclusion.

### ***Presentation Tips***

- Don't read from a script, and be clear and confident: remember you are engaging in a conversation with the bench, rather than making a speech.
- Limit 'ums' and 'ahs' and use understated body language. You can use your hands and arms to illustrate a point but refrain from pacing or using your whole body to make an argument.

- Maintain eye contact with the judge(s) as much as possible.
- Maintain a pace that is easy to listen to (remember you are discussing complex issues so give the judge(s) time to digest your arguments).
- Cases: be prepared for the judge(s) to ask you anything about any of the cases to which you refer. An easy trap to fall into is knowing only the ratio of a case you cite. Judges may be unfamiliar with a case, and ask for a summary of the key facts.
- Questions: questions provide you the opportunity to clarify and strengthen your argument. If you are asked a question which takes you off topic, you must still answer it and return to your submissions, even if the question is addressed later in your submission. We recommend taking a few seconds to gather your thoughts before answering. The judge is not attacking your position, and a question does not necessarily mean they disagree with you. Be patient when responding to questions. Respond to the questions directly. Keep answers short and concise.
- Formality and politeness: mooting, like real court appearances, requires you to be formal and polite at all times, regardless of whether you agree with the judge's question/interpretation.
- Time management: if you notice you are likely to exceed the time limit, you may request an extension of time from the judge(s). This is at the discretion of the judge(s) (if you are making submissions in front of several judges, then one will be nominated as the 'President') and may be one to two minutes, or no extension.

## ***Courtroom Etiquette***

There are rules of courtroom etiquette, which must be followed.

### **Modes of Address**

A judge should be addressed as 'Your Honour'. If you are addressing the bench in general please refer to judges as 'Your Honours'. Members of the other team are referred to as your 'learned friends'. Members of your own team may also be referred to as your 'learned friends', or to avoid confusion, your 'learned junior/senior' or your 'learned colleague'.

### **Citations**

For the first case you cite, the full citation should be given. You must then ask the judge, 'May my Junior Counsel and I may dispense with formal citations?'.

For example, the full citation for *Lynch v Lynch* (1991) 25 NSWLR 411 would be stated as: *Lynch and Lynch, reported in the New South Wales Law Report volume 25, beginning at page 411*. Once the judge allows you to dispense with formal

citations, you would then refer to the case simply by 'Lynch', or in most cases, the better-known party name.

If the first authority you cite is a statute, the full citation should also be given. For example, the full citation for Wrongs Act 1958 (Vic) s 1 would be stated as: *section 1 of the Wrongs Act, enacted by the Parliament of Victoria in 1958.*

When the Senior Counsel asks the judge(s) to dispense with formal citations, this will apply to the Junior Counsel too; there is no need for the Junior Counsel to ask to dispense with formal citations again.

**Note:** Senior Counsel for the Respondent, who speaks after submissions from the Appellant, must also ask the judge to dispense with formal citations.

### Formal Language

Wherever possible, colloquialism should be avoided, and formal language used. Respectful terms must be used. When making assertions you should say 'we submit' rather than 'I believe' or 'I think'. As a barrister you are presenting views which may not necessarily be your personal opinions.

When a judge asks a question, which implies they disagree with you, you are encouraged to begin your response by saying 'with respect, Your Honour'. This is because you are essentially contradicting the judge and must ensure that you are doing so respectfully. If a judge decides decisively on an issue, indicating they no longer wish to discuss it, do not continue to push the point, move on.

You should end your submissions with a formal conclusion. Typically, you would say 'if there are no further questions (pausing to allow for said questions), that concludes my submissions. May it please the court.'

### Requesting assistance

If you are asked a question and want assistance from your instructing solicitor, you should ask the judge something to the effect of 'may I consult with my learned colleague for a moment?'. **IF** you are granted permission, you can quickly, and quietly, get instructions from them. A decision to allow assistance from solicitor(s) is at the discretion of the judge(s).

## COMPETITION RULES

1. Code of Conduct: students participating in the competition agree to adhere to the *MULSS Internal Competitions Code of Conduct*, available on the MULSS Website.
2. Applications:
  - 2.1. Due to room and judge constraints, not all teams interested in participating in the competition will be able to do so. **An application must be made by a team of four people** through the online application form.
  - 2.2. If you are struggling to form a team of four, or a pair, please complete the Individual Sign-up form and the Co-Opts will attempt to pair you with other students. This form will be circulated following the information session. Completing this form does not guarantee a space in the competition.
  - 2.3. Teams will be accepted on a first-come, first-served basis until capacity is exhausted. Unsuccessful teams will be placed on a waitlist.
  - 2.4. Decisions on whether to admit a team cannot be appealed.
3. Problem Release:
  - 3.1. *Round 1*: the factual scenario and grounds of appeal will be sent to teams at 1:00 PM **four days** before your scheduled moot.
  - 3.2. *Round 2*: the factual scenario and grounds of appeal will be sent to teams at 1:00 PM **three days** before your scheduled moot.
  - 3.3. *Rounds 3–6*: the factual scenario and grounds of appeal will be sent to teams at 1:00PM **two days** before your scheduled moot.
  - 3.4. *In all rounds*: the problem (incorporating the factual scenario and the grounds of appeal) will be sent to the nominated primary contact for each team. It is the primary contact's responsibility to ensure all members gain access to the problem.
4. Fixture:
  - 4.1. The fixture for each round (containing details of appellant/respondent allocation, opponent contact details, and whether the moot will take place online or in person) will be emailed to teams with the problem release.
  - 4.2. If a team wishes to swap time slots, it is their responsibility to find another team willing to swap. Once confirmed, an email must be sent to <firstyearmoot@mulss.com> at least 72 hours before the earliest scheduled

moot time of the two teams including the following details: your team name; your current time allocation; the name of the team you are switching with; and the time slot you are switching into.

## 5. Written Submissions:

5.1. Teams are required to submit a copy of their written submission in the form of a **WORD (.doc or .docx, not .pdf)** document via email to the First Year Moot Co-Opts <firstyearmoot@mulss.com> and the primary contact of the opposing team at least 24 hours prior to their scheduled moot.

- For instance, students competing at 6:15PM on Wednesday will have to submit their written submissions no later than 6:15 PM on Tuesday.
- Alternatively, students competing at 7:45PM on Thursday will have to submit their written submissions no later than 7:45PM on Wednesday.

5.2. Please format the subject title of the email '[Team Name] – Written Submissions'. Include in the email a copy of your written submissions with your team name and the round number as the document title.

5.3. Failure to submit your team's written submissions on time and/or in the correct format will incur a penalty as follows:

- (a) Two points will be deducted from the team's written submission score for the first half hour or part thereof that the written submission is late; and
- (b) Two further points will be deducted from the team's written submission score for the second half hour or part thereof that the written submission is late; and
- (c) Two points will be deducted from the team's written submission score for every subsequent hour or part thereof that the written submission is late; and
- (d) One point will also be deducted from the team's written submission score if the submission is not a word document.

5.4. Teams are not to make any alteration to their written submissions once submitted. However, if teams wish to resubmit their submissions after the deadline has passed they may do so, but it will be counted as a late submission and will attract penalties in accordance with Rule 5.3.

## 6. Oral Submissions:

6.1. Teams are to check in at the LSS office on Level 2 of the Law School, 15 minutes prior to their scheduled moot.

6.2. Competitors must wear formal business attire where possible. This includes for example a blazer and matching trousers, skirt or dress.

- 6.3. The order of speakers is to be as follows: Senior Counsel for the Appellant, Junior Counsel for the Appellant, Senior Counsel for the Respondent, Junior Counsel for the Respondent.
  - 6.4. Each speaker has 10 minutes of time in which to speak. This time is inclusive of any questions or interjections made by the judge/s. Speakers who exceed their time will be asked to expeditiously conclude their submissions.
  - 6.5. An extension of time may be granted at the sole discretion of the judge/s.
  - 6.6. At the conclusion of the moot, teams will receive oral feedback and the result from the judge(s). Judges will not disclose personal scores. All teams will be emailed an electronic copy of their scoresheets accompanied with judge(s) qualitative feedback, without the numerical scores, within 1-3 days following the moot.
  - 6.7. Teams are not permitted to contact the judge(s) to discuss their moot, either before or after the moot, under any circumstances. All queries should be directed to <firstyearmoot@mulss.com>.
7. Scoring:
- 7.1. Teams will be scored in each round in accordance with the Scoresheet found at Appendix 4 to this Guidebook.
  - 7.2. At the conclusion of the preliminary rounds, the top eight teams will progress to the finals rounds. Teams will be ranked by average score in the preliminary rounds and then by knock-out in the finals rounds.
  - 7.3. The decision of the judge(s) and the outcome of a round is final and cannot be appealed. The only exception to this rule is where the appeal relates to the enforcement of penalties relating to late written submissions. Any appeal should be directed to <firstyearmoot@mulss.com>.
8. Forfeiture:
- 8.1. **Forfeiting is strongly discouraged.** Teams are reminded that only two team members are required to speak and, as such, the unavailability of a third team member does not provide valid grounds for forfeiting.
  - 8.2. If your team chooses to forfeit, you must do so before the problem is released by notifying <firstyearmoot@mulss.com>. Teams may forfeit after the problem is released only in exceptional circumstances, having spoken to both the Competition Officers and Internal Competitions Directors.
  - 8.3. Teams who forfeit without valid grounds or without regard for the rules or their opponents may receive a penalty applied to their score in other rounds at the discretion and determination of the Co-Opt and may be blacklisted from competing in future competitions organised by MULSS.



- 8.4. Where a team forfeits, their opponents will be notified. The remaining team is strongly encouraged to prepare and compete in front of the judge(s). This allows you to gain feedback for your own development and receive a score which contributes to seeding and the quality of the competition.
9. Decorum: teams should always remain mindful of the formal nature of mooting. It is expected that all team members – whether they are speaking or not – behave in a manner appropriate for a courtroom setting.
10. Penalties: at the discretion of the First Year Moot Co-Opts, failure to comply with any of these rules may result in a penalty being applied.
11. Rule changes: these Rules may be amended from time to time as required, and changes will be communicated to registered participants.

## CONCLUDING REMARKS

Thank you for your interest in the First Year Mooting Competition!

We look forward to seeing you participate and learn through the course of the competition. Mooting is a fantastic activity to participate in, and the first-year program is a gateway for you to get involved in many other internal and external moots covering topics as varied as commercial arbitration, sports law, international law, and more.

Please keep in mind that while we encourage you to do your best, irrespective of how your team performs this is still an excellent opportunity for you to develop your research, teamwork and speaking skills.

We hope that you have an enjoyable experience, learn about courtroom etiquette and technique, and return for more mooting in future years!

All the best!

**Grace Staton and Bridget Connelly**  
2024 First Year Mooting Co-Opts

## APPENDICES

### *Appendix 1: Advice and Tips on Written Submissions*

*(We are grateful to past Co-Opts who have helped build and develop this advice)*

An important thing to bear in mind is that your written submissions are a tool to lead both the judge and your opponents through your legal arguments. Having a good set of written submissions makes your oral submission so much more efficient. Remember the Australian courtroom culture is very collegial and collaborative, both teams are in a moot to explore some complex legal issues. Do not try to trick your opponents or otherwise hide your arguments secret from them by making your written submission obscure and vague.

- Legal citations:
  - Always include pinpoints in your written submissions, as that informs the judge which part of the judgment you're using to support your case. If you simply cite a case, you might be referring to the dissenting judgment.
  - Familiarise yourselves with the AGLC4 book, especially Part I and II. <<https://law.unimelb.edu.au/mulr/aglc/australian-guide-to-legal-citation-v4.pdf>>.
- Legal research:
  - In terms of conducting legal research outside your course, we have reached a consensus with the judges that you should all start with your course material, as recommended in the Guidebook. Your reading guide contains the most authoritative cases on different legal issues. So make sure you understand them well. Be careful with citing lots of cases outside your course material as you may risk citing a case you don't fully comprehend. However, if you are able to utilise a case not covered in the subject material well, please feel free to do it by all means.
- Structure of your written submissions:
  - In terms of how detailed your written submissions should be, think about the IRAC method you've learnt in class. Try to frame your legal arguments following the steps of the legal test for different legal issues.
  - Think about the purpose of having a written submission. It is supposed to guide the judge through your arguments. It should be able to stand by itself and anyone reading it should be able to comprehend your overall legal arguments. Try to incorporate the specific factual scenario

into the legal rules and flash out your arguments. Do not simply list all the legal rules there, as the judge knows the law. If you are uncertain about this particular point, it would be a good idea to look at some written submissions on the High Court website, which can be found here <<https://www.hcourt.gov.au/cases/cases-heard>>. However, please do not duplicate this style.

- Your written submission should also be simple and concise. So do not put a slab of text in your written submission to substantively elaborate your arguments, that should be included in your oral submission.

## ***Appendix 2: Advice and Tips on Oral Submissions***

*(Again we are grateful to past Co-Opts who have helped build and develop this advice)*

- Courtroom etiquette:
  - Apart from this Guidebook, another great source to improve your courtroom etiquette is the High Court website. You can watch hearings online and learn something from the KCs and SCs.
  - Please also see the following links from High Court transcripts – read the first couple paragraphs where counsels are giving their appearances:
    - <[http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCATrans/2019/44.html?context=1;query=spence%20v%20queensland;mask\\_path=>](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCATrans/2019/44.html?context=1;query=spence%20v%20queensland;mask_path=>)>.
    - <[http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCATrans/2019/240.html?context=1;query=love%20v%20commonwealth%20;mask\\_path=>](http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCATrans/2019/240.html?context=1;query=love%20v%20commonwealth%20;mask_path=>)>.
- Relying on notes:
  - Having a physical copy of your notes and written submission when making oral submissions, like in a real court, is recommended.
  - If attending the moot virtually, try not to read from a pre-prepared script. Generally, judges are able to tell when students are reciting a document and it's easy to spot when a presenter is looking at an off-screen Word document.

- As the competition progresses, you should get more comfortable with just talking to the judge about the most contentious legal issues in your case instead of making a speech that you have pre-prepared.
- Questions from judges:
  - Judges will frequently interrupt you to ask questions during the moot. The difficulty and intensity of questions increases gradually as the competition goes. However, the essence of a moot is a conversation between the Counsel and the bench.
  - E-moots: as time lag often occurs when the judge is asking a question, please pause and listen to the judge when the judge says 'Counsel', that is the indication that the judge wants to ask you a question.
  - After you finish responding to the judge's question, please just continue with your submission unless the judge asks you further questions. There is no need to ask if you are able to continue with your presentation.
- Other useful tips:
  - Try not to look at your notes when making appearances, as you should know your teammates' names and roles by heart.
  - Remembering the first 30 seconds of your speech and not reading from a script will really help you build a rapport with the bench.
  - Do not talk over and/or interrupt the judge. You should apologise to the judge if you accidentally did so.
  - Be patient when the judge questions/interrupts you, even if you find their concern to be trivial or incorrect.
  - Don't speed up when responding to a question or in the last few minutes when you are racing to include everything imaginable in your speech!
  - Pause before you respond to a question, take as long as you need to consider it fully.
  - Try to start your response with 'Yes', 'No' or 'To an extent'. It makes it much easier to follow your arguments later.
  - Try to incorporate legal authorities in your response to a question, it can be a changemaker, but be concise at the same time.

- Try to structure your response when it involves a slightly complex issue. You might say something like ‘Yes Your Honour, there are two parts to my response. First ... Second ...’
- Don’t be afraid to ask for clarification from the judge if you don’t understand the question. You could say something like ‘If I understood correctly, is Your Honour referring to ... ?’. It gives you more time to digest the question too.

### ***Appendix 3: Online Moots***

The First Year Mooting Competition will be run in person this year; however, we do understand that there may be rare extenuating circumstances that require teams to moot over Zoom. Only two members per team need to be present at a moot — therefore, online moots will only proceed if more than two team members are unable to present oral submissions in person. It is at the discretion of the co-opts as to whether a moot will move online.

To ensure fairness and consistency in scoring across teams, if one team is unable to compete in person, that moot will take place wholly online, even if the other team is able to compete in person.

### ***Appendix 4: Scoresheet***

(see next page)

**First Year Mooting Competitor Scoresheet – note that competitors will not receive their score, just the scoring brackets**

<b>(1) Written Submissions (20 points)</b>		<b>1–2</b>	<b>3–4</b>	<b>5–6</b>	<b>7–8</b>	<b>9–10</b>	<b>Score</b>
<i>How well did the team demonstrate in-depth legal research?</i>		Not well	Moderately	Well	Very well	Extremely well	<b>10</b>
<i>How well did the team create a submission that was clear, logical, and easy to follow?</i>		Not well	Moderately	Well	Very well	Extremely well	<b>5</b>
<i>How well did the team adhere to correct spelling, grammar and punctuation and formatting?</i>		Not well	Moderately	Well	Very well	Extremely well	<b>5</b>
<b>(2) Oral Submissions (40 points x 2 speakers)</b>		<b>1–2</b>	<b>3–4</b>	<b>5–6</b>	<b>7–8</b>	<b>9–10</b>	<b>Score</b>
<i>How well did the speaker advocate for their client, understand the legal issues, and develop persuasive arguments regarding these issues?</i>	<b>Senior</b>	Not well	Moderately	Well	Very well	Extremely well	<b>10</b>
	<b>Junior</b>	Not well	Moderately	Well	Very well	Extremely well	<b>10</b>
<i>How well did the speaker apply the law to the facts, and use authoritative and relevant legal authorities to support their argument?</i>	<b>Senior</b>	Not well	Moderately	Well	Very well	Extremely well	<b>10</b>
	<b>Junior</b>	Not well	Moderately	Well	Very well	Extremely well	<b>10</b>
<i>How well did the speaker understand questions from the Bench? How well was the speaker able to make clear, measured and relevant responses?</i>	<b>Senior</b>	Not well	Moderately	Well	Very well	Extremely well	<b>10</b>
	<b>Junior</b>	Not well	Moderately	Well	Very well	Extremely well	<b>10</b>
<i>How well did the speaker engage the court in a conversational style? How well did the speaker demonstrate appropriate body language and court etiquette?</i>	<b>Senior</b>	Not well	Moderately	Well	Very well	Extremely well	<b>10</b>
	<b>Junior</b>	Not well	Moderately	Well	Very well	Extremely well	<b>10</b>
<b>(3) Penalties</b>					<b>Comments</b>		<b>Score</b>
<ul style="list-style-type: none"> <li>• Have there been points deducted for incorrect AGLC4 compliance? (<i>max. 5 points</i>)</li> <li>• Have there been points deducted for late submissions?</li> <li>• Were there any other penalties applied?</li> </ul>							

**First Year Mooting Competitor Scoresheet – note that competitors will not receive their score, just the scoring brackets**

Total (out of 100)							100
--------------------	--	--	--	--	--	--	-----