

OFFICIAL RULES

THE SIXTEENTH ANNUAL CHIEF JUDGE CONRAD B. DUBERSTEIN BANKRUPTCY MOOT COURT COMPETITION

March 2008

CONTACT INFORMATION

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**THE SIXTEENTH ANNUAL
CHIEF JUDGE CONRAD B. DUBERSTEIN
BANKRUPTCY MOOT COURT COMPETITION**

OFFICIAL RULES 2008

ORGANIZATION OF THE COMPETITION

The Chief Judge Conrad B. Duberstein Bankruptcy Moot Court Competition (hereinafter “competition”) is co-sponsored by the American Bankruptcy Institute and St. John’s University School of Law. Student members of the St. John’s Moot Court Honor Society (hereinafter the “Board”), the American Bankruptcy Institute Law Review and the LL.M. in Bankruptcy program organize the competition. The competition is named in memory of the Hon. Conrad B. Duberstein, Chief Judge of the United States Bankruptcy Court, E.D.N.Y., and St. John's alumnus.

CERTIFICATION

I. Each team submitting a brief in the competition shall certify that such brief has been prepared in accordance with the rules of the competition. The Certification must be submitted simultaneously with the brief and must be signed by all team members; however, it must not be affixed, bound, or otherwise inserted in the brief. For your convenience, a Certification sheet has been included as the last page of the rules.

TEAMS

II. Number and Composition of Teams; Communication with Teams

- (a) Each participating school may enter one or two teams, composed of two or three students each.
- (b) All team members must be enrolled in the LL.B. or J.D. program of the school that they represent at the time of the competition.
- (c) On or before Friday, January 11, 2008, each team shall complete the Team Information Form that will be posted on the Competition webpage. The Board will use the team member names as listed on the Team Information Form for awards and certificates.
- (d) Each team shall designate an Official Team Contact Person on the registration form and shall provide the name of that individual, the official name of the law school, a telephone number, facsimile number, e-mail address and postal address (suitable for Federal Express delivery) for the Official Team Contact Person. All communications to the team will be addressed to the Official Team Contact Person, and the team shall be responsible for monitoring said numbers and addresses for communications from the Board. The name of

the law school, as indicated on the registration form, will be used for all awards and announcements. If a team wishes to change the Official Team Contact Person or related information, the Board must be notified **both**:

(i) by e-mail addressed to:

LLM@stjohns.edu

Subject: Official Team Contact Person – Team [insert team number];

and,

(ii) by letter addressed to the Board with subject line:

“Official Team Contact Person – Team [insert team number]”

III. Participation of Team Members in Oral Argument

At least two members of each team must participate in oral arguments. (Please see Rule XII, below). If a team has three members, all three members may participate in oral arguments or one member may participate only in the preparation of the brief and need not argue orally.

IV. Substitution of Team Members

There will be no substitution of team members after the submission of the brief, except upon written permission of the Board based on a showing of extreme hardship. No substitution will be permitted after the commencement of the first argument unless the number of team members drops below two.

V. Outside Assistance

(a) The brief and oral argument must be the work product of the student team members only. The text of the brief must be the original work of the team members and cannot be copied from other briefs or sources, except for passages clearly designated as quoted material. A Bench Brief will be prepared for the competition judges. It is a violation of the competition rules for any team member, coach or any person assisting a team to obtain or seek to obtain a copy of the Bench Brief or Brief Grader’s Handbook for the current competition or to obtain any information about their contents other than information disclosed by the Board in general communications to all teams. Team members and coaches must report immediately to the Board any offer of such information.

(b) The prohibition on outside assistance does not prevent preliminary general discussion of the issues with faculty or others before writing the brief. Nor does it prevent a faculty member or other person from critiquing a practice argument, provided that the finalized substance of the oral argument is the work product of the team members. Teams from the same school or different schools may hold practice arguments together.

VI. Report of Team Standing

Teams will be advised of their overall team standing, composite brief score, and composite oral argument scores for preliminary and octo-final rounds after the completion of the competition.

Judges may provide critiques following oral argument, but no scoring sheets will be provided to teams.

BRIEFS

VII. Assignment of Sides

Each team will be assigned randomly to serve as counsel for either petitioner or respondent for purposes of preparing a brief. Where a school has entered two teams, the teams will be required to submit one brief for each side.

VIII. Length and Form

Briefs shall be a maximum of thirty-five (35) pages in length, exclusive of questions presented, cover sheet, table of contents, table of authorities and appendices. Briefs shall be submitted on white paper measuring eight and one-half (8.5) by eleven (11) inches. Margins on all sides will be 1 inch, with double spacing between each line of text. Footnotes may be single-spaced, however, they must be included within the margin limits. Briefs shall be in Times New Roman. The body text must be 12-point font and footnotes must be 10-point font. Pages shall be numbered. The "Questions Presented" section shall be placed after the cover sheet and shall be numbered "i" and the following pages shall be numbered accordingly. The "Statement of Facts" shall be page number one (1). All copies of the brief must be bound at the left margin. Unless otherwise altered by these rules, the format of the brief shall comply with the Rules of the Supreme Court of the United States. The Board waives a formal statement of jurisdiction. All citations shall comply with the form prescribed in the most recent edition of Harvard Law Review Ass'n, A Uniform System of Citation.

IX. Cover Sheets

Petitioner's briefs shall have blue covers, and Respondent's briefs shall have red covers. The covers shall contain the assigned team number in the lower right corner with the words "Counsel for Petitioner/Respondent" (whichever is appropriate) underneath. The assigned team number shall also be placed on the top right corner of every page of text. Teams shall not sign the brief or indicate authorship in any other place. Neither the individual team members' names nor the school name should appear anywhere on the brief.

X. Service of the Briefs

(a) Competition Briefs

Each team must serve the Board with the following materials, which must be received by the Board no later than **Tuesday, February 5, 2008**:

- (i) One identical copy of its entire brief (including appendices) attached to an e-mail as a single file in PDF format addressed to:

LLM@stjohns.edu

Subject: Brief of Team [insert team number]; and

(ii) The following materials addressed to: THE DUBERSTEIN BOARD, ST. JOHN'S UNIVERSITY SCHOOL OF LAW, c/o MOOT COURT HONOR SOCIETY, 8000 UTOPIA PARKWAY, JAMAICA, NEW YORK 11439, in a single package that indicates the name of the school being represented and the team number of the submitting team:

1. One (1) Measuring Brief, conspicuously marked as the "Measuring Brief";
2. Three (3) additional identical copies of its brief; and,
3. The signed Certification required by Rule I, above.

We strongly encourage teams to send their briefs by express mail or by Federal Express in order to ensure prompt delivery and to obtain tracking status of the delivery.

No team will be allowed to alter its brief after the service deadline.

(b) Service on Opposing Teams

It is **not** necessary to serve briefs on any other team participating in the competition. The Board will post all submitted briefs by team number on the Competition website, which can be accessed from www.stjohns.edu/law/bankruptcy. Briefs from other competitors may be downloaded and reviewed to prepare for the competition.

(c) Copyright

By submitting a brief, each team and each team member grants to St. John's University and to the American Bankruptcy Institute a non-exclusive right to publish the brief on the Internet and in print.

XI. Brief Scoring

(a) Brief Score

A committee of attorneys practicing in the bankruptcy field will score the briefs anonymously. Each brief will be scored on a 100-point scale. Each brief will be scored by two scorers, with the brief score being the average of the scores received. In the event that the difference between the scores is greater than fifteen points, the brief will be scored by a third scorer and the brief score will be the average of the two closest scores. However, if one of the scores is at the mid-point between the other two, then the mid-point score will be the brief score.

(b) Best Brief Award

The team with the highest brief score will win the "Best Brief" award. In addition, the teams with the next four highest brief scores will receive "Outstanding Brief" awards. In the event of a tie, the tied briefs will be rescored by a member of the St. John's faculty and the brief receiving the highest score will be the best brief. The rescoring of tied briefs will not change the brief scores

determined pursuant to the preceding subsection and those scores will be the ones used in the preliminary and octo-final rounds pursuant to Rule XIII, below. The team winning the “Best Brief” award and the teams winning “Outstanding Brief” awards will be announced at the Awards Banquet.

ARGUMENTS

XII. Length and Format of Arguments

Each team is limited to thirty (30) minutes of oral argument. Two (2), and only two (2), team members will argue in each round. Only the two team members arguing in the round may be seated at counsel table. The division of the thirty (30) minutes allotted for the argument may be made at the discretion of the team; however, no team member may be apportioned fewer than ten (10) minutes. Petitioners may reserve up to three (3) minutes of rebuttal time prior to the commencement of the argument. Teams that reserve rebuttal shall notify the bailiff of how to deduct rebuttal time before the arguments begin. Time reserved for rebuttal will be counted as part of the thirty (30) minutes allotted for the argument. Judges may allow additional argument time at their discretion.

XIII. Scoring

The scores for each round will be computed as follows:

| | <u>Brief</u> | <u>Oral Argument</u> |
|------------------------|--------------|----------------------|
| 1. Preliminary Rounds | 40% | 60% |
| 2. Octo-Final Rounds | 30% | 70% |
| 3. Quarter-Final Round | 0% | 100% |
| 4. Semi-Final Round | 0% | 100% |
| 5. Final Round | 0% | 100% |

XIV. Preliminary Rounds and Octo-Final Rounds

(a) In General

Each team will argue in three preliminary rounds on alternating sides. Each team will argue twice on the first day of competition and once on the second day of competition. The sixteen (16) teams with the highest mean (average) score in the three preliminary rounds will advance to two octo-final rounds to be held in the afternoon on the second day of competition. In the event of a tie, the team with the higher brief score will advance. (Please note that the number of rounds may be reduced, if necessary.)

(b) Semi-Finalist Awards

Each team that advances to the octo-final rounds will be a “Semi-Finalist” in the competition. Each such team that does not advance to the quarter-final round, will receive a “Semi-Finalist” award.

(c) Pairing of Teams

Pairing in the preliminary and octo-final rounds will be random. However, teams from the same school will not be paired against each other.

(d) Time and Place

Oral arguments for the preliminary and octo-final rounds will take place at St. John’s University School of Law, 8000 Utopia Parkway, Jamaica (Queens), New York 11439, on Saturday, March 8, 2008, and Sunday, March 9, 2008. A continental breakfast and buffet lunch will be provided on Saturday, and on Sunday, a buffet lunch and a late afternoon reception will be provided for all competitors and coaches. The octo-finalist announcement will be made on Sunday, March 9, 2008, at the lunch. The quarter-finalist announcement will be made on Sunday, March 9, 2008, at the reception. Transportation between St. John’s and the competition hotel will be provided for all teams and coaches. Parking will also be available for those teams wishing to drive directly to the St. John’s University Queens Campus.

XV. Advancement to Later Rounds

The teams with the highest mean (average) scores in the octo-final rounds will advance to the quarter-final rounds on the third day of the competition. In subsequent rounds, the team with the highest oral advocacy score from each team pairing will advance to the next round. Judges in the quarter-final, semi-final, and final rounds will confer and determine the winning team in each pairing, and are not required to use score sheets or to calculate a numerical score. Eight (8) teams will advance to the quarter-final round. Four (4) teams will advance to the semi-final round, and the two (2) remaining teams will advance to the final round. In the event of a tie, the team with the higher brief score will advance.

XVI. Quarter-Final, Semi-Final and Final Rounds

(a) Time, Place & Number of Teams

The quarter-final round will be held on Monday, March 10, 2008, at the United States Bankruptcy Court Courthouse in Brooklyn, New York, named after Judge Duberstein. The quarter-final round will consist of the top eight (8) teams remaining after the octo-final rounds. The winning team from each of the four (4) quarter-final arguments will advance to the semi-final round. The winning team from each of the two (2) semi-final arguments will advance to the final round. The Board reserves the right to change the location of any round. Transportation on Monday, March 10, 2008 will be provided to the United States Bankruptcy Court Courthouse and from the Courthouse to Prier 60 immediately following the Final Round.

(b) Finalist Awards

Each team that advances to the quarter-final round will be a “Finalist” in the competition. Each such team that does not advance to the semi-final round will receive a “Finalist” award.

(c) Pairing of Teams

Pairing for the quarter-final round will be determined by seeding, with the top seeded team arguing against the team seeded eighth (8th), the second (2nd) seeded team arguing against the team seeded seventh (7th), and so on. Seeding will be established according to a team’s mean (average) score from the octo-final rounds. In the event that there are teams with the same mean (average) score, the team with the higher brief score will be seeded higher. Seeding will be strictly followed in the quarter-final round. Therefore, teams that have argued against each other in the preliminary rounds, or teams from the same school, may be paired against each other in the quarter-final round. In the semi-final round, the winners of the arguments involving the first (1st) and third (3rd) seeded teams will argue against each other and the winners of the arguments involving the second (2nd) and fourth (4th) seeded teams will argue against each other.

(d) Assignment of Sides

Assignment of sides to be argued will be made at the discretion of the Board.

(e) Announcement of Winning Teams

The winner of the final round of the Sixteenth Annual Chief Judge Conrad B. Duberstein Bankruptcy Moot Court Competition will be announced at the Awards Banquet. The winner of each pairing in the quarter-final and semi-final rounds will be announced after each argument.

XVII. Best Oral Advocate

The competitor with the highest mean (average) score for oral argument during the preliminary rounds will win the “Best Oral Advocate” award. In addition, the competitors with the next four highest mean (average) scores for oral argument during the preliminary rounds will receive “Outstanding Oral Advocate” awards. In the event of a tie, the competitor from the team with the higher brief score will be chosen. If there are three (3) preliminary rounds, a competitor must argue at least twice in order to be considered for the oral advocacy awards. The winners of the “Best Oral Advocate” award and the “Outstanding Oral Advocate” awards will be announced at the Awards Banquet.

XVIII. Attendance at Arguments

No team member, coach or faculty advisor of a team participating in the competition may attend an argument of any other team during the preliminary and octo-final rounds. Absent the consent of both teams, the attendees at each argument are limited to the members of the competing teams and two coaches or two faculty advisors for each team. Requests for permission for additional attendees must be made to the Board before the teams are escorted to the argument room. All attendees must sit in an area designated by the Bailiff. All participants may attend the

quarter-final and semi-final rounds and are strongly encouraged to attend the final round of oral arguments to be held before distinguished members of the judiciary.

XIX. Communication During Rounds

Once a round has begun, there shall be no communication in any form from any member of the audience, including coaches, faculty advisors, or team members who will not be arguing during that round. Teams are not permitted to disclose the identity of their schools to judges until either the conclusion of the competition or the team's elimination from the competition, whichever is earlier.

XX. Miscellaneous

Participation in the Competition, whether as a team member, coach or faculty advisor, constitutes consent to be photographed and recorded. Photographs and recordings may be displayed or distributed during and after the competition in a variety of formats and media, including projection during the Awards Banquet, posting on the Internet, and use in press releases and promotional materials. Participants waive all claims for any compensation, damages or other remedies in connection with such photographs or recordings and their use.

INTERPRETATION AND ENFORCEMENT OF THE RULES

XXI. Clarification, Interpretation and Determinations

Submit requests for clarification of the rules to:

LLM@stjohns.edu
Subject: Duberstein Rules

Submit requests for clarification of the fact pattern to:

LLM@stjohns.edu
Subject: Duberstein Fact Pattern

Clarifications and interpretations will be posted on the competition website and transmitted to all participating schools by e-mail addressed to the Official Team Contact Person.

Scoring is inherently subjective. The Board's determination of advancing and winning teams and of winning competitors shall be final. In the event of an error, the Board reserves the right, but has no obligation, to grant additional awards to any team or competitor disadvantaged by the error. **Any decisions or other actions taken by the Board shall be final and binding on all participants.**

XXII. Amendments

The Board reserves the right to make and implement any further rules and procedures or take any actions deemed advisable for the conduct of the competition. Each participating school

will be notified of any changes in writing or by e-mail addressed to the Official Team Contact Person.

XXIII. Penalties

The Board may assess such penalties, including disqualification, as it deems reasonable and appropriate for failure to comply with the foregoing rules. **All penalties imposed by the Board shall be final and binding.** Specific penalties that will be deducted from a team's brief score for the following rule violations are:

- (a) Five (5) points per calendar day (up to a maximum of 15 points) for late service of briefs and related materials required by Rule X, above;
- (b) Two (2) points per page beyond the page limit for the brief;
- (c) One half ($\frac{1}{2}$) point for each page containing a violation of the type size or margin requirements where, in the Board's opinion, the violation gives the team an advantage.

CERTIFICATION AND COPYRIGHT

We hereby certify that the brief submitted by Team # _____, of _____ Law School, is completed in accordance with the Rules of the Chief Judge Conrad B. Duberstein Bankruptcy Moot Court Competition, and represents the work product of only the undersigned members of the team (except as permitted by Competition Rule V).

We grant to St. John's University and to the American Bankruptcy Institute a non-exclusive right to publish the brief on the Internet and in print.

Dated: _____, 2008

(Team Member)

(Team Member)

(Team Member)