ELEVENTH ANNUAL
FIRST AMENDMENT AND MEDIA LAW
DIVERSITY MOOT COURT COMPETITION (2018-19)

OFFICIAL RULES

The Forum on Communications Law First Amendment and Media Law Diversity Moot Court Competition (the “Competition”) is administered by the American Bar Association Forum on Communications Law and is co-sponsored by the National Black Law Students Association (NBLSA), the National Latino/a Law Student Association (NLLSA), the National Native American Law Students Association (NNALSA), and the National Asian Pacific American Law Student Association (NAPALSA). The Competition is designed primarily to expose minority law students to the Forum on Communications Law and the practice of media law and offers law students a unique opportunity to apply their writing and advocacy skills to issues relevant to the media bar. The Rules governing the Competition are set forth below.

I. SUMMARY OF THE COMPETITION

Students who are Juris Doctor candidates at any ABA accredited law school, who are U.S. citizens or permanent residents of the U.S., or who has an F-1 Student Visa, and who are members of any chapter of either NBLSA, NLLSA, NNALSA, NAPALSA or another minority law student organization at their school may enter the Competition either as a moot court team or as an individual. Students entering as a team are not required to attend the same law school. A team (or an individual student) may enter the Competition by completing the short-form application (attached hereto). Each student also must write a 500-word essay response to the hypothetical presented in the application. Students are not permitted to conduct any research in preparation for writing the response to the hypothetical. In addition to the 500-word essay, each student also must submit his or her resumé and a short writing sample.

The Competition Committee will select up to 12 teams/24 students (quarter-finalists) to participate in the quarter-final round. (If a student applies individually and is selected to be a quarter-finalist, the student will be paired with another student to compete as a team, but only if another student who applied individually also has been selected to be a quarter-finalist.) The quarter-finalists will be presented with a hypothetical involving novel and unsettled questions of constitutional and media law. Each quarter-finalist team will draft and submit a brief, of up to thirty (30) pages, in its hypothetical appeal to the United States Court of Appeals for the Twelfth
Circuit. Each quarter-finalist will be paired with a practicing media law attorney for brief review, to practice oral argument, and for career advice, mentoring and networking. Each quarterfinalist also will receive complimentary registration to attend the Forum’s 24th Annual Conference, which will take place at Eden Roc Nobu, Miami Beach, Florida, from January 30 through February 2, 2019 (the “Annual Conference”). Complimentary registration includes all conference events, including CLE workshops, networking lunches and dinners that are included in the Annual Conference itinerary, and plenary sessions on various media law topics. (Transportation to the Annual Conference and hotel stay are not provided for quarter-finalists.)

The four (4) teams with the highest brief scores (the semi-finalists) will compete in the semi-final round of oral arguments during the Annual Conference. All semi-finalists will receive, in addition to complimentary registration to attend the Annual Conference, round-trip transportation to, and a four-night stay at, the at Eden Roc Nobu, Miami Beach, Florida, for the Annual Conference. Moreover, the team with the highest brief score will be deemed “Best Brief” and each team member will be awarded $1,000.

The four semi-finalists (without regard to team assignment) with the highest combined brief and semi-final oral argument scores will advance and compete in the final round of oral arguments, which will also be held during the Annual Conference. For the final round of oral arguments, the finalists will be randomly assigned to represent appellant or appellee (resulting in new teams) and will be randomly assigned an issue to argue. The team with the highest score for the final round of oral arguments will be the winner of the Competition. Each member of the winning team will receive $750. The finalist with the highest score for the final round of oral argument will be deemed “Best Oralist” and will receive $1,500. Each semi-finalist is responsible for any taxes associated with receiving the trip to the Annual Conference and the monetary prizes. The ABA will send each student a Form 1099 for the fair market value of the trip (e.g., transportation, lodging, and any monetary prizes he or she is awarded).

II. STRUCTURE OF THE COMPETITION

A. Administration

1. The Competition will be administered by the Competition Committee (sometimes referred to herein as the “Committee”), which is comprised of media lawyers in private practice, in-house counsel at national media companies, and/or tenured and visiting law school faculty.

2. The Competition Committee, among other things, shall ensure that materials for the Competition are distributed to team participants; assist in the process of securing judges; solicit volunteers to serve as brief scorers; and address matters requiring resolution during the Competition period. The Competition Committee shall have the authority to revise these rules as necessary to ensure that the Competition is administered effectively, fairly and in furtherance of the Competition’s purposes.

3. The Co-Chairs of the Competition Committee shall oversee the administration of the Competition and ensure that the Committee fulfills its administrative duties.
4. Upon the request of a team, the Competition Committee will issue interpretations of these Rules and clarify matters relating to the moot court hypothetical. Any request for an interpretation or clarification of the hypothetical must be in writing and should be sent via email to one of the co-chairs of the Competition Committee. Requests for clarification of the moot court hypothetical must be made by 5:00 p.m. (PST) on Monday, November 5, 2018. Any clarifications will be shared with all participants.

B. Eligibility to Participate in the Competition

1. Any law student who is a citizen or legal permanent resident of the U.S., or who has an F-1 student visa, and is attending an ABA accredited law school may apply to participate in the competition, subject to the additional requirements discussed below.

2. A student who wishes to participate in the Competition may apply as part of a two person team or as an individual. A team may consist of two students from the same law school or two students from different law schools. (If a student applies individually and is selected to be a quarter-finalist, the student will be paired with another student to compete as a team, but only if another student who applied individually also has been selected to be a quarter-finalist.) The Competition Committee shall have no involvement in the process by which schools determine the teams to represent them or by which students agree to participate, whether as individuals or teams.

3. Each member of a team must be either (1) an active member of a chapter of the NBLSA, NLLSA, NNALSA or NAPALSA, or (2) an active member of another minority law-student organization at his or her school.

4. On or before midnight, PST, Monday, June 4, 2018, each student must submit a completed application, consisting of a resume, a short writing sample, a 500-word response to a short essay question on a media-related topic, and one registration form per team or individual student.

5. Failure to adhere to the rules regarding the requirements for participation in the Competition shall be grounds for disqualification. The Competition Committee reserves the right to waive any of the foregoing requirements on a case-by-case basis.

C. Notification of Selection of Quarter Finalists

1. The Competition Committee will review the submitted applications and will select up to 8 teams/16 students to be the quarter-finalists. If, in the sole judgment of the Competition Committee, the quality of submissions does not merit selection of 12 teams, a fewer number of quarter-finalists may be selected.

2. Teams/students will be notified on Friday, August 24, 2018, whether they have been selected to advance to the quarter-final round.

3. Quarter-finalists who applied individually will be advised of their assigned teammate and all quarter-finalists will be sent contact information for their mentor on or about Friday, August 31, 2018.
D. Submission of Briefs

1. On Friday, August 24, 2018, the hypothetical for which quarter-finalist teams will prepare an appellate brief will be emailed to quarter-finalists and posted on the Moot Court Competition webpage of the Forum Committee on Communications Law section of the American Bar Association website. Each quarter-finalist team will be advised of (a) its team number and (b) its “side designation,” indicating whether the team’s brief will be submitted on behalf of the Appellant(s) or the Appellee(s).

2. Each quarter-finalist also will be given the “Instructions to Participants,” which, among other things, set forth the requirements concerning the format and submission of briefs and are hereby incorporated by reference as if set forth fully here. Participants must follow both the Instructions and these Rules; a failure to follow either or both shall be grounds for disqualification.

3. Each team is permitted to submit one completed draft of their brief to their mentors for review. Mentors are not permitted to edit or rewrite team briefs. Mentors are permitted to give comments on any or all of the areas described in section IV.B.2(b) below, on which briefs will be scored.

4. Each quarter-finalist team must submit an appellate brief of not more than thirty (30) pages addressing the issues raised by the hypothetical by Monday, November 19, 2018.

5. Each team shall submit two versions of its brief: (a) a measuring brief, which shall include the names of the participants and their school(s); and (b) a service brief, which shall identify the team by team number and shall not include any reference to the participants’ names or school(s). The measuring brief and service brief shall otherwise be identical.

6. Each team will receive one brief score.

E. Notification of Semi-Finalists

1. The four (4) teams with the highest brief scores will advance to the semi-final rounds of the competition.

2. Semi-finalists shall be notified of their advancement by Friday, December 28, 2018.

F. Structure of the Semi-Finals and Final

1. The semi-final and final rounds will be held during the Annual Conference; the semifinal round on Thursday, January 31, 2019, and the final round will be held on Friday, January 1, 2019.

2. Each of the four (4) teams advancing to the semi-final rounds shall participate in two (2) semi-final rounds. In the first semi-final round, each team will argue “on-brief.” Each team will argue “off-brief” in the second semi-final round.
3. The four (4) students with the highest aggregate scores, as determined by combining each team’s brief score with each semi-finalists’ scores for each of the two semi-final rounds of oral arguments, will advance to the final round. For the final round or oral argument, side designations and issues to be argued will be assigned randomly.

4. The finalist team with the highest combined scores, solely for the final round of oral argument, will be named the winning team of the Competition. The finalist with the highest score for the final round of oral argument will be named “Best Oralist.” The quarter-finalist team with the highest brief score will be deemed to have the “Best Brief.”

III. ORAL ARGUMENTS

A. Applicability

The rules relating to oral arguments apply to both the semi-final and final rounds of the Competition.

B. Format of Oral Arguments

1. Each team will be limited to twenty (20) minutes of oral argument, to be divided among its members as the team wishes, except that each team member must argue for at least seven (7) minutes. Each team is responsible for communicating to the clerk, prior to the beginning of oral argument, how it wishes to allocate its twenty (20) minutes between team members.

2. Judges shall have the discretion to interrupt arguments to pose questions and may allow additional time for the advocates’ responses.

3. A team that has been designated to represent the appellant(s) may ask to reserve for rebuttal up to five (5) minutes of its team’s allotted time. Prior to oral argument, counsel for the appellant(s) must notify the clerk of his or her intention to request rebuttal time, and at the beginning of oral argument, must seek leave of the panel for rebuttal.

4. The identity of the law schools of participating teams should not be revealed to the judges at any time before, during or after oral arguments. A five (5) point penalty will be assessed against any team whose member discloses during oral argument the identity of the school(s) of any team participating in the Competition. The Competition Committee shall determine the appropriate time to announce the school affiliations of the participants. Notwithstanding the foregoing, judges are not required to recuse themselves should they know or become aware of the identities of the schools of participating teams.

5. Judges will critique the participants after the conclusion of each round of the Competition.
IV. SCORING

A. Overall Scoring

1. The score for each semi-finalist for the semi-final rounds shall consist of the sum of:
   (a) the team brief score and (b) the semi-finalist’s scores for each semi-final round of oral argument.

2. For each round of oral argument, a panel of three (3) judges will each score each member of a team. The average of these three scores is the oral argument score for that round or argument. The oral argument scores for each finalist, together with the team’s brief score, will determine whether a semi-finalist advances to the final round of the competition. Example: Team A received a brief score of 95. Semi-finalist “Mary” on Team A received an average score of 90 for the first round of semi-final oral argument and an average score of 88 for the second round of semi-final oral argument. Semi-finalist John on Team A received a 92 and an 85. Mary’s semi-final round score is 273 (95 + 90 + 88), while John’s score is 272 (95+92+85).

3. The final round shall be scored on the basis of oral arguments only. A team’s score for the final round shall be computed by combining the average oral argument scores of each team member using the same formula described above.

B. Scoring of Briefs

1. Briefs will be scored by brief judges. Briefs will be evaluated anonymously and graded by each judge on a scale of one (1) to one hundred (100) points. The team brief score will be calculated by averaging the scores from each judge and then subtracting from that average score points for any penalties.

2. Brief scores will be based on the following factors:

   (a) FORMAT/APPEARANCE
      - All sections included and prepared in accordance with the Instructions
      - Format requirements followed

   (b) SUBSTANCE
      - Issue Recognition
        - Issues properly identified
        - Issues thoroughly addressed
      - Argument
        - Questions presented stated persuasively
        - Point headings stated persuasively
        - Point headings used to develop the legal argument
        - Favorable facts properly emphasized
        - Unfavorable facts addressed effectively
        - Proper argument development
c. Legal Authority
   - Relevant legal authority properly summarized
   - Favorable legal authority used persuasively
   - Unfavorable legal authority distinguished effectively
   - Facts and legal authority properly synthesized

c. MECHANICS
   - Proper grammar
   - Proper Bluebook citation format
   - Proper use of quotations
   - Spelling and typographical errors

3. After a team’s brief score has been determined, penalties for format and citation errors and rule violations will be subtracted from the initial score given. The following chart provides the point deductions for errors and rule violations:

<table>
<thead>
<tr>
<th>ERROR OR RULE VIOLATION</th>
<th>POINT DEDUCTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-one inch margin</td>
<td>2</td>
</tr>
<tr>
<td>Non-double spaced text and non-single spaced footnotes</td>
<td>2</td>
</tr>
<tr>
<td>Incorrect typeface or font size</td>
<td>2</td>
</tr>
<tr>
<td>Non-8-1/2x11 paper</td>
<td>2</td>
</tr>
<tr>
<td>Improper ordering of brief sections</td>
<td>1</td>
</tr>
<tr>
<td>Failure to include one or more brief sections</td>
<td>3 per missing section</td>
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<tr>
<td>Exceeding page limits</td>
<td>1 per page</td>
</tr>
<tr>
<td>Inclusion of competitor names or name of team including law school on any location except on front cover of measuring brief</td>
<td>2</td>
</tr>
<tr>
<td>Late submission of measuring brief and/or service brief</td>
<td>5 per day (*25 point max)</td>
</tr>
<tr>
<td>Submission of wrong side brief</td>
<td>10</td>
</tr>
<tr>
<td>Failure to include Statement of Compliance with Code of Conduct (teams will not be permitted to continue to participate in the Competition unless the Statement is submitted)</td>
<td>2</td>
</tr>
</tbody>
</table>

C. Scoring of Oral Arguments

1. For each oral argument, each team member shall receive from each judge a score on a scale from one (1) to one hundred (100). The average of these scores shall constitute each team member’s oral argument score for the oral argument.

2. Participants’ oral argument performances will be scored based on the following factors:

   COMMAND OF FACTS AND ISSUES

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1 Briefs submitted six or more days after the deadline will not be accepted.
• Use of and familiarity with facts
• Knowledge and application of the law
• Effectiveness of legal argument

ADVOCACY STYLE

• Ability to respond to questions effectively and authoritatively
• Ability to persuade
• Presentation and speaking style
• Observance of proper courtroom etiquette

V. COMMUNICATION WITH COMPETITION COMMITTEE

A. In General

1. Over the course of the Competition, the Competition Committee will issue various notices to participants and distribute materials to the teams. Unless otherwise stated, communications shall be via email. Each student is responsible for providing one email address for receiving notices and materials and for advising the Competition Committee of any changes to his or her personal contact information.

2. Any questions concerning the Competition should be directed to the co-chair of the Competition Committee, James C. McFall, who may be reached at james.mcfall@bryancave.com or (415) 675-3475.

B. Notices from the Committee and Distribution of Materials

1. The Competition Committee shall distribute the hypothetical to each student via email on Friday, August 24, 2018.

2. The Competition Committee will confirm the receipt of each team’s measuring and service briefs within one week after the deadline for submission of briefs.

VI. CONDUCT OF PARTICIPANTS

A. Law School Honor Codes

All participants agree to be bound by their law school honor codes with respect to their conduct during the course of the Competition.

B. Assistance to Team Members

Team members must write their own briefs and prepare their own oral arguments. Faculty members, fellow students, attorneys or other individuals may not review, edit or otherwise assist in the preparation of a team’s brief; provided, however, one draft of a team’s brief may be reviewed once, but only in accordance with these official rules and only by a mentor assigned by
the Forum. Likewise, no one may prepare oral argument outlines for a team, or any other written materials to assist the team in preparing for oral arguments. Participants may discuss issues and ideas relating to the moot court hypothetical with their assigned mentor and fellow team member, and may work with their assigned mentor and fellow team member to prepare for oral arguments in the form of mooting, brainstorming, or question and answer sessions. No other form of external assistance may be provided to the participants. Team members are required to affirm in their briefs and before oral argument that they have complied with these rules.