

**TWNTIETH ANNUAL  
NATIONAL CRIMINAL JUSTICE TRIAL ADVOCACY COMPETITION**  
*sponsored by*  
**THE CRIMINAL JUSTICE SECTION OF  
THE AMERICAN BAR ASSOCIATION**  
*and*  
**THE JOHN MARSHALL LAW SCHOOL**  
Chicago - March 25-26-27, 2010

**PARTICIPANTS**

Barry University, Dwayne O. Andreas School of Law	(FL)
Baylor University School of Law	(TX)
Brigham Young University J. Rueben Clark Law School	(UT)
Creighton University School of Law	(NE)
Georgetown University Law Center	(DC)
Golden Gate University School of Law	(CA)
Harvard Law School	(MA)
Interamerican University of Puerto Rico School of Law	(PR)
The University of Houston Law Center	(TX)
The University of Illinois College of Law	(IL)
Thomas Jefferson School of Law	(CA)
Lewis & Clark Law School	(OR)
Louisiana State University Law Center	(LA)
Loyola University Chicago School of Law	(IL)
Loyola University New Orleans College of Law	(LA)
Mercer University Law School	(GA)
St. John's University School of Law	(NY)
Tulane University Law School	(LA)
Valparaiso University School of Law	(IN)
University of Washington School of Law	(WA)
<i>(Backup: The John Marshall Law School</i>	<i>(IL)</i>

The Competition's case file, *People v. Connie Cutter*, has been prepared by Professor Ronald C. Smith, Director of The National Criminal Justice Trial Advocacy Competition. Mr. Arthur Tan-Chi Yuan, Esq., Saint Louis, MO, provided indispensable website assistance. Brendan Shiller, Esq., provided much legal support. Mr. Gary Watson, Assistant Director of The John Marshall Law School's Center for Advocacy and Dispute Resolution assisted the author with many technical matters, and Mr. Bruce Swart provided graphics. John Marshall law students Carriabeth Clark and Agnieszka Malicka for logistical support.

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## **2010 NATIONAL CRIMINAL JUSTICE TRIAL ADVOCACY COMPETITION**

The 2010 National Criminal Justice Trial Advocacy Competition is sponsored by The John Marshall Law School and the Criminal Justice Section of the American Bar Association. This invitational competition is being held in Chicago, Illinois, on Thursday, Friday, and Saturday, March 25 – 26 – 27, 2010. Law school teams will prosecute and defend the case of *People v. Connie Cutter* Burglary, etc.)

The John Marshall Law School will set aside its East Building's third floor reception area for the participants, from midday Thursday until Saturday evening. Some exhibits may be distributed to the participants at that time. The Competition begins with an advisors' meeting and informal reception for the teams on Thursday afternoon, March 25, at 3:30 p.m. in the Baim Courtroom on floor 3E of the Law School.

The Competition consists of three initial rounds of mock trials, a semifinal round between the four teams with the highest scores, and a final round matching the winners of the semifinal round. During each mock trial each student advocate is expected to conduct a direct examination of a witness, a cross examination of a witness, and present either the opening statement or the closing argument of the case. The advocates are also evaluated on their professionalism in making routine objections and handling exhibits. A judge and a "jury" of experienced criminal trial attorneys will score the performances.

During the three preliminary rounds each team will present the prosecution and defense of the case at least once. In the semifinal and final rounds, teams will prosecute or defend as follows: if the teams have met before (which is unlikely), the teams will switch sides; otherwise they may agree on which side to represent, or have a coin toss determine the assignment of sides.

The first round of mock trials will be held Thursday evening, March 25, starting at about 5:30 p.m.; the second round, Friday morning beginning at approximately 9 a.m., according to the availability of sitting judges and courtrooms; the third round, Friday evening. The four teams with the most wins according to the highest scores (and other factors in the event of ties) will proceed to the semifinal round on Saturday morning. The two teams winning these trials will meet in the championship round on Saturday afternoon. Each trial should last about three hours, followed by a short period of comment by the evaluators.

The final trial will be evaluated by several outstanding trial practitioners. The trial and the ensuing comments by the evaluators and judge will be videotaped. A complimentary copy of this videotape will be made available to each participating team.

On Saturday evening there will be an awards ceremony and reception for all the participants, evaluators, and their guests, at The John Marshall Law School.

## **THE TRIAL PROBLEM AND THE GENDER OF STUDENT-WITNESSES**

**Each team must consist of four law students, i.e., students who are enrolled, in good standing, currently attending the law school which they represent, and working towards a J.D. degree or its equivalent. A team should be accompanied by a faculty advisor.**

**In each trial round, two students will be advocates and two students will be witnesses for their own trial team. A student may be an advocate or a witness in any trial, but cannot be both advocate and witness in the same trial. For example, the two student advocates who act as prosecutors may act as witnesses when their team is handling the defense: the students who are the prosecution witnesses would then be defense counsel when the team represents the defendant. Or, two students may act as advocates for both sides throughout the competition, while the other two student team members act as witnesses. Or, one student may be both prosecution and defense advocate, with the second student being a witness throughout the competition, the third student being a prosecutor and defense witness, and the fourth student being a defense attorney and prosecution witness--according to which side the team represents in any round. This choice is for each participating team to make.**

**The witnesses may be either male or female. Witnesses for the prosecution: Pat Siewert and Donnie Thompson. Witnesses for the defense: Leslie Foote and the defendant, Connie Cutter.**

**The file will contain copies of "news articles" that carry some information about the events surrounding the indictment of the defendant. These articles may or may not be admissible, and may contain matters that cannot be brought into evidence at trial, or matters that cannot be verified by any available witness.**

**The file may also contain exhibits.**

**All these materials will be published on the website [ [www.abacrimtrial.com](http://www.abacrimtrial.com) ] and in the printed materials sent to the participants.**

## EVALUATIONS

### PRELIMINARY ROUNDS:

A judge will preside over each trial and will rule according to the Federal Rules of Evidence. During the first three rounds, each mock trial will be evaluated by at least three attorneys (or two attorneys and a judge). These evaluators will act as jurors and will give scores to the advocates. If three people are evaluating a trial, all will have scoring ballots; three ballots will be pre-marked for use in breaking ties; the Director of the Competition has sole discretion as to which three ballots will be tie-breaking ballots.

Because the rules provide that evaluators not award the same score to more than one student advocate in a round, in effect the scoring system requires that the evaluators rank the participants.

The evaluators are also asked to prepare written comments on each advocate's performance, and to render a verdict independently of the performance scores. The written comments and verdicts are not considered in the scores, and are only for the instruction of the participants.

The team with the higher number of performance points from all the ballots wins that round. In the event an evaluator gives a tie in the number of points awarded, the points are counted but (for tie-breaking purposes) the defendant wins that ballot. While the directions to the judges and evaluators forbid ties, it happens that evaluators sometimes ignore directions. As the burden of proof is on the prosecution, a tie indicates that the prosecution has not sustained its burden.

The four teams progressing to the semifinals will be determined as follows:

- 1) Teams with best win records (e.g., if only four teams have 3 - 0 win-loss records based on the above rules, these four teams progress without further consideration of scores).
- 2) Teams with the best evaluator scoring for wins. (E.g., if only two teams have 3 - 0 records, they progress to the semifinal round; the other two teams to progress will be selected according to the number of wins based on the evaluators' performance scores. Suppose six teams have 2 - 1 records, and only two of those teams have won based on the scores of seven of the nine evaluators [i.e., they have evaluators' votes of 3 - 0, 3 - 0, and 1 - 2, for a record of 7 - 2 votes], then those two teams progress. Or, suppose five teams have 3 - 0 records, and four of the teams have won unanimously; the team which did not win unanimously would not participate in the semifinal round.)
- 3) Teams with highest total point scores. (E.g., three teams have won 3 rounds, these three teams progress to the semifinal round; of the teams which have won two rounds, only two teams have won evaluator votes 7 - 2. Between these two teams, the team which has the higher number of total points progresses. [The highest number of points any team can acquire in three rounds is 63 points: 10.5 points x 2 advocates x 3 rounds].)
- 4) If there are still teams tied, then the scores on the evaluations given by the trial judges will be used to break these ties.
- 5) Finally, if there is still a tie, then the tie will be resolved by a coin toss. The team winning the toss will progress to the semifinal round and will act as surrogate for the team losing the toss of the coin. Arrangements will be made to provide awards to any team which ties but which does not win the coin toss.

## **SEMIFINAL AND FINAL ROUNDS:**

An uneven number of evaluators will vote in each of these trials. If there is an even number of evaluators in the jury box, the judge's evaluation will count so that there will be an uneven number of votes. Therefore there cannot be ties. Each evaluator's award of points will determine the vote of that evaluator. If the evaluator awards a tie, the team representing the defense wins that evaluator's vote.

During the Competition, participants will be identified by number, and not by the school they attend. The judges and evaluators will award points to each team member's number. Teams are not to identify the school they are representing to the evaluators or judges, and are asked to exercise caution and good faith in this respect. If a judge or evaluator comes to learn the identity of the school a team represents, the judge should immediately refer the matter to the director or his representative so that a substitution can be made promptly.

## **SCORING STANDARDS (see sample score sheet, next page)**

<b><u>Points</u></b>	<b><u>Definition</u></b>
<b>9 to 10.5</b>	<b>The highest quality performance I would expect a law student to give.</b>
<b>7 to 8.5</b>	<b>Above average performance.</b>
<b>5 or 6</b>	<b>Adequate performance.</b>
<b>4</b>	<b>Falls below being the adequate performance I expect from a law student.</b>

**THE 2008 NATIONAL CRIMINAL JUSTICE TRIAL ADVOCACY COMPETITION**  
 sponsored by  
**THE JOHN MARSHALL LAW SCHOOL**  
 and  
**THE CRIMINAL JUSTICE SECTION OF THE A.B.A.**  
**EVALUATOR'S SCORE SHEET**  
**ROUND I [or II or III]**

Directions: The overall performance of a student, including the opening statements, direct examination, cross examination, objections, foundations, use of exhibits, closing argument, etc., should be considered in arriving at a score. Each student advocate will wear a number, and you are asked to note the number throughout your notes and comments. The students are permitted to introduce themselves by name, and to refer to each other by name throughout the trial, but your score should be awarded to the identification number the student wears.

RANK THE FOUR ADVOCATES BY AWARDING DIFFERENT SCORES.

YOU MUST AWARD FOUR DIFFERENT SCORES TO THE FOUR PARTICIPANTS. (FOR EXAMPLE, YOU MAY CIRCLE ONLY ONE "10", ONE "9", etc.) DO NOT AWARD POINTS FOR A "WINNING" TEAM. SCORE PERFORMANCES ONLY.

CIRCLE ONE SCORE:	<u>FAIR</u>	<u>GOOD</u>	<u>EXCELLENT</u>							
PROSECUTOR # _____	4	5	6	7	8	8.5	9	9.5	10	10.5
PROSECUTOR # _____	4	5	6	7	8	8.5	9	9.5	10	10.5
DEFENSE ATTY # _____	4	5	6	7	8	8.5	9	9.5	10	10.5
DEFENSE ATTY # _____	4	5	6	7	8	8.5	9	9.5	10	10.5

Prosecution points from above: \_\_\_\_\_

Defense points from above: \_\_\_\_\_

During the trial, did the student advocates present all the facts promised in their opening statement? If not, deduct one point. Prosecution \_\_\_\_\_ / Defense \_\_\_\_\_.

Did the student advocates in the closing argument refer to or argue facts not placed in evidence during the trial? If so, deduct one point. Prosecution \_\_\_\_\_ / Defense \_\_\_\_\_.

Net Prosecution points: \_\_\_\_\_  
 Net Defense points: \_\_\_\_\_
 } Please do not give a tie.

THE TEAM RECEIVING THE HIGHER NUMBER OF POINTS WINS THE ROUND.

Signature \_\_\_\_\_  
 Signature of Judge/Evaluator

**[Sample Comment Sheet: Four of these forms will be provided to each evaluator and judge: one pre-marked by number for each student advocate. The evaluators will be asked to make their notes on the appropriate sheet. These evaluation sheets and the score sheets will be distributed to the participants, by team, at the reception on Saturday evening at the conclusion of the Competition.]**

**EVALUATOR'S COMMENTS, NOTES      PROSECUTOR [DEFENSE] # \_\_\_\_\_**

**JUDGE/EVALUATOR: THIS IS FOR YOUR USE DURING THE TRIAL. Please make your notes and comments for the above-numbered participant on this form. At the end of the Competition, the students will receive these written observations, criticisms, and compliments. You may wish to use this form to keep notes on during the trial. Please take a few moments after the trial to write out at least one or two additional comments. As you listen to the presentations you may wish to circle an evaluation on this sheet. THIS IS NOT THE OFFICIAL SCORE SHEET. The official score sheet requires that you rank the competitors by assigning each competitor a different numerical score. Fill out that official score sheet only when the trial is over.**

**OPENING STATEMENT or  
CLOSING ARGUMENT      (weak)    (fair)    (good)    (very good)    (excellent)**

**DIRECT EXAMINATION      (weak)    (fair)    (good)    (very good)    (excellent)**

**CROSS EXAMINATION      (weak)    (fair)    (good)    (very good)    (excellent)**

**OBJECTIONS,  
FOUNDATIONS,  
USE of EXHIBITS      (weak)    (fair)    (good)    (very good)    (excellent)**

**STYLE, DEMEANOR      (weak)    (fair)    (good)    (very good)    (excellent)**

**BASED ON HOW I BELIEVE A JURY WOULD HAVE REACTED OVERALL TO THIS CASE, I FIND FOR THE:**

**PROSECUTION (Residential Burglary Count) \_\_\_\_\_  
(Possession of Stolen Property Count) \_\_\_\_\_**

**DEFENDANT (Residential Burglary Count) \_\_\_\_\_  
(Possession of Stolen Property Count) \_\_\_\_\_**

**(Please let each student how you think a real jury would have decided this case.  
This jury verdict is not part of the score.)**

\_\_\_\_\_  
**Signature of Judge/Evaluator**