**THE SUPREME MOOT COURT OF THE UNIVERSITY OF BRITISH COLUMBIA**

— *Rules of Court* —

**A. General**

1. The Supreme Moot Court of the University of British Columbia (the “**Moot Court**”) is a special court having unlimited jurisdiction.
2. The Moot Court may be persuaded, in its sole discretion, by the reasons of other courts on relevant issues, but is ***not*** strictly bound to follow the decision of any other court.

1. The Moot Court is subject to all legislation and regulations currently in force and effect in British Columbia.
2. The Moot Court may dispose of technical defects in any manner it sees fit in order to ensure determination of all cases on their merits.
3. The Moot Court registry (the “**Registry**”) will be open for registration, receipt of documents and other matters at the times posted by the designated Moot Court student registrars (the “**Registrars**”) in these Rules of the Court. Documents will only be accepted during the hours specified for document submission, unless a student obtains the prior written permission of the Registrars.
4. The Registrars will answer any enquiries of an administrative or procedural nature. All substantive enquiries about the moot problem are to be directed to the responsible professors. **Please review the Frequently Asked Questions document before you contact the Registrars or your professor.**
5. The due dates for the electronic filing and serving of documents are set out on the First Year Assignment Schedule.
6. Applications for extensions, adjournments or other academic concessions must be made to Barbara Wang, Manager, Student Experience. For further information regarding circumstances which qualify for an academic concession and how to submit an application, please consult the [Academic Concessions & Accommodations page](http://www.allard.ubc.ca/student-resources/jd-academic-services/academic-concessions-accommodations). The Registrars have no jurisdiction to grant extensions or adjournments.
7. **All submitted documents must conform to the formatting requirements set out in these Rules.**

**B. Factums**

1. The appellant and the respondent must each prepare a factum.
2. The appellants must submit an electronic copy of the appellant’s factum to the Registrars by email (firstyearmoots@allard.ubc.ca), **copying the respondents,** on **Monday, January 24th, 2022, prior to 4:30 pm,** or the appellant’s factum will be deemed not to have been served.
3. The respondents must submit an electronic copy of the respondent’s factum to the Registrars by email (firstyearmoots@allard.ubc.ca), **copying the appellants,** on **Tuesday, February 1st, 2022, prior to 4:30 pm,** or the respondent’s factum will be deemed not to have been served.
4. Each factum must:
5. be typed in 12-point, Times New Roman font, with margins of no less than 2.5 cm;
6. be double-spaced, except for block quotations from authorities, which must be indented left and right and single-spaced;
7. include consecutively numbered pages on the bottom right-hand corner of each page, beginning with the first page of the statement of facts;
8. include consecutively numbered paragraphs (line numbering is not required); and
9. include each of the sections more particularly set out in paragraph B.7 below.
10. In addition to the requirements set out in paragraph B.4 above, each electronic factum must be a **single file, in PDF format**, and must be labeled with the following title (i.e., save the document as):

“[*Appellant/Respondent*]\_[*Professor’s Last Name*]\_[*Both Students’ Last Names*]”.

For example: “Appellant\_Harris\_SmithJones”

1. The substantive portion of each factum must not exceed 12 pages, and will include the statement of facts, argument, and nature of order sought. It is expected that each counsel will contribute approximately six pages of substantive analysis. The cover page, table of contents, appendices and table of authorities are excluded from this 12-page limit.
2. Each factum must include the following sections:

***Title Page***

The title page must be in the attached prescribed form.

***Table of Contents***

A table of contents containing page number references for main sections of the factum. See sample factums.

***Part 1 - Statement of Facts***

Appellant’s factum: The statement of facts in the appellant’s factum must include a concise statement of the course of proceedings and the facts of the case. The appellant should include and emphasize facts helpful to the case but must also identify non-helpful facts. The appellant should not leave any important facts to be raised by the respondent.

Respondent’s factum: The statement of facts in the respondent’s factum must include the respondent’s position on the appellant’s statement of facts, along with any additional facts that the appellant may have omitted. The respondent should not draft a duplicative statement of the facts of the case, but rather should clarify and re-characterize the appellant’s facts as necessary.

***Part 2 – Argument***

Appellant’s factum*:*  The appellant’s argument should begin with a brief statement of the issues on appeal, by characterizing them as errors in the judgment under appeal.

Respondent’s factum: The respondent’s argument should begin with brief statements of the “issue(s) on appeal” rather than “errors in judgment,” reflecting the parties’ different perspectives. The respondent should respond to the issues stated by the appellant, but may recast them in a form beneficial to the respondent.

The appellant and respondent then must concisely outline their respective arguments and points of law or fact to be addressed, along with properly cited authorities to support each point. Appellants and respondents should each disclose and discuss all relevant case law, even that which does not support their case. You may try to distinguish non-supporting law, but you should not ignore it.

The argument section should comprise the most significant portion of each factum.

***Part 3 - Nature of Order Sought***

This part must clearly state the relief requested by the appellant (i.e. appeal allowed) or respondent (i.e. appeal dismissed), respectively.

The statement “ALL OF WHICH IS RESPECTFULLY SUBMITTED” must appear at the end of the relief requested, and counsels’ names and signatures must appear at the bottom of this page. See sample factums.

***Appendices***

This optional section may contain reproductions of legislation, if necessary.

***Table of Authorities***

All authorities referenced in the factum must be listed alphabetically in this section, with reference to pages of the factum at which they are cited. Parallel citations are not required if there is a neutral citation. If there is no neutral citation, follow the McGill Guide, 9th edition.

**C. Facts and Authorities**

1. Moots will be decided on the facts stated in the report of the decision under appeal, or in the statement of facts provided in the Moot Problem, as the case may be.
2. All authorities included in the table of authorities must be referenced in the factum. The Moot Court may, on terms it considers appropriate, permit counsel for a party to cite authorities during oral argument that were not used in that party’s factum. Citations must be indented in the text of the factum.
3. All authorities must be cited following the McGill Guide 9th edition.
4. **ONLY the following authorities may be cited in the factum:**
5. case authorities which are provided in the Moot Problem;
6. legislation and regulations which are provided in the Moot Problem; and
7. “secondary references”, being case authorities, legislation and/or regulations which are referenced within the case authorities specified in paragraph (a) above.

**Example: Secondary References**

The cases of *R v Wong* and *Eastmond v CP Rail* were both mentioned in the case *Heckert v 5470 Investments Ltd*:

1. *R v Wong*, [1990] 3 SCR 6, [1990] SCJ No 118 [*Wong*], cited in *Heckert v 5470 Investments Ltd*, 2008 BCSC 1298, [2008] BCJ No 1854, para 62 at para 81 [*Heckert*].

2. *Eastmond v CP Rail*, 2004 FC 852, [2004] FCJ No 1043, cited in *Heckert*, paras 174-181 at para 85.

In the first reference, *Heckert* has not yet been cited in the factum, and is therefore cited in its entirety with its short-form of [*Heckert*] at the end. It is sufficient to use the short-form, as in the second example, once the case has already been cited.

In the first citation, para 62 refers to the paragraphs in *R v Wong* from which the writer is quoting, and para 81 refers to the location of the *R v Wong* reference in *Heckert*.

In the second citation, paras 174-181 refer to the paragraphs in *Eastmond v CP Rail* from which the writer is quoting, and para 85 refers to the location of the *Eastmond* reference in *Heckert*.

1. Book of Authorities

1. The appellant and respondent must work together to produce a *joint* Book of Authorities.
2. The appellant and respondent must submit an electronic copy of the Book of Authorities to the Registrars by email (firstyearmoots@allard.ubc.ca), on **Tuesday, February 8, 2022, prior to 4:30pm** or the Book of Authorities will be deemed not to have been served.
3. The Book of Authorities must include a table of contents.

**D. Oral Argument**

1. All moots will take place in a virtual court room through a Zoom video conference. You will receive the Zoom link by noon on the day of your moot. If you do not receive the Zoom link by this time, please contact the Registrars (firstyearmoots@allard.ubc.ca).

The Zoom video conference will have a virtual waiting room where students and lawyers will remain until admitted to the main room by the Registrars. Once admitted, the Registrars will move students and lawyers into breakout rooms (i.e. the virtual court rooms). Your moot will begin once you have been moved into a virtual court room. The Registrars will remain available in the main room for the duration of the moot to answer questions that may arise.

1. Students should join the Zoom video conference by **6:15 p.m.** on the evening of their moot. Students should remain in the virtual waiting room and wait for further instructions from the Registrars. Students can expect to be admitted to the main room and moved into their virtual court room by **6:30 p.m**.
2. Students that will not be able to join the Zoom video conference prior to **6:15 p.m.** for any reason and have not obtained prior approval for alternative arrangements from the Manager, Student Experience, must:
	1. Inform their moot partner AND the Registrars, by email (firstyearmoots@allard.ubc.ca), that they expect to be late; and
	2. Join the Zoom video conference to speak with the Registrars as soon as possible. Depending on how late a student is, they may not be permitted to join the moot.
3. Students should dress respectfully and professionally, as if these proceedings were in-person.
4. While most court formalities for in-person proceedings continue to be respected, students should review the **Frequently Asked Questions document** (in particular, questions 13 and 14 on preparing and setting up for a virtual moot) to ensure they are familiar with the protocols for a virtual proceeding.
5. When the judges “enter” or “leave” the virtual court room, counsel are not required to stand or bow. Counsel are also not required to stand while addressing the court. However, counsel should avoid moving away from the screen/camera while presenting or should seek the permission of the judges to do so.
6. When the judges are ready, the first-named counsel for the appellant states the names of both appellants’ counsel, spells each of their last names, indicates their preferred manner of address (e.g. Mx/Ms/Mr/Counsel [last name]) and pronouns, and that they represent the appellant.
7. When the first-named counsel for the appellant has finished, the first-named counsel for the respondents will state the name of both respondents’ counsel, spell each of their last names, indicates their preferred manner of address (e.g. Mx/Ms/Mr/Counsel [last name]) and pronouns, and that they represent the respondent. When respondent’s counsel has finished, counsel for appellant may proceed to present their arguments. For more information, see paragraph E of the rules.
8. Argument proceeds as follows:
9. Counsel for the appellant

First-named counsel: 20 minutes

Second-named counsel: 20 minutes

1. Counsel for the respondent

First-named counsel: 20 minutes

Second-named counsel: 20 minutes

1. **Optional** reply by one appellant’s counsel: 5 minutes

The reply should only be used by appellant’s counsel to address any points raised by respondent’s counsel in oral submissions that *have not already been addressed by the appellant’s initial oral submissions.* The reply is **not** a time for appellant’s counsel to “re-summarize” their points.

Time limits for arguments will be strictly enforced. At the end of the allotted time, counsel will be instructed to stop whether or not they have completed their submissions.

1. After the moot has concluded**, judges may not leave the virtual court room until they complete a student evaluation form for each student, and email the evaluation form to such students, copying the Registrars.**

Students should confirm receipt of the completed evaluation form before they leave the virtual court room. **If the Registrars are not copied on the email, students are responsible to forward a copy of the completed student evaluation form to the Registrars at the end of the night of the moot (not the following day).** Students are responsible to ensure that the student evaluation forms are completed and submitted to the Registrars, and **failure to do so may result in a grade of FAIL.**

**E. General Instructions and Tips for Oral Argument**

1. Preparation is essential. The object of an appeal is to persuade the Moot Court that a judgment should be rendered in your client’s favour. Do your research and analysis, subject to any limitations imposed by these Rules or your professor as to the scope of case law and other materials on which you are permitted to rely, and organize your argument accordingly.
2. Give careful thought to the arguments of the other side, but fight the battle on your own ground. As counsel for the appellant, your case should stand on its own feet. As counsel for the respondent, you must try to fully counter the appellant’s argument, but you may also attempt to improve upon the judgment that you seek to uphold.
3. Anticipate difficulties with your argument and questions that the Moot Court judges may have. Prepare answers to those questions in advance. Judges will traditionally ask about weaknesses in your argument alleged by the opposing party, the broader implications of position you take, and whether the cases you rely upon are distinguishable from the circumstances of your case.
4. Use your factum strategically during oral arguments: inform the judges where you are in your factum so that they can follow your argument more easily, but avoid pure recitation of your factum. Oral advocacy is a not a chance to present new arguments, but rather, an opportunity to expand upon the arguments set out in your factum and address the judges’ questions about your factum submissions.
5. The essence of advocacy is persuasion; your task is to influence the Moot Court judges. The following points should be observed:
6. The argument should be a logical sequence of acceptable propositions buttressed by authority. If your argument has some particular challenges, set those challenges out during your argument and then argue why, in this particular case, you can meet those challenges.
7. Use your strongest authority first. If the Moot Court is persuaded, proceed to the next point. Do not bore the Moot Court with needless repetition of authority. In other words, pay close attention to the judges’ reactions to your arguments and adjust accordingly.
8. State your propositions clearly so that the Moot Court judges can follow the steps of your argument.
9. Although you must respond to the judges’ questions, do not permit yourself to be side- tracked. Figure out a way to get back to where you were before the question.
10. Observe some simple yet fundamental rules of courtroom decorum:
11. While the rules vary between different courts, the Moot Court will follow the practice presently adopted in the BC Court of Appeal (See Appearing Before the Court Practice Directive).

The only exception is that counsel addressing the Moot Court judges should use “**Justice**”, rather than “**Madam Justice**” or “**Mr. Justice**” when addressing a judge individually. When addressing more than one judge at a time, counsel should use “**Justices**” or when addressing the entire bench, counsel may also use “**This Court**”. When quoting another judge, use that judge’s appropriate title, e.g.: “Justice Doe” or “Justice Smith” for justices of provincial superior courts and courts of appeal, “Judge Doe” for judges of the provincial courts, and Chief Justice Doe for chief justices. Do NOT use “Doe J.” You may also refer directly to the court, e.g., “The Court in *Smith* held that the test for intent is subjective.”

1. When counsel are introducing themselves or another individual, they should provide the judge or justice with each person’s name, their preferred manner of address (e.g. “Mr./Ms./Mx./Counsel Jones”), pronouns to be used in the proceeding, and the party they represent. Counsel should ensure they are familiar with pronoun pronunciations.
2. Do not interrupt the judges while they are speaking, and always remain composed in your response. If they are asking a question, let them complete it first.
3. Use plain language. Think before you speak.
4. Address opposing counsel as your “**friend**”.
5. Dress in a professional manner – wear “court appropriate” attire such as dress pants and a dress shirt. Although a suit is not required, jeans or other casual attire will not be allowed in the Moot Court.
6. Pause and take time when responding to judges’ questions. Think before answering. If the question from the Judge takes you to a different part of your submissions, it is preferable to address the issue at the time the question is asked rather than telling the Judge that “you will deal with that issue later”.
7. Remember that you are an officer of the Moot Court and, as such, enjoy the confidence of the judges. In return for this professional privilege, you are expected to instruct the Moot Court fairly and honestly.
8. Suggested reading on written advocacy:
9. The Hon. Justice John Laskin, “Forget the Wind Up and Make the Pitch: Some Suggestions for Writing More Persuasive Factums,” Ontario Courts, Publications and Speeches, Archives, online: <www.ontariocourts.on.ca/coa/en/ps/speeches/forget.htm>.
10. Eugene Meehan, Q.C., “Strategic Legal Writing: Preparing Persuasive Documents,” Supreme Advocacy LLP, online: <http://www.supremeadvocacy.ca/en/strategic-legal-writing-preparing-persuasive-documents>.
11. The Hon. Justice Thomas A Cromwell, ed, *Effective Written Advocacy* (Aurora, Ont: Canada Law Book, 2008). Chapters 4, 5, 9, 10. Law Library Reference Room: KE265.C76 2008.

UBC Moot Court Registry

**IN THE SUPREME MOOT COURT OF THE**

**UNIVERSITY OF BRITISH COLUMBIA**

On appeal from [*court from which appeal is made*]

BETWEEN:

**[NAME OF APPELLANT]**

APPELLANT

AND:

**[NAME OF RESPONDENT]**

RESPONDENT

**[APPELLANT’S/RESPONDENT’S] FACTUM**

[LAST NAME, FIRST NAME] [LAST NAME, FIRST NAME]

[LAST NAME, FIRST NAME] [LAST NAME, FIRST NAME]

Counsel for the Appellant Counsel for the Respondent