



**THE UNIVERSITY OF SOUTHERN  
QUEENSLAND LAW SOCIETY  
CHAMPIONSHIP MOOT  
TOURNAMENT RULES**

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## **1. COMPETITION NAME**

**1.1** This Competition will be officially known as the University of Southern Queensland Law Society (USQLS) Championship Moot Tournament ('the Tournament').

**1.2** The Tournament Executive may publicize the Tournament under another appropriate title at their discretion.

## **2. COMPETITORS**

**2.1** By entering the Tournament, all competitors agree to be bound by the Tournament Rules outlined in this document and any relevant provisions of the USQLS Constitution.

**2.2** Each competitor must be either a financial member of the USQLS, enrolled in a University of Southern Queensland (USQ) degree which includes a Bachelor of Laws, Bachelor of Laws (Honours) or Juris Doctor component, Moot Court Bench (LAW3466) or pay a specified fee determined by the Tournament Executive to be eligible to enter the Tournament.

**2.3** Each competitor will compete in a team consisting of at least two (2) persons. Teams will at least consist of a senior counsel and a junior counsel. The team may also have an instructing solicitor present who will not be able to make oral submissions.

**2.4** Each competitor, competing as counsel, must have completed a minimum of four (4) LAW courses at University unless the Tournament Executive grant an exception.

**2.5** Competitors in their final semester of studies must have their final piece of assessment due after the commencement of the quarter finals of the Tournament.

**2.6** Competitors must register by the registration date as set by the Tournament Executive. Late registrations may be considered at the discretion of the Tournament Executive and will be assessed on a case-by-case basis.

## **3. COMPETITION STRUCTURE**

**3.1** The Tournament will be comprised of at least four (4) Rounds; a Preliminary round, a Quarter Final, a Semi-Final, and a Grand Final.

**3.1.1** Each moot will consist of at least two (2) sides (e.g. one (1) Appellant and one (1) Respondent, or any such title as specified within the relevant question.

**3.1.2** The Tournament Executive may determine that additional rounds will be held as required.

**3.2** The number of Rounds comprising the Tournament will be determined at the discretion of the Tournament Executive. This decision is to be made having regard to:

**3.2.1** The resources available to the Tournament Executive and the USQLS;

**3.2.2** The number of competitors expected;

**3.2.3** Relevant logistical challenges; and

**3.2.4** The general circumstances of the Tournament Executive and the USQLS.

#### **4. PROCEDURE**

**4.1** The draw of competitors (the Draw) will be conducted by the Tournament Executive following close of nominations.

**4.1.1** The allocation of competitors within the Draw will be made at random according to the requirements of each Tournament.

**4.1.1.1** The Tournament Executive reserves the right to create a draw allowing Moot Court Bench students to compete against each other in the preliminary rounds.

**4.1.2** The requirements of each Tournament will be determined by the USQLS in consultation with the Tournament Executive.

**4.1.3** All Teams will compete in the Preliminary rounds of the Tournament.

**4.1.4** Teams may not observe proceedings of a round until they have finished competing in that round.

**4.1.5** Teams will be randomly allocated to sides in each round.

**4.2** Progression of Teams to subsequent rounds

**4.2.1** The winning team of each moot will be the team with the greater number of points.

**4.2.2** The eight (8) Teams with the highest cumulative points for the Preliminary rounds will progress to the Quarter Finals round.

**4.2.3** Where a competitor chooses to withdraw after the Preliminary rounds, the competitor with the next highest points total will progress to the Quarter Finals round.

**4.2.4** The winning competitor of each moot, in the Quarter Finals round will progress to the Semi-Final round.

**4.2.5** The winning competitor of each moot, in the Semi-Final round will progress to the Grand Final.

**4.3** In the case of an uneven number of Teams, a three (3) way moot will be held in the Preliminary rounds.

**4.3.1** Three (3) Teams will be randomly allocated to moot one after the other.

**4.3.2** There may be two (2) Appellants and one (1) Respondent, or two (2) Respondents and one (1) Appellant.

**4.3.3** Where there are two Teams representing the same side, neither competitor may give their oral presentation in front of the other competitor.

**4.3.4** In a three (3) way moot, only one (1) competitor can be declared the winner, and this will be seen as winning against both other Teams.

**4.4** In the event that one (1) or more Teams withdraw from the competition, resulting in an uneven number of Teams, randomly allocated Teams will be matched in a three (3) way moot as outlined in Rule 4.3

#### **5. PROBLEM QUESTIONS**

**5.1** Release date of questions may be altered as deemed appropriate by the Tournament Executive.

**5.2** The Tournament Executive has the discretion to use the same problem question for the entirety of the Tournament.

**5.3** The Vice President Competitions reserves the right to alter the problem question after any round.

**5.3.1** The alteration of the question must be approved by the Tournament Executive.

**5.3.2** The Tournament Executive must release the altered question a minimum of seven (7) days prior to a moot.

**5.4** The Question for the Preliminary round will be released not less than twenty-eight (28) days prior to the first moots in the Preliminary round being held.

**5.5** The Question for the Quarter-Final round (if altered or different) will be released following the completion of the Preliminary round, but not less than fourteen (14) days prior to the first moots in the Quarter-Final round being held.

**5.6** The Question for the Semi-Final round (if altered or different) will be released following the completion of the Quarter Final round, but not less than fourteen (14) days prior to the first moots in the Semi-Final round being held.

**5.7** The Question for the Grand Final (if altered or different) will be released following the completion of the Semi-Final round.

**5.8** Questions may only be on the following areas of law:

**5.8.1** Contract Law;

**5.8.2** Tort Law;

**5.8.3** Criminal Law;

**5.8.4** Equity;

**5.8.5** Property/Land Law;

**5.8.6** Administrative Law;

**5.8.7** Commercial Law;

**5.8.8** Corporate Law;

**5.8.9** Competition and Consumer Law; and

**5.8.10** Federal Constitutional Law.

**5.9** Unless otherwise stated, all moots will be heard as if before the Supreme Court of Queensland. The jurisdiction to hear the case will be assumed.

**5.10** Every reasonable effort will be made to ensure that problems are constructed in a way that does not significantly disadvantage participants of any cohort.

**5.10.1** All problems will be constructed with a competitive view in mind.

**5.10.2** No right of appeal exists against the construction of any problem question within the tournament.

## **6. PREPARATION AND RESEARCH**

**6.1** All research and preparation for the moots must be conducted solely by teams.

**6.1.1** Teams may receive assistance from an approved mooting coach at the discretion of the Tournament Executive.

**6.1.2** All teams are eligible to attend approved moot coaching sessions arranged for the Tournament.

**6.1.3** All students enrolled in LAW3466 may receive assistance from the course lecturer.

**6.1.4** All assistance must be limited to the following:

**6.1.4.1** general instruction on the basic principles of relevant law;

**6.1.4.2** general advice on research sources and methods;

**6.1.4.3** general advice on memorandum writing techniques;

**6.1.4.4** general advice on oral advocacy techniques;

**6.1.4.5** general advice on the organisation and structure of arguments in the Teams' written and oral pleadings; and

**6.1.4.6** general commentary on the quality of the teams' legal and factual arguments.

**6.2** Any contravention of rule 6.1 may result in disqualification or a deduction of points at the discretion of the Tournament Executive.

**6.3** Procedural submissions must not be made during the moot.

**6.3.1** Objections from the Bar table will not be accepted and may be penalised.

**6.4** Research depth is the responsibility of each competitor – a material lists will not be distributed.

**6.4.1** However, where issues to be argued include legislation, this will specifically be referred to in the moot problem.

**6.4.2** Otherwise, arguments are to be limited to the common law.

## **7. WRITTEN SUBMISSIONS**

**7.1** Teams will be required to submit an Outline of Argument for each round of the Tournament.

**7.2** Outlines of Argument are to be drafted in accordance with Practice Direction Number 6 of 2004. The template in appendix one is to be followed. Each Outline of argument must include a competitor number, whether it is the respondent's or appellant's argument and must be signed at the bottom.

**7.3** Teams must send an electronic copy of their Outline of Argument to the Tournament Executive via email to [comps.usqls@gmail.com](mailto:comps.usqls@gmail.com) **48 Hours** prior to the beginning of each round

**7.4** Penalties may apply if Outlines of Argument are submitted late.

**7.5** The Outline of Argument must not exceed four (4) pages.

**7.6** Penalties may apply if the Outline of Argument exceeds four (4) pages.

**7.7** Teams must prepare a Bundle of Authorities as specified by the Rules and the Tournament Executive.

**7.7.1** The Bundle of Authorities is to be handed up to the judge at the beginning of senior counsels' submissions.

**7.7.2** The Bundle of Authorities must contain a copy of the decision being appealed and the grounds of appeal; the competitor's Outline of Argument and copies of all cases relied upon and extracts of any statutes relied upon.

**7.7.3** The Bundle of Authorities must be bound and include an index and all pages must be numbered.

**7.7.4** For students appearing via Zoom, the Bundle of Authorities must be emailed with their Outline of Arguments in accordance with rule 7.3.

**7.7.5** Rule 7.7.2 is subject to change at the discretion of the Tournament Executive.

**7.8** Penalties may apply if Bundles of Authority are not submitted in accordance with the rules.

**7.9.** The requirements of written submissions and materials to be relied upon may be altered at the discretion of the Tournament Executive

## **8. ORAL ARGUMENT**

**8.1** Each competitor will have fifteen (15) minutes to present their case (excluding time taken to give appearances).

**8.1.1** Each speaker will be allocated approximately fifteen (15) minutes to present their oral arguments.

**8.1.2** The time allocated to each speaker excludes time taken to give appearances however is inclusive of time taken to respond to questions from the Bench.

**8.1.3** Oral Arguments will be extended to twenty (20) for each competitor during the Semi Final and Grand Final (excluding time taken to give appearances).

**8.2** Judges may grant an extension of time of up to five (5) minutes per competitor.

**8.3** There will be no right of reply and penalties may apply if a competitor exceeds their allocated or extended time.

**8.3.1** A competitor must stop speaking when asked to do so by the Bench.

**8.4** Teams may appear and present their Oral Arguments via the video application Zoom.

**8.4.1** The onus of connection will be on the competitor 'Zooming' in.

**8.4.1.1** Any competitor approved to use Zoom must wear full court attire, follow all ordinary court procedures including; standing to speak, and must be in a quiet room and ensure they will be uninterrupted.

**8.4.2** Use of Zoom must be approved for each competitor by the Vice President Competitions no less than 3 days from the date of the competitor's allocated moot.

**8.4.3** In extraordinary circumstances the Vice President Competitions may allow Zoom with less than the required notice.

**8.4.4** In extraordinary circumstances Zoom can be requested to be used for the Tournament Grand Final. The use of Zoom in the Grand Final is discouraged and will be at the discretion of the Tournament Executive and subject to the availability of the required technology.

**8.4.5** Teams must request to participate via Zoom by emailing [comps.usqls@gmail.com](mailto:comps.usqls@gmail.com)

**8.5** Responsibility for timekeeping and adherence to allocated time periods and breaks rests with the judges.

**8.6** If resources and volunteers are available, Bailiffs and timekeeping devices may be provided and, in such cases, will be solely responsible for all timekeeping.

**8.7** Decisions by judges as to elapsed times are final and non-reviewable.

**8.8** While observation of the Tournament is encouraged, the potential for disruption must be minimized. Therefore, observers should not enter or leave the room whilst a competitor is speaking.

## **9. JUDGING**

**9.1** All judges must have suitable legal qualifications, or extensive relevant professional experience. Judges will be Judges, magistrates, legal practitioners, legal academics or others with demonstrated experience in judging mooted competitions.

**9.2** Judges will be provided with:

**9.2.1** The question for that round;

**9.2.2** The score sheet (see Appendix 2);

**9.2.3** The Outlines of Argument submitted by all Teams;

**9.2.4** A copy of the Tournament Rules; and

**9.2.5** A Marking guide.

**9.3** Judges will award each individual a mark out of one hundred (100). These marks will be allocated as follows:

Organisation of presentation	10 Marks
Development of argument	25 Marks
Questions from the Bench	20 Marks



Manner and expression	30 Marks
Written submissions	15 Marks
<b>TOTAL</b>	<b>100 Marks</b>

**9.4** Using the score sheet for each competitor will result in them receiving a mark out of one hundred (100).

**9.5** In the event of Teams being awarded the same score, judges are to award the round to the competitor with the best speaker; no draws are possible.

**9.6** Where there is more than one judge, judges will be asked to produce one (1) score sheet between them.

**9.7** Completed score sheets will be emailed to Teams at the conclusion of each round by the Vice President Competitions.

## **10. TOURNAMENT EXECUTIVE**

**10.1** This section establishes the Tournament Executive as the body responsible for the administration of the Tournament and interpretation of the Tournament Rules.

**10.2** The Tournament Executive shall not be affiliated with nor assist any competitor registered to take part in the Tournament.

**10.3** The Tournament Executive shall consist of three (3) members, who are to work in cooperation.

**10.3.1** The composition of the Tournament Executive shall be as follows:

**10.3.1.1** The USQLS Vice President Competitions;

**10.3.1.2** The USQLS Junior Moot Officer; and

**10.3.1.3** The Competitions Convener for the Junior Moot.

**10.4** The Competition Convener for the Championship will be the USQLS Championship Moot Officer. If the officer position is vacant then the Competitions Convener for a competition will be a financial member of the USQLS chosen at the discretion of the Vice President Competitions.

**10.5** The Tournament Executive will make decisions in accordance with its responsibilities and powers as outlined in the Rules.

**10.6** The decisions of the Tournament Executive regarding the interpretation of the Rules will be final.

## **11. FORFEITURE**

**11.1** Any competitor that forfeits will be deemed to have lost that moot. The competitor forfeiting the round will be deemed to have a mark of zero for that round.

**11.2** Any competitor whose opponent forfeits a round will be deemed to have won that moot. The Teams' margin will be the average of their margins from other rounds.

**11.3** Any competitor which forfeits will be excluded from progressing to the final rounds.

**11.4** A forfeit will be considered to have occurred where a competitor withdraws after the deadline for written submissions in Rule 7.3 has passed. Any withdrawal before that time will trigger a three (3) way moot in accordance with Rule 4.3.

## **12. PRIZES**

**12.1** There will be three (3) prizes awarded in the Grand Final of the Tournament.

**12.2** The Tournament Champion Prize will be awarded to the winning competitor in the Grand Final (being the competitor awarded the most points according to the score sheet in Appendix 2).

**12.2.1** The Tournament Champion Prize will be the sum of \$1,000.00.

**12.3** The Tournament Runner-up Prize will be awarded to the losing competitor in the Grand Final (being the competitor awarded the least points according to the score sheet in Appendix 2).

**12.3.1** The Tournament Runner-up Prize will be the sum of \$500.00

**12.4** The Best Advocate Award will be awarded to the individual competitor in the Grand Final with the highest cumulative score for all rounds of the competition under the following headings from the score sheet in Appendix 2: Development of Argument; Questions from the Bench; and Manner and Expression.

**12.4.1** The Best Advocate Award will be the sum of \$500.00.

**12.4.2** In the event of a tied score between Teams the Teams will share the prize equally.

## **13. APPENDICES**

### **APPENDIX 1: Outline of Argument Guide**

**PRACTICE DIRECTION NUMBER 6 OF 2004 SUPREME COURT OF QUEENSLAND**

**Outline of Argument**

1. Practitioners are to provide written outlines of argument in all contested and ex parte hearings before a Judge or Registrar (including, where practicable, bail applications) in the applications jurisdiction.
2. An outline should:
  - (a) provide a concise summary of the argument, in point form;
  - (b) identify relevant authorities and legislative provisions;
  - (c) usually not exceed four pages; and
  - (d) attach a chronology where appropriate.
3. For the purposes of this competition the outline must:
  - (a) contain the competitor number;
  - (b) state whether it is the appellant or respondent's argument;
  - (c) Be signed by the competitor – electronic signature is acceptable; and
  - (d) Be sent as a pdf file named like this: **Competitor 1 Respondent Submission.pdf**.

**EXAMPLE OUTLINE OF ARGUMENT:**

**SUPREME COURT OF QUEENSLAND**

REGISTRY: USQ Law Society

COMPETITOR NUMBER: 1

Plaintiff/Respondent:	<b>PAUL SMITH</b>
	<b>AND</b>
Defendant/Appellant:	<b>ALAN JONES</b>

**RESPONDENT'S OUTLINE OF ARGUMENT**

***1. New cause of action does not relate to 'real issues in the civil proceedings' (# Speaker)***

- 1.1 The Respondent acknowledges that Rule 5 of the *Uniform Civil Procedure Rules 1999* (Qld) ('UCPR') outlines the purpose of the Rules to be 'to facilitate the just and expeditious resolution of the real issues in civil proceedings'.
- 1.2 The Respondent submits that leave to file the amendments pursuant to Rule 380 of the UCPR should not be granted as the amendments for which the Applicant seeks leave do not facilitate the purpose of the rules as they do not relate to the 'real issues'.
- 1.3 In order for the amendments to relate to the real issues in the proceeding, they must be determinative of the matter in dispute, as stated by the High Court in *Aon Risk Services Australia Limited v Australian National University* (2009) 239 CLR 175 at paragraphs [71] – [72] (hereinafter referred to as '*Aon v ANU*').
- 1.4 In *Draney v Barry* [2002] 1 Qd R 145, the Queensland Court of Appeal held that the facts which establish a new cause of action must be substantially the same facts as those in contention when the Court is asked to add a new cause of action pursuant to its general power to amend under Rule 375 of the UCPR.
- 1.5 The Respondent submits that the facts supporting the Applicant's amended pleadings are not substantially the same as those in the original proceeding and amount to the addition of new issues not previously agitated between the parties, and as such leave should be refused as stated by the High Court in *Aon v ANU* at paragraph [72].

- 1.6 The Respondent submits that the distinction between the original proceeding and the amended pleadings, as stated in *Hartnett v Hynes* [2009] QSC 225 at paragraph [24] (citing McMurdo J in *Borsato v Campbell* [2006] QSC 191 at paragraph [8]), should be applied in this instance.
- 1.7 The Respondent acknowledges the decision in *Hartnett v Hynes* [2010] QCA 65, but submits that a distinction should be drawn on its determination of the proceedings below in *Hartnett v Hynes* [2009] QSC 225.
- 1.8 The Respondent submits that leave to amend should not be granted to allow arguable issues to be tried when granting leave would force vacation of the trial date: *Sagacious Legal Pty Ltd v Wesfarmers General Insurance Ltd (No 2)* [2010] FCA 275. Leave to amend should not be granted to allow arguable issues where amendment would substantially increase the length, cost, and complexity of proceedings, especially due to the late introduction of substantial new issues: *Pacific Exchange Corporation Pty Ltd v Federal Commissioner for Taxation* (2009) 180 FCR 300.
- 1.9 The Respondent submits that cases where leave has been granted further illustrate that the Courts have not been inclined to allow significant additions, but merely corrections and clarifications: *Gerard Cassegrain & Co Pty Ltd v Cassegrain* [2010] NSWSC 91; *Scantech Ltd v Asbury* [2009] FCA 1480.

## ***2. Insufficient explanation for delay in amending pleadings (# Speaker)***

- 2.1 A sufficient explanation must be given where a party has had sufficient opportunity to plead their case and a late amendment of the case has been made, as stated by the joint judgment of the High Court in *Aon v ANU* at paragraphs [101] – [106].
- 2.2 The Respondent submits that the Applicant has failed to provide a sufficient explanation of their delay of some months between discovering the breach of contract alleged and the making the relevant amendment of pleadings.
- 2.3 Unexplained delay at this late stage may amount to a breach of the implied undertaking in Rule 5(3) of the UCPR, as stated by Applegarth J in *Hartnett v Hynes* [2009] QSC 225.

## ***3. Prejudice that granting leave to amend would cause the Respondent (# Speaker)***

- 3.1 The Respondent submits that granting leave to amend the pleadings would be prejudicial to the Respondent as the amendments are so substantial that they would require the Respondent to defend again, in effect, as stated by the High Court in *Aon v ANU* at paragraph [104].

- 3.2 The Respondent submits that in circumstances apposite to those in the present matter allowing the late introduction of substantial new issues would tend to prejudice the Respondent, as stated in *Ginger Roger Pty Ltd v Parrella Enterprises Pty Ltd (No 2)* [2010] FCA 128.
- 3.3 As a personal litigant, the Respondent would be more significantly impacted by the prejudice of the delay to his claim as stated in *Aon v ANU* at paragraph [101] (citing *Ketteman v Hansel Properties Ltd* [1987] AC 189).
4. The application for leave to amend the Notice of Intention to Defend and Defence should be refused.

*Signed:* \_\_\_\_\_

*Counsel for the Respondent*

## Appendix 2: Score Sheet



### USQ Law Society Championship Moot Tournament

#### Competitor Score Sheet

<b>Judge</b>	
<b>Case</b>	<i>THE QUEEN V MIKAELA WILLIAMS</i>
<b>Date</b>	
<b>Location</b>	
<b>Competitor Name</b>	
<b>Counsel for Appellant or Respondent</b>	
Organisation of Presentation	/ 10
Development of Argument	/ 25
Questions from the Bench	/ 20
Manner and Expression	/ 30
Written Submissions	/ 15
<b>Speaker Total</b>	<b>/ 100</b>

<b>Organisation of Presentation</b> Factors: logical organisation and structure; concise overview of submissions and conclusion; appropriate attention and weight given to some arguments over others; flexibility despite being taken off-topic	<b>/ 10</b>

<b>Development of Argument</b> Factors: Understanding of the law and issues; logical; persuasive, arguments; pinpoint citation of authorities; appropriate use of policy arguments	<b>/ 25</b>

<b>Questions from the Bench</b> Factors: Prepared for questions that can be anticipated; clear, concise, and direct responses; engagement with the court's views; composure and courtesy despite challenges to arguments; effective integration of responses with arguments; adept treatment of irrelevant questions; ability to deal with difficult and obscure questions.	<b>/ 20</b>



<p><b>Manner and Expression</b></p> <p>Factors: Engages with the court; projects voice; articulates submissions with eloquence; use of clear and simple language; displays confidence without arrogance; eye-contact with members of the bench; courteous and formal; correct citation of cases; appropriate use of courtroom formalities; consistent style and manner.</p>	<p><b>/ 30</b></p>

<p><b>Written Submissions</b></p> <p>Factors: Coverage of all issues raised in the case; well-structured; clear, concise, and reasoned expression; supported by authorities with pinpoint citations; free from grammatical, spelling, or punctuation errors; consistent with oral submissions</p>	<p><b>/ 15</b></p>

