



# **AUSTRALIAN LAW STUDENTS' ASSOCIATION**

## **WITNESS EXAMINATION CHAMPIONSHIP RULES**

ALSA CONFERENCE

April 2009

## 1. COMPETITORS

- 1.1 Each law school in Australia whose Law Student Society is affiliated with ALSA may nominate one competitor to compete in the championship.
- 1.2 Any international law school may at ALSA's invitation nominate a competitor to compete in the championship.
- 1.3 The nominated competitor is the sole competitor for that law school in the championship.
- 1.4 Team members must not have completed a law degree or equivalent qualification for legal practice in any jurisdiction.
- 1.5 Competitors must register by the registration date as set by the Conference Convenor and ALSA President. Penalties apply for late registration.

## 2. COMPETITION STRUCTURE

- 2.1 The championship consists of three preliminary rounds, quarter finals, semi finals and a grand final.
- 2.2 Preliminary Round Procedures
  - 2.2.1 In the event that an even number of competitors enter the Witness Examination championship, all competitors compete in the three preliminary rounds held at nominated times.
  - 2.2.2 If an odd number of teams enter the Championship, one bye per round is declared. The bye is allocated randomly. A competitor with a bye will be awarded the average mark scored by that competitor in the other rounds for the bye. A bye will not count for or against.
  - 2.2.3 At the end of the preliminary rounds, each competitor's score is totalled and their win/loss ratio calculated.
  - 2.2.4 The eight competitors with the highest win-loss ratio will progress to the quarter-finals.
  - 2.2.5 In the event that two competitors only have tied win-loss ratios, and the two teams have faced each other in the preliminary rounds, then the winner of that round shall proceed to the quarter-finals.
  - 2.2.6 If the two teams referred to in 2.2.5 have not faced each other, or there are more than two teams with tied win-loss ratios, the team or teams will progress to the quarter-finals on the basis of the highest average winning margin as a proportion of the highest score. A team's 'average winning margin as a proportion of the highest score' is to be calculated by, for each trial, dividing the margin (positive for winning margin, negative for losing margin) by the highest score in that trial, and multiplying by 100.
  - 2.2.7 If the teams remained tied, the teams will progress based on a coin toss conducted by the Competitions Director.

## 2.3 Finals Procedures

2.3.1 The draw for the quarter finals is as follows (where Team One is the highest placed team and Team Eight is the lowest placed team):

<b>Round</b>	<b>Team</b>	<b>v</b>	<b>Team</b>
<b>A</b>	One		Eight
<b>B</b>	Two		Seven
<b>C</b>	Three		Six
<b>D</b>	Four		Five

Competitors will be allocated to sides by random draw.

2.3.2 The winner of each quarter-final progress to the semi-finals.

2.3.3 The draw in the semi finals is:

- The winner of Round A versus the winner of Round D.
- The winner of Round B versus the winner of Round C.

Competitors will be allocated to sides by random draw.

2.3.4 The winner of each semi-final progress to the grand final.

2.3.5 Semi and Grand finalists are notified on the day that the previous round takes place.

2.3.6 The competitor with the highest score in the grand final is the Witness Examination overall winner.

2.4 The winner is announced at the Closing Dinner.

## 3. **RELEASE OF QUESTIONS**

### 3.1 Release of Questions

3.1.1 Competitors will receive their materials 90 minutes before the commencement of the judging. The allocation of that time will be as follows:

- 3.1.1.1 60 minutes to review the problem; and
- 3.1.1.2 30 minutes to interview the relevant witness.

3.1.2 Materials given to competitors will consist of:

- 3.1.2.1 The statement of their witness;
- 3.1.2.2 The statement of the opponent's witness;
- 3.1.2.3 The relevant section of any Act(s).

- 3.2 All questions, regardless of whether in a preliminary or final round, may be based on either criminal or civil law trials.

#### **4. PREPARATION OF ARGUMENTS**

- 4.1 Competitors must not discuss the contents of the trial with any person other than their witness.
  - 4.1.1 Competitors and witnesses are not permitted to use or carry mobile phones during the preparation or the judging of the round.
- 4.2 Competitors may avail themselves of any legal resources at their grasp, but must not communicate with any person once they have received their materials for the round.
- 4.3 Any infringement of the above rules will result in automatic disqualification.
  - 4.3.1 In the event that a mistrial is caused in this manner, the opposing competitor will be permitted to continue the round for the purposes of points allocation.
- 4.4 The applicable law for the championship (including the rules of evidence) is that of the jurisdiction in which the Conference is held.

#### **5. JUDGING**

- 5.1 Every effort must be made by the Competition organisers and competitors to ensure that Judges are unaware of which University competitors are from until after they have judged that particular competition.
- 5.2 All rounds will be heard by a single judge.
- 5.3 Judges will be judges, magistrates, legal practitioners, legal academics or others with a demonstrated experience in judging witness examination competitions and preferably with experience in courtroom advocacy as well.
- 5.4 Judges will be briefed on the issues in the question and the rules of the competition.
- 5.5 The marks are allocated according to the marking sheet found annexed to these rules.
- 5.6 At the completion of each round the judge must not disclose the results to the competitors. Marking sheets are to be handed directly to the championship co-ordinator or the appropriately appointed person(s).
- 5.7 Where a faculty adviser is serving as a judge, he or she may not judge a round containing a competitor from that adviser's school.

#### **6. PENALTIES**

- 6.1 The following penalties apply:
  - 6.1.1 Late registration for the championship: 2% reduction of total marks for each day late in each round of the championship.

6.1.2 Exceeding time limits without judge's permission: 1 marks for every 20 seconds (or part thereof).

6.2 Judges do not have the discretion to dispense with the penalty of 6.1.1.

6.3 Judges do have the discretion to let competitors go up to 3 minutes overtime without penalty provided the competitor seeks permission.

6.4 A competitor must stop speaking when asked to do so by the judge.

6.5 Judges shall not be notified of the application of any of these penalties at any time.

## 7. APPEALS

7.1 Appeals will be dealt with in accordance with the Appeal Procedures bylaw.

## 8. WITNESSES

8.1 Witnesses are to be supplied by the Conference Team.

8.2 Witnesses in a trial must not be from either competitor's University.

8.3 Where trials in one round are not scheduled simultaneously, witnesses from a University must not be present in trials scheduled at a time before the trial that their University is scheduled to compete in.

8.4 The witnesses receive their materials 1 hour before the commencement of the round, thus allowing:

8.4.1 30 minutes to review the problem; and

8.4.2 30 minutes of being privately interviewed by their own counsel.

8.5 Witnesses are advised that their 'performance' commences as soon as they step into the meeting with their counsel. It is up to the competitor to suggest how that character be highlighted/toned down, as best suits the case on hand.

## 9. THE WITNESS EXAMINATIONS

9.1 There is one prosecutor or counsel for the plaintiff and one counsel for the accused or defendant.

9.2 Competitors are randomly allocated sides.

9.3 The witness examination will proceed as follows:

	<b>Preliminary Rounds</b>	<b>Finals</b>
Opening by prosecution	2 mins	2 mins
Examination in chief by the prosecution	10 mins	15 mins
Cross-examination by the defence	15 mins	25 mins
Opening by the defence	2 mins	2 mins

Examination in chief by the defence	10 mins	15 mins
Cross-examination by the prosecution	15 mins	25 mins
Summation by the defence	3 mins	3 mins
Summation by the prosecution	3 mins	3 mins

- 9.4 The times for both examination in chief and cross-examination are monitored by a timekeeper or the presiding judge and there will be a notification at one minute before the end of the relevant period, and another notification at the end of the relevant period, as specified above.
- 9.5 At the end of the summation by the prosecution, counsel for the defence may seek permission from the judge to draw attention to contraventions of the rule in *Browne v Dunn* or misstatements of evidence or law in the summation by the prosecution. If granted, counsel for the defence may speak for only one minute, unless an extension pursuant to rule 6.3 is granted. Counsel for the defence may only respond to the summation by the prosecution.
- 9.6 Counsel must give appearances.
- 9.7 The swearing of the oath for witnesses is dispensed with.
- 9.8 Counsel may object and must state the grounds for objection. The clock will be stopped during any objections. The judge should ordinarily invite opposing counsel to respond to the objection.
- 9.9 No re-examination will be allowed.
- 9.10 Counsel will not robe.

# Appendix One

## WITNESS EXAMINATION COMPETITION

### EXAMPLE TIME SHEET

**Qualifying Rounds**

**Counsel's Name:**

	TIME PERMITTED	TIME TAKEN	POINTS LOST
Opening by the Prosecution	<b>2 minutes</b>		
Examination in Chief by the Prosecution	<b>10 minutes. Bell after 9 minutes</b>		
Cross Examination by the defence	<b>15 minutes. Bell after 14 minutes</b>		
Opening by the defence	<b>2 minutes</b>		
Examination in chief by the defence	<b>10 minutes. Bell after 9 minutes</b>		
Cross examination by the prosecution	<b>15 minutes. Bell after 14 minutes.</b>		
Summation by the defence	<b>3 minutes</b>		
Summation by the prosecution	<b>3 minutes</b>		

# WITNESS EXAMINATION COMPETITION

## EXAMPLE TIME SHEET

### Finals

**Counsel's Name:**

	TIME PERMITTED	TIME TAKEN	POINTS LOST
Opening by the Prosecution	<b>2 minutes</b>		
Examination in Chief by the Prosecution	<b>15 minutes. Bell after 14 minutes</b>		
Cross Examination by the defence	<b>25 minutes. Bell after 24 minutes</b>		
Opening by the defence	<b>2 minutes</b>		
Examination in chief by the defence	<b>15 minutes. Bell after 14 minutes</b>		
Cross examination by the prosecution	<b>25 minutes. Bell after 24 minutes</b>		
Summation by the defence	<b>3 minutes</b>		
Summation by the prosecution	<b>3 minutes</b>		

# ALSA WITNESS EXAMINATION



## PRELIMINARY ROUNDS

<b>JUDGE</b>		
<b>CASE</b>	<b>R v</b>	
<b>DATE &amp; COURT</b>		
<b>COUNSEL FOR THE PROSECUTION</b>		
<b>SCORES</b>	Opening Address	/10
	Examination-in-Chief	/25
	Cross-Examination	/25
	Closing Address	/10
	Manner and Expression	/20
	Case Theory	/10
<b>COMMENT:</b>	<b>TOTAL</b>	<b>100</b>

Please mark all criteria and remember the emphasis is on the *difference in points*. A draw is not possible. Do not announce the scores or the results. Please return the score sheets directly to the coordinators.

<b>OPENING ADDRESS</b> 2 MINUTES Factors: logical structure; clear expression; clarity; confidence; brevity; identification of issues and their significance; outlines case theory; paints a picture of the fact scenario.	<b>10</b>

<b>EXAMINATION-IN-CHIEF</b> 10 MINUTES Factors: short, clear, non-leading questions; leads where appropriate; facts elicited efficiently and effectively; engages with witness and witness' answers; avoids objectionable questions; argues objections according to principles of Evidence law (statute and common law).	<b>25</b>

<p><b>CROSS-EXAMINATION</b> 15 MINUTES</p> <p>Factors: clear, succinct, leading questions; advances own case; probes character and attitude of witness; engages with witness and witness' answers (including from examination-in-chief); avoids objectionable questions; argues objections according to principles of Evidence law (statute and common law).</p>	<p><b>25</b></p>
<p>BREAK BEFORE SUMMATION 3 MINUTES</p>	
<p><b>CLOSING ADDRESS</b> 3 MINUTES</p> <p>Factors: logical structure; clear expression; clarity; confidence; brevity; identification of issues and their significance; encapsulates case theory; draws on oral evidence to further case theory and arguments.</p>	<p><b>10</b></p>
<p><b>MANNER AND EXPRESSION</b></p> <p>Factors: engages well with the court; projects voice; articulates submissions with eloquence and enunciation; deals with interventions with ease and skill; uses inference where appropriate; speaks with consistent style and manner; demonstrates sophisticated understanding of Evidence law (statute and common law).</p>	<p><b>20</b></p>
<p><b>CASE THEORY</b></p> <p>Factors: appropriateness of case theory to the facts; potential to improve case theory; effectiveness in eliciting evidence to support case theory; simplicity and logic of case theory.</p>	<p><b>10</b></p>

# ALSA WITNESS EXAMINATION



PRELIMINARY ROUNDS

<b>JUDGE</b>		
<b>CASE</b>	<b>R v</b>	
<b>DATE &amp; COURT</b>		
<b>COUNSEL FOR THE DEFENCE</b>		
<b>SCORES</b>	Cross-Examination	/25
	Opening Address	/10
	Examination-in Chief	/25
	Closing Address	/10
	Manner and Expression	/20
	Case Theory	/10
<b>COMMENT:</b>	<b>TOTAL</b>	<b>100</b>

Please mark all criteria and remember the emphasis is on the *difference in points*. A draw is not possible. Do not announce the scores or the results. Please return the score sheets directly to the coordinators.

<b>CROSS-EXAMINATION</b> 15 MINUTES Factors: clear, succinct, leading questions; advances own case; probes character and attitude of witness; engages with witness and witness' answers (including from examination-in-chief); avoids objectionable questions; argues objections according to principles of Evidence law (statute and common law).	<b>25</b>

<b>OPENING ADDRESS</b> 2 MINUTES Factors: logical structure; clear expression; clarity; confidence; brevity; identification of issues and their significance; outlines case theory; paints a picture of the fact scenario.	<b>10</b>

**EXAMINATION-IN-CHIEF**

10 MINUTES

Factors: short, clear, non-leading questions; leads where appropriate; facts elicited efficiently and effectively; engages with witness and witness' answers; avoids objectionable questions; argues objections according to principles of Evidence law (statute and common law).

**25**

BREAK BEFORE SUMMATION 3 MINUTES

**CLOSING ADDRESS** 3 MINUTES

Factors: logical structure; clear expression; clarity; confidence; brevity; identification of issues and their significance; encapsulates case theory; draws on oral evidence to further case theory and arguments.

**10**

**MANNER AND EXPRESSION**

Factors: engages well with the court; projects voice; articulates submissions with eloquence and enunciation; deals with interventions with ease and skill; uses inference where appropriate; speaks with consistent style and manner; demonstrates sophisticated understanding of Evidence law (statute and common law).

**20**

**CASE THEORY**

Factors: appropriateness of case theory to the facts; potential to improve case theory; effectiveness in eliciting evidence to support case theory; simplicity and logic of case theory.

**10**

# ALSA WITNESS EXAMINATION



FINAL ROUNDS

<b>JUDGE</b>		
<b>CASE</b>	<b>R v</b>	
<b>DATE &amp; COURT</b>		
<b>COUNSEL FOR THE PROSECUTION</b>		
<b>SCORES</b>	Opening Address	/10
	Examination-in-Chief	/25
	Cross-Examination	/25
	Closing Address	/10
	Manner and Expression	/20
	Case Theory	/10
<b>TOTAL</b>	<b>100</b>	

Please mark all criteria and remember the emphasis is on the *difference in points*. A draw is not possible. Do not announce the scores or the results. Please return the score sheets directly to the coordinators.

<p><b>OPENING ADDRESS</b> 2 MINUTES</p> <p>Factors: logical structure; clear expression; clarity; confidence; brevity; identification of issues and their significance; outlines case theory; paints a picture of the fact scenario.</p>	<b>10</b>

<p><b>EXAMINATION-IN-CHIEF</b> 15 MINUTES</p> <p>Factors: short, clear, non-leading questions; leads where appropriate; facts elicited efficiently and effectively; engages with witness and witness' answers; avoids objectionable questions; argues objections according to principles of Evidence law (statute and common law).</p>	<b>25</b>

**CROSS-EXAMINATION**

25 MINUTES

Factors: clear, succinct, leading questions; advances own case; probes character and attitude of witness; engages with witness and witness' answers (including from examination-in-chief); avoids objectionable questions; argues objections according to principles of Evidence law (statute and common law).

**25**

BREAK BEFORE SUMMATION

3 MINUTES

**CLOSING ADDRESS** 3 MINUTES

Factors: logical structure; clear expression; clarity; confidence; brevity; identification of issues and their significance; encapsulates case theory; draws on oral evidence to further case theory and arguments.

**10****MANNER AND EXPRESSION**

Factors: engages well with the court; projects voice; articulates submissions with eloquence and enunciation; deals with interventions with ease and skill; uses inference where appropriate; speaks with consistent style and manner; demonstrates sophisticated understanding of Evidence law (statute and common law).

**20****CASE THEORY**

Factors: appropriateness of case theory to the facts; potential to improve case theory; effectiveness in eliciting evidence to support case theory; simplicity and logic of case theory.

**10**

# ALSA WITNESS EXAMINATION



FINAL ROUNDS

<b>JUDGE</b>		
<b>CASE</b>	<b>R v</b>	
<b>DATE &amp; COURT</b>		
<b>COUNSEL FOR THE DEFENCE</b>		
<b>SCORES</b>	Cross-Examination	/25
	Opening Address	/10
	Examination-in Chief	/25
	Closing Address	/10
	Manner and Expression	/20
	Case Theory	/10
<b>TOTAL</b>	<b>100</b>	

Please mark all criteria and remember the emphasis is on the *difference in points*. A draw is not possible. Do not announce the scores or the results. Please return the score sheets directly to the coordinators.

<b>CROSS-EXAMINATION</b>	25 MINUTES	<b>25</b>
Factors: clear, succinct, leading questions; advances own case; probes character and attitude of witness; engages with witness and witness' answers (including from examination-in-chief); avoids objectionable questions; argues objections according to principles of Evidence law (statute and common law).		

<b>OPENING ADDRESS</b>	2 MINUTES	<b>10</b>
Factors: logical structure; clear expression; clarity; confidence; brevity; identification of issues and their significance; outlines case theory; paints a picture of the fact scenario.		

**EXAMINATION-IN-CHIEF**

15 MINUTES

Factors: short, clear, non-leading questions; leads where appropriate; facts elicited efficiently and effectively; engages with witness and witness' answers; avoids objectionable questions; argues objections according to principles of Evidence law (statute and common law).

**25**

BREAK BEFORE SUMMATION 3 MINUTES

**CLOSING ADDRESS** 3 MINUTES

Factors: logical structure; clear expression; clarity; confidence; brevity; identification of issues and their significance; encapsulates case theory; draws on oral evidence to further case theory and arguments.

**10****MANNER AND EXPRESSION**

Factors: engages well with the court; projects voice; articulates submissions with eloquence and enunciation; deals with interventions with ease and skill; uses inference where appropriate; speaks with consistent style and manner; demonstrates sophisticated understanding of Evidence law (statute and common law).

**20****CASE THEORY**

Factors: appropriateness of case theory to the facts; potential to improve case theory; effectiveness in eliciting evidence to support case theory; simplicity and logic of case theory.

**10**