

# Forty-Sixth Annual Irving R. Kaufman Memorial Securities Law Moot Court Competition

*Kaufman Editor*  
Erin Guiltinan

*Editor-in-Chief*  
Ashley Slater

*Interschool Editor*  
Victoria Cappucci

*Managing Editor*  
Jack Sullivan

---

---

## OFFICIAL RULES OF THE COMPETITION

---

---

### I. INTRODUCTION

The Irving R. Kaufman Memorial Securities Law Moot Court Competition (the “Competition”) is prepared and organized annually by the Fordham Moot Court Board (“FMCB”) of Fordham University School of Law. The Competition is held in honor of the late Irving R. Kaufman, a Fordham College and Fordham Law alumnus and former Chief Judge of the United States Court of Appeals for the Second Circuit.

### II. COMPETITION LOCATION AND DATES

The Competition will take place from **March 12–14, 2021**. The Competition will take place virtually. All competitors will compete on a virtual video platform.

### III. REGISTRATION

<i>Registration Period</i>	<i>Dates</i> (all periods start and end at 5:00 p.m. EST)	<i>Registration Fee</i>
Early Registration	October 12 – November 9	\$550
Final Registration	November 9 – December 7	\$600

To properly register, each school must submit *in the following order*:

- (1) payment via the Online Portal, and
- (2) the Registration Form.

Both items are available on the Kaufman webpage at [law.fordham.edu/kaufman](http://law.fordham.edu/kaufman). To match your team's payment and registration form, the Buyer listed on the Online Portal should match the Principal Contact, i.e. your team's coach, on the Registration Form. The registration fee is nonrefundable unless FMCB is unable to confirm registration.

### IV. COMPETITION MATERIALS

FMCB will provide the Problem (the “Problem”), the Official Rules of the Competition (the “Rules”), and any other necessary Competition materials to all registered teams. The Rules govern substantive and procedural matters related to the Competition. The Problem will contain a mock circuit court opinion and will serve as the substantive basis for Competition briefs and oral arguments.

The Problem is copyrighted material. By registering for the Competition, each team agrees not to use the Problem, the Rules, or any other materials provided by FMCB for any purpose other than to compete in the Competition.

**Please note that the Problem is frozen in time as of December 31, 2020.**

Citation in the brief or in oral argument to case law, statutory provisions, regulatory provisions, rules published by self-regulatory agencies, or any other release or publication that may be deemed to carry the force of law (together, “Time-Restricted Authorities”) that is dated after December 31, 2020 will result in the assessment of a penalty. (See Section IX.E). Citation to other materials dated after December 31, 2020, is permitted, provided that citation to such materials is not intended to circumvent the prohibition on the use of Time-Restricted Authorities. FMCB, in its sole and absolute discretion, shall determine whether citation to materials dated after December 31, 2020 constitutes citation to a Time-Restricted Authority.

## **V. TEAMS**

### **A. Number and Composition of the Teams**

Each participating school may register one (1) team consisting of two (2) or three (3) members. All team members must be fully enrolled day or evening students in good standing at their law school at both the time of registration and the Competition. All team members must participate in oral argument in the Competition.

Schools should express their interest in registering a second team on the Registration Form. FMCB will follow up with interested schools should availability allow, though in no case shall a member compete on multiple teams.

### **B. Identification of Teams**

FMCB will assign a Team ID to every team. The Team ID will be used to identify each team without indicating which law school the team represents.

### **C. Substitution of Team Members**

Substitution of team members after February 8, 2021 is not permitted absent extreme hardship. Any changes prior must be reflected by updating your Registration Form.

## **VI. BRIEFS**

### A. Assignment of Sides

FMCB will randomly assign each team as Counsel for the Petitioner or Counsel for the Respondent for the purpose of preparing the brief. These assignments will be made when the Problem is distributed to teams on **January 11, 2021**. Teams are required to prepare the brief for the side to which they have been assigned. Failure to do so will result in the assessment of a penalty. (See Section IX.E).

### B. Length and Form

The format of the brief shall comply with the Rules of the Supreme Court of the United States, modified and expressed as the following:

- Briefs may not exceed thirty (30) pages, exclusive of the cover sheet, table of contents, table of authorities, questions presented, and any appendices from this page limit. Any partially filled page shall be deemed a full page.
- Briefs shall not contain sections related to opinions below, jurisdiction, or certificate of service.
- Paper size shall be eight and one-half by eleven inches (8.5 in. x 11 in.), with one-inch margins on all sides (though Team IDs and page numbers may be outside this margin).
- Text must be aligned left, double-spaced, and in Bookman Old Style, 12-point font. Footnotes may be single-spaced.
- All citations must comply with the 21<sup>st</sup> Edition of *The Bluebook: A Uniform System of Citation*.

Any violation of the above will result in the assessment of a penalty. (See Section IX.E).

### C. Cover Sheet and Indication of Authorship

Teams preparing the Petitioner's brief must use a blue cover. Teams preparing the Respondent's brief must use a red cover. Teams must put their Team ID on the upper right hand corner of all pages of all copies of the brief, including the cover sheet.

The purpose of the Team ID is to ensure impartiality on the part of Competition Judges. Accordingly, **teams may not sign the brief or otherwise indicate authorship, either with respect to the persons writing the brief or with respect to the law school those persons represent.**

Any violation of the above will result in the assessment of a penalty. (See Section IX.E).

### D. Service of Briefs

### 1. *Briefs to the Competition*

Each team must submit **one (1) electronic copy** of the brief **by 5:00 p.m. EST, February 8, 2021** via the Dropbox link on the Kaufman webpage.

Files should be appropriately labeled with your team number in the title of the PDF, e.g. “P01 Brief.pdf” or “R12 Brief.pdf.”

When submitting the file, Dropbox will request your First Name, Last Name, and Email. Please write “P” or “R” for First Name, your corresponding number for Last Name, and “*YourTeamNumber@fordham.edu*” for Email.

For example, if your team number is P08, please list “P” for First Name, “08” for Last Name, and “P08@fordham.edu” for Email.

Note that you will *not* be able to see your submission once you submit. Please screenshot or print a copy of the screen for your personal records should there be any issues.

### 2. *Briefs Available for Download*

All briefs will be posted and available for download on the Kaufman Competition website by **5:00 p.m. EST on March 8, 2021**.

### 3. *Penalties*

Any violation of the above will result in the assessment of a penalty. (See Section IX.E).

#### E. Certification of Briefs

Each team must also submit the following certification statement as part of the brief:

[Competitor Names] of [Law School Name] hereby certify that the enclosed briefs are entirely our own work. We at no time sought or utilized the help of any other person. To the best of our knowledge, we are in compliance with the Rules.

This statement may be electronically signed by inserting /s/ in each signature block.

## **VII. ORAL ARGUMENTS**

### A. Time, Place, and Length of Oral Arguments

The following is a tentative breakdown of the oral argument rounds. More information (including links for the virtual platform) will be made available in advance of and during the Competition.

<i>Date</i>	<i>Morning</i>	<i>Afternoon</i>
Friday, March 12, 2021	Preliminaries	Preliminaries
Saturday, March 13, 2021	Quarterfinals	Semifinals
Sunday, March 14, 2021		Finals

Oral arguments will take place on a virtual platform. Two (2) team members will argue in each round. Only the two (2) team members arguing in the round may have their videos turned on. More detailed guidelines will be provided prior to the competition. Specifics of the argument are as follows:

- Teams have a maximum of thirty (30) minutes to present its oral argument, which may be allocated between arguing team members as they see fit.
- Petitioners may reserve up to five (5) minutes, in full-minute increments, for use as rebuttal time, and may allocate the remaining time between each team member. Only one (1) team member may argue on rebuttal and he or she must be prepared to answer questions from the bench on both issues.
- Judges may allow additional time for any team at their discretion.

#### B. Preliminary Rounds

Every team will argue in three (3) Preliminary Rounds. Each team will argue at least once as Petitioner’s counsel and at least once as Respondent’s counsel.

### **VIII. TEAM SCORING: BRIEFS AND ORAL ARGUMENTS**

#### A. Brief Grades

Each brief will be graded by at least three (3) separate persons familiar with the issues presented. These scores will be averaged, yielding a Final Brief Score.

FMCB reserves the right to adjust a single grader’s brief score in extraordinary circumstances, such as if one score is drastically lower than the grades given by the other persons grading the same brief (the “Outlier Brief Grade”). In such a scenario, FMCB will adjust the Outlier Brief Grade by the standard deviation. Under no circumstances will FMCB adjust more than one brief grade per brief or lower a team’s Final Brief Score.

#### B. Oral Argument Grades

In every round, a panel of judges familiar with the issues will score each team member's oral argument performance. Each panel will consist of at least three (3) judges. Teams should *not* expect that the judges for their oral argument rounds have read their briefs.

In every round, each individual judge will score each individual team member separately (the "Judge-Specific Individual Score"). The Judge-Specific Individual Scores will then be averaged (the "Judge-Specific Team Score"). All Judge-Specific Team Scores will then be averaged (the "Final Oral Score") with respect to each set of Competition rounds (e.g. Preliminary Rounds, Quarterfinal Round, Semifinal Round, and Final Round).

FMCB reserves the right to adjust a single Judge-Specific Team Score in extraordinary circumstances, such as if one Judge-Specific Team Score is drastically lower than the Judge-Specific Team Scores given by the other judges (the "Outlier Judge-Specific Team Score"). In such a scenario, FMCB will adjust the Outlier Judge-Specific Team Score by the standard deviation. Under no circumstances will FMCB adjust more than one Judge-Specific Team Score per round per team or lower a team's Final Oral Score.

A team will advance in the Competition based on its Final Score for each round. Final Scores for each round are calculated based on a team's Final Oral Score and Final Brief Score, weighted based on the following chart:

<i>Round</i>	<i>Final Brief Score</i>	<i>Final Oral Score</i>
Preliminaries	50%	50%
Quarterfinals	0%	100%
Semi-finals	0%	100%
Finals	0%	100%

#### C. Advancement to the Quarterfinal Rounds

The eight (8) teams with the highest Final Score in the Preliminary Rounds will advance to the Quarterfinal Rounds and be seeded. Teams will not be informed of their seed at any time during the Competition.

#### D. Advancement to the Semifinal and Final Rounds

Four (4) teams will advance to the Semifinal Rounds. Advancement will be determined by direct elimination, where the team in each Quarterfinal Round with the highest Quarterfinal Round Final Score will advance.

Two (2) teams will advance to the Final Round. Advancement will be determined by direct elimination, where the team in each Semifinal Round with the highest Semifinal Round Final Score will advance.

#### E. Coin Toss

The coin toss prior to the Quarterfinal Rounds, Semifinal Rounds, and Final Round will determine whether a team argues for Petitioner or Respondent. The coin toss will be held virtually. The times of the coin tosses will be provided in a more detailed schedule to be distributed following the Preliminary Rounds.

A representative from each advancing team must be present at each coin toss. The coin will be tossed, and the team with the lower Team ID will call “heads” or “tails” while the coin is in the air. After the coin falls to the ground, the team with the face-up side will be declared the winner and will select the side it will argue in the round.

#### F. Best Oralist Award & Best Brief Awards

FMCB will present these awards as part of a virtual ceremony on the morning of March 13, 2021, prior to the Quarterfinal Rounds.

There will be awards for Best Oralist and Second Best Oralist in the Competition. FMCB will present these awards to the participants with the highest and second-highest average of all Judge-Specific Individual Scores from the Preliminary Rounds. To be eligible, participants must argue in all three (3) Preliminary Rounds.

There will be awards for Best Brief and Second Best Brief in the Competition. FMCB will present these awards to the teams that author the briefs with the highest and second-highest Final Brief Scores.

#### G. Tiebreaker Procedure

In the unlikely event of a tie between teams, for the purpose of advancement or seeding in the Competition, the following procedure will govern:

- 1) The team with the higher Final Brief Score will advance/be the higher seed;
- 2) Should the teams have the same Final Brief Score, the team with the higher average Final Oral Score for all prior Competition rounds will advance/be the higher seed;
- 3) Should the teams have the same Final Brief Score and the same average Final Oral Score, the team with the fewest penalties assessed against it will advance/be the higher seed;
- 4) Should the teams have the same Final Brief Score, the same average Final Oral Score, and the same number of penalties assessed against them, a coin toss will determine which team will advance/be the higher seed.

For the purpose of determining the award for Best Oralist, the following procedure will govern in the event of a tie:

- 1) The competitor with the highest Judge-Specific Individual Score will be Best Oralist;
- 2) Should the competitors' highest Judge-Specific Individual Scores be the same, the competitor with the lowest Judge-Specific Individual Score will not be Best Oralist;

- 3) Should the competitors have the same highest and lowest Judge-Specific Individual Score, the competitors will be tied for Best Oralist. In this case, FMCB will not declare a Second Best Oralist.

For the purpose of determining the awards for Best Brief (or Second Best Brief), the following procedure will govern in the event of a tie:

- 1) The team briefs will be sent to three professors or practitioners who will determine which is best.

## **IX. MISCELLANEOUS**

### **A. Shadow Team**

In the event that an uneven number of teams participate in the Competition, FMCB reserves the right to employ a team of Fordham students (a “Shadow Team”) during the Preliminary Rounds. The Shadow Team will not be scored and will not advance to subsequent rounds. The Shadow Team’s presence will not be announced during the Preliminary Rounds.

### **B. Outside or Other Assistance**

**No team may receive assistance of any kind when researching the issues presented or when writing the brief. Proofreading a team’s brief for grammar, typographical errors, or any other reason constitutes “receiving assistance.”** As noted above, submission of a brief represents a certification by the participating team that its brief is the work product of only the team members. This rule does not prohibit the general critiquing of practice oral arguments after the brief is filed.

### **A. Attending Other Arguments**

With the single exception of the Final Round, team members, team coaches, faculty advisers, and family and friends of participating teams may not attend any argument of any other team. Such individuals may only attend the arguments of their own team. Should a school ultimately field two competing teams, further exceptions may apply.

### **B. Claiming Awards from the Competition**

FMCB will notify each team and individual that will be presented with an award.

### **C. Penalties**

FMCB may assess such penalties, including disqualification, as it deems appropriate for failure to comply with the Rules. Specific penalties include, but are not limited to:

- a) three (3) points for failure to submit a Team Certification with the briefs;
- b) three (3) points per occurrence per brief copy for improper indication of authorship;

- c) five (5) points for failure to prepare the brief for your side;
- d) two (2) points per page beyond the thirty (30) page limit for the brief;
- e) one (1) point for each page containing a violation of the margin limitations;
- f) five (5) points per calendar day for late or improper service of briefs;
- g) two (2) points per occurrence for citation in the brief or oral argument to case law or statutory provisions dated after December 31, 2020.

Notwithstanding the foregoing, errors that appear on many pages as the result of a single computer input error shall count as a single error rather than as many times as the error appears. This exception does not apply to the limitations on margins.

Final Brief Scores and overall team standings will not be made known to participants until after the conclusion of the Competition. FMCB will e-mail brief scores and overall team standings to each team by **April 7, 2021**.

#### D. Interpretation of the Rules or the Problem

Requests for interpretation of these Rules or the Problem should be addressed to Erin Guiltinan via e-mail at [KaufmanMC@law.fordham.edu](mailto:KaufmanMC@law.fordham.edu). Any clarification of more than individual concern will be e-mailed to all teams. All interpretations and any decisions, penalties, or other actions taken by FMCB shall be final and binding on all participants.

#### E. Amendments

FMCB reserves the right to make any further rules and procedures deemed necessary or advisable for the conduct of the Competition and shall promptly notify all participating teams of such changes.