

2011 TOP GUN COMPETITION RULES
Baylor University School of Law
June 1-5, 2011

I. Purpose of the Competition.

The Top Gun National Mock Trial Competition is designed to provide a forum for competition among the nation's best student advocates.

II. Competitors.

A. Invitations.

1. Eighteen (18) of the nation's most successful trial advocacy schools are invited to send their best student advocate to compete for the honor of being named the National Top Gun. Invitations are based upon success of the schools at mock trial competitions during the current academic year, as well as at the national finals of the National Trial Competition (NTC) and the Student Trial Advocacy Competition (AAJ) during the previous academic year.
2. At the discretion of the competition committee, one or two of the invitations may be extended as "wild card" bids to schools whose advocates have shown individual success in the prior year.
3. Invitations will be sent by Federal Express to the dean of each invited school. Invitations may be sent at any time, but not earlier than immediately following the Tournament of Champions Competition. Email copies of the invitation will be sent to the school's trial advocacy program.
4. The Acceptance Form must be conveyed by email to Kathy_Serr@Baylor.edu.
5. Even in years in which Baylor University School of Law qualifies to send an advocate to the Top Gun National Mock Trial Competition based on the selection criteria above, Baylor University School of Law will not do so.

B. Advocates.

1. Each invited school must choose a single advocate at its own discretion to represent the school.
2. To be eligible students must either be current J.D. students at the time of the competition or spring 2011 graduates of the invited school.

3. Schools are not required to submit the name of their advocate until after the conclusion of both NTC and AAJ Nationals.
4. Each advocate may be assisted at the competition by *one coach*, beginning at the time the case file is distributed. No other assistance by anyone may be provided to the advocate after the case file is distributed except as noted in Rule III A(2)(b) by the advocate's designated team assistant.

III. Agenda of the Competition.

A. Registration.

1. **Registration will take place at Baylor Law School between 1:00 p.m. and 5:00 p.m. on the Wednesday of the competition week. All advocates and/or their coaches must check in during this time.**
2. **Advocates will receive important competition information at this time, including:**
 - a. **the location of such advocate's office.** Each advocate will be provided an office in the law school, with access to computers, printers, copiers and the law library. The advocate and coach may use this office freely at any time during Baylor Law School's normal hours of access. The advocate also has the option to use his/her hotel room instead.
 - b. **the name and contact information for the advocate's assistant.** Additionally, each advocate will be provided one assistant – a Baylor law student assigned to assist the advocate with *non-legal* matters such as being a guide to the law school facility, a guide to the city of Waco or the Baylor University campus, a consultant on restaurants, or any other such non-legal matters. The assistant will not and may not assist in any matter with trial preparation including legal research, witness preparation, practice sessions or anything else that is intended to help the advocate prepare to try the case. Clerical assistance, like photo-copying, is permitted.
 - c. **a tour of the Law School.** A short tour of relevant areas including the advocate's office, the library, and the courtrooms will be conducted.
 - d. **a technology information session.** Advocates and their coaches should bring any computers they plan to use during the competition to this meeting.

B. Arrival Dinner

- 1. On the Wednesday evening prior to the competition, advocates and their coaches shall attend a dinner and tournament meeting.**
- 2. Details of the format of the competition will be disclosed and discussed at this time. The exact format of the trials, including the elimination rounds, will be reviewed at this time.**

C. Schedule for preliminary rounds

- 1. Round I: Friday, 10:00 a.m., woodshedding to begin at 9:40 a.m.**
- 2. Round II: Friday, 2:00 p.m., woodshedding to begin at 1:40 p.m.**
- 3. Round III: Saturday, 10:00 a.m., woodshedding to begin at 9:20 a.m.**
- 4. Round IV: Saturday, 2:30 p.m., woodshedding to begin at 1:50 p.m.**

D. Schedule for elimination rounds

- 1. Semi-finals: Sunday, 9:00 a.m., woodshedding to begin at 7:45 a.m.**
- 2. Finals: Sunday, 2:00 p.m., woodshedding to begin at 12:30 p.m.**

IV. Case File.

- A. The advocates will be apprised of the nature of the case file during the tournament meeting on June 1, 2011.**
- B. The case file for the preliminary rounds will be distributed at 7:00 a.m. on June 2, 2011. At the discretion of the competition committee, advocates and coaches may be taken, at this time, to inspect any actual locations pertinent to the case, such as an accident scene in a car wreck case. They will be transported to and from any such inspection. All witnesses will have had the same such inspection prior to the competition.**
- C. The nature of the case is civil. The Federal Rules of Evidence and the Federal Rules of Civil Procedure will control. All pertinent substantive law of the state of Texas, controlling in the case, will be provided at the time the case file is distributed. No other substantive law will be needed or permitted. It will be a relatively simple case, easily prepared in one day.**

- D. All documents, witness statements, depositions, photographs, diagrams and other material included as part of the case file shall be deemed as original and authentic, unless specifically indicated to the contrary in the case file. All signatures are to be considered authentic. All documents that appear to have been sent to, or by a witness, are to be considered as having been sent or received by that witness.
- E. Counsel may use only those exhibits provided in the case file. No other evidence or audiovisual aids will be allowed. Certain exhibits may be enlarged and provided to the competitors when the case file is distributed. Those enlarged exhibits may be marked upon only if the markings may be easily removed. Markers will be provided.
- F. For the first two preliminary rounds, each side must call one live witness, with the option of calling additional witnesses by deposition.
- G. For Rounds III and IV, one additional live witness for each side will be added to the case file. This information will be provided at the announcement of Round III pairings.
- H. For the elimination rounds, additional evidence may be added at the discretion of the Top Gun committee some of which may require counsel to depose a witness. This information will be provided to the teams at the announcement of the advocates advancing to the semifinals.

V. Conduct of Trials.

A. Witnesses.

1. The Top Gun Competition will provide witnesses.
2. Each advocate will have fifteen minutes to prepare (“woodshed”) his/her witness prior to the start of the trial.
3. In the preliminary rounds a witness may be called only by his/her advocate. Neither side may call a witness of the other party. Only one live witness may be called by each party in the first two preliminary rounds. Additional witnesses may be called by deposition.
4. In the elimination rounds:
 - a. Any party may call any witness who has been designated by the competition committee as a “live witness.” All such witnesses will be considered properly and timely disclosed by both parties under Fed. R. Civ. P. 26. There is no limit to the number of witnesses a party may call, as long as the witness has been designated by the competition committee as a live witness.

- b. Each advocate may woodshed any witness aligned with his/her side. Adverse party witnesses, called to testify by the party's opponent under Fed. R. Evid. 611(c) will be woodshedded only by the attorney for that party witness.
 - c. Witnesses may be recalled. Rebuttal cases are permitted. Time limits, though longer than in the first two preliminary rounds, must nevertheless be followed.
- 5. An advocate may prepare written materials to give to a witness during the preparation period. All preparation materials must be collected from the witness at the end of the witness preparation period. The advocate may not confer with the witness at any other time for the purposes of preparing testimony.
- 6. During the presentation of their cases, advocates and their witnesses may use only the facts contained in the problem. If a witness testifies to a fact not contained in the case materials, the witness -- if questioned on that subject -- must admit that the fact was suggested by counsel, if true. A witness may testify as to a reasonable inference drawn from the case materials on non-material facts, such as the witnesses' background. However, advocates are prohibited from enhancing their position by presenting testimony about material facts not contained in case materials.
- 7. Notwithstanding the foregoing, a witness, during cross-examination, may provide details not contained in the problem only if: (i) the advocate cross-examining the witness asks a question not addressed by the prior testimony or exhibits authenticated by the witness; (ii) the added detail is in direct response to the question; (iii) the detail does not invent an individual or significantly add or detract from the credibility of a witness or party; and (iv) the team who woodshedded the witness did not suggest directly or indirectly the detail added by the witness.
- 8. The presiding judge will not entertain the objection that a particular question calls for information outside the scope of the case file. An answer to a question is not objectionable on the ground that it is outside the scope of the record.
- 9. The issue of what materials, if any, that a witness may take to the witness stand will be handled just as it is in a real trial, and Fed. R. Evid. 612 will be in effect.

B. Time Limits.

1. For Rounds I and II, each side will be allocated sixty (60) minutes, exclusive of time spent on motions and objections to present and argue its case.
2. For Rounds III, IV, and the elimination rounds, each side will be allocated seventy-five (75) minutes, exclusive of time spent on motions and objections, to present and argue its case.
3. Presentation and argument of pretrial motions shall be limited to a total of five (5) minutes per side. This time limit includes responses to opposing counsel's motions.
4. Any other motions made may not exceed five (5) minutes total. The presiding judge in his/her discretion may call for a limited response.

C. Motions & The Rule.

1. Pretrial.

- a. A Motion in Limine or Motion to Exclude may be presented, but such motion must be made orally and not in writing. The presiding judge will be instructed that he/she may rule on the motion(s) or may defer a ruling on the motion(s).
- b. Advocates may invoke the rule and in such case Fed. R. Evid. 615 will be followed. Witnesses will actually rather than constructively be excluded from the courtroom. The bailiff will be responsible for retrieving witnesses when called.

2. During Trial.

At the appropriate time during the trial, either party may move for judgment as a matter of law and the opposing party may respond; however, the court will summarily deny the motion in all instances.

D. Objections.

1. Any bench conferences will be conducted constructively, since there will be scoring judges in the jury box.
2. Time consumed by objections is not charged against either side; however, the presiding judge, in his/her sole discretion, may order time charged against any advocate that makes excessive objections or uses excessive time to argue or respond to an objection.

E. Courtroom Protocol – The Local Rules of the Court.

1. All trials will be conducted to a jury. Each trial will be judged by three to five lawyers. All judges but the presiding judge will sit in the jury box and will be treated as jurors.
2. Opening statements may not be waived. A defendant *in Rounds III, IV and in an elimination round* may, at his/her own option, defer the opening statement until after the plaintiff rests the case-in-chief. This may be done as a matter of right under controlling law.
3. Advocates must request permission to approach the bench or to approach a witness. Advocates must request permission to publish exhibits to the jury.
4. When questioning a witness, advocates must use the podium.
5. Easels and flip charts will be available in each courtroom. All courtrooms will additionally have marker boards, chalk boards, or both.
6. At the discretion of the judge, handwritten summaries or charts may be prepared as appropriate and used for closing argument.
7. A written charge will be provided in the case file. The charge will contain questions, instructions and definitions. No objection to the jury charge will be considered, and no additional questions or instructions will be permitted.
8. An advocate is prohibited from receiving any outside assistance or advice once the witness preparation phase of the trial begins until the conclusion of the trial.

F. Protests.

1. Protests must be made within ten (10) minutes of the conclusion of the trial in question.
2. Protests will be resolved solely by the administrators of the Top Gun Competition after both sides have had an opportunity to be heard.

G. Scouting Is Prohibited.

VI. Tournament Format and Awards.

A. Preliminary Rounds.

1. The first two rounds will be randomly matched such that each advocate tries both sides of the case during those rounds.
2. The third and fourth rounds will be power matched such that each advocate tries both sides of the case during those rounds.

B. Elimination Rounds.

1. Prior to the announcement of the advocates that have advanced, each school's coach or representative will have an opportunity to examine the ballots.
2. The top four (4) advocates, based upon their win/loss record in the preliminary rounds, will advance to the semi-final round. In the event of a tie, ballots and then speaker points will determine which advocates advance. In one half of the bracket, the number one seeded advocate will face the number four seeded advocate. In the other half of the bracket, the number two seeded advocate will face the number three seeded advocate. The higher seeded advocate will choose the side he/she prefers to represent in the semi-finals.
3. The two (2) winners of the semi-final rounds will advance to the final round. The higher seeded advocate will choose the side he/she prefers to represent in the finals.

C. Awards.

The winner of the final round will be declared the 2011 National Top Gun. The winning school will receive a \$10,000 prize to be distributed at the discretion of the school.