



Adelaide University Law Student Society

COMPETITIONS HANDBOOK

Ed. 4



Acknowledgement of Country

The Adelaide University Law Students' Society ('AULSS') acknowledge the Traditional Owners of the land on which our organisation is located and where we conduct our business as the land of the Kaurna people. We recognise their continued connection to land, water and culture and our pay respects to Elders, past and present and emerging.

2023 Director's Foreword

Welcome to the Fourth Edition of the AULSS Competitions Handbook!

My name is Patricia Pappas, and I am grateful to be the AULSS Director of Competitions in 2023. Whether you are a seasoned competitor or trying out your first competition, myself and the Competitions Portfolio are delighted to be a part of your Competitions Journey!

There are also 10 amazing Competitions Representatives who are here to support you along the way: Isabella Burgess, Lili Caltabiano, Yurui (Rui) Jiang, Salma Mansurwala, Harry Passehl, Chloe Rungie, Bhoomika Trivedi, Deeptanshu Sharma, Evelyn Vincin Walker, and Eton Williams.

Each year, the AULSS Competitions Portfolio runs a series of competitions which give students the opportunity to apply and develop their practical legal skills in a fun environment. You will have opportunities to develop key skills needed for practice, such as legal research, professional interviewing skills, constructing persuasive legal arguments, negotiating outcomes, and teamwork.

I am excited to announce that this year the 2023 AULSS Competitions Portfolio will be running the following competitions.

Semester 1

- Client Interview;
- Negotiations;
- Novice Moot;
- Open Moot; and
- Witness Examination.

Semester 2

- Criminal Law Moot;
- Family Law Mediation;
- Private Law Witness Examination;
- First Year Moot;
- Kain Lawyers Mergers & Acquisitions;
- AULSS x SULS Negotiations; and
- UniSA x AULSS x Flinders Client Interview.
- Law School Marathon

The winning team or individual from the Semester 1 Client Interview, Negotiations, Open Moot and Witness Examination Competitions will have the opportunity to represent the University of Adelaide at a National level during the Mid-Semester Break at the Australian Law Students' Association ('ALSA') Conference. I am delighted to say our delegates were recently awarded the Best Competitions Delegation in the 2022 National Competitions. Semester 2 affords students the opportunity to compete against other universities as well as advance skills that they began developing in Semester 1.

This Handbook aims to provide guidance on how to succeed in these competitions, outlining the key skills, requirements, and procedures involved in each one. If you are interested in a particular competition do not forget attend our Information Session and Come and Try Days in Week 1 of both semesters. Please also see my email containing the key dates and the links for registration.

If you have any questions, please do not hesitate to contact me at competitions@aulss.org.

I wish you the absolute best of luck in your competitions journey. Enjoy, and happy reading!



Patricia Papathanasopoulos

Director of Competitions

Acknowledgements

Editors	Sources
First Edition:	<p>The Australian Law Students' Association Competition Bank, The Law Society of South Australia Mock Trials Grand Final Manual, Monash University Resources for Legal Research and Writing, Queensland University of Technology Mooting Manual, Macquarie University Law Society Mooting Manual, University of Adelaide Law Library Staff, Bond University YouTube Mooting Videos, Phillip C. Jessup International Law Moot Court Competition Guide.</p>
<p>John Eldridge, Rebecca McEwen, Bao-Loc Nguyen, Igor Popov, Caitlin Hartvigsen Power, Kate Vanderhorst.</p>	
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Third Edition:	
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<p>Isabella Burgess, Lili Caltabiano, Yurui (Rui) Jiang, Salma Mansurwala, Patricia Papathanasopoulos, Harry Passehl, Chloe Rungie, Deeptanshu Sharma, Bhoomika Trivedi, Evelyn Vincin Walker, Eton Williams, Georgia Zhang</p>	
Students who Provided Advice on Competing	
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<p>Aryan Banerjee, Isabella Burgess, Katie Cooper, Grace Jin, Elma Li, Cate Lipsham, Nili McGrath, Patricia Papathanasopoulos, Ellen Pollard, Nicholas Rich, Gian-Luca Stirling, Sofia Tait, Zeyang Wang.</p>	

Contents

Frequently Asked Questions	2	Family Law Mediation	29	How to Research	51	Mergers and Acquisitions	74
Client Interviewing	6	Introduction	30	Oral Submissions	53	Introduction	75
Introduction	7	What to Expect	31	Right of Reply	58	What to Expect	76
What to Expect	8	Competitions We Offer	32	Key Concepts and Terminology	61	How to Prepare	77
Competitions We Offer	9	How to Prepare	33	Witness Examination	62	Letters of Advice	79
How to Prepare	11	Advice for When in the Room	34	Introduction	63	Oral Advice Rounds	80
Advice for When in the Room	12	Key Concepts and Terminology	39	What to Expect	64	Key concepts	81
Self-Reflection	16	Mooting	40	Competitions We Offer	65	Volunteering	82
Key Concepts and Terminology	17	Introduction	41	How to Prepare	66	Client Interviewing	83
Negotiations	18	What to Expect	42	Opening and Exam in Chief	69	Witness Examination	85
Introduction	19	Competitions We Offer	43	Cross Examination	70	Family Law Mediation	87
What to Expect	20	How to Prepare	47	Closing and Objections	71	Final Note from the Competitions Team	88
Competitions We Offer	21	Written Submissions	49	Rules of Evidence	72		
How to Prepare	23	Penalties	50	Key Concepts and Terminology	73		

FREQUENTLY ASKED QUESTIONS

What do I wear?

We aim to simulate legal practice in the competitions program, which is why competitors typically dress in corporate attire for round nights.

When do I come?

You will be provided with a draw which contains the time you will be expected to enter your room. We strongly recommend you arrive at least 15 minutes before your round to ensure time for you to settle into your room.

What should I bring?

You can bring any materials you want into the room. However, the only purpose for which you can use technology is timekeeping, subject to disability or Covid-19 exceptions.

What if I don't have a team?

You can register individually or with a team. In our team competitions, you will be placed in a team by our Competitions Team.

How much time do I need to dedicate to a competition?

This depends on the competition. Some competitions such as Witness Examination and Client Interviewing require minimal preparation and the most commitment is attending a round night. Competitions such as Mooting, Mergers and Acquisitions, and Family Law Mediation have a written component, requiring a higher level of preparation. We have included guidelines below to help assist in you choosing a competition.

Who are the judges?

The Competitions Team reach out to former winners, senior practitioners, and even Judges and Justices! This means you will have the opportunity to receive catered feedback from esteemed members of the profession.

What happens once I sign up?

Each competition differs in how it is run. In general, however, you should receive an email from the Competitions Coordinator(s) in charge of your competition when you sign up, containing the required materials and key dates.

Regardless of the competition, you should aim to attend the round 15 minutes before the listed time. You will complete the round and receive feedback from your judge. The Competitions Representative(s) will then collate and scan feedback, determine who progresses, and email you with the results.

How do I submit the written component of my competition?

Some competitions require a written component, and you will be expected to complete this by the due date communicated using the Microsoft Form Link provided to you.

The file names of written components will be expected to be labelled as follows:

LastName-LastName_Party Represented-Document submitted
(e.g. LE-PAPPAS_Respondent-Written Submissions)

The Coordinator of the competition will confirm their receipt once all of the documents have been submitted.

What if I have a problem or cannot make a round night?

If any problems arise or you cannot make a round night, please contact your Competition Coordinator as soon as possible. If you are uncomfortable contacting your Coordinator, you can also contact the Competitions Director. Please be assured that everything will be treated with the utmost confidentiality.



CLIENT INTERVIEWING

Handbook



“It’s a great opportunity to develop your soft skills and to gain confidence in speaking with clients in a low stakes environment compared to that or practice. You’re able to receive feedback from great judges each round that you can take with you in your future career.”

- Ellen Pollard,
Client Interviewing Winner 2022

INTRODUCTION

The Client Interviewing competition is a simulated interview between a team of two students acting as solicitors, and a client seeking an initial legal consultation. The competition focuses on key skills such as asking the right questions, maintaining an interview's structure, identifying key issues, and maintaining a positive client environment. It's a great opportunity if you're just starting out in competitions, and you can also volunteer in this competition by acting as a client!

Recommended Years:	2nd years and above
Teams:	Two competitors per team
Materials:	Competitions Coordinators should provide competitors with: -A copy of the Rules -The Client Memorandum -The Relevant Draw -The Scoring Guide -This Handbook
Key Skills:	·Professional interviewing ·Situational analysis ·Remedies
Watch an ALSA example:	https://www.youtube.com/watch?v=oWkWRr4wBIE

WHAT TO EXPECT

1 week before the round:	
By 5:00pm:	Competitors receive their materials
On the night:	
6:00pm:	<p>Competitors begin in the room, and the client will then enter the room.</p> <p>All parties will introduce themselves to the client and commence the interview. After the client provides their information, the teams will provide preliminary advice and provide the client with guidance regarding the best directions to take. This exchange should last for 30 minutes</p> <p>The team will then leave the room for 5 minutes to plan their self-reflection, then re-enter the room to discuss it with the judge for 10 minutes.</p>
7:00pm:	Judges then provide feedback, and the opposing team will then enter the room to compete using the same judge, volunteer, and fact pattern. Competitors will receive their results as soon as the Competitions Team can distribute them.

COMPETITIONS WE OFFER



Eleanor Lewis and Ellen Pollard
Client Interviewing Winners, 2022

Semester 1 Client Interviewing

In Semester 1, the AULSS offers the Client Interviewing competition, which usually consists of:

- 2 preliminary rounds,
- a quarter final,
- a semi final, and
- a grand final.

Competitors compete in teams of 2. All competitors progress through both preliminary rounds, and the top 8 teams progress to the quarter finals. From there the winners of each round progress to the next.

The winners of the Grand Final have the opportunity to represent the AULSS at the ALSA National Competition.

“This competition gave me a taste of what real-life lawyer-client relationship-building looks like. I definitely recommend all students to participate and have fun, doesn’t matter which year you are in.”

- Elma Li, Client Interviewing Grand Finalist 2022

ALSCA Client Interviewing Delegate 2021

AULSS x FULS x USALSA Triversity Client Interviewing



In Semester 2, the AULSS offers the Triversity Client Interviewing Competition, which is run against the Law Student Societies of Flinders University and UniSA.

It consists of 2 internal rounds, and the winner of those rounds will participate in 2 external Rounds Robin and (hopefully!) a Grand Final.

Competitors compete in teams of 2. Unlike in the Semester 1 Client Interviewing Competition, competitors will not have to complete the self-reflection.

Katie Cooper and Cate Lipsham
Triversity Client Interviewing
Winners, 2022

“This competition is a great way to become familiar with how clients are interviewed in practice and will make you feel more comfortable when you are included in them down the track. It is also the perfect competition if you don’t have time/don’t want to prepare anything.”

- Katie Cooper, Triversity Client Interviewing Overall Winner, 2022

HOW TO PREPARE

What a Typical Problem Question Looks Like

Competitors will be given an initial email from a “receptionist”, outlining key clues regarding the scenario and, in some cases, the client’s demeanor. Clients will be given a script outlining the scenario and key facts which teams need to elicit from the client.

Tip 1: Plan your Interview Structure

“Be aware of the structure that the introduction and conclusion of the interview should have and prepare a script accordingly.”

- *Katie Cooper, Trivarsity Client Interviewing Overall Winner, 2022*

Tip 2: Volunteer

“Volunteering to be a client really helped me become familiar with the competition!”

- *Katie Cooper, Trivarsity Client Interviewing Overall Winner, 2022*

Tip 3: Know Your Remedies

“A good client interview in first instance is not expected to solve all of the client’s problems. However, it should provide just enough information to assure the client what the end-point will likely be and what the processes are to get there. This means it is a good idea to enter an interview with an idea of how to get what your client will likely want to be seeking.”

- *Patricia Pappas, Trivarsity Client Interviewing Coach, 2022*

ADVICE FOR WHEN IN THE ROOM

Beginning the Interview

Use your voice and body language to make the client feel welcome, especially if they seem emotional. Introduce yourself and your partner (your ‘colleague’) to the client and establish how the client would like to be addressed, e.g. as ‘Mr. Smith’ or simply as ‘John.’

After this, ensure you address the following:

Fees:	The Competition Rules will stipulate the costs of the initial and subsequent consultations
Conflicts:	Check who the other party in the dispute is, as you cannot represent both parties
Confidentiality:	Explain to the client that your conversations are confidential and stress the importance of full disclosure from the client, in order to assist them to the best of your ability
Expectations:	Explain to the client what you will cover in the interview
Questions:	Reinforce that the client is encouraged to ask questions if they need clarification.

The Substance of the Interview

Clients are provided with secret information that they can only reveal to competitors if asked a specific question. Being able to extract this information is a part of the judging criteria.

You should ideally practice your interviewing technique before the competition.

Some general tips are:

- Use open-ended questions that allow the client to tell their story
- Avoid interrupting the client, unless they seem to be going off-topic
- Focus on relevant information and ask more specific questions if necessary
- Write down names of key people, places and dates relevant to the client's problem and ask for further details if necessary
- Be aware of red herrings and false information.
- Go into the interview with a plan of the information you think you would need.

Tip 1: Listen!

"My tip to everyone who wants to compete comprises of one word - LISTEN. Listen to every single word your client has to say before making any judgements or conclusions."

- Elma Li, 2021 ALSA Client Interviewing Delegate

Tip 2: Ask lots of questions

"Don't let your client get to the end of the fact scenario! Make sure you continuously ask questions as they explain their story and then go back through it with them in chronological order."

- Katie Cooper, Trivarsity Client Interviewing Overall Winner, 2022

"Feel comfortable asking questions, recap and check the information the client gave you. This can help you to identify key information and check you have understood what the client wants."

- Ellen Pollard, Client Interviewing Winner 2022

Tip 3: How to Know What Questions to Ask

"Think critically about the key issues and identify the gaps in your knowledge. You can use the law as guidance to know what information you still need to know. Then consider the client's key goals and link your advice back to those goals."

- Patricia Pappas, Trivarsity Client Interviewing Coach, 2022

Concluding the Interview

- Briefly summarise the facts of the problem in chronological order to your client and ask whether you have an accurate record.
- Note that your client will likely expect you to give them some guidance regarding the avenues they can potentially take going forward. Suggest possible options for resolving your client's situation (litigation, ADR, non-legal avenues, etc.) and explain each option's relative advantages and disadvantages. Remember that the client is unlikely to have expert legal knowledge, so try to avoid using legal jargon and keep the information easy to understand.
- Ask your client to choose or think about these options and clarify if they are after a particular outcome. It is important to consider the client's sensitivities while leading them towards a viable solution.
- Agree on whether further work or communications will occur, and if so, make sure you have all necessary contact details.

Tip 4: What advice to give

“Remember, this is an initial 30 minute conversation with a client. Don't stress about trying to give complex legal advice and show off your knowledge. This competition is about people skills, teamwork and being able to identify key information and issues.”

- Ellen Pollard, Client Interviewing Winner 2022

THE SELF-REFLECTION

What Does It Involve?

At the conclusion of the interview, competitors must leave the room and have five minutes to evaluate their performance.

During this time, the judge will consult with the client in order to determine how they felt about the interview.

Competitors will then have 10 minutes to evaluate their performance with the judge. A general starting point could be:

- Summarising the interview
- Discussing how you approached the interview and your team work
- Indicating the scope of the legal work to be undertaken
- Stating the legal issues to be researched.

“Don’t overthink it or be afraid to give an honest analysis. It’s okay to acknowledge what you have done well and what you could improve on!”

- Ellen Pollard, Client Interviewing Winner 2022

Guiding Questions

Questions the competitors may want to ask themselves include:

- Was the client satisfied with the interview and its outcome?
- How did the interview go overall?
- What worked well and what did not work well?
- What could be done differently next time?

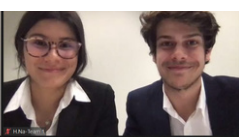
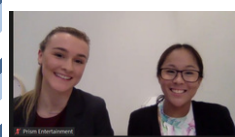
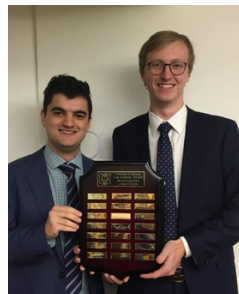
KEY CONCEPTS AND TERMINOLOGY

Retainer	<p>A retainer is an upfront amount of money which law firms typically ask for to secure their services. The money goes into a firm's trust account and the firm uses it to spend on disbursements, preventing them from needing to spend their money on the matter.</p>
Client Confidentiality	<p>A lawyer should never share their client's information or personal circumstances to parties outside of the firm and the matter. They should always ensure to tell the clients this as the beginning of the interview.</p>
Legal Fees	<p>The fee schedule applicable to all teams in this Competition is that the first consultation is free and any subsequent consultations will be at a fee of \$200 per hour.</p> <p>This is not reflective of real life; however, it is reflective of what ALSA has chosen. Noting that it is easier for a competitor to remember these figures where a competitor has already used them in a competition, the AULSS Competitions Portfolio has elected to keep this figure.</p>
Legal Aid	<p>Legal Aid is available to clients who do not have the finances to afford legal services. Individuals must apply for legal aid, and if successful the client will not need to pay their lawyer.</p>



NEGOTIATIONS

Handbook



“Negotiations is the perfect way to strengthen your reasoning and communication skills to achieve the best for your client. It also allows for some use of the law – which is a perfect stepping stone before trying Mergers & Acquisitions or Mooting.”

- Katie Cooper,
Negotiations Winner 2022

INTRODUCTION

In Negotiations, two teams of two solicitors discuss a dispute between their clients. Each team is given secret facts about their client's situation, including client's goals.

Both teams negotiate together in good faith to resolve the dispute in a way that makes both parties happy. For this reason, the winner is not necessarily the team that walks away with the best deal but the team who uses strategy and tactics to obtain the most favourable outcome. It's another great opportunity if you're just starting out in competitions, but want something slightly adversarial!

Recommended Years:	2nd years and above.
Teams:	Two competitors per team
Materials:	Competitions Coordinators should provide competitors with: -A copy of the Rules -A Problem Question containing secret facts for your side -The Relevant Draw -The Scoring Guide -This Handbook
Key Skills:	<ul style="list-style-type: none">• Problem Solving• Adaptability• Legal strategy in the advancement of client interests
Watch an ALSA example:	https://www.youtube.com/watch?v=MZiyqAJSbRg&t=178s

WHAT TO EXPECT

1 week before the round:

By 5:00pm:

Competitors receive their materials and their client's secret facts.

On the night:

6:00pm:

Fifty minutes is devoted to the negotiation between the teams. Teams may structure the negotiations as they wish, but it is generally structured as follows:

1. Formalities
2. Setting an agenda
3. Discussion of a key outcome
4. Summarise what has been agreed

Steps 3 and 4 are repeated for each key issue identified on the agenda. During the negotiation, teams may take one break for a duration of 5 minutes.

6:50pm

Teams will leave the room for a forty (40) minute self-analysis period, where teams may reflect privately and then make a presentation to the judges. Judges will then contribute their own feedback

7:30pm:

The first round should conclude, and if there is a second timeslot it should begin.

COMPETITIONS WE OFFER



Katie Cooper and Cate Lipsham
Negotiations Winners, 2022

Semester 1 Negotiations

In Semester 1, the AULSS offers Negotiations. It is for competitors who have reached the later stages of a different moot, and it usually consists of:

- 2 preliminary rounds,
- a quarter final,
- a semi final, and
- a grand final.

Competitors compete in teams of 2. All competitors progress through both preliminary rounds, and the top 8 teams progress to the quarter finals. From there, the winners of each round progress to the next.

The winners of the Grand Final have the opportunity to represent the AULSS at the ALSA National Competition.

AULSS x SULS Intersivity Negotiations



Chelsea Brooks and Celena Le
Intersivity Negotiations Winners,
2020

The AULSS also offers Intersivity Negotiations against the Sydney University Law Student Society in Semester 2.

Competitors compete in teams of 2. All teams compete in 2 Internal Rounds, and the best two teams progress to 2 External Rounds, and (hopefully!) then a Grand Final.

The format of each negotiation reflects the way the Semester 1 Competition is run. The rounds are more intense, meaning the competition is less of an extensive time commitment in the long term.

HOW TO PREPARE

What a Typical Problem Question Looks Like

Teams will receive a set of common facts as well as a set of secret, team-specific facts before the negotiation. The common facts provide context to the issues and the secret facts detail concessions, non-negotiables, motivations and vulnerabilities of each client.

STEP 1: IDENTIFY KEY INTERESTS

To effectively negotiate, you will need to identify the interests of both parties. Some of this may be done in the preparation phase; however, it might not be until you are at the negotiating table that you get a proper insight into the interests of the other party.

Interests can be categorized in the following ways:

<i>Mutual.</i>	Each party has the same interest
<i>Complementary.</i>	The parties have different interests but these can be satisfied by the same transaction.
<i>Neutral.</i>	This interest will have no effect on the other party
<i>Competing.</i>	The more this interest is fulfilled for one party, the less it is fulfilled for the other.

Key questions to ask yourself:

- What is most important to your client?
- What is least or not important to your client?
- What concessions is your client willing to make?
- What are the best and worst case scenarios?
- What are your client's options if you cannot reach an agreement?

You should also ask these questions for the interests of the other party and make your best guess based on the common facts.

STEP 2: PREPARE OFFERS AND COUNTER OFFERS

“[M]ake sure you are aware of what your client’s instructions are – what do they want you to agree to and what will they definitely not agree to? This will be your blueprint for constructing your offers! This competition is primarily about offers and counteroffers to achieve a mutually beneficial agreement between the two teams. Having a strong selection of offers and counteroffers pre-prepared will allow you to succeed!”

- Katie Cooper, Negotiations Winner, 2022

STEP 3: DEVELOP AN EMERGENCY STRATEGY

It may also be helpful to have an emergency strategy should the negotiations prove to be going towards the opposition, as well as to consider what to do if no agreement appears likely to materialise.

You want to try and present low cost, creative solutions that will benefit both parties and be conducive to a continuing relationship. Teams may conduct further research on the issues beforehand, with lateral thinking and creativity of solutions rewarded.

ADVICE FOR WHEN IN THE ROOM

Beginning the Negotiation

To begin you should greet the other party and establish the goals to conduct negotiations in good faith and to reach an agreement that is beneficial to all parties. Remember to affirm that the discussions are confidential.

FOR EXAMPLE:

“Thank you for meeting with us today. I am {name} and this is my colleague {name}. We come in good faith and we would like to affirm that everything we discuss today will be confidential. We also have full authority from our client to sign any agreement on his/her behalf, provided it is within the spirit of their instructions.”

It is helpful to bring in an agenda of how you wish to tackle the issues and keep track of the negotiation. A few minutes should be spent merging your agendas. Issues can then be easily ticked off as they are discussed or flagged as needing to be revisited should peripheral issues need to be resolved.

Negotiation Strategies

When negotiating it is always best practice to never give something away without receiving something in exchange. You can categorise different outcomes as things your client wants and things your client is willing to offer. Assigning each item at least notional value, monetary or otherwise, during your preparation can be an effective way of keeping track of the value of an exchange. Ideally you can exchange a low value item for a high value outcome.

In the event of a deadlock it is often helpful to explore the underlying issues that are not resolved by what is being offered. If this does not alleviate the impasse then it may be best to rotate to an issue on which some agreement can be reached or utilise the tactical break to discuss a change in strategy.

You can utilise your tactical break to halt the momentum of the other team or to discuss a change in tactics at a strategic moment, such as if an impasse is reached.

Competitors should also remain mindful of what the client's specific instructions are as well as the strict legal position at the outset. Teams may be able to make certain logical inferences from the facts and then offer solutions in the 'spirit' of the instructions. These may fall outside what has been explicitly instructed but still be in line with a client's interests. Creative solutions are encouraged but care should be taken to ensure nothing illegal or contrary to public policy is suggested, nor any agreements expressly contravening client instructions be made.

Manner and Conduct

You should always be aware of your outward demeanour and ensure you present as collected and calm.

Attempts at being hostile, demanding or intimidating will be looked upon poorly by a judge, as will being too casual or informal. Negotiations can get quite heated especially when the issues are contentious. It is best to remove yourself emotionally from the dispute, nothing is to be gained from getting into a shouting match. Do not respond to opposition attempts to intimidate or provoke a reaction and keep the discussions objective, logic and issue based as much as possible.

Divulging unauthorised information will also be severely penalised as this would constitute a breach of trust. At no point is any team permitted to mislead or lie to the opposition, nor misrepresent facts and behave unethically.

Make sure both team members are seen to be actively contributing towards negotiations by the judge. One team member may take up a note taker role in keeping track of discussions which the other will then communicate or members may alternate between roles for different issues.

Concluding the Negotiation

You should try to leave some time to summarise what has been agreed to in the final minutes of the negotiation. While you may do this as you move through each agenda item, it is a good idea to go over everything at the end so that both parties know what has been agreed to.

THE SELF-REFLECTION

“The self-analysis is so valuable but often overlooked – don’t forget to prepare for it too! It is the perfect opportunity to explain your strategy and why you agreed/didn’t agree to certain offers.”

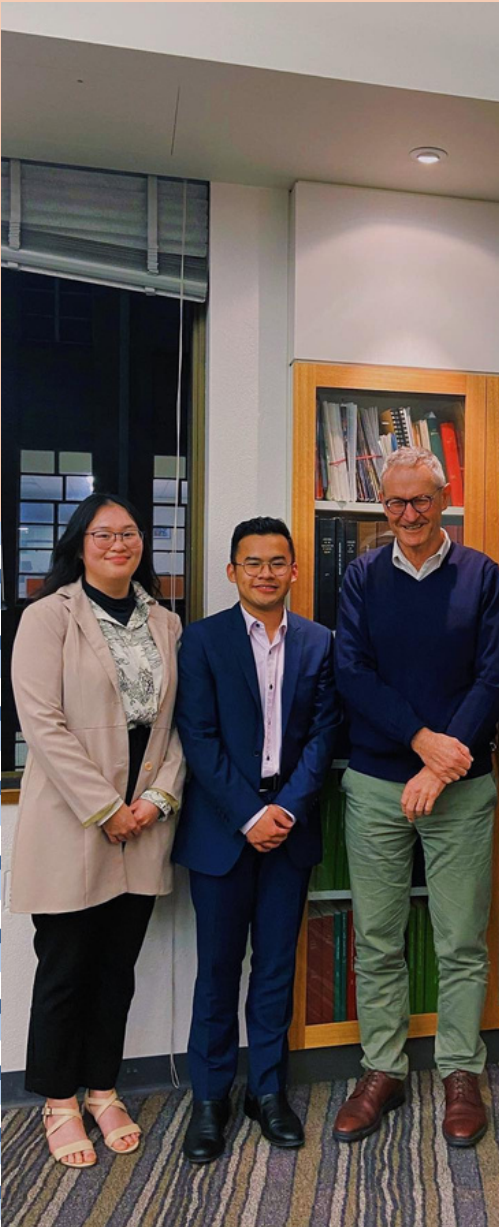
-Katie Cooper, Negotiations Winner 2022

Length	<p>40 minutes will be allotted in total. This includes 10 minutes of private reflection and 10 minutes of self-analysis with the judge per team.</p>
Guiding Questions	<p>The team should analyse their performance in the negotiation by answering the following questions:</p> <ol style="list-style-type: none">1. In reflecting on the entire negotiation, if you were to be faced with a similar situation again, what would you do the same and what would you do differently?2. How well did your strategy work in relation to the outcome? <p>The teams should also be prepared to answer questions from the judges regarding their performance. In this aspect, it is a good idea to explain why you chose a particular approach or tactic for the judge to take into consideration when scoring.</p>



FAMILY LAW MEDIATION

Handbook



“Family Law Mediation is such a great opportunity to gain insight into a vital aspect of Family Law Practice. It helps you learn how to deal with particularly emotional clients, advocate for your client’s interests despite changing circumstances, and facilitate an atmosphere where clients are willing to cooperate with the other party. This is important in any area of the law, which is why I would highly recommend the competition.”

- Patricia Pappas (Grand Finalist, 2022)

INTRODUCTION

In our Family Law Mediation, competitors compete as counsel for either side of a separating couple. Teams prepare a mediation plan over a week, and then compete in a mediation against the other team.

Teams are comprised of two students, and they are judged as a team.

Recommended Years:	Recommended for students who have taken Family Law as an elective.
Teams:	Two competitors per team
Materials:	Competitions Coordinators should provide competitors with: -A copy of the Rules -A Problem Question containing secret facts for your side -The Relevant Draw -The Scoring Guide -This Handbook
Key Skills:	<ul style="list-style-type: none">• Adaptability• Legal strategy in the advancement of client interests• Meeting deadlines

WHAT TO EXPECT

1 week before the round:

By 5:00pm:

Competitors receive their materials and their client's secret facts.

2 days before the round:

By 4:00pm:

Competitors submit their written memorandum

On the Night:

5:30pm:

Competitors meet with their clients to have a discussion regarding their goals and expectations.

Their client will provide them with a secret fact which may change the team's strategy for the mediation.

6:00pm

Competitors enter the room with their client. The mediator will open the mediation, and both parties give their opening statements which outlines their goals and perspectives.

Parties then commence discussions in good faith while integrating their client in the process. Parties should address then come to an outcome on each issue in turn.

7:30pm:

The first round should conclude, and if there is a second timeslot it should begin.

COMPETITIONS WE OFFER



Aeron Leyesa and Victoria Wong
Family Law Mediation Winners,
2022

Family Law Mediation

In Semester 2, the AULSS offers one Family Law Mediation competition, which usually consists of:

- 1 Preliminary Round
- 1 Semi Final, and
- 1 Grand Final.

The AULSS does not offer a Semester 1 competition, as there is not an ALSA National equivalent.

Please note that due to the nature of Family Law as a field, the AULSS has a general trigger warning regarding the issues which may arise in problem questions for this competition.

HOW TO PREPARE

What a Typical Problem Question Looks Like

A typical problem question consists of a set of common facts, and a confidential set of your client's key expectations out of the mediation.

These expectations will be your guide throughout the mediation to determine what compromises you can make and what points you cannot concede. Teams will also receive a surprise fact in an interview with their client 30 minutes before the round.

STEP 1: READ THE FACTS AND IDENTIFY KEY INTERESTS

Read the facts multiple times, and think about what both parties have to offer. Consider what both your client and your client's partner would be willing to exchange. However, always consider if an exchange is the best option for your client, or if there is an alternative or creative solution which benefits your client more.

STEP 2: CONSIDER YOUR STRATEGY AND COMPOSE YOUR WRITTEN MEMORANDUM

“Include a brief overview of what you want the judge to know. This is your opportunity to tell the judge your plan. In a worst case scenario, where something goes wrong, you have the opportunity to show the judge what you were trying to do, which in turn gives you the opportunity to gain back some of the marks you may have lost.”

- Patricia Pappas, Grand Finalist 2022

ADVICE FOR WHEN IN THE ROOM

Beginning the Mediation, and your Opening Statement

To begin you should greet the other party and the mediator and introduce yourselves. The mediator will then ask for your opening statements. You should reassure the other team that you come to the table in good faith, and you should state your team's perspective.

It should follow the following structure:

1. Note your goal to act in good faith
2. Brief outline of your client's perspective of the facts
3. State your desired outcome

It is helpful to bring in an agenda of how you wish to tackle the issues and keep track of the mediation. A few minutes should be spent merging your agendas, and you can then address each issue in turn. Issues can then be easily ticked off as they are discussed or flagged as needing to be revisited should peripheral issues need to be resolved.

Mediation Strategies

When in the mediation, it is best practice to never give something away without receiving something in exchange. However, it is important to note that the circumstances requiring family law intervention can be very emotionally charged, meaning it can sometimes be difficult to make both parties happy with the same solution. Where there is an impasse, try to determine why each party wants the solution they propose.

If both clients remain at an impasse, consider moving to a different issue and re-addressing the issue at a later point in the mediation.

You can utilise your tactical break to halt the momentum of the other team or to discuss a change in tactics at a strategic moment, such as if an impasse is reached.

If you are not sure of the law surrounding an issue, or would like advice as to whether to change your strategy, a caucus with the mediator is appropriate.

Tip 2: CONSIDER YOUR CLIENT!

“Ensure you keep your client in the conversation and celebrate when the client can work with their partner. The purpose of a mediation in Family Law is to come to a compromise which both parties can be content with, especially where both parties have to continue to see each other. While there is an element of both parties fighting for the better outcome, being too adversarial is not conducive to the parties maintaining a successful relationship.”

- Patricia Pappas, Grand Finalist 2022

Tip 3: USE THE MEDIATOR

“Make good use of the Mediator! Compared to mooting, you do not need to deliberately please the mediator to favour your side or compared to Negotiations completely taking the session in your own hands and in your own pace. It’s important to include the mediator and step them through why you think it’s a good solution.”

- Zeyang Wang, Grand Finalist 2022

Manner and Conduct

You should always be aware of your outward demeanour and ensure you present as collected and calm. Be cautious that your client is in the room with you, so you should aim to maintain their confidence in you.

Attempts at being hostile, demanding or intimidating will be looked upon poorly by a mediator, as will being too casual or informal.

Tip 3: THE OTHER SIDE IS NOT THE ENEMY

“The opponents are not ‘opponents’, they are the other half of the family! In the end of the day, it’s important to reach a solution that is best and happy for both parties. Despite difficulties upon reaching solutions, please be mindful it’s not how much you gain, its where you can draw a median between both parties.”

- Zeyang Wang, Grand Finalist 2022

Concluding the Mediation

You should try to leave some time to summarise what has been agreed to in the final minutes of the mediation. While you may do this as you move through each agenda item, it is a good idea to go over everything at the end so that both parties know what has been agreed to. It is a good idea to involve your client in the process.

MEDIATION MEMORANDUM

The mediation memorandum refers to a written outline of your teams planning and strategy. It helps teams develop a clear plan before they enter the room.

Submission Time:	4:00pm two (2) days preceding the round date
Page Limit:	2 Pages
What it should contain	<ul style="list-style-type: none">• An outline of the team’s interests and needs;• The team’s ‘best alternative to a negotiated agreement’ (BATNA)• An outline of the other party’s possible interests and needs;• The other party’s likely BATNA;• The team’s primary mediation objectives and the strategy to achieve them;• A reflection on the strengths and weaknesses of the strategy; and• The team’s prediction on the likely agreement reached, if any, between the teams at the conclusion of the mediation. <p>In the case of Property Settlements, teams must also include a balance sheet. The balance sheet does not contribute the to the page limit.</p> <p>It should not contain a factual summary.</p>
Formatting:	12-point Times New Roman font, with 1.5 spacing and margins of no less than 2 cm on each side.

KEY CONCEPTS AND TERMINOLOGY

Mediator	A mediator is the person in charge of facilitating the mediation.
BATNA	BATNA refers to the ‘best alternative to a negotiated agreement’. It is the best result a party can reach without the consent of the other party, if the mediation is terminated and parties fail to reach an agreement with each another.
Scaled Consent Order	A sealed consent order is an agreement between both parties which has been approved by the court as being “just and equitable”.
Balance Sheet	A Balance Sheet is a list of all of the assets involved in a Property Settlement, and their corresponding valuation according to your side. If a team, or a lawyer in real life, fails to provide a balance sheet, the other side’s balance sheet is automatically accepted. This is not recommended because it puts all the power in the other side’s hands and could result in an undervaluation of an asset your client wants. This is not conducive to advancing your client’s interest.



MOOTING

Handbook



“Mooting is the ultimate competition for any budding law student who wishes to develop and showcase their personality, wit and researching abilities. Mooting takes the form of a simulated trial with multiple issues or points of contention that are brought to the Court to listen and decide on.

Whether it is client instructions or grounds of appeal, mooting sends competitions on a journey into the wonderful world of case law, commentaries and precedents. Your arguments, cases and presentation style are completely of your own design and the advocacy and quick thinking that is developed is unparalleled.”

- Nicolas Rich (2021 Open Moot Winner, 2022 ALSA Championship Moot Winner)

INTRODUCTION

Students compete as counsel in an appellate matter in a superior court. Students prepare written submissions over 1-2 weeks and then make oral arguments before judges. The judges will question students on the law and fact surrounding their submissions during these oral arguments.

Recommended Years:	In General: 2nd Years and above. First Year Moot: 1st Years Only
Teams:	Two competitors per team (with the exception of First Year Moot)
Materials:	Competitions Coordinators should provide competitors with: -A copy of the Rules -A Problem Question -The Relevant Draw -The Scoring Guide -This Handbook
Key Skills:	<ul style="list-style-type: none"> • Oral Advocacy • Adaptability • Legal Research
Watch an ALSA example:	https://www.youtube.com/watch?v=YUq6HgzaLUI

WHAT TO EXPECT

1 week before the round:

By 5:00pm:

Competitors receive their materials.

2 days before the round:

By 4:00pm:

Competitors submit their written submissions

On the Night:

6:00pm

Competitors make their Oral Submissions in the following speaking order:

1. Senior counsels give appearances, starting with the appellant;
2. Senior counsel for the appellant will give their submissions;
3. Junior counsel for the appellant will give their submissions;
4. Senior counsel for the respondent will give their submissions;
5. Junior counsel for the respondent will give their submissions;
6. Appellant will deliver rebuttal (if permitted by rules);
7. Respondent will deliver surrebuttal (if permitted by rules).

7:30pm

Judges take time to deliberate and then provide feedback. Competitors will receive their results as soon as the Competitions Team can distribute them.

COMPETITIONS WE OFFER



**Olivia Bradley, Rachel Neef,
and Riki Theodorakakos**
Open Moot Winners, 2022

Open Moot

The highest-level moot which the AULSS offers is the Open Moot. It is available for all LLB students to enter, however recommended that competitors have reached the later stages of a different moot, or some mooting experience. It consists of:

- 2 Preliminary Rounds,
- a Quarter Final,
- a Semi Final, and
- a Grand Final.

Competitors compete in teams of 2 or 3. All competitors progress through the first preliminary round, and the top 8 teams progress to the quarter finals. From there the winners of each round progress to the next.

It differs from the other moots offered by the AULSS due to the range of issues addressed and (as of 2023) competitors have the opportunity for the Right of Reply.

The winners of this competition have the opportunity to represent the AULSS at the National ALSA Championship Moot.

NOVICE MOOT



Olivia Walker

Novice Moot Winner, 2022

The AULSS also offers the Novice Moot in Semester 1, which is open to competitors who have not reached the finals stages of a moot before. It consists of:

- 2 Preliminary Rounds,
- a Quarter Final,
- a Semi Final, and
- a Grand Final.

As of 2023, participants compete in teams of 2. All competitors progress through the first preliminary round, and the top 8 teams progress to the quarter finals. From there the winners of each round progress to the next.

The Novice Moot addresses issues in a range of areas but does not have the Right of Reply.

“Alongside all the skills and knowledge I’ve gained, mooting was just plain fun. The excitement of presenting formal submissions in a relatively low-pressure environment has been the perfect practical enrichment to the theory I was exposed to in class.”

- Evelyn Vincin Walker, First Year Moot Winner 2022

CRIMINAL LAW MOOT



Grace Jin and Ashwini Ravindran
Criminal Law Moot Winners, 2022

In Semester 2, the AULSS offers the Criminal Law Moot, which usually consists of:

- 1 Preliminary Round,
- a Semi Final, and
- a Grand Final.

The Criminal Law Moot does not have the Right of Reply and only addresses issues of Criminal Law.

We recommend this moot if you have done Criminal Law. Teams consist of 2 to 3 competitors.

All competitors compete in the preliminary round, and the winners of each round progress to the next.

Please note that due to the nature of Criminal Law as a field, the AULSS has a general trigger warning regarding the issues which may arise in problem questions for this competition.

“If you’re entertaining the idea of working in the field of criminal law, were inspired by the course, or want to explore mooting in a field a little different from the conventional commercial/contract/corporate law, the criminal law moot is a fantastic opportunity. I truly enjoyed the experience, and it challenged me to really consider many controversial ethical issues in detail.”

- Grace Jin, Winner 2022

FIRST YEAR MOOT



Evelyn Vincin Walker
First Year Moot Winner, 2022

The AULSS also offers the First Year Moot in Semester 2. It typically consists of:

- 2 Preliminary Rounds,
- a Quarter Final,
- a Semi Final, and
- a Grand Final.

This competition is only open to students in their first year of their LLB and is specifically designed to provide students with an introduction to mooting.

Participants are scored individually, but compete in teams of 2, affording them the opportunity to meet their peers and try out mooting in a low-pressure environment.

“My experience in the First Year Moot in 2022 was overwhelmingly positive. As I progressed through each round, being partnered with new competitors, I developed immense gratitude for the opportunity to fully immerse myself into the LLB community; forming friendships and connections that will last right through my study.

I feel significantly more confident going forward into my second year having had exposure to Problem Questions in areas I will be studying in the future, such as Contract Law and Commercial Transactions. My confidence entering the legal profession itself has also exponentially increased with the chance to develop research skills, good structuring and referencing habits, and relationships with fellow students and professionals.”

- Evelyn Vincin Walker, Winner 2022

HOW TO PREPARE

What a Typical Problem Question Looks Like

Problem Questions will include an agreed set of facts that outline the origin and nature of the dispute. As Moots are held in a higher appellate court, Problem Questions will also outline the Trial Judge's ruling on the key issues, and which of these the Appellant wishes to dispute.

STEP 1: IDENTIFY THE KEY ISSUES

“Consider the problem question! When you first get given the problem question, read it over, then many times more. Think what the issues are for your team AND the other team. What are the consequences of what you're arguing? What facts are crucial, and what are red herrings. The problem questions are sourced carefully and every sentence is in there for a reason. Make sure to ask yourself why it is there. Although tedious, you can even colour code/highlight the different issues and facts and see the narrative that is pieced together.”

- Nicolas Rich

2021 Open Moot Winner

2021 ALSA Championship Moot Winner

STEP 2: RESEARCH YOUR WRITTEN SUBMISSIONS THOROUGHLY, AND DEVELOP YOUR CASE THEORY

See 'How to Research for a Moot' on page 52.

STEP 3: COMPOSE YOUR WRITTEN SUBMISSIONS

See ‘Written Submissions’ on page 50.

STEP 4: COMPOSE YOUR ORAL SUBMISSIONS

A moot is supposed to be a conversation with the judge about the law and facts, meaning it is not advisable to construct a full script unless you are confident that you will be able to stray away from it. It should generally follow the structure of your written submissions.

“Have a very clear understanding of the overarching argument in your submissions, to the point where you feel comfortable presenting them in any order. Chances are, the questions from the bench will not allow you to follow a pre-written speech, so you’ll need to think on your feet and quickly adjust what you say without losing the main idea you’re trying to emphasise.”

- Grace Jin, Criminal Law Moot Winner, 2022

STEP 5: PRACTICE!

“To avoid over-time penalties, it’s good to know roughly how long your submissions are, and which parts you can afford to omit if under a time crunch. Being comfortable with your material also makes answering questions far less daunting.”

- Evelyn Vincin Walker, First Year Moot Winner 2022

WRITTEN SUBMISSIONS

Written submissions are a summation of your team’s submissions and authorities to be provided to judges and your opponents as an outline of your argument.

Submission Time:	Typically 4:00pm two (2) days preceding the round date
Page Limit:	<p>Maximum 4 pages total</p> <ul style="list-style-type: none"> • 3 pages of submissions • 1 page of authorities
What it should contain:	<p>The AULSS recommends that your Written Submissions follow a signposting format. This means your 3 pages of legal argument should include:</p> <ul style="list-style-type: none"> • Your submissions, numbered, • The structural basis to these submissions as indents, and • Any authorities relevant to that particular point of legal argument <p>Your 1 page of authorities should include every authority you will mention in your Oral Submissions, using correct AGLC referencing.</p> <p>Written Submissions do not need to be extensive or verbose, but your opponents and judge(s) should be able to put together the logical flow of your argument and anticipate what is to come in your Oral Submissions.</p> <p>For Moots with an ALSA (Australian Law Students’ Association) equivalent, expectations of Written Submissions slightly differ. ALSA recommends keeping in mind the remedy sought as you outline the facts relevant to your argument, in a persuasive paragraph format.</p> <p>However, both the AULSS and ALSA will accept either format.</p>
Formatting:	12-point Times New Roman font, with 1.5 spacing and margins of no less than 2 cm on each side.

PENALTIES

Note 1: Where a penalty is levied against a team's cumulative points total, the penalty will be divided equally amongst the Competitors for that team's individual score

Note 2: Judges will score without taking into account any penalty. The Competitions Representatives must remove the points after the final score is calculated.

Rules

All pages must be:	Penalty
A maximum of three pages of argument.	2 marks per page over the limit
An additional one-page for the list of authorities.	2 marks if authorities are omitted
A4 sized	1 mark per contravention, up to a maximum of three marks;
Times New Roman, 12-point font	
Margins of no less than 2 cm on each side	
All citations must be compliant with the most recent edition of the Australian Guide to Legal Citation	If a <u>Competitor</u> references authority in the moot not cited within their team's list of authorities the Competition Coordinator may, in his or her absolute discretion, impose a penalty of two marks to the Competitor's points total.
Teams must not use footnotes in their written memorandum of argument.	
Speaking times of both Competitors included	2 marks if speaking times are omitted
Submitted by the deadline stated by your Competition Coordinator.	Two marks for every ten minutes after the deadline (or part thereof), up to a maximum of ten marks.

HOW TO RESEARCH

Researching and developing your arguments can often be very time-consuming and lead you in different directions. The easiest way to manage your time effectively is by using the University's online researching systems, particularly Westlaw and LexisNexis.

Case Law

Case Law is specifically important to support your argument. You will want to find cases that have previously decided on the applicable law, and you will then need to examine the facts and use this to convince the judge why the law does or does not apply in the case before them.

There are some rare instances where instead of distinguishing a case to find the law does not apply, you can argue that it is no longer in the interest of the public policy that a previous piece of case law applies - this is known as the 'public policy argument.'

You must prove to the court that the decision in the previous case was made in reliance upon a different social standard than is in practice today.

Recall the following concepts when examining each case:

Ratio Decidendi:	The reasons for the judgement, that is the considerations which make the decision indispensable and is binding on lower courts.
Obiter Dictum:	A remark in passing and is not binding on courts and is merely persuasive. In lieu of relevant Ratio, Obiter may be your best friend in convincing your interpretation of the law to a judge.

Remember to draw analogies or distinguish cases, and aim to use cases in higher courts in the same hierarchy because they are binding precedent.

Legislation

If your case involves the interpretation of legislation then the first place to start is the source itself, remembering your tools of statutory interpretation.

Ensure you are reading the most recent copy of a piece of legislation, which is “in force”.

Textbooks

Although you will want to avoid specifically referencing a textbook in a moot or written submissions, textbooks can act as a guide to the key cases relating to a problem question, and provide a simpler explanation of the law.

Journal Articles

Moot problems are often based on contentious and questionable areas of law. Journal articles are a valuable resource for commentary on recent cases and topical issues.

Journal articles based around particular cases (case notes) can be a helpful way to introduce you to the cases before you read it, which can aid in the reading process. However, note that Journal article will generally not cover the entire area of law and you will have to read the whole case to get a better idea.

They may also provide alternative interpretations than what was decided, which may help you make your case.

ORAL SUBMISSIONS

Oral submissions are the arguments your team wishes to present to the judge in respect to the present matter. They should refer to the facts of the Problem Question, using relevant legal authorities as persuasive tools, and be treated as a discussion with the bench that incorporates answers to their questions.

Time Limit: 30 minutes shared between both speakers. The Right of Reply is included in this time limit.

Appearances

Appearances must be delivered whilst standing, and although this constitutes only a small part of the moot, first impressions are always important. Practice delivering your appearances fluently and maintain eye contact with the bench during this time.

For Example:

“May it please the Court. My name is LAST NAME, INITIAL and I appear with my co-counsel, LAST NAME, INITIAL, for the APPELLANT/RESPONDENT in this matter, STATE PARTY NAME. I will speak for 15 minutes and my Co-counsel will speak for a further 15 minutes.”

It is helpful to bring in an agenda of how you wish to tackle the issues and keep track of the mediation. A few minutes should be spent merging your agendas, and you can then address each issue in turn. Issues can then be easily ticked off as they are discussed or flagged as needing to be revisited should peripheral issues need to be resolved.

Where you have the Right of Reply:

If rebuttal (for the appellant) and surrebuttal (for the respondent) are permitted by the moot rules, you must also state your intention to use this.

For Example:

“We reserve a further _ minutes for rebuttal.”

Please refer to the Right of Reply section for more tips!

Beginning your submissions

Sign Posting

It is always a good idea to begin by providing the bench with a map as to how your submissions will run. This makes it easier for the judges to follow and understand your argument.

For Example:

“Your Honours, the APPELLANT/RESPONDENT will make four submissions this evening.

-First, [STATE SUBMISSION].

-Second, [STATE SUBMISSION].

-Third, [STATE SUBMISSION].

-Fourth, [STATE SUBMISSION].

I will be addressing submissions one and two, whilst my learned junior will be addressing submissions three and four.”

By providing an outline at the very beginning of your submissions, you are making very clear to the bench what your position will be on the case, making the substantive content of your submissions easier to follow.

Requesting Leave to Dispense with Formal Submissions

It is common to ask the bench either at the start of your submissions, or at the end of your first formal citation if you may dispense with full citations.

For Example:

“Your Honours, may the APPELLANT/RESPONDENT request leave to dispense with formal citations?”

This request may not always be granted, so ensure that you have all your authorities written down in full. Saying this statement allows you to use the shortened citation as opposed to the formal citation.

Examples:

Written citation	<i>Strong v Woolworths Ltd</i> (2012) 246 CLR 182
Formal citation	The formal citation is how you say the written citation out loud, when you are not given permission to dispense with formal citations. “Strong and Woolworths Limited, a 2012 case reported in volume 246 of the Commonwealth Law Reports beginning at page 182”
Shortened citation	Strong and Woolworths

Answering Questions

The manner in which you respond to questions constitutes a large portion of your marks. For those who are new to mooting, questions from the bench can be perceived as intimidating and something to avoid; however, they are quite the opposite. Being questioned shows that the judge is interested in what you are saying and gives you the opportunity to address any concerns they may have, as well as demonstrate your knowledge and preparation.

SOME TIPS:

LISTEN CAREFULLY

If you did not understand the question, you may be able to ask the judge for a rephrasing of the question. Another alternative may be to re-confirm what the judge is asking.

BREATHE

It is more than okay to pause before answering a question. This shows the judge that you have considered their question carefully.

BE FLEXIBLE

A judge may wish to take you out of your submissions or to an issue you intend to address later.

NEVER INTERRUPT

Do not talk over the judge. It is a matter of courtesy that as soon as they begin to talk, you stop.

NEVER MAKE UP AN ANSWER

It is unforgivable to mislead the court. An acceptable response is to say:

“I cannot assist the court on that matter.”

Whilst overusing this phrase may indicate a lack of preparation on your part, it is always preferable to guessing or lying.

“Keep calm and carry on! One of the unique aspects of mooting is the role the judge has in asking questions to test your knowledge. Often these questions can come thick and fast and can throw you off to all your preparation. Take some time to think about the question being asked before responding. As law students we all love talking, but you will be rewarded much more for answering clearly and concisely than quick and convoluted.”

- *Nicolas Rich*

2021 Open Moot Winner, 2021 ALSA Championship Moot Winner

Conclusion

Having a simple conclusion is important because it ties together your submissions and signals the end of your speaking time.

Senior counsel should end their submissions with a short sentence reminding the judge of their points.

For Example:

“Unless I can be of any further assistance, that concludes the APPELLANT’S/RESPONDENT’S submissions for issues [A] and [B].”

Likewise, junior counsel should finish by stating the conclusion of all the submissions and if time allows, remind the court of what the submissions were and what remedy you seek for your client.

For Example:

“Your Honours, the APPELLANT/RESPONDENT has submitted firstly [A], secondly [B], thirdly [C] and fourthly [D].

We ask that you [...remedy...]. Unless I can be of any further assistance, that concludes the APPELLANT’S/RESPONDENT’S submissions.”

RIGHT OF REPLY

The Right of Reply is an opportunity for mooters to respond to the arguments made by the other team, and cut into their opponent's arguments where necessary. For the Appellant, it is sometimes also called rebuttal, and for the Respondent it is sometimes called sur-rebuttal. You may waive your right to rebuttal; however, this is not advised.

What Should It Address

The Right of Reply should address the following issues:

- The opposition relied on a case with easily distinguishable facts.
- The law the opposition relied upon is faulty or no longer applies.
- There has been a clear and apparent misrepresentation of the agreed facts.

TIP 1: SAY SOMETHING COMPELLING

“Rebuttal isn't a chance for retaliation, it's a chance to provide something compelling in reply”

- Nili McGrath, 2022 Philip C. Jessup International Law Moot Coach.

“Utilise right of reply! The right of reply is a great way to leave a last impression on the judge for your argument. When you utilise a right of reply, you want to identify the weaknesses in your opposing counsels argument and why your side is correct. While it may be tempting to rest, relax or (if before you've spoken) take a breather, it is important to listen to what your opposing counsel is saying and putting before a judge.”

- Nicolas Rich

2021 Open Moot Winner, 2021 ALSA Championship Moot Winner

What Should It NOT Address

The Right of Reply should NOT address the following issues:

- New arguments or content.
- An opposition's misrepresentation of a part of a case, or the agreed facts, where that misrepresentation was inconsequential, and did not relate to the main issues of the case.
- Any general moral discussion applicable to the law which the opposition relied upon as being wrong.

TIP 2: DO NOT GO TIT-FOR-TAT

“Do not go tit-for-tat. Rebuttal is to go right for the jugular, and cut into the opponent's argument where necessary. If the opposing team strawman your argument to represent you having said something you have not, this is not a point to raise in rebuttal (the judge will understand).”

- Harry Passehl, 2022 ALSA Championship Moot Semi-Finalist, 2023 Philip C. Jessup International Law Moot Competitor..

TIP 3: DO NOT SUMMARISE YOUR OWN ARGUMENT

““You should not use the time to report your arguments or talk for the sake of talking. Your right of reply should show your understanding of the opponents arguments, their weaknesses, and in that weakness, push your point home.

Make sure to research the other side's arguments early on and pay close attention to their written submissions to prepare for the reply in advance.”

- Nicolas Rich, 2021 Open Moot Winner, 2021 ALSA Championship Moot Winner, Philip C. Jessup International Law Moot Competitor..

STRUCTURE

SUMMARISE

Summarize your opponents' venerable points in a concise way

REFUTE

Refute the points. This section can be signposted with the word "however".

The substance of the rebuttal should concern competing authorities and factual distinctions between cases.

LINK TO, AND COMPARE TO, YOUR ARGUMENT

Link the point being refuted to your own argument and outline why yours is better.

TIP 4: BE CONSIDERATE

"[A] 'perfect' rebuttal I once made in the eyes of an ALSA judge...was 35 seconds long."

- Harry Passehl, 2022 ALSA Championship Moot Semi-Finalist, 2023 Philip C. Jessup International Law Moot Competitor..

KEY CONCEPTS AND TERMINOLOGY

"May it please the court"	A polite introductory phrase used at the beginning and conclusion of submissions
"Your Honour"	Addressing an individual judge
"My learned friend"	Referring to the opposing counsel
"My learned friend", "My learned senior/ junior" or "My learned Co-Counsel"	Referring to your co-counsel
"We submit"	Introducing any submission, point or argument A barrister should never use the phrase "We believe", they should say they "submit" instead.
"I cannot assist the court on that matter"	Where you do not know the answer to a question
"I do not press that point"	A graceful way of making a concession after the judge has revealed a weakness in your argument
"With respect Your Honour"	A polite way to disagree with or correct the bench
Written Submissions	A four-page outline of your oral submissions, including legal argument and authorities
Oral Submissions	Half an hour, divided between junior and senior counsel, to deliver your submissions and answer questions from the bench



WITNESS EXAMINATION

Handbook



“If you have aspirations of becoming a Barrister, conducting lots of Court-related hearings, or simply have an interest in using your public speaking and advocacy skills within the legal profession, then participating in the Adelaide Law School’s Witness Examination

Competition is a sure-fire way to develop those skills further, and obtain some insight and wisdom from senior members of the legal profession, who will act as your judges in this competition.”

- Gian-Luca Stirling, Witness Examination Winner 2022

INTRODUCTION

In Witness Examination, competitors simulate a civil or criminal trial. Competitors advance individually and litigate for one non-competitive witness for per side. The objective of Witness Examination is to develop a case theory based on witness testimony and present it to the judge. The competition involves quick thinking, improvisation and the ability to go toe-to-toe with a usually uncooperative witness!

Recommended Years:	2nd Years and above.
Teams:	None, participants compete individually
Materials:	Competitions Coordinators should provide competitors with: -A copy of the Rules -A Problem Question -The Relevant Draw -The Scoring Guide -This Handbook
Key Skills:	<ul style="list-style-type: none">• Trial Advocacy• Rules of Evidence• Witness Management
Watch an ALSA example:	https://www.youtube.com/watch?v=7ZTiQbMMEQQ

WHAT TO EXPECT

90 minutes before the round:

4:30pm:

Competitors receive their materials.

30 minutes before the round:

5:30pm:

Competitors meet with their witness 30 minutes before the round begins to explain their case theory and strategy.

On the Night:

6:00pm

Competition Structure:

1. Appearances - Prosecution then Defence (1 min)
2. Prosecution Opening Address (2 mins)
3. Examination-in-Chief of Prosecution Witness (10 mins)
4. Cross-Examination by Defence Counsel (15 mins)
5. Defence Opening Address (2 mins)
6. Examination-in-Chief of Defence Witness (10 mins)
7. Cross-Examination of Defence Witness by Prosecution Counsel (15 mins)
8. Closing Address by Defence (3 mins)
9. Closing Address by Prosecution (3 mins)

If there is a second timeslot, competitors in that timeslot should receive their materials at this time.

7:30pm

Judges take time to deliberate and then provide feedback. Competitors will receive their results as soon as the Competitions Team can distribute them.

COMPETITIONS WE OFFER



Divya Narayan

Witness Examination Winner, 2021

Witness Examination

In Semester 1, the AULSS offers the Witness Examination competition, which usually consists of:

- 2 Preliminary Rounds
- 1 Quarter Final
- 1 Semi Final, and
- a Grand Final.

Competitors compete as individuals. All competitors progress through both preliminary rounds, and the top 8 individuals progress to the quarter finals. From there the winners of each round progress to the next

Note in Preliminary rounds, you will only need to prepare an opening and examination in chief, or a cross examination and closing. The winner of the Grand Final will have the opportunity to represent the AULSS at the ALSA National Competition.

Private Law Witness Examination



Gian Luca Stirling

Witness Examination Winner, 2022

In Semester 2 2023, the AULSS will offer the first CiviPrivate Law Witness Examination Competition, which usually consists of:

- 1 Preliminary Round;
- 1 Semi Final; and
- 1 Grand Final.

This competition will serve as a steppingstone for the Semester 1 competition, which is why competitors will be allowed 2 hours to prepare instead of 90 minutes.

All other facets of the competition are the same as the Semester 1 competition.

“[A]lthough you’re understandably nervous, try and actively listen to the responses of the witnesses, do not just stick to a script. You would be amazed at the amount of times a witness either says something detrimental to their own credit or reliability or misses an important piece of information and this is never followed up further by the competitor (and contributes to points lost).”

- Gian Luca Stirling, Winner 2022,

HOW TO PREPARE

What a Typical Problem Question Looks Like

Competitors will be given witness statements for both their client and opposing counsel's client, which will outline the applicable scenario and evidence for the trial. A problem question will also contain the relevant legislation sections and case law.

STEP 1: Read the materials, and consider potential objections as you go

“The smallest details could help or hurt your case, but they can be so easy to miss if you are stressed. Take a breath, and read the materials. It helps to identify points in the witness's script where you can object so you don't forget during the trial too.”

- Patricia Pappas, Semi Finalist 2022, Mock Trials Coach

STEP 2: Develop your Case Theory

“[W]hen you are preparing your questions, you only have a limited amount of time. To give your questions any direction or meaning, you must first identify what legal elements or principles you are dealing with.”

- Gian Luca Stirling, Winner 2022,

STEP 3: Bring What You Need

“When you compete, take the following materials:

- Pen/paper for notetaking during opposing counsel’s examinations. They may touch on points you want to address or rebut in your own examinations.
- Water. You may want to strategically have a sip or two and gather your thoughts mid-examination. You will be speaking a lot.
- Your list of questions and excerpts from the Witness Statements provided to you. As you go through each question, tick it off, or make a note where the witness makes a mistake or says something interesting so you can pursue it further if necessary.
- Your Phone or mobile device, if permitted, to time yourself and your opponent.”

- Gian Luca Stirling, Winner 2022,

STEP 2: DEVELOP YOUR CASE THEORY

You will need to prepare:

1. An Opening;
2. An Examination in Chief;
3. A Cross Examination; and
4. A Closing.

See the following pages for further explanation.

OPENING

Time Limit: 2 minutes

The Opening Address will be delivered after both the Applicant/Prosecution and the Respondent/Defence both give their appearances. The Applicant/Prosecution will go first.

It is where you outline the facts of the case, define the issues to be tried, inform the court of the material evidence and present your case theory. It is best delivered in a narrative format. Outline the case considering the point-of-view and chronology of your witness.

At the end of your address, you should assert that the relevant standard of proof is or is not satisfied. Counsel must then conclude the opening statement by stating:

“I now call [WITNESS NAME] to the stand.”

EXAMINATION IN CHIEF

Time Limit: 10 minutes

The first step in the taking of evidence is called examination-in-chief. The aim is to get the witness to tell their story and to bring out all the relevant evidence from that witness. Your aim is to make your witness seem credible and develop the narrative for the judge in chronological order. Use your line of questioning to show the judge the merits of your case.

TIP: Use Open Ended Questions

A way to get the witness to tell their story without leading them is to start your questions with words such as who, what, when, where and how. The purpose of your examination in chief is to make the witness shine.

CROSS EXAMINATION

Time Limit: 15 minutes

A cross-examination is an opportunity for you to highlight the inconsistencies of the witness' statement and source evidence to support your case theory. Unlike in examination-in-chief, leading questions are permitted and generally encouraged.

Throughout your examination do not argue with the judge or witness, attempt to bully them or ask them more than one question at once. Use a steady tone of voice and remain calm throughout the examination.

TIP: Use Closed Questions

Try to ensure that the witness can only answer 'yes' or 'no'. The goal of your examination should be to trap the witness with their own statements. To be effective, you should have a purpose for each question, rather than wasting time asking irrelevant questions.

Consider

- The competence of the witness to give the evidence.
- The quality of a witness's perception and vision
- Inconsistencies in the witness statements
- The accuracy of the witness's recall
- The credibility of the witness. (Eg: bias, interest, prejudice)

TIP: Every Question Needs a Purpose

“You should always know how your witness will respond. It is dangerous to give an opportunity to derail your case because you will need to then spend valuable time in your later materials mitigating the impacts of that statement.”

- Patricia Pappas

CLOSING

Time Limit: 3 minutes

The focus of your closing address should be to summarise your case and establish whether the relevant standard of proof is satisfied. It should

- reference all evidence that came out during the examination of witnesses, highlight favourable evidence and outline why it benefits your case
- explain why you disagree with the opposing counsel's assertions,
- explain your case theory, and
- make submissions as to the principles of law which would affect the case

OBJECTIONS

Competitors should aim to comply with the rules of evidence in developing their materials. When their opposition is speaking, they should aim to object to the questions, as opposed to the witness's answers.

If you believe an objection to your question has been made wrongly, you can challenge the objection. Try to answer as succinctly as possible to answer why your question or line of questioning should be allowed. You do not want to detract from the proceedings.

RULES OF EVIDENCE

Potential Objections can be found in the most recent Evidence Act and the Uniform Civil Rules. Competitors are encouraged to conduct research into the following objectionable areas:

- Relevance
- Opinion
- Hearsay
- Character
- Leading
- The rule in *Browne v Dunn* (1893) 6 R. 67.
- Assumptions not identified
- Privileged
- Reconstruction or speculation
- Inadmissible secondary evidence when primary evidence available
- Impermissibly vague or ambiguous
- Authenticity/Provenance not established
- Argumentative
- Inadmissible conclusion or opinion (without primary facts)
- Reasoning (by expert) not disclosed

KEY CONCEPTS AND TERMINOLOGY

"May it please the court"	A polite introductory phrase used at the beginning and conclusion of submissions
"Your Honour"	Addressing an individual judge
"My learned friend"	Referring to the opposing counsel
"My learned friend", "My learned senior/ junior" or "My learned Co-Counsel"	Referring to your co-counsel
"I submit"	Introducing any submission, point or argument A barrister should never use the phrase "We believe", they should say they "submit" instead.
"I cannot assist the court on that matter"	Where you do not know the answer to a question
"I do not press that point"	A graceful way of making a concession after the judge has revealed a weakness in your argument
"With respect Your Honour"	A polite way to disagree with or correct the bench



KAIN | LAWYERS

Mergers and Acquisitions

Handbook



“The AULSS is extremely fortunate to have our sponsors involved in running competitions that are centered around a specific area of law. We thank Kain Lawyers for allowing us to provide this unique opportunity for students to develop their practical skills and expose them to the industry”

-The AULSS
Competitions Portfolio

INTRODUCTION



Katie Cooper and Cate Lipsham
M&As Winners, 2022

Mergers and Acquisitions

KAIN | LAWYERS

Held in Semester 2, this Competition consists of 4 rounds, where competitors act for a client company interested in conducting a merger or acquisition:

1. Competitors provide written advice to the client
2. Competitors provide oral advice in a meeting with the client
3. Competitors finalise the Merger or Acquisition in a negotiation stage.
4. Competitors compete in a Grand Final Negotiation.

“If you’re interested in corporate law, then this is definitely for you! It is also one of the few competitions which has a variety of formats.”

- Katie Cooper, Mergers and Acquisitions Winner 2022

WHAT TO EXPECT

1 week before the Letter of Advice is Due:	
By 5:00pm:	Competitors receive their materials.
Week 3, 1 week before the Oral Advice Round	
By 4:00pm:	Competitors submit their Letter of Advice
Week 4	
6:00pm or later	Oral Advice Round
Week 5	
6:00pm	Negotiations Semi Final Round
Week 6	
6:00pm	Negotiations Grand Final Round

HOW TO PREPARE

What a Typical Problem Question Looks Like

There are two forms of problem question which a team may encounter.

1. Letter of Advice Round

The problem question for the letter of advice round will outline the background of the scenario and your client's expectations. You will be expected to conduct research and compose a letter of advice based on those expectations.

2. Negotiation Round

Both finals consist of a negotiation round. Teams will receive a set of common facts which are agreed on by both parties, and a set of confidential instructions which teams must comply with.

STEP 1: Read the Problem Question and Research

1. Read the Problem Question individually and as a group
2. Pinpoint your key issues
3. Recognise your client requests
4. Divide up the research
5. Meet with your partner and assess all the information the pair of you have found to collaboratively construct a plan for your written letter of advice.

TIP 1: Do Your Research

“You will need to research the take-over options available to your client and be familiar with the relevant provisions in the Corporations Act 2001 (Cth). If you haven’t done corporate law, don’t stress as M&A isn’t covered in the subject!”

- Katie Cooper, Mergers and Acquisitions Winner 2022

STEP 2: Write and Submit Your Letter of Advice and then Prepare for your Oral Advice Round

See "How to write a Letter of Advice"

TIP: FIRST IMPRESSIONS MATTER

“Written submissions are your first opportunity to ‘poison the well’. It is likely to be the first thing the judge reads”

*- Annie Yuan, Commercial and Legal Property Winner 2022,
Mergers and Acquisitions Grand Finalist 2022*

LETTERS OF ADVICE

Word Limit: 800 - 1000 words

A Letter of Advice is a document that presents the legal opinion of a lawyer to their client in a clear and concise manner.

Conventionally, the opening paragraph should state the client's problem, and specify the legal issue on which the client seeks advice. The paragraph preceding the opening sets out legally significant facts (facts upon which the writer will base their analysis).

TIP: CONSIDER YOUR CLIENT

“Consider what your client actually wants – do they want 100% ownership, or would partial acquisition suffice?”

- Katie Cooper, Mergers and Acquisitions Winner 2022

Tips and Tricks For writing a Letter of Advice

1. "Translate the law into relatively straightforward language, without naming specific cases
2. Be succinct
3. Appropriately structure your analysis to suit the nature of the case – a logical order will assist the client
4. Make sure your references to the Problem Question are accurate
5. Proofread your written work multiple times prior to submission
6. Ensure that you always maintain a level of formality and professionalism and utilise the correct conventions."

- Commercial and Legal Property Law Finalists 2022 Grace Jin and Isabella Burgess

ORAL ADVICE ROUNDS

Time Limit: 15 minutes

The Oral Advice Round a meeting with your client, whereby you walk them through the contents of your letter of written advice. You will be provided with additional information that will require you to work effectively with your partner to efficiently answer.

Competitors are advised to know the processes associated with the area of law which they are advising the client in.

TIP: BE ORGANISED

1. "Be very familiar and well versed with what you wrote in your letter of advice,
2. Take your time, speak fluently and eloquently,
3. Bounce off your teammate and ensure that the two of you are speaking of the same message, the same resolutions and working effectively together."

- Aryan Banerjee, Commercial and Legal Property Winner 2022

KEY CONCEPTS

Competitors should familiarise themselves with the following concepts for the purpose of the Mergers and Acquisitions competition.

- Merger
- Acquisition
- Scheme of Arrangement
- Takeover Bid



VOLUNTEERING

HANDBOOK

Volunteering is a great way of getting a feel of the competition and gaining some experience and confidence before you compete in subsequent years. It is less of a time commitment than actually competing, and you get the opportunity to see competitors in action!

Volunteers are an integral aspect of our competition Program, and the Competitions Portfolio really appreciate you helping us run our competitions smoothly!

COMPETITIONS THAT NEED VOLUNTEERS

- Client Interviewing
- Witness Examination
- Family Law Mediation

VOLUNTEERING FOR CLIENT INTERVIEWING

Volunteers will act as a client seeking an initial consultation on a legal matter which is outlined in a provided witness statement.

Materials:

- Your Script
- The Client Interviewing Rules
- A Relevant Draw

Please note that the team only receives the memoranda, which is contained on the first page.

RELEVANT RULES:

9. CLIENTS

- 9.1. Clients will be supplied by the Competitions Team.
- 9.2. Clients will receive their materials at least one (1) hour before the commencement of any given round.
- 9.3. Client materials will comprise the competitors' brief (consultation situation) and a detailed confidential memorandum concerning the client's background and concerns.
- 9.4. Clients are to be advised that their 'performance' commences as soon as they step into the client interview.
- 9.5. Clients will be permitted to refer to their instructions whilst being interviewed.
- 9.6. Clients must give their feedback to judges after each interview, outlining their level of confidence in the team's handling of their situation and any other relevant comments.

PROVIDING FEEDBACK:

After 30 minutes, the interview should conclude, and the competitors will leave the room to plan for their self-analysis. During this time, you will need to give feedback to the judge.

Your feedback should outline:

- Your opinions on the team's level of confidence;
- How you felt the team handled the situation; and
- Any other relevant comments. This is including, but not limited to:
 - The team's level of professionalism,
 - Demeanours, and
 - The environment the team created.

THE IMPORTANCE OF CONSISTENCY:

The most important thing to note as a client is to be consistent. Both teams should have to deal with the exact same set of circumstances.

We aim to simulate a realistic interview, so feel free to really play into your character if you can replicate your reactions in the second round.

This is because the competitors in your second round are the first team's opposition, and we want to ensure fairness and uniformity so competitors are judged solely on their performance.

IF YOU DO NOT KNOW THE ANSWER TO A QUESTION:

If you do not know the answer to a question, you can either respond: "I don't know, I'd have to check", or (within reason) you can make up a fact.

However, you should only make up facts where they reasonably fit within the scenario provided, and you should make sure to tell the other team the fact if a similar question or circumstance arises.

VOLUNTEERING FOR WITNESS EXAMINATION

Volunteers act as a witness and testify according to a written statement. This said, it is sometimes necessary to improvise, and volunteers are permitted to do this within reason.

Materials:

- Your Script
- The Witness Examination Rules
- A Relevant Draw

Please note that the team only receives the memoranda, which is contained on the first page.

RELEVANT RULES:

9. Witnesses

- 9.1. The Competition Coordinator will organise volunteers to act as witnesses.
- 9.2. Witnesses will receive their applicable witness statement one (1) day before the commencement of the Round.
- 9.3. Witnesses must attend the Round at least thirty (30) minutes prior to the commencement of the Round to be interviewed by their competitor.
- 9.4. Witnesses are to be advised that their 'performance' commences once the interview with their assigned Competitor begins.
 - 9.4.1. Competitors may suggest how that character or performance be emphasised or subdued as suits the case at hand.

- 9.4.2. Competitors must keep in mind that it is a breach of professional ethics to coach a Witness by suggesting the content of his or her evidence.
- 9.5. Witness Statements should not be presumed to be admitted into evidence.
- 9.6. Witnesses are permitted to refer to their Witness Statement while giving evidence without approval from the Judge.
- 9.7. A Witness must not add to the facts of the witness statement. If a witness is asked about matters outside the statement in cross examination, the Witness –
 - 9.7.1. may address evidence outside the statement where it is clearly and reasonably implied by the facts or scenario provided; or
 - 9.7.2. must answer ‘I don't know’ or ‘I can't remember’ or any other equivalent phrase.

GENERAL ADVICE:

- The most important things to note for being a witness is to stick to your relevant competitor's case theory and to know your facts.
- As long as you know what your barrister is trying to argue and you do not contradict that, you will be a successful witness.
- If you do not know the answer to a question, the best answer you can provide is “I do not recall”!

VOLUNTEERING FOR FAMILY LAW MEDIATION

Volunteers will play the role of opposing sides of a separating couple. They will be presented with a fact pattern containing their goals and they will be respond to events in the mediation in accordance with those goals.

Materials:

- A fact pattern
- The Family Law Mediation Rules
- A Relevant Draw

Please note that the team only receives the memoranda, which is contained on the first page.

Your Expectations:

5:15pm:	We ask that you please arrive at 5:15pm to allow time for the Competition Team to brief you on your role in the competition
5:30pm:	You will meet with your assigned competitors to reveal your surprise element, and you will be in character
6:00pm:	You will enter the mediation with your competitors, and teams will ask you questions throughout the mediation about your feelings, goals, and perspective.

GENERAL ADVICE:

- The most important things to note for being a client is to stick to your goals and perspectives and to know your facts. You can be opinionated and respond to the offers put to you as a client.
- However, please avoid negotiating on your competitor's behalf, as the marking criteria is dependent upon the competitors proposing courses of action.

A FINAL NOTE

We hope this Handbook has been helpful in providing you with an insight into the competitions experience!

If you are remotely interested in any of the competitions listed in this Handbook, we would highly encourage you to sign up – even if you are a little scared. That’s perfectly normal. However, it is such a supportive atmosphere and such a great opportunity to contextualise what you learn in your degree and apply it in a realistic setting, which is why we strongly believe every student should do at least one competition throughout their degree.

Please also find the following learning resources which has been developed by the Competitions Portfolio including:

- The AULSS Competitions x Education Skills Video Series
- The AULSS Competitions Scoring Guide
- The Rules of each Competition

They can all be accessed at the AULSS website:
<https://www.aulss.org/about-competitions>.

If you have any further questions, the Competitions Teams will always be there to help!

Lots of love,

The AULSS Competitions Portfolio.