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**SUNSHINE COAST SCHOOLS MOOTING COMPETITION**

# RULES

A joint initiative of the ***University of the Sunshine Coast*** and ***Sunshine Coast Grammar School***



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## COMPETITION RULES

### 1. TEAMS

**1.1** Each participating School can nominate unlimited teams to participate in the Sunshine Coast Schools Mooting Competition (the “Competition”).

**1.2** Each team will be comprised of between two (2) and five (5) competitors.

**1.3** All competitors must be high school students enrolled in Year 11 or 12 Legal Studies from a participating High School.

**1.3.1** Competitors who fall outside the parameters contained in rule 1.3 must obtain prior permission from the Mooting Convenors in order to participate in the Competition.

**1.4** Competitors from a team must be from the same High School.

**1.5** Each team must have a coach who is responsible for team registration and corresponding with the Moot Convenors. The coach can be a teacher or community member.

**1.6** By registering to compete in the Competition, all competitors and their coach agree to be bound by the Sunshine Coast Schools Mooting Competition Rules (“the Rules”) outlined in this document.

**1.7** Unless otherwise stated in these rules, penalties for breach of these rules will be at the discretion of the Moot Convenors.

### 2. RESPONSIBILITIES AND COLLABORATION

**2.1** Coaches may provide general feedback and advice to assist their team to prepare for the Competition. Coaches must not devise written or oral arguments for the team or assist with researching the legal issues.

**2.2** Competitors must not seek or accept assistance for the Competition from anyone outside the team beyond general feedback and advice.

**2.3** No competitor is to watch a preliminary round of the Competition which their team are not involved in unless they have obtained prior approval from the Mooting Convenors.

**2.4** No competitor can collaborate with any other team in the rounds.

**2.5** Any team that breaches rules 2.1 to 2.4 may be penalised or disqualified from the Competition at the discretion of the Mooting Convenors.

### 3. WRITTEN SUBMISSIONS

**3.1** Teams are required to electronically submit Written Submissions before each Preliminary Round.

**3.2** Teams may also electronically submit Written Submissions before the Semi-Finals and Grand Final.

**3.2.1** If teams do not electronically submit Written Submissions before the Semi-Finals or Grand Finals, the Written Submissions from the previous round will be used.

**3.3** Written submissions are electronically submitting by emailing the document to highschoolmooting@usc.edu.au.

**3.4** The Moot Convenors will email the opposing team’s Written Submissions to each team by 5:00pm on the business day following the electronic submission.

**3.5** Applications for extension of time for Written Submissions will be heard by the Mooting Convenors at their sole discretion.

**3.6** Late submissions will incur a 5% reduction in the overall team mark for each 24-hour period they are overdue.

**3.6.1** A team who does not electronically file their submissions for the Preliminary Rounds will not receive their opponent team’s Written Submissions until the team’s Written Submissions are electronically filed.

**3.6.2** The Mooting Convenors may waive penalties for late submission at their sole discretion.

**3.7** The team’s Written Submissions must not exceed two (2) pages in length. Written Submissions must be word processed in 12-point Times New Roman font, with page margins of no less than 2 cm. No list of authorities is required, but full citations must be provided.

**3.7.1** Written Submissions must be clearly labelled with the School name in the header or footer of the document.

**3.7.2** An example Written Submission has been provided in Appendix 1 of these Rules.

**3.8** Teams will be given a list of relevant case law and legislation with the Moot Problem. While students may do additional research beyond the primary sources provided, there are no additional marks available for extra research.

**3.9** Teams can alter their Written Submissions between rounds of the Competition.

### 4. ORAL ARGUMENT

**4.1** Each team will make Oral Arguments in each round of the Competition.

**4.2** Each team will nominate a Senior Counsel and a Junior Counsel. Speakers shall present in the following order:

**4.2.1** Senior Counsel for the Appellant;

**4.2.2** Junior Counsel for the Appellant;

**4.2.3** Senior Counsel for the Respondent;

**4.2.4** Junior Counsel for the Respondent.

**4.3** Team members making Oral Arguments do not need to be nominated prior to each round and can change for each round.

**4.4** Each team will have twenty (20) minutes to make Oral Arguments (excluding time taken to give appearances).

**4.4.1** Allocation of speaking time is at the discretion of each team.

**4.4.2** Each Counsel must speak for a minimum of seven (7) minutes.

**4.4.3** Each Senior Counsel will notify the judges of their team’s allocated speaking time when they make their appearance.

**4.4.4** The time allocated to each Counsel is inclusive of time taken to respond to questions from the Bench.

**4.4.5** Teams do not have to use the full 20 minutes allocated and will not be penalised if they speak for fewer than 20 minutes.

**4.4.6** There will be no right or reply or rebuttal for this Competition.

**4.4.7** Counsel must cease their Oral Argument when asked to do so by the judge.

**4.5** Judges may grant an extension of time of up to two (2) minutes per team provided the teams request an extension of time in an appropriate manner.

**4.6** Responsibility for timekeeping and adherence to allocated time periods and breaks rests with the judges or timekeepers (as relevant).

**4.6.1** Competitors will be given a warning for their time to expire when: (a) There is one (1) minute remaining; and (b) Time has elapsed.

**4.7** Competitors who are not making Oral Arguments in a round are permitted to sit at the bar table and instruct/assist Counsel if space permits.

**4.8** During the Oral Arguments, teams must not use any device to access the internet or otherwise communicate with any person outside the moot.

**4.8.1** If Competitors wish to use a laptop during the Oral Submissions, they must ensure internet connection and sound is disabled.

**4.8.2** Teams are encouraged to print all materials they might need to access during the moot and have a copy at the bar table to refer to as needed.

**4.8.3** Coaches must not communicate in any way with team members while a moot is in progress and Competitors must not correspond with their coach during the Oral Submissions

**4.8.4** Competitors may communicate with each other, in an appropriate way, during the Moot.

**4.8.5** While observation of the moot by family, friends and the community is encouraged, the potential for disruption must be minimised for fairness to all teams. Therefore, Competitors should instruct observers not to enter or leave the room whilst a competitor or the judge is speaking.

**4.9** During attendance and participation in the Competition, all competitors should appear in smart dress.

**4.9.1** School uniform can be worn but is not required.

### 5. JUDGING

**5.1** Judges will be appointed for each round by the Mooting Convenors.

**5.1.1** Judges will be appointed from community members, UniSC academic staff or UniSC law students.

**5.2** The Written Submissions will be judged according to the score sheet provided in Appendix 2. A marker will award each team a mark out of one hundred (100). The Written Submissions will be marked separately to the Oral Arguments.

**5.2.1** All teams will receive written feedback from their Written Submissions at the conclusion to Preliminary Round 1 and then again after Preliminary Round 2. The Mooting Convenors will provide the feedback directly to the coaches who can distribute to their team. Teams can use the feedback to improve their Written Submissions for the next round of the Competition.

**5.2.2** The team with the highest ranked Written Submission in the Competition will win the award for Best Written Submissions.

**5.3** The Oral Arguments will be judged according to the score sheet provided in Appendix 2. The Judge/s of each moot will award each team a mark out of one hundred (100). The Oral Arguments will be marked separately to the Written Submissions.

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

**5.3.2** The competitor with the highest ranked Oral Argument for the Competition will win the award for Best Speaker.

**5.4** In the event of teams being awarded the same score, judges are to award the round to the team with the best speaker; no draws are possible.

**5.5** Judges are encouraged to give oral feedback to teams at the conclusion of each round.

**5.6** In the preliminary rounds, judges must not reveal the winner of each round or the scores.

### 6. COMPETITION STRUCTURE

**6.1** Each team will participate in two (2) Preliminary Rounds. Each team will represent the Respondent once and the Appellant once.

**6.1.1** Preliminary Rounds will be held at participating schools.

**6.2** Teams will be randomly allocated as representing either the Appellant or Respondent in each moot after the Preliminary Rounds.

**6.3** The four (4) teams with the highest number of accumulated points after the Preliminary Rounds will advance to the Semi-Finals. In the event of multiple teams having the same number of points, the respective rankings of those teams will be determined by comparing their Written Submission marks.

**6.3.1** The Semi-Finals will be held at the University of the Sunshine Coast Moot Court.

**6.3.2** Scores from the Preliminary Round are not factored into the Semi-Final scores.

**6.3.3** The Semi-Finals will be held at the University of the Sunshine Coast Moot Court.

**6.4** In the Semi-Final, the first-ranked team will moot against the fourth-ranked team, the second-ranked team will moot against the third-ranked team and so on. The two winning teams from the Semi-Final will progress to the Grand-Final.

**6.4.1** The Grand Finals will be held at the University of the Sunshine Coast Moot Court.

### 7. QUERIES ABOUT PROBLEM OR RULES

**7.1** If a competitor or team has a question about the problem or these Rules, they should speak to their coach.

**7.2** If the coach is unable to address the question, the coach should contact the Moot Convenors.

**7.3** The Moot Convenors will make a decision.

**7.4** The Moot Convenors will publish the decision to all teams by email communication to all coaches.

### 8. DISPUTES

**8.1** Any dispute in relation to a breach or alleged breach of these rules will be finally and conclusively resolved by the Moot Convenors.

**8.2** Any complaint that a team, coach or judge has breached one of the above rules should be emailed to the Moot Convenors with as many details provided as possible.

### 9. PRIZES

**9.1** There shall be four (4) prizes awarded at the Grand Final of the Tournament.

**9.2 The Competition Champion Award** will be awarded to the winning team in the Grand Final (being the team awarded the most points according to a combination of the Written Submissions score sheet and Oral Submissions score sheet in Appendix

2).

**9.3 The Tournament Runner-up Award** will be awarded to the team with the least points in the Grand Final according to the score sheets in Appendix 2.

**9.4 The Best Written Submissions Award** will be awarded to the team with the most points for the Written Submissions from any round of the Competition.

**9.5 The Best Speaker Award** will be awarded to the individual competitor with the highest score for Oral Arguments from any round of the Competition.

**9.5.1** In the event of a tied score between competitors, the competitors will share the award equally.

**9.6 The Tournament Champion Award,** **The Tournament Runner-up Award and the Best Written Submissions Award** will be shared equally between team members.

### 10. QUARANTINE AND COVID-19

**10.1** A participant must not compete within the competition if they are subject to a quarantine direction.

**10.2** If an entire team is unable to compete in the competition due to quarantine directions, the Moot Convenors have the prerogative to:

1. Reschedule the moot of the quarantined participants;
2. Flip the moot of the quarantined participants to an online format; or
3. Make any other arrangement or determination in the best interests of the Mooting Competition.

*These Competition Rules have been adapted from the competition by-laws and regulations of the University of the Sunshine Coast Law Students’ Association.*

### APPENDIX 1

**EXAMPLE OUTLINE OF ARGUMENT:**

#### SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane

NUMBER: 848 of 2016

Appellant: **PAUL SMITH**

AND

Respondent: **SUPERSTRONG PTY LTD**

#### RESPONDENT’S OUTLINE OF ARGUMENT

##### 1. New cause of action does not relate to ‘real issues in the civil proceedings’

1.1 The Respondent acknowledges that Rule 5 of the *Uniform Civil Procedure Rules 1999* (Qld) (‘UCPR’) outlines the purpose of the Rules to be ‘to facilitate the just and expeditious resolution of the real issues in civil proceedings’. [[1]](#footnote-1)

1.2 The Respondent submits that leave to file the amendments pursuant to Rule 379 of the UCPR[[2]](#footnote-2) should not be granted as the amendments for which the Applicant seeks leave do not facilitate the purpose of the rules as they do not relate to the ‘real issues’.

1.3 In order for the amendments to relate to the real issues in the proceeding, they must be determinative of the matter in dispute, as stated by the High Court in *Aon Risk Services Australia Limited v Australian National University* (2009) 239 CLR 175 at paragraphs [71] – [72] (hereinafter referred to as ‘*Aon v ANU*’).[[3]](#footnote-3)

1.4 In *Draney v Barry* [2002] 1 Qd R 145, the Queensland Court of Appeal held that the facts which establish a new cause of action must be substantially the same facts as those in contention when the Court is asked to add a new cause of action pursuant to its general power to amend under Rule 375 of the UCPR.[[4]](#footnote-4)

1.5 The Respondent submits that the facts supporting the Applicant’s amended pleadings are not

substantially the same as those in the original proceeding and amount to the addition of new issues not previously agitated between the parties, and as such leave should be refused as stated by the High Court in *Aon v ANU* at paragraph [72].[[5]](#footnote-5)

1.6 The Respondent submits that the distinction between the original proceeding and the amended pleadings, as stated in *Hartnett v Hynes* [2009] QSC 225 at paragraph [24] (citing McMurdo J in *Borsato v Campbell* [2006] QSC 191 at paragraph [8]), should be applied in this instance.[[6]](#footnote-6)

1.7 The Respondent acknowledges the decision in *Hartnett v Hynes* [2010] QCA 65, but submits that a distinction should be drawn on its determination of the proceedings below in *Hartnett v Hynes* [2009] QSC 225.

1.8 The Respondent submits that leave to amend should not be granted to allow arguable issues to be tried when granting leave would force vacation of the trial date.[[7]](#footnote-7) Leave to amend should not be granted to allow arguable issues where amendment would substantially increase the length, cost and complexity of proceedings, especially due to the late introduction of substantial new issues.[[8]](#footnote-8)

1.9 The Respondent submits that cases where leave has been granted further illustrate that the Courts have not been inclined to allow significant additions, but merely corrections and clarifications as outlined in *Gerard Cassegrain & Co Pty Ltd v Cassegrain* [2010] NSWSC 91;[[9]](#footnote-9) [[10]](#footnote-10)

##### 2. Insufficient explanation for delay in amending pleadings

2.1 A sufficient explanation must be given where a party has had sufficient opportunity to plead their case and a late amendment of the case has been made, as stated by the joint judgment of the High Court in *Aon v ANU*.[[11]](#footnote-11)

2.2 The Respondent submits that the Applicant has failed to provide a sufficient explanation of their delay of some months between discovering the breach of contract alleged and the making the relevant amendment of pleadings.

2.3 Unexplained delay at this late stage may amount to a breach of the implied undertaking in Rule 5(3) of the UCPR, as stated by Applegarth J in *Hartnett v Hynes* [2009] QSC 225.[[12]](#footnote-12)

**Orders**

2.4 It is submitted that the Applicants’ application to amend pleadings be denied.

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

*Counsel for the Respondent Counsel for the Respondent*

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| |  | | --- | | **Appendix 2: Oral Argument Score Sheet**  **ROUND:** | |  |

**DATE:**

**JUDGE:**

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| --- | --- | --- | --- | --- | --- |
| *(Circle one)*  **Appellant/Respondent** | | **Senior Counsel**  Name: |  | **Junior Counsel**  Name: |  |
| **Criteria** | **Particulars** | **Comments** | **Marks** | **Comments** | **Marks** |
| **Organisation of**  **Presentation** | Logical organisation and structure; concise overview of submissions and conclusion; appropriate attention and weight given to some arguments over others; flexibility despite being taken off-topic; consistency between written and oral submissions. |  | **/10** |  | **/10** |
| **Knowledge of**  **Law and Development of Legal Argument** | Knowledge of and application of the law and issues; logical, persuasive, arguments; citation of correct authorities; appropriate use of policy arguments; addresses opposing arguments in advance (appellant) or consequentially (respondent). |  | **/20** |  | **/20** |
| **Questions from the Bench** | Prepared for questions that can be anticipated; clear, concise and direct responses; engagement with the court’s |  |  |  |  |
|  | views; composure and courtesy despite challenges to arguments; effective integration of responses with arguments; adept treatment of irrelevant questions; ability to deal with difficult and obscure questions. |  | **/5** |  | **/5** |
| **Manner and**  **Expression** | Engages with the court; projects voice; articulates submissions with eloquence; use of clear and simple language; displays confidence without arrogance; eye-contact with members of the bench; courteous and formal; maintains a professional and courteous relationship with opposing counsel; correct citation of cases; appropriate use of courtroom formalities; consistent style and manner. |  | **/15** |  | **/15** |
| **SUB-TOTAL** | | **/50** |  | **/50** |  |
| **TOTAL** | |  | **/10** | **0** |  |

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| **Appendix 2: Written Submissions Score Sheet**  **ROUND:** |

**DATE:**



**MARKER:**

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| *(Circle one)*  **Appellant/Respondent** | | **Team**  Name: |  |
| **Criteria** | **Particulars** | **Comments** | **Marks** |
| **Knowledge and understanding of legal issues** | Coverage of legal issues raised in the case; demonstrates an understanding of the legal issues; makes reasoned and logical arguments. |  | **/50** |
| **Accurate selection of primary sources** | Uses prescribed case law and legislation appropriately. |  | **/10** |
| **Referencing and citations** | All legal principles acknowledged where appropriate and all citations set out in the submissions according to the Australian Guide to Legal Citation including pinpoint references. |  | **/10** |
| **Presentation and**  **Grammatical**  **Conventions** | Uses appropriate language; structure and presentation appropriate to Supreme Court of Queensland submission; free from spelling and grammatical errors; complies with competition rules. |  | **/30** |
| **TOTAL** |  | **/100** |  |

1. *Uniform Civil Procedure Rules* *1999* (Qld) Rule 5 https://www.legislation.qld.gov.au/view/html/inforce/current/sl-1999-0111#sec.5 [↑](#footnote-ref-1)
2. *Uniform Civil Procedure Rules 1999* (Qld) Rule 379 https://www.legislation.qld.gov.au/view/html/inforce/current/sl-1999-0111#sec.379 [↑](#footnote-ref-2)
3. *Aon Risk Services Australia Limited v Australian National University* (2009) 239 CLR 175 at [71-72] [↑](#footnote-ref-3)
4. *Draney v Barry* [2002] 1 Qd R 145 [↑](#footnote-ref-4)
5. *Aon v ANU* (n 3) at [72] [↑](#footnote-ref-5)
6. *Hartnett v Hynes* [2009] QSC 225 at [24] [↑](#footnote-ref-6)
7. *Sagacious Legal Pty Ltd v Wesfarmers General Insurance Ltd (No 2)* [2010] FCA 275 [↑](#footnote-ref-7)
8. *Pacific Exchange Corporation Pty Ltd* *v Federal Commissioner for Taxation* (2009) 180 FCR 300 [↑](#footnote-ref-8)
9. *Gerard Cassegrain & Co Pty Ltd v Cassegrain* [2010] NSWSC 91 [↑](#footnote-ref-9)
10. See also *Scantech Ltd v Asbury* [2009] FCA 1480 [↑](#footnote-ref-10)
11. *Aon v ANU* (n3) at [101] – [106] [↑](#footnote-ref-11)
12. *Hartnett v Hynes* (n6) at [25] [↑](#footnote-ref-12)