

INTRODUCTION

This packet contains all of the materials necessary to participate in the Nineteenth Annual New York Metropolitan Mentor Moot Court Competition. Participants may not utilize any materials not contained in this packet in preparing for and presenting their arguments.

The Mentor program focuses on the ability of the student advocates to organize and present their arguments persuasively. Advocates will be questioned by the judges as they would in actual appellate court proceedings. While structuring a coherent argument and understanding the legal issues are important, memorization of a prepared text should be minimized. Rather, emphasis should be placed on effectively responding to the judges' questions, the ability to think extemporaneously, and overall persuasiveness. Some participants may be called upon to advance unpopular positions with which they disagree. This is often a characteristic of the legal process and should not diminish the student's enthusiasm or quality of presentation.

This year's imaginary lawsuit is entitled Scholastic Inc. and J.K. Rowling v. Mykman Publishers and Jenna Thomas. The competition focuses on the Copyright Act of 1976 and whether a preliminary injunction is appropriate in light of copyright infringement law and the fair use doctrine.

This packet contains the fictitious opinions of Judge Goodman of the Southern District Court for the State of Fordham and Judge Benjamin for the Court of Appeals for the Fourteenth Circuit. Set forth in the District Court's opinion is the Statement of Facts. In addition, this packet contains the Order granting the Petition for a Writ of Certiorari to the United States Supreme Court, which contains the two questions certified for review in this case.

In Scholastic Inc. and J.K. Rowling v. Mykman Publishers and Jenna Thomas, Judge Goodman held that Scholastic Publishing is entitled to a preliminary injunction and the work in

question falls within the fair use doctrine. The Court of Appeals for the Fourteenth Circuit reversed on both issues.

RULES OF THE COMPETITION

Preliminary rounds are scheduled for Monday, November 10; Wednesday, November 12; Thursday, November 13; Friday, November 14; Monday, November 17, and Tuesday, November 18, 2003. Each participating school will compete during one day of preliminary competition. The rounds will be held at Fordham University School of Law, 140 West 62nd Street, New York, New York. All teams must register by 8:45 am, and rounds will begin promptly at 9:15 am. Failure to register on time may result in disqualification. Please plan accordingly.

Upon completion of the preliminary rounds, the two top scoring teams from each day of preliminary rounds will advance to the quarter-finals. The quarter-finals will be held for those ten teams on Wednesday, November 19, 2003 or Monday, November 24, 2003. The four top-scoring teams will then advance to the semi-final rounds, which will be held on Tuesday, November 25, 2003. The final round will be held on Wednesday, December 3, 2003. Scores will not be disclosed during the competition, but will be available for review after the completion of the competition. Schools will be notified of advancement by telephone. Results of advancement will be made available after rounds are fully completed.

Competition conflicts must be submitted in writing by Friday, October 17, 2003. The last day to withdraw from the competition is also October 17, 2003. Untimely withdrawals may result in disqualification from the 2004 Mentor Moot Court Competition.

TEAMS

Each school will field two teams, each team consisting of four students. Team I will represent the Petitioners, Scholastic Publishing, Inc. and J.K. Rowling on both issues. Team II will represent Respondents, Mykman Publishers and Jenna Thomas on both issues. Only two students from each team may participate in each oral argument round.

Among the semi-finalists, a coin will be tossed to determine which party the teams will represent in the semi-final round. For the semi-final round, each participating school may select any four representatives from the eight students who participated in the preliminary competition to represent their school. As in the preliminary rounds, however, only two students will be allowed to serve as oralists. The two finalist schools will be announced after the semi-final rounds on Tuesday, November 25, 2003, at the closing luncheon to be held at Fordham Law School.

PREPARATION

Teams may be coached by teachers and attorneys from sponsor law firms. Teams should arrange practice sessions with their MENTOR attorneys from sponsor law firms. Visits to appellate courts to observe the nature of appellate oral advocacy is also encouraged. Teams should also conduct practice rounds.

Teams may not utilize any legal precedent or other research aids not contained in this packet. Moreover, participating attorneys may not use any outside materials in coaching student advocates. The facts contained in the record are inclusive; students may not invent facts or present data that conflict with these materials.

Teams may photocopy the cases and statutes used in the fictitious opinions. The list of cases and statutes used in the two opinions are set forth in Appendix III of this packet.

FORMAT OF THE COMPETITION

The order of arguments at each round is as follows: (1) counsel for the Petitioner on the Preliminary Injunction/Copyright Infringement issue (“Issue I”); (2) counsel for the Petitioner on the Fair Use issue (“Issue II”); (3) counsel for the Respondent on Issue I; and (4) counsel for the Respondent on Issue II. Each student-advocate will have ten minutes to argue his or her client’s position. Time periods will be strictly enforced. No rebuttal time will be permitted.

During the competition, only two team members will argue for each team. All four team members may, however, be seated at the counsel table in the courtroom, although **no note passing will be permitted during oral argument.**

All teams, coaches, teachers, and guests are invited to attend their school’s rounds. Unfortunately, some rooms may not be large enough to accommodate all spectators. Therefore, we are asking that schools inform the Mentor Editor in advance of the number of spectators that will be attending. If we are unable to accommodate your school, the teacher-coach will be informed and the number of spectators will be limited. **While MENTOR attorneys and teachers may be present during oral arguments, they may not coach the students while the round is in progress.** Additionally, all persons affiliated with a school participating in the competition are prohibited from previewing the arguments of other participants.

SCORING

All rounds will be scored by a panel of judges. No attorney may judge his or her MENTOR high school in any round. Judges will evaluate students on the following criteria: (1) overall persuasiveness; (2) ability to respond effectively to questions; (3) knowledge of the case law; (4) clarity of arguments; and (5) poise and appearance. Scoring in each category will range from one to ten, with ten being the highest score. After both teams have presented their

arguments, the bench will give comments to the individual oralists. The bench will not announce a ruling on the merits of the case nor will the bench reveal the specific scores of the teams.

AWARDS

All team members will receive a “Certificate of Participation.” The finalists will receive a gift commemorating their participation in the competition. The name of the overall winner will be engraved on the Mentor trophy.

CLARIFICATIONS

Please address all inquiries with respect to the New York Metropolitan Mentor Moot

Court Competition to: Alyssa Benjamin
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GOOD LUCK!