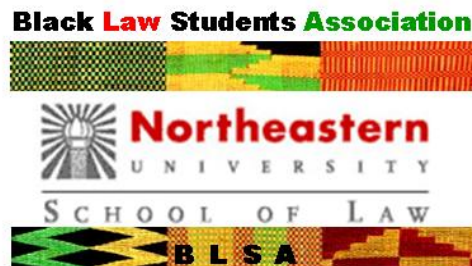


FDMCC SELECTION PROCESS

Prof. Susan Maze-Rothstein
(Faculty Advisor & Head Coach
– Kemet Chapter)



On September 25, 2008, all participants in last year's Frederick Douglass Moot Court Competition (FDMCC) team selection process convened for a meeting on how to better the process for ensuing years. In order to maintain Opportunities for Student Distinction (OSD) student organization affinity status, we must have a fair process, which is on file with the OSD and incorporated into our BLSA Kemet chapter constitution and bylaws. Though we successfully selected a team for this year's competition, providing all candidate teams with a rich learning experience and met all OSD criteria for the current academic year, it was felt that the process needed fine tuning to enhance the candidates feeling of fairness. To that end, we convened the September 25 meeting. Following the September 25, 2008 meeting there was an email exchange in late October and early November 2008. The following is a proposal of what the various discussions generated.

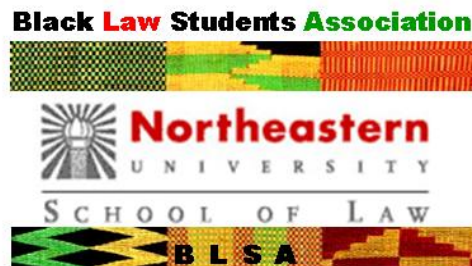
- One month before the problem is released, the BLSA chair will seek indications of interest so that BLSA members can partner-up.
- BLSA will also hold an event where students who do not have a partner can meet other partner less students.
- The entire selection process will take one weekend.
- As to research
 - Candidate teams will arrive on Saturday morning at 9:00 AM.
 - The problem will be distributed to teams at 9:00 AM sharp.¹
 - The side to be briefed and argued (which will be the same side for all contestants) will be announced at the moment of problem distribution.
 - There will be a closed universe of primary and/or secondary sources for the teams to rely upon.
 - The competitors will not be permitted to utilize any source other than those provided to them (human or text). If students have questions about the problem they will only be permitted to ask the Faculty Advisor and/or FDMCC Head Coach.²
 - The competitors may ask the BLSA Faculty Advisor and/or FDMCC Head Coach the questions in person or via email.

¹ The Problem shall be one the competitors have never been formally introduced to.

² Any student who is found to have violated this rule will be immediately disqualified from the competition. This rule will run until the release of the problem in September. If a team is found to have violated this rule then the Moot Court team position will be given to the following placed teams in rank order.

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- All responses to questions will be emailed to all competitors; the email will consist of the question and the response.
- Teams will have until 5:00 PM to research, discuss, craft and brief their argument.
- All “briefs” will be submitted by 5:00 PM that Saturday.
 - Competitor briefs SHOULD NOT have names on them, simply your team number provided to you at the distribution of the problem.³
- Sunday oral arguments will be heard.
- As to the briefs themselves:
 - Briefs will ONLY be the case in chief, thus competitors should ONLY discuss the “Argument” section of the brief.
 - Competitors SHOULD NOT add any other portions to the brief. Violation of this rule will result in disqualification.⁴
 - Either a template will be provided or specifics as to which formalities must be adhered to will be provided to students.
 - Criteria for scoring the briefs will be made transparent to the participants in the instructions accompanying the problem.
 - Feedback on the briefs will include a brief written statement from the judges returned to the teams at the end of the selection process.
- As to oral argument (Sunday afternoon of the FDMCC selection process weekend):
 - Criteria for judging oral argument will be distributed to the teams upon submission of their briefs on Saturday.
 - A list of potential judges will be circulated one week prior to oral argument. Both the competitors and judges will be given four days, from the release of the list, to bring concerns that may exist as to the objectivity of any judge those issues will be raised by the teams prior to oral argument.
 - Complaints should be made in writing and should only be material concerns that are likely to affect the integrity of the competition.⁵

³ Team numbers will be drawn; no one is to share their team number with any other person at any time. The team number name will be included in the email sent to the FDMCC Head Coach, however the other judges will not be made aware of who wrote the briefs until after the briefing scores are submitted and before oral arguments.

⁴ Other portions of the brief include: “facts,” “table of contents,” “summary of the argument,” etc.

⁵ In submitting the concern for impartiality, the moving party should also be aware that all former competitors are judges and members of the Support Team.

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- Any complaint or concern regarding the impartiality of a judge should be made to the FDMCC Head Coach and/or BLSA Faculty Advisor, who will address the issue(s) raised in the appropriate manner, determined through his/her discretion.
- The FDMCC Head Coach and/or BLSA Faculty Advisor will have the discretion to determine if the raised issue is material enough to ask the accused judge to weight their impartiality.
- Judges will be disqualified only where it is determined that they possess a personal bias towards a particular party such that said bias will unduly prejudice or advantage said party.
 - The criteria for determining such bias will be the same criteria utilized by the American Bar Association; Code of Judicial Conduct. The test is an internal test conducted by the judge. The Code of Judicial Conduct is included in relevant part here.
 - **C. Disqualification (see R. 1:12-1; see also, 28 USC § 455(a); *Rice v. McKenzie*, 581 F.2d 1114 (4th Cir. 1978)).**
 - (1) A judge should disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:
 - (a) the judge has a personal bias or prejudice concerning a party ...
 - (iii) is known by the judge to have an interest that could be affected by the outcome of the proceeding...
- Each team will be prepared to argue for 10 minutes (divided among teammates at the team's election) inclusive of questions from the bench.
- If questions from the bench appear to require more than that of the 10 minute limit (for either or both members of the team), the team member should ask leave of court to continue to respond to questioning (e.g. "I see that my time has nearly run, your honor, may I proceed?").
 - The time will end when the judges curiosity is satisfied or at the Chief Judges discretion.

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- As to the judges questioning, the bench will be either “hot” or “cold” and this will be explained to the teams prior to oral argument.
- As to oral argument feedback:
 - Oral argument feedback will be given to each competitor, with all competitors present.
 - Judges will temper comments to maintain a neutral tone as to each team.
 - Teams will be allowed to take notes on the feedback.
 - Judging criteria will be divided among judges who will be kept to a time limit.
 - Quality of the performance on the criteria will be judged with a 1-3 point system, 1 as the lowest and 3 as the highest a competitor can achieve.
- As to 3L Preference (BLSA’s FDMCC is an affinity competition under the Opportunities for student Distinction [OSD] program – See it under “Student Programs” on the left hand column of the WeBoard).
 - As is required for all external competitions and related student organizations that participate in the OSD program, there will be a “3L preference.”
 - The 3L preference is ONLY invoked in the event that there is a tie between two or more teams and will be utilized ONLY as a tie-breaker.
 - Teams with more than one 3L will rank over a team comprised of one 2L and 3L.
- The FDMCC team selected will be responsible for creating the problem to be used in the selection process for the subsequent year’s selection process.