



STUDENT'S INTRODUCTORY GUIDE



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WHAT IS MOOTING?

You may have heard of mooting and have heard the phrase "*a moot point*" but it is surprising how many people, even those who work in law, have no idea what a moot is. This handout is designed to give a brief introduction into the world of mooting. If you decide that you would like to take part in our moot we will give you more guidance along the way to help you develop your skills and, hopefully, win your case! More on that below...

It is likely that you will all have seen legal dramas on television where lawyers stand up in Court and argue against each other in front of a Judge and jury. These television scenes hardly reflect what happens in a real courtroom (at least, not all the time...), however they do give you a taste of how legal cases are argued.

So what is a moot? A moot is a competition where two pairs of "Attorneys" argue a fictitious legal case against each other in front of a "Judge". Each team is given a mooting problem which sets out the facts of the case. The two teams must then prepare arguments proposing different views about the law and how it should be applied to the facts, usually using real-life cases to support their view.

In each team the arguments should be divided between the two teammates as co-counsel. Both counsel will speak for an equal period of time. Although, in reality, it is usual for the first counsel to set out a quick summary of the facts of the case, you will not be required to do so here. The first counsel will begin by introducing themselves and their co-counsel and then leading straight into his or her arguments. The second counsel will then make his or her arguments. Both counsel will be awarded marks on their individual performance.

After both teams have spoken, the Judge declares which team has won the moot.

To win the moot you don't necessarily have to win the legal case, but you must make the best presentation of your legal arguments!

WHY TAKE PART IN A MOOT?

It might be assumed that mooting is only useful if you want to have a career in law. It certainly is helpful in that respect, but it is also very useful for developing your ability to analyse, interpret, argue, present and speak in public. It will also build your confidence. These are skills that will be valued in any job or career. Most of all mooting should be – and is – fun!

Everyone finds it a bit scary to begin with and even the most experienced Attorneys feel adrenalin starting to flow before they go into Court.

The most important thing to remember is don't panic: preparation is key.

HOW DOES THE COLLAS CRILL MOOT WORK?

Once you have decided that you want to take part in the moot you should get yourselves into teams of two. There will be three rounds of moots, and every team will participate in each moot. A different legal case will be argued each round and teams will be marked against various criteria by the Judge. The case facts and judging criteria will be made available for review the week before each moot.

If teams of two are not possible owing to an odd number of participants, you can make a team of three and simply rotate who takes part in each round. Each person will take part at least once.

At the end of the three rounds, the top scoring team from each school will go through to the final.

TRAINING SESSIONS

Each team taking part in the moot will be assigned a "coach" or team of coaches who will help you and several other teams during your school's group training sessions.

During these training sessions, which will occur the week before every moot, your coaches will discuss the fundamentals of mooting with you, offer guidance on preparation and presentation, and invite you to ask any questions you might have on the case facts for your upcoming moot.

Feel free to discuss anything you are concerned about with your coaches. The best mooters are usually the ones who are the best prepared.

MOOTING RULES

- 1 Each moot will take place between two teams.
- 2 Each team will consist of two student "attorneys".
- 3 It is the first attorney's responsibility to introduce their team.
- 4 The moot may be judged by a single Judge or a panel.
- 5 The facts set out in the mooting problem are not open to dispute. The facts may support both sides of the case.

TIMING

- 1 Speeches (and their maximum length) for Moots 1-3 will proceed as follows:
 - (a) First counsel for the plaintiff / applicant – 4 minutes
 - (b) Second counsel for the plaintiff / applicant – 4 minutes
 - (c) First counsel for the defendant / respondent – 4 minutes
 - (d) Second counsel for the defendant / respondent – 4 minutes
- 2 The speech time will include the time taken to answer any of the Judge's questions and the time taken for the introductions.
- 3 No formal summary of the facts will be required, although a quick introduction of the (legal) matters to be covered may be useful.

- 4 After 3 minutes, the clerk or Judge's assistant will hold up a sign saying "3 minutes" – this is your warning that you have only 1 minute left, and you should make sure that you have covered all of the points you want to discuss. If you are still speaking at 4 minutes, the Judge will interrupt and ask you to conclude your submissions.
- 5 Any participant exceeding their time may have this counted against them by the Judge when deciding the winner of the moot.

LAW

- 1 Only the authorities provided by the moot organisers must be specifically referred to in Court.
- 2 No external research will be required. Any references made to materials not provided will be ignored and you may be marked down.
- 3 Do not interrupt your opponents when they are speaking.

JUDGMENT

At the end of the speeches the Judge will declare who are the winners of the moot.

The winner of the moot will be the team of Attorneys who have presented their case with the best oral skills and clarity of argument.

PREPARATION TIPS

Once you have been given your first mooting problem, carefully go through the problem with your partner and summarise it. Consider the facts of the case and the law you are provided with. Identify the main issues and discuss the points you are trying to argue. When you have decided on the issues and considered the law, you will have a better idea of what arguments you could put forward to the Judge.

- Remember that you will be arguing for both sides during the course of the competition (i.e. you will have one turn as applicant and then another turn as respondent, against a different opponent where possible).
- Remember that the facts of the case are not in dispute.
- Work together to ensure that you both put forward different arguments when presenting to the Judge, and make sure that the arguments are split so that you can each use the time allocated to you.
- Wherever possible, refer the legal point that you are making back to the facts of the case in question, so that the Judge knows and understands the relevance of your legal submission.

SHOULD I WRITE OUT MY SPEECH?

We recommend that you do not write out your speech in full. If you do this, you will find that you simply read this out to the Judge, probably keeping your eyes on your page and speaking too quickly.

Instead you should make sure that you know your arguments and use bullet points on a small number of cue cards or a summary sheet of your arguments. You can then expand on these points.

You might want to underline or highlight the main emphasis of your arguments so that they are easily identifiable, but most of all, find a method that is most comfortable to you.

It is a good idea when writing your arguments to consider the order in which you wish to present these to the Court.

You may also wish to consider outlining to the Judge how you intend to proceed, i.e., "*My Lady, I will first discuss the relevance of ... and will thereafter turn to consider*", and later in your submissions, "*My Lady, with your permission, I would now like to outline to you....*". Doing this will help the Judge follow your argument more easily, and will likely gain you an extra few points. Summarise your points at the end of your argument to ensure you have hit all of your points, and that the Judge has picked up on them all. A good time to do this would be when the 3 minutes sign goes up.

What are your strongest arguments? It may be a good tactic to put these forward first, moving onto any weaker arguments, and then re-emphasising your strongest arguments in summary as a conclusion.

Practice delivering your speech both on your own and with your partner. The more you practice, the more familiar you will become with your arguments and the easier you will find it to deliver your speech on the day of the moot. Short sentences often help to keep the arguments precise and easy to follow .

Time your speeches. If you over-run your allocated time the Judge may not allow you to conclude your arguments and you may lose points!

THE DAY OF THE MOOT

Your stomach will probably be full of butterflies, but don't panic! Nerves are natural and will help you to perform at your best.

You will have prepared and rehearsed your speech and discussed what each of you will say with your mooting partner to prevent any overlap of your arguments.

Try to relax. Remember the Judge is not there to trick you, he/she is interested in listening to what you have to say.

COURT ETIQUETTE

Language used in a Courtroom is more formal than everyday language and therefore you should avoid using slang or colloquial phrases such as, "okay" or "cool". Try to speak slowly, as this often gives you more time to think about what you are saying.

Remember that your role in Court is to assist the Judge in their decision-making so keep eye contact with the Judge to see if they are following your argument. Talk to the Judge, not at them.

You are not giving your opinion to the Judge, instead, you are presenting arguments to him, and therefore you should avoid saying, "*in my opinion*", "*I think*", or "*I suggest*" and instead say, "*I submit that*". Alternatively, simply make your point without anything in front of it – this can be an effective way to highlight a strong argument.

In the Grand Court it is usual to refer to the Judge as, "*My Lord*", or "*My Lady*", if addressing them directly. In addition, instead of saying "*you*" to the Judge, you should use "*Your Lordship*" or "*Your Ladyship*". If you wish to make any reference to the opposing team you should refer to them as, "*my learned friends*". So, for example, instead of saying "*you will recall the other side said something about...*", it would be more appropriate to say "*Your Ladyship will recall that my learned friend submitted that...*"

When you are finished with your submissions, it is customary to signal this to the Judge, rather than just sitting down. If you are the first to speak, you could for example say "*my Lady, that concludes my submissions and I will now hand over to my co-counsel Ms X*". if you are the second partner to speak, you could say "*My Lady, those are the submissions of the [whichever party you represent]*".

These terms can feel archaic and odd at first, but you will get used to them quickly. Whilst maintaining formality in address is important, you should not feel the need to be too "flowery" in your language. The key to being a good advocate for your client is showing respect to the Judge and the Court, but still being able to simply and clearly convey the point you are trying to make.

SPEAKING IN COURT

1 You are no longer a student you're an Attorney.

Remember the etiquette of the Court. Stand when you want to address the Judge and sit once you have finished. Never talk over the Judge or argue with him or her.

2 Introduce yourself to the Judge and explain who you appear for in the case.

If you are first to speak to the Judge - "*My Lord, I am Mr W and this is my learned co-counsel Mr X and we appear on behalf of A and B who are the plaintiffs in this case. My learned friends opposite, Miss Y and Miss Z appear on behalf of C and D who are the defendants in this case*".

If you are first to speak, ask the Judge if he requires a summary of the facts. In this moot the Judge will likely not require a summary but it's good etiquette to ask.

3 Speak slower than you think you need to.

A few seconds may feel like a lifetime when all the attention is on you, but it's just that, a few seconds, so don't rush.

4 Speak louder than you think you need to.

You may feel ridiculous, but speaking loudly can, and will, help you feel and appear more confident!

5 Speak clearly

All the preparation in the world won't help if the Judge can't hear you.

6 Keep eye contact with the Judge.

It will help you emphasise your points and keep the Judge interested in what you're saying.

7 Don't walk around the Court.

Stand still and try to avoid excessive hand gestures as this can detract from what you're saying. When the other side is presenting their arguments, sit still and listen politely. Do not try to signal the judge if you disagree with an argument (e.g. by laughing), do not talk to your co-counsel, and most importantly, do not interrupt your opponent.

8 If the Judge asks you a question, try to answer it.

Even if you don't know the answer, saying, "*My Lady, I am afraid I cannot assist on the point*", may well be sufficient. If the question is something that will be addressed later in your submissions or by your co-counsel, feel free to tell the Judge that rather than throw off the structure of your presentation.

9 Keep your eye on the clock.

You will be reminded of who will speak first and the time limits of the moot. The Judge will let you know when to start and then it's over to you.

10 Most importantly; RELAX!

Remember, you are most likely to be successful if you are clear and concise in your arguments.

WHAT HAPPENS NEXT?

After each team has delivered their arguments, the Judge will retire and consider his verdict. You may be asked to exit the Courtroom while a decision is made.

The Judge will consider the teams' presentations and arguments and score each team on the basis of the mooting criteria. He or she will then return to the Courtroom and deliver his verdict. Don't worry if you don't win — the Judge will let you know what you did well and how you can improve for next time.

JUDGING CRITERIA

It is the decision of the Judge who will win the moot so what is the Judge looking for?

Argument (maximum of 20 marks will be available)

- (a) Were the arguments structured?
- (b) Were the arguments logical?
- (c) Were the arguments well thought out? Were the arguments delivered well? Were interesting points raised?
- (d) Were you persuaded by the points raised?

Presentation (maximum of 20 marks will be available)

- (a) Did the Attorneys stick to their allotted time?
- (b) Did they speak clearly?
- (c) Could you hear the Attorneys' submissions?
- (d) Could you understand the point that the Attorneys were trying to make? Could you follow their arguments?
- (e) Did the Attorneys stand up straight and look at you whilst making their arguments?
- (f) Did the Attorneys distract you from their delivery by moving too much or swaying on their feet?

Court Etiquette (maximum of 10 marks will be available)

- (a) Did the Attorneys address the Court with a correct degree of politeness and formality?
- (b) Did the Attorneys use too much formality in their delivery?

The Judge will award marks on the criteria above and calculate an overall mark out of fifty for each team. The team with the highest overall mark will be the winner of the moot.