

ESU - ESSEX COURT CHAMBERS NATIONAL MOOTING COMPETITION

*The first 4 rounds of the
2021-2022 Competition
will be held on-line due to
Covid-19*

**Official Handbook
2021-2022**

www.nationalmooting.org

**Essex Court
Chambers**



English-Speaking Union

PREVIOUS WINNERS

2020 King's College London
2019 Oxford Brookes University
2018 Salford University
2017 Newcastle University
2016 Oxford Brookes University
2015 Oxford Brookes University
2014 Liverpool John Moores University
2013 University College London
2012 Oxford Brookes University
2011 University of Glasgow
2010 University of Oxford
2009 University of Manchester
2008 University of Hertfordshire
2007 Liverpool John Moores University
2006 Queen Mary, University of London
2005 City University
2004 University of Bristol
2003 University of Liverpool
2002 University of Southampton
2001 University of Middlesex
2000 University of Kingston
1999 University of Greenwich
1998 University of Aberdeen
1997 University of Cambridge
1996 University of Bristol
1995 University of Leicester
1994 University of Edinburgh
1993 King's College London
1992 University of Birmingham
1991 University of East Anglia
1990 Nottingham Trent Polytechnic
1989 King's College London
1988 University of East Anglia
1987 Essex Institute of Higher Education
1986 Polytechnic of Central London
1985 University of Lancaster
1984 University of Bristol
1983 University of Hull
1982 Polytechnic of Central London
1981 Queen Mary College
1980 Queen Mary College
1979 School of Oriental and African Studies
1978 Queen Mary College
1977 University of Leicester
1976 University of Leicester
1975 Mid Essex Technical College
1974 University of Leicester
1973 University of Leicester
1972 University College London

Official Handbook 2021-2022



English-Speaking Union

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FOREWORD

I recently had the pleasure of acting as Presiding Judge at the final of the Annual Moot. It is the custom that the Presider should write the foreword to the Handbook for the following year's moot. I am delighted to do so since mooting is the best possible training for an aspiring advocate.

My first mooting final was in Cambridge many years ago. I was a very young first year student. The judge was Megaw LJ. It was a baptism of fire. He was a Judge of the type now, fortunately, rarely seen in the Courts. He took no prisoners. But young advocates must be able to deal with all types of Judges, and the experience (although not comfortable at the time) helped me in the long run.

I can testify to the way that mooting assists the development and confidence of students from my involvement in the William Vis Arbitration Moots. The English Speaking Union Moot has nurtured many aspiring advocates and trained them to develop logical, concise and persuasive arguments. It is training second to none.

Oral submissions play and should continue to play a central role in the court's decision-making process. Skeleton arguments and the like do help to speed things up but testing submissions through oral argument and counter-argument, and particularly through questioning by the judge, are calculated to reveal the strengths and weaknesses of the opposing cases, which written material does not always do. So often, the pressure of submissions on the day, before the Court, concentrates the mind to think of a new argument, or a new way of putting an old argument, which drafting written submissions in chambers cannot.

Mooting is of prime importance for those contemplating a career as advocates. Taking part in moots (understandably terrifying at first) builds confidence and teaches how best to present arguments. It also teaches that the more thorough the preparation, the better will be the result, while failure to prepare properly will almost immediately be apparent to the court, and this will do your case no good at all.

Mooting competitions provide the means whereby would be advocates can acquire and hone advocacy skills. This competition, and others like it, is therefore, in my view, to be applauded and encouraged. Moots are an indispensable part of legal education.

I have no doubt that next year's mooters will reach the same standards of excellence as those who appeared before us.

Jeffrey Gruder QC

ABOUT ESSEX COURT CHAMBERS

ESSEX COURT CHAMBERS is widely acclaimed as one of the leading sets of barristers' chambers in the nation and is presently home to 98 barristers, as well as associate members and arbitrators from no fewer than 12 countries including Australia, Brunei, Canada, Hong Kong, Ireland, Malaysia, Mauritius, New Zealand, Singapore, South Africa, the United Kingdom and the United States.

Essex Court Chambers has succeeded in maintaining its tradition of excellence by attracting some of the best advocates at the Bar. Its ranks include 42 Queen's Counsel as well as Senior Counsel from a large number of jurisdictions worldwide and at least ten Professors of Law. Chambers was founded in 1961 when the then five members of chambers included the future judges Lord Mustill, Lord Justice Evans and Lord Justice Kerr. Other distinguished alumni include Lords Saville and Steyn, Lord Justice Beatson, Sir Anthony Colman, Mr Justice Eder and Mrs Justice Andrews, as well as Dame Rosalyn Higgins (former president of the International Court of Justice), Sir Christopher Greenwood (the current British judge on the ICJ) and Lord Thomas, Lord Chief Justice of England and Wales.

Although Essex Court Chambers remains first and foremost a commercial set of barristers' chambers, members of Essex Court Chambers are also regularly instructed to act as advocates in a wide range of other areas including EU law, human rights law, immigration law, public international law and VAT law.

Essex Court Chambers is always keen to recruit outstanding individuals to add to its ranks and typically offers up to four pupillages each year. The finalists of this year's ESU-Essex Court Chambers National Mooting Competition will be invited to spend 1 - 2 days as mini-pupils in Chambers. Others (including those who do not participate in the competition) are nevertheless encouraged to apply for mini-pupillage at Essex Court Chambers. Whilst participation in the competition will undoubtedly give each participant an opportunity to hone his or her advocacy skills, a mini-pupillage at Essex Court Chambers will allow you to experience first-hand life as a barrister at one of the "magic circle" sets of barristers' chambers.

Information about mini-pupillages at Essex Court Chambers and about Chambers generally can be found on its website, www.essexcourt.com, or obtained from:

Secretary to the Pupillage Committee

Essex Court Chambers
24 Lincoln's Inn Fields
London WC2A 3EG
T: 020 7813 8000
pupillage@essexcourt.com

Essex Court
Chambers

WELCOME

Welcome to the 50th year of the ESU-Essex Court Chambers National Mooting Competition. This handbook is aimed not just at those taking part in the competition, but also at those who will act as judges, or indeed anyone with an interest in mooting.

The National Mooting Competition provides law students from universities and colleges throughout the United Kingdom with the opportunity to gain experience in their future role as advocates. In taking part in a moot, students do not just show their knowledge and skill in handling legal materials, but also their ability to practise the art of forensic and persuasive argument in a concise and effective manner. Furthermore, mooting enables students to gain confidence as advocates in a courtroom setting.

The winning finalists, as well as having their names engraved on the Silver Mace, will be awarded a prize of £1,000 each, whilst the educational establishment at which they study will also receive a donation of £1,000. The members of the running-up team will receive £750 each, and their institution will receive £500. Additionally the four semi-finalists will receive £250 each for reaching that stage of the competition. These prizes have been generously donated by Essex Court Chambers. All four finalists will be offered a mini-pupillage at Essex Court Chambers. The winners of the ESU-Essex Court Chambers Mooting Competition will represent the UK in the Commonwealth Mooting Competition during the years in which the Commonwealth Moot takes place.

Registration will be open at www.nationalmooting.org until 15 December 2021.

The competition is administered by Eric Baskind, Chair of the Competition Advisory Board. Marc Howe of Oxford Brookes University is the Competition's National Adjudicator.

Eric Baskind

Chair of the ESU-Essex Court Chambers National Mooting Competition and Administrator of the Competition
nationalmooting@brookes.ac.uk

Marc Howe

National Adjudicator
marc.howe@brookes.ac.uk



Winners and Runners Up of the 2019 Competition together with the judges. From left to right: Jeffrey Gruder QC, Martin Griffiths QC, Maja Wilkins and Lauren Bates-Brownsword (Oxford Brookes), Amberlie Camm and Sam Knight (Leicester), Professor Dr Martin Lau

ENTRY TO THE COMPETITION

The competition is known as the “ESU-Essex Court Chambers National Mooting Competition”.

Entry to the competition is open to all universities or higher education colleges involved in the teaching of law in the United Kingdom. To qualify for entry, an institution must:

- register online at **www.nationalmooting.org** by 15 December 2021
- pay the entry fee of £50.00 as directed

A participating institution may enter a team consisting of two eligible students at that institution. The members of the team may be varied between rounds; however, the members of a team that wins a semi-final round must also represent the institution in the grand final. Students are regarded as eligible if they are registered students at the participating institution and are not graduates in law. GDL students are eligible to take part in the competition. Students are not eligible if they hold or are studying for professional (practice) legal qualifications (i.e. Legal Practice Course, Bar Professional Training Course or ILEX courses). No individual may enter the competition if he or she has participated in a semi-final of this competition in any previous year. Entrants must be approved by their institution.

There shall be no appeal on any grounds from the decision of a judge or upon the conduct of the moot itself in any round.

Any complaints about, or problems with, the conduct of the teams during a round must be made in writing to the National Adjudicator, who may then investigate and resolve the problem as he thinks is in the best interests of the competition. The National Adjudicator and the Administrator have the discretion to disqualify at any stage any institution that fails to comply with these rules or with the spirit of the competition. An institution may be disqualified either on the basis of its own acts or omissions, or on the basis of the conduct of the team representing it in a given round. The complaint must be made within 24 hours of the end of the moot it concerns.

Any questions regarding the interpretation of these rules shall be submitted to the National Adjudicator who may, at his discretion, in consultation with the Competition Advisory Board, resolve the problem.

In the event of a dispute involving the institution from which the National Adjudicator is drawn, the National Adjudicator shall refer the dispute to one or more of the members of the Competition Advisory Board.

COMMUNICATIONS

For the purposes of any communication in connection with this competition, it is sufficient if the communication is sent, as appropriate, to the email of either of the contacts listed in the contact sheet supplied by the Administrator, save where a specific rule below requires communication in a particular way. If an institution wishes to change either of its contacts, it must inform the Administrator and the opposing team.

COMPETITION FORMAT AND TIMETABLE



Please note that the semi-finals and grand final are on the same day.

Please pay careful attention to these deadlines. Participants are required to make every effort to cooperate with each other and with the competition organisers in making arrangements for each round to be completed in a timely manner. If it is impossible for a team to comply with these dates, the team will withdraw from the competition and offer its opponent a bye, unless a change of date has the consent of both their opponent and the Administrator. Extensions are not guaranteed, and will only be granted in extenuating circumstances. If an extension has been granted, and the moot still has not proceeded, the Administrator shall decide who progresses by tossing a coin.

Where more than 64 teams enter, a preliminary round will be held to reduce the number to 64. The teams required to participate in the preliminary round will be chosen by the Administrator in an order determined by the receipt of entries with the correct fee. Where fewer than 64 teams enter, an appropriate number of teams will be given a bye into the second round so as to ensure that 32 teams remain at the end of that round. The teams who will be given a bye will be selected from the earliest teams entering the competition and paying the correct fee.

The following rules apply to all rounds except the semi-finals and grand final. Participating institutions will be informed of their opponents and moot problems at least two weeks before the deadline set for the moot. Host teams are selected at random and are required to follow the procedure on p9. In each round (except the semi-finals and grand final) the decision on which team is to be the Appellant and which team is to be the Respondent will be made by the Administrator, independent of whether or not an institution is hosting a round. For rounds after the first round (except the semi-finals and grand final) this decision will be released to each section of the draw for the next round when either: a) both teams in a specific part of the draw can carry out the next round of the competition as they know who their opponents will be, or b) the deadline date for the completion of the previous round has passed.

For further information, visit the competition website: www.nationalmooting.org

SEMI-FINALS AND GRAND FINAL

The semi-finals and grand final will be held on the same day and, subject to Covid-19 restrictions, in London. The same problem will be used for both the semi-finals and grand final. This has two advantages. First, it alleviates pressure on the timetable, enabling the first round to be later in the academic year. Second, it will be an advantage for all four teams in the semi-finals to have to prepare both sides of the argument, in case they reach the grand final. The lead-time to that date will be appropriately substantial.

There will be a special procedure for skeleton arguments and authorities for both the semi-finals and grand final, which will be provided to the semi-finalists as soon as possible after the results of the quarter-finals are known.

Subject to Covid-19 restrictions, the Grand Final will once again take place in the prestigious Royal Courts of Justice in London and we will circulate details of the London venue for the semi-finals closer to the date. Supporters are encouraged to attend the semi-finals in the morning and to stay on for the grand final in the evening even if their institution does not reach the grand final.

The semi-finals will take place concurrently. Immediately after their conclusion there will be a draw to determine which team acts for which side in the grand final. The Administrator will be responsible for arranging the distribution of skeleton arguments and copies of authorities to the judges for the semi-finals and grand final as appropriate.

MOOT FORMAT

All moot problems are set as a case on appeal to the Court of Appeal or the Supreme Court, represented by a single judge. For the semi-finals, the judging panel will be made up of two judges and three judges will sit for the grand final.

Each round consists of two teams. In each round (except the semi-finals and grand final) the decision on which team is to be the Appellant and which team is to be the Respondent will be made by the Administrator, independent of whether or not an institution is hosting a round.

Moot problems will be distributed on a round-by-round basis.

Each team consists of two speakers, a leader and a junior. The leader takes the first ground of appeal; the junior takes the second. The four speakers will be heard in the order and for the times noted in Fig. 1.

On an occasion where the moot takes the form of an appeal and cross-appeal, the order and timing of speeches shall be as in Fig. 2.

Fig. 1



Fig. 2



PROBLEMS

The moot problems will be drafted and approved by the Competition Advisory Board and will be on a 'core' legal subject that does not require specialist knowledge. Examples of 'core' subjects are criminal law, contract, tort (or delict), company and commercial law, constitutional law, employment law, consumer protection law, EU law and any area of law based on a UK statute. Problems should be on legal issues that are common to all the legal jurisdictions of the United Kingdom.

The moot problem shall be solely concerned with points of law. It shall be a case heard on appeal by the Court of Appeal or the Supreme Court and must have no less and no more than two grounds for appeal clearly stated.

No objection to any moot problem will be sustained unless communicated to the National Adjudicator within seven days of the receipt of the moot problem. If the National Adjudicator is satisfied with the objection, he may direct that another moot problem be used.

Moot problems will be distributed on a round-by-round basis.

AUTHORITIES

A team may rely on a maximum of **eight authorities** of its own choosing, which it must cite in a list of authorities. All authorities cited may be used by either the Appellants or the Respondents for any purpose. If an authority is cited as part of the moot problem, it is classed as a 'court authority' which may be used by either team and which need not be included in either side's list.

A single case which has been decided in more than one court (e.g. a case that has started in the High Court and then gone to the Court of Appeal and then to the House of Lords/Supreme Court) counts as one authority, although all references must be cited if a team wishes to use them.

For the purposes of this competition, only cases count as authorities. However, if a team intends to cite statutes, texts or other legal literature then, notwithstanding that these do not count towards the maximum of eight authorities, the team must disclose them by provision of copies to the opposing team at the time of the exchange of authorities. Both lists of authorities must be exchanged by email, to the email address provided on the contact sheet at least 3 working days before the moot. Their arrival and contents must be confirmed by the sender by email to the contact email address. No variation of authorities will be allowed unless the opposing team agrees.

Cases should be cited as authorities in the following descending order of priority:

- The Law Reports
- The Weekly Law Reports
- The All England Law Reports
- Others

BUNDLES

Each team must produce an electronic bundle containing all material they wish to rely upon during the moot. The bundle must be exchanged, by email, at the same time as the skeleton arguments (see below). Each bundle must also contain a copy of the 'court authorities' (if any) referred to in the problem.

Different procedures for the semi-finals and grand final might be needed depending on the ongoing disruption with Covid-19.

SKELETON ARGUMENTS

A team must also submit a skeleton argument setting out the main propositions and submissions in support of their case.

The skeleton arguments must be exchanged by email to the contact email address provided on the contact sheet at least 3 working days before the moot. The arrival of the skeleton must be confirmed by the sender by email to the contact email address. The skeleton argument must not be longer than one side of A4.

The main grounds of argument should be set out concisely together with the authorities relied on to support the argument.

The Host team, when arranging for the judge, should forward to the judge a copy of each team's skeleton argument and electronic bundle, clearly marked as from the Appellant or Respondent.

By way of guide only, an example of a skeleton argument is included at page 14 of this booklet. This is not a set or required format but an indication of what is acceptable.

TEAMS IN THE SEMI-FINALS AND THE GRAND FINAL

Immediately after all of the quarter-finals are completed the teams that reach the semi-finals will be given instructions as to the procedure for the semi-finals and grand final.

HOST RESPONSIBILITIES

We greatly appreciate the hospitality of the institutions that host the rounds of the competition.

All participating institutions undertake to host a round if allocated the position of Host team. A Host institution has a number of responsibilities:

- to locate a judge who meets the criteria described below in the section on Selection of Judges. The Guest team must give their consent to the judge, whose identity and background should be made known to them with as much notice as possible;
- to provide the judge with a copy of the moot problem and this Handbook, drawing their attention to these rules and the scoring sheet;
- to provide the judge with the skeleton arguments and electronic bundles from both teams as outlined above;
- to agree with the Guest team and judge which platform will be used for the moot (eg, Zoom, Teams, etc.);
- agree a date and time for the moot with the judge and Guest team;
- to inform the Administrator of the result within 24 hours of the completion of the round.

Please note that the Judge will be responsible for keeping the time and that the clock is not stopped for interruptions by judges.

All institutions should work towards identifying a suitable judge as soon as possible, as each institution may be asked to host the rounds of the competition.

SELECTION OF JUDGES

Judges shall be qualified legal practitioners (barristers, solicitors or advocates) or lecturers in law, and must be experienced in the judging of moots. In exceptional circumstances, where it has not been possible to appoint a judge in accordance with the foregoing, an appropriate judge might be a pupil barrister or trainee solicitor provided they have competed in mooting at an appropriately high level and are experienced in the judging of moots. Unless agreed in advance by both competing institutions and the National Adjudicator, the judge in a given round other than the grand final (for which a panel of judges must be arranged before the finalists are known) may not be an employee, former employee, student or former student of either competing institution. An employee of a neighbouring institution may be an appropriate judge.

Judges should be selected based on their relevant experience of the fields of law upon which the moot is set. For example, a practitioner or academic who has acted solely in the area of civil law may not be an appropriate judge in a criminal moot problem.

GUIDELINES FOR JUDGES

A judge has the following duties:

- to give judgment on the various points of law argued by the mooters;
- to give a reasoned judgment as to the merits and faults of each mooter; and
- to decide upon and announce the winning team.

The winning team of the round is at the sole discretion of the judge. The decision of the judge on any point cannot be appealed.

It is suggested that, in order to ensure an element of consistency throughout the competition, the judge should use four criteria to decide upon each team's performance: Content, Strategy, Ability to Respond and Style. It is hoped that these criteria can best evaluate each team's relative strengths. An optional scoring sheet has been provided for judges to assess each mooter and allocate them individual marks. In the end, however, it is the overall impression of which team made the most convincing presentation of their case that will determine the outcome. The better team will not necessarily be the team for whom judgment is given on the points of law. The following areas can be considered as relevant guidelines for assessment of the mooters:

Content

- the insight into and analysis of the moot problem and grounds of appeal
- the relevance of the authorities cited and the fluidity with which they are adduced
- the ability to summarise facts, cases or law where appropriate

Ability to respond

- the rebuttal of opponents' arguments
- the ability to answer questions from the bench

Strategy

- the presentation and structure of the legal arguments, including skeleton arguments, where used (rigidly scripted speeches, in particular, should be penalised)
- the ability of the mooters to work as a team
- the effective use of the mooters' limited time

Style

- the mooters' skill as an advocate
- the proper use of court etiquette

The judge may retire to consider the decision. Since this is a team competition, it is expected that the best all-round team will be chosen. When announcing the decision, it is greatly appreciated if, in addition to the questions of law, the judge makes some comment on the merits of each of the mooters' performances. This advice is always listened to very carefully and the mooters will value such balanced assessments.

Judges are encouraged to interrupt mooters at any time where the judge requires clarification of the legal argument being presented; interruptions also test the mooter's ability to respond as an advocate. However, the clock is not stopped during interruptions by judges so they are asked to treat all four mooters equitably. Questions should not be unduly difficult at this level. None of the stated grounds of appeal should be thought to be unarguable by the mooters or the judge, and judges should not refuse to hear an argument for that reason. However, if a team fails to produce cited authorities, the judge has the discretion to render the citation inadmissible. Finally, judges should not ask so many questions that mooters are unable to complete the points raised in their skeleton argument. Although it is proper for judges to assess the quality and appropriateness of arguments, mooters should not be prevented from putting forward arguments in their own way.

NOTES FOR MOOTERS

Introduction

A moot is an argument on points of law that aims to simulate, as far as possible, an authentic court hearing before a judge. A successful mooter is one who manages to persuade the judge of the superiority of his or her legal arguments.

A good legal argument:

- is clearly and, if possible, concisely stated;
- is well reasoned and logical;
- is supported, so far as possible, by legal principles established in previous cases; and
- is directly applicable to the facts of the case.

A successful mooter is likely:

- to be familiar with the facts but will not speculate upon them;
- to offer well-structured and clear arguments without reading them from a prepared script;
- to be able to engage with the judge in unscripted discussion about the strengths and weaknesses of the argument; and
- to refer to case law to support his or her arguments but will avoid lengthy quotations, or quotations taken out of context, and will acknowledge the relative weight of different authorities.

Preparing for the moot

Preparing for a moot is a different exercise to preparing for a tutorial or other abstract legal discussion. While the skills of legal research and legal problem-solving which you have developed as a law student are useful, mooting requires something extra. It is an argument in which you have to persuade the judge by force of legal reasoning. One of the rewards of mooting however is a deepened understanding of the nature of legal reasoning and its application within our legal system.

You should benefit not just in terms of your professional future but also in terms of your intellectual and academic skills.

When preparing for a moot:

- familiarise yourself thoroughly with the facts and the grounds of appeal;
- become equally familiar with the legal reasoning adopted in the authorities relevant to your grounds of appeal (including the authorities upon which your opponent will rely);
- construct a legal argument which is consistent with the authorities upon which you will rely and which is applicable to the facts of the case;
- ensure that in adopting your argument, the court is not being asked to act beyond its powers, e.g. do not expect the Court of Appeal to overrule a House of Lords decision (although it could distinguish it);
- draft a skeleton argument which summarises accurately your arguments and which refers appropriately to your authorities (see page 14 for an example of a skeleton argument);
- anticipate your opponent's likely arguments and think how you will counter them during the moot.

There is nothing wrong in seeking advice from tutors or others, nor in asking them to act as a coach.

Conduct of the moot

Speakers should dress soberly as if in a court. Gowns may be worn but only if all four speakers are able to do so. Try not to deflect attention away from what you are saying by fiddling with coins in pockets, shuffling about, walking up and down, leaning on the desk and so on.

The first speaker in the moot must introduce himself or herself and the three other speakers, and should say, "May it please Your Lordship/Ladyship, I am [Caroline Whitmore] and I appear in this matter on behalf of the [Appellant], together with my learned friend [Miss Sally Webb], and the [Respondent] is represented by my learned friends [Mr William Postgate] and [Miss Mary White]." Always end your submission by asking the judge if there are any questions to be asked by saying, "Unless I can help your lordship/ladyship any further...", wait to see if you can, then thank the judge and sit down.

Address the judge directly as "My Lord"/"My Lady" and indirectly as "Your Lordship"/"Your Ladyship". Refer to other speakers as "My learned friend" or "My learned junior/leader". In court an advocate will never say "I think..." or "In my opinion..." in the presentation of their arguments; the correct form is that which connotes the advancement of opposing

ideas, such as “I submit...” or “It is my submission that...” or even “I suggest...”. Do not interrupt the judge when you are being asked questions. If the judge interrupts you, let him. When responding to the judge’s questions or interruptions, be deferential but firm; whether agreeing or disagreeing, always do so “with respect...”. If the judge directs you to address a particular point, say, “If your Lordship/Ladyship pleases”.

General

You are strongly advised to read the guidance for judges so that you are familiar with the kinds of things that the judge is looking for in a moot. The judge will be particularly interested in your ability to present your submissions on the law while at the same time dealing with questions arising all within the relevant time-frame. The judge is likely to be aware of the facts of the problem, though the first speaker should enquire about this and be prepared to provide to the judge an accurate or balanced summary. Do not spend time on this unless it is necessary. The facts of a moot problem are never in dispute and should not be argued over. In the rare event that the problem may appear to be ambiguous, the National Adjudicator should be contacted as soon as possible to clarify the matter or set a new moot problem.

‘Hot air’ and oratory do not win moots, but the style in which an argument is presented is nevertheless important. As the object of the moot is to persuade the judge to find for your side, you must first make sure that the judge can hear and see you; so speak deliberately and audibly and try to establish eye contact. Do not speak in a rushed or mumbled manner. You should never read your speech or write it out word for word. Detailed notes are fine, but be prepared at any stage to be told by the judge that he wants you to move on. A rigid script will limit your flexibility to do so. Speeches that are read tend to be given in a dull monotone and eye contact is not achieved. The structure and development of your argument should also be presented slowly and concisely — your judge will certainly be taking notes and may know little of the area of law to which you refer. In particular, cite any authority slowly, giving the judge time to find and read the passage. Indicate when you are finished with one point by saying, “If I may move on”.

Watch out for ‘leads’ from the bench and be ready to make immediate use of them, even if it means re-arranging or amending your argument. In particular, if the judge has indicated he is with you on a point, or does not wish to hear further argument upon it, move on to the next one.

If the judge asks you a question which you cannot answer on the spur of the moment, you may ask for leave to return to the point later or even to confer with your team mate. If you cannot answer, it is best to be honest about it rather than provide a hopeless response or promise to come to the point later in your argument and then fail to do so. Try to ensure that, so far as is possible, your argument can stand by itself and has no excessive dependency upon authority. Authorities are a tool, not an end in themselves. Use them to support your argument rather than making your argument a connection between a list of quotations. However, always be prepared to support any point in your argument with authority if called upon to do so, which authority should be contained in your list. If you refer to a dictum in passing you should cite the portion of it on which you rely. Do not cite a case without offering to tell the judge, however briefly, of the facts and the decision.

Always ensure the clerk to the court has all the cases you have listed present in court for the use of the judge. As there are often omissions, it is wise to prepare an unmarked copy that can be handed to the judge. When citing cases, the full reference should always be given e.g. [1966] 1 W.L.R. 1234 is: “reported in the first volume of the Weekly Law Reports for 1966 at page 1234”. Cases should be cited as e.g. “Hills and Duhig” or “The Crown against Dixon.” Do not say “versus” or “v.”

Do not refer to judges in a case by their abbreviated titles, but rather as “Mr Justice Kirk” or “Lord Justice Sheridan”. Do be concise; the timing of a moot is very limited, so ensure you do not waste your or the court’s time by reading out unnecessarily long passages from authorities. The effective use of your time is rewarded by judges. Do not exceed the time allotted to you or you may risk being told to sit down by the judge.

A speaker must never mislead the court. The most likely occasion for this is to cite a case without referring to other relevant but opposing authorities. Tactically, it is better for you to bring them to the attention of the judge than for your opponent to do so.

Good luck!

EXAMPLE OF SKELETON ARGUMENT

IN THE SUPREME COURT

Parrot Quay Limited	Appellant
-and-	
Armoury Football Club Limited	Respondent

Respondent's Skeleton Argument

GROUND 1

1. The pre-cursor to the operation of promissory estoppel is that a recognised legal relationship exists between the parties. *Thomas Hughes v The Metropolitan Railway Company* (1877) 2 App. Cas 439 (cited as [1874-1880] All E.R. 187) *Central London Property Trust Ltd v High Trees House* [1947] 1 K.B. 130 *Attorney General of Hong Kong v Humphreys Estates (Queen's Gardens) Ltd* [1987] 1 A.C. 114 Law of Property (Miscellaneous Provisions) Act 1989, s.2 *Chitty on Contracts* (Vol 1) at 3-083 to 3-096.
2. No legal relationship exists between the parties to the present appeal. There is no contract. There is no pre-existing legal relationship. The operation of promissory estoppel provides that a party promises not to enforce their "strict legal rights". By definition such rights must already be in existence. In the present appeal there are no rights that give rise to a promissory estoppel.
Central London Property Trust Ltd v High Trees House [1947] 1 K.B. 130
Amalgamated Property Co. v Texas Bank [1982] 1 Q.B. 84
3. In the alternative, if the House of Lords and the requirements of promissory estoppel are satisfied, it is submitted that the Court of Appeal was bound by precedent. English contract law rests upon the indivisible trinity of offer, acceptance and consideration. The nature of promissory estoppel does not require the presence of consideration because it is not a contract. To allow a cause of action to be founded upon a promise unsupported by consideration would be to undermine the doctrine of consideration.
Brikom Investments v Carr [1979] 1 Q.B. 467 at 486.
Combe v Combe [1951] 2 K.B. 215

GROUND 2

1. It is accepted that accelerated payment of an anticipated contract at the specific request of the other negotiating party can give rise to a quantum meruit. However, in the present case there was no specific request.
William Lacey (Hounslow) Ltd v Davis [1957] 1 W.L.R. 932
British Steel Corp v Cleveland Bridge and Engineering Co Ltd [1984] 1 All E.R. 504
2. Where work is done in order to put oneself in a position to obtain and perform a contract, the costs incurred are at one's own risk and do not give rise to any form of liability.
Regalian Properties plc v London Docklands Development Corporation [1995] 1 W.L.R. 212
Marston Construction Co Ltd v Kigass Ltd (1989) 15 Con. L.R. 116
3. In any event, the services in the present case did not benefit the defendant and, as such, there is no liability under a quantum meruit.
Regalian Properties plc v London Docklands Development Corporation [1995] 1 W.L.R. 212

The Respondent submits that the appeal be dismissed

LEADING COUNSEL:

JUNIOR COUNSEL:



English-Speaking Union

Essex Court
Chambers

**The ESU-Essex Court Chambers
National Mooting Competition
2021-2022**

JUDGE'S SCORE SHEET

APPELLANT: Team name

	Speaker	Content	Strategy	Ability to Respond	Style	Total	Comments
LEADER							
JUNIOR							
REPLY SPEECH							
TOTAL							

RESPONDENT: Team name

	Speaker	Content	Strategy	Ability to Respond	Style	Total	Comments
LEADER							
JUNIOR							
TOTAL							