



ST. JOHN'S
UNIVERSITY
SCHOOL OF LAW

33rd Annual
Duberstein Bankruptcy
Moot Court Competition
Saturday, March 1, 2025
through Monday, March 3, 2025



AMERICAN
BANKRUPTCY
INSTITUTE

OFFICIAL RULES

33RD ANNUAL DUBERSTEIN BANKRUPTCY MOOT COURT COMPETITION March 1 – March 3, 2025

*American Bankruptcy Institute
St. John's University School of Law
St. John's Moot Court Honor Society
American Bankruptcy Institute Law Review*

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CONTACT INFORMATION

RULES

The Duberstein Board
St. John's University School of Law
8000 Utopia Parkway
Queens, NY 11439
Duberstein@stjohns.edu

FACT PATTERN

The Duberstein Board
St. John's University School of Law
8000 Utopia Parkway
Queens, NY 11439
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TEAM COMPOSITION

American Bankruptcy Institute
66 Canal Center Plaza, Suite 600
Alexandria, VA 22314
Duberstein@abiworld.org

ACCOMODATIONS

American Bankruptcy Institute
66 Canal Center Plaza, Suite 600
Alexandria, VA 22314
Duberstein@abiworld.org

AWARDS RECEPTION

American Bankruptcy Institute
66 Canal Center Plaza, Suite 600
Alexandria, VA 22314
Duberstein@abiworld.org

33RD ANNUAL DUBERSTEIN BANKRUPTCY MOOT COURT COMPETITION

The Duberstein Bankruptcy Moot Court Competition (the “Competition”) is co-sponsored by the American Bankruptcy Institute and St. John’s University School of Law. Student members of the St. John’s *Moot Court Honor Society* and the *American Bankruptcy Institute Law Review* (the “Board”) organize the Competition. The Competition is named in memory of the Honorable Conrad B. Duberstein, former Chief Judge of the United States Bankruptcy Court, E.D.N.Y., and St. John's alumnus.

CERTIFICATION

I. Certification

By submitting a brief, each team member certifies that such brief has been prepared in accordance with the rules of the Competition and is the work product of only the members of the team (except as permitted by **Rule V**). By submitting a brief, each team member also certifies that each and every citation to the law or the record has been verified by the team.

II. Copyright Form

Each team shall complete and electronically submit the Certification and Copyright Form by the brief deadline as provided in **Rule IX**.

TEAMS

III. Number and Composition of Teams; Communication with Teams

(a) Number of Teams

Each participating school may enter one team, comprised of two or three students each. Schools may place a second team on the waitlist by completing the registration form by Monday, November 25, 2024. After Monday, November 25, 2024, teams will be accepted from the waitlist in the order they were added until the competition has reached at least 50 teams.

(b) Composition of Teams

A team must consist of two or three members. All team members must be enrolled in the J.D. program of the school that they represent at the time of the Competition. A school must be ABA accredited to be eligible to participate in the Competition.

(c) Official Team Contact Person

Each team shall designate an Official Team Contact Person on the registration form and shall provide the name of that individual, the official name of the accredited law school, a telephone number, and an email address for the Official Team Contact Person. All communications to the team will be addressed to the Official Team Contact Person, and the team shall be responsible for monitoring said numbers and addresses for communications from the Board. The name of the law school, as indicated on the registration form, will be used for all awards and announcements. If a team wishes to change the Official Team Contact Person or related information, the Board must be notified by email addressed to:

Duberstein@abiworld.org
Subject: Official Team Contact Person – Team [number]

(d) Team Information Form

On or before **Tuesday, January 7, 2025**, each team shall complete the Team Information Form that will be sent via email to the Official Team Contact Person. The Board will use the team member names as listed on the Team Information Form for awards and certificates.

IV. Participation of Team Members

At least two members of each team must participate in oral arguments subject to **Rule XI(a)**. If a team has three members, all three members may participate in oral arguments, or one member may participate only in the preparation of the brief and need not argue orally.

V. Substitution of Team Members

Teams may not add members after submitting the Team Information Form (**Rule II(d)**), except upon written permission of the Board based on a showing of hardship. No substitution will be permitted after the commencement of the first argument unless the number of team members drops below two. The work product of a team member who resigns will be deemed the work product of student team members for the purpose of **Rule V**. Any resigning team members may not join or assist any other team.

VI. Outside Assistance

(a) Independence of Argument

The brief and oral argument must be the work product of the student team members only. The text of the brief must be the original work of the team members and cannot be copied from other briefs or sources, except for passages clearly designated as quoted material.

(b) Prohibition on the use of Generative Artificial Intelligence

Any use of generative artificial intelligence tools (e.g., ChatGPT) at any stage of the work process—including but not limited to brainstorming, organizing, brief writing, roadmapping, question generating, etc.—is strictly forbidden. Signing the Certification Form in **Rule I** includes a warrant that AI was not used in the preparation of the brief. Any breach of this rule will be enforced subject to the Board's discretion. To report a suspected infraction of this rule, do so within the bounds of **Rule XXIII**.

(c) Prohibition of Improper Materials

A Competition Bench Memo, Regional Competition Bench Memo, and a Brief Grader's Guide will be prepared for the Competition judges. It is a violation of the Competition Rules for any team member, coach, or any person assisting a team to obtain or seek to obtain a copy of the Competition or Regional Competition Bench Memo or the Brief Grader's Guide for the current Competition, or to obtain any information about their contents other than information disclosed by the Board in general communications to all teams. Team members and coaches must report immediately to the Board any offer of such information.

(d) Permissive Assistance

The prohibition on outside assistance does not prevent preliminary general discussion of the issues with faculty or others before beginning to write the brief. Nor does it prevent a faculty member or other person from critiquing a practice argument after submission of the brief, provided that the finalized substance of the oral argument is the work product of the team members. Prior to submission of the brief, team members shall not attend practice arguments of other teams (including teams from the same school) or communicate with anyone other than members of their team regarding the substance of their arguments. However, after submission of the brief, teams may hold practice arguments together, including with teams from different schools.

(e) Encouragement of Practice; Notice of Duty to Disclose Conflict

We encourage teams to arrange practice rounds before local bankruptcy judges and local bankruptcy practitioners. Several sitting United States bankruptcy judges judge the advanced rounds of the Competition. Teams are permitted to appear before invited judges for a practice round or in a preliminary competition sponsored by a local bar association. However, no invited judge may coach or assist a team beyond the critique of practice or Competition rounds. Teams appearing before a sitting bankruptcy judge in a practice or preliminary competition should ask the judge if they will be a judge in the Competition and, if so, must advise the Board of the name of the judge.

BRIEFS

VII. Assignment of Sides

Each team will randomly be assigned to prepare its brief serving as counsel for either petitioner or respondent. If a school entered two teams, the teams will be assigned to opposite sides.

VIII. Length and Form

(a) Page Limit

Briefs shall be a maximum of thirty-five (35) pages in length. The aforementioned page count does not include teams' cover sheet, questions presented, table of contents, table of authorities, opinions below, statement of jurisdiction, statutory provisions, or appendices (if any).

(b) Page Numbering

All pages other than the cover sheet shall be numbered. The "Questions Presented" section shall be placed after the cover sheet and shall be numbered with a lower-case Roman Numeral "i." The following pages shall be numbered accordingly. The "Statement of Facts" shall be numbered with an Arabic Number "1." The following pages shall be numbered accordingly.

(c) Order of Sections

Sections of the brief shall include all the following in the order presented below:

- Cover Page;
- Questions Presented;
- Table of Contents;
- Table of Authorities;
- Statement of Jurisdiction;
- Statement of the Case;
- Summary of the Argument;
- Argument; and
- Conclusion.

(d) Appendix

No appendix is necessary or expected. However, if the team determines such to be essential to its brief, it should be presented after the Conclusion.

(e) Statement of Jurisdiction

The Statement of Jurisdiction section of the brief shall state, "The formal statement of jurisdiction is waived in accordance with the Rules of the Duberstein Bankruptcy Moot Court Competition."

(f) Brief Format, General

Briefs shall be formatted as an eight and one-half (8.5) by eleven (11) inch document and contain consistent one-inch margins on all sides. All lines of main text shall be double spaced, except to any extent THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION (Columbia L. Rev. Ass'n et al. eds., 21st ed. 2020) *demands* otherwise. Footnotes, headings, and subheadings may be single-spaced; however,

they must remain within the margin limits. Briefs shall be typed in Times New Roman font. Briefs' main text shall be 12-point font, and any footnotes shall be 10-point font.

(g) Brief Format, Supplemental

Unless otherwise altered by these rules, the format of the brief shall comply with the Rules of the Supreme Court of the United States. All citations shall comply with the form prescribed in the most recent edition of THE BLUEBOOK.

(h) Prohibition of Footnote Abuse

Footnotes are permitted. However, footnotes should be used sparingly and should not be used for all citations. The Board may deduct a penalty if a team gains an improper advantage by including information in footnotes. Such an advantage may include, for example, if the text had been included in the body of the brief it would have caused the brief to exceed the page limit. If including footnotes, err on the side of caution. Footnote penalties are subject to the Board's discretion and will be proportional to the perceived advantage the team gained by including the footnote(s).

IX. Service of the Briefs

(a) Cover Sheet and Team Identification

A brief cover sheet is required even though the brief will be submitted electronically. The cover sheet shall contain the assigned team number in the lower right corner with the words "Counsel for Petitioner/Respondent" (whichever is appropriate) underneath. The cover page, and all pages, thereafter, shall contain the assigned team number in the top right corner. Teams shall not sign or otherwise indicate authorship anywhere in the brief. Individual or school names shall not appear anywhere in the brief.

(b) Document Conventions

Brief documents shall be saved in PDF format and may not exceed 8 MBs in size. Brief documents shall be named "[Petitioner/Respondent] Brief [Team Number]" (e.g., "Respondent Brief 32").

(c) Submission

No later than **11:59 PM Eastern Standard Time on Wednesday, January 22, 2025**, each team must serve one copy of its entire brief (including appendices) on the Board by uploading the brief as a single file in PDF format, no larger than 8 MB, through the Brief Submission link which will be located on the Competition website. The link can be accessed at www.stjohns.edu/law/duberstein. Additionally, each team must complete and submit the electronic Certification and Copyright Form required by **Rule I** through the same link by the same deadline outlined above. It is **not** necessary to send a printed copy of the Brief or Certification to the Board. **No team will be allowed to alter its brief after it has been submitted.** Briefs received more than 30 minutes after the deadline will be treated as late-filed briefs unless the team establishes that it submitted the brief by the deadline.

(d) Service on Opposing Teams

It is **not** necessary to serve briefs to any other team participating in the Competition. The Board will post all submitted briefs by team number on the Competition website at www.stjohns.edu/law/dubenstein. Briefs from other competitors may be reviewed in preparation for the Competition.

(e) Copyright

By submitting a brief, each team and each team member grants to St. John's University and to the American Bankruptcy Institute a non-exclusive right to publish the brief on the Internet and in print.

X. Brief Scoring and Awards

(a) Brief Score

Each brief will be scored on a fifty (50) to one hundred (100) point scale. Each brief will be scored by two scorers, with the ultimate brief score being the average of the two scores received. If the difference between the scores is greater than fifteen points, the brief will be scored by a third scorer and the brief score will be the average of the two closest scores. However, if one of the scores is at the midpoint between the other two scores, then the midpoint score will be the brief score.

(b) Best Brief Award

The team with the highest brief score will receive the "Best Brief" award. Additionally, the teams with the next four highest brief scores will receive "Outstanding Brief" awards. In the event of a tie for Best Brief, the tied briefs will be re-scored by a member of the St. John's Law faculty, and the brief receiving the highest score will be the Best Brief. In the event of a tie for Outstanding Brief, the tied briefs will be re-scored by a member of the St. John's Law faculty, and the briefs receiving the highest scores will be included as Outstanding Briefs. The re-scoring of tied briefs will not change the brief scores determined pursuant to the preceding subsection and those scores will be the ones used in the preliminary round pursuant to **Rule XIV**. The team winning the "Best Brief" award and the teams winning "Outstanding Brief" awards will be announced at the Awards Reception. A team need not argue in the preliminary rounds to qualify for the brief awards.

ORAL ARGUMENTS

XI. Length and Format of Oral Arguments

(a) Division of Argument

Each team is limited to thirty minutes of oral argument. Only two team members will argue in each round. The division of the thirty minutes allotted for the argument may be made at the discretion of the team; however, no team member may be apportioned fewer than ten minutes.

(b) Rebuttal

Petitioners may reserve up to three minutes of rebuttal time prior to the commencement of the argument. Teams that reserve rebuttal shall notify the Bailiff of how to deduct rebuttal time **before** the arguments begin. Time reserved for rebuttal will be counted as part of the thirty minutes allotted for the argument.

(c) Time Keeping

The Bailiff will keep the time of each argument and will display timecards to indicate when ten, five, three, and one minutes of argument time remain. Judges may allow additional argument time at their discretion.

(d) Technology Policy

Competitors are **not** permitted to use any electronic devices (including, but not limited to, laptops, tablets, smartphones, smartwatches, and any other personal electronic devices) during the oral argument rounds. Please note, printing accommodations will not be provided on-site to competitors.

XII. Argument Scoring

The scores for each round will be computed as follows:

	Brief	Oral Argument
<u>Preliminary Rounds</u>	40%	60%
<u>Octo-Final Rounds</u>	30%	70%
<u>Quarter-Final Round</u>	0%	100%
<u>Semi-Final Round</u>	0%	100%
<u>Final Round</u>	0%	100%

Scoring is inherently subjective. The Board's determination of advancing and winning teams and of winning competitors shall be final. If there is an error, the Board reserves the right, but has no obligation, to grant additional awards to any team or competitor disadvantaged by the error. **Any decisions or other actions taken by the Board shall be final and binding on all participants.**

XIII. Preliminary Rounds and Octo-Final Rounds

(a) Preliminary Round Structure

Each team will argue in at least two preliminary rounds, and up to three preliminary rounds, with at least one argument for petitioner and one for respondent. Each team will argue twice on the first day of competition and once on the second day of competition. Pairing in the preliminary rounds will be random.

(b) Octo-Final Rounds Structure

The 16 teams with the highest average score in the three preliminary rounds will advance to compete in two octo-final rounds. The octo-final rounds will be held in the afternoon of the second day of competition. In the event of a tie, the team(s) with the higher brief(s) score will advance to the octo-final rounds.

(c) Octo-Final Rounds Team Pairing

Pairing for the octo-final rounds will be determined by seeding. In the first octo-final round, the top seeded team will argue against the team seeded 16th, the 2nd seeded team will argue against the 15th seeded team, and so on. In the second octo-final round, the top seeded team will argue against the team seeded 9th, the 2nd seeded team will argue against the team seeded 10th, and so on.

Seeding will be established according to a team's mean (average) score from the preliminary rounds. If there are teams with the same mean (average) score, the team(s) with the higher brief score(s) will be seeded higher. Seeding will be strictly followed in the octo-final round. Therefore, teams that have argued against each other in the preliminary rounds, or teams from the same school, may be paired against each other in the octo-final rounds.

(d) Octo-Final Rounds Argument Assignment

In the first octo-final round, teams seeded 1st through 8th will argue for the petitioner and teams seeded 9th through 16th will argue for the respondent. In the second octo-final round, teams seeded 1st through 8th will argue for the respondent and teams seeded 9th through 16th will argue for the petitioner.

(e) Preliminary and Octo-Final Rounds Time and Place

Oral arguments for the preliminary and octo-final rounds will take place at St. John's University School of Law, 8000 Utopia Parkway, Queens, New York 11439, on Saturday, March 1, 2025, and Sunday, March 2, 2025.

The octo-finalist announcement will be made on Sunday, March 2, 2025, at lunch. The quarter-finalist announcement will be made on Sunday, March 2, 2025, after the octo-final rounds. Transportation between the Competition Hotel and St. John's University will be provided for all teams and coaches. Parking will also be available for those teams who wish to drive directly to the St. John's University Queens Campus.

(f) Filler Teams

St. John's J.D. students may not compete in the Competition and are not eligible for any Competition awards. However, one or more "filler" teams composed of St. John's J.D. students may participate in the preliminary oral argument rounds and may participate in the octo-final rounds in the event a team is disqualified or otherwise unable to compete.

(g) Changes to Preliminary and Octo-Final Rounds

The number and format of the preliminary and octo-final rounds may be reduced, if necessary, for example to deal with delays caused by inclement weather or public health concerns, in accordance with **Rule XXII**. Though unlikely, any such changes are binding and at the Board's discretion.

XIV. Advancement to Later Rounds

The teams with the highest average scores in the octo-final rounds will advance to the quarter-final rounds on the third day of the Competition. In subsequent rounds, the team with the highest oral advocacy score from each team pairing will advance to the next round. Judges in the quarter-final, semi-final, and final rounds will confer and determine the winning team in each pairing and are not required to use score sheets or to calculate a numerical score.

Eight teams advance to the quarter-final round. Four teams advance to the semi-final round. Two teams advance to the final round. If there is a tie, the team(s) with the higher brief score(s) advance.

XV. Quarter-Final, Semi-Final, and Final Rounds

(a) Time, Place, and Number of Teams

The quarter-final, semi-final, and final rounds (the "Later Rounds") will be held on Monday, March 3, 2025, at the Conrad B. Duberstein United States Bankruptcy Courthouse in Brooklyn, New York. The quarter-final round will consist of the top eight teams remaining after the octo-final rounds. The winning teams from each of the four quarter-final arguments will advance to the semi-final round. The winning teams from each of the two semi-final arguments will advance to the final round. The Board reserves the right to change the location of any round. Teams are responsible for getting to the Courthouse and from the Courthouse to the Awards Reception immediately following the Final Round on their own.

(b) Later Round Team Pairing

Pairing for the quarter-final round will be determined by seeding, with the top seeded team arguing against the 8th seeded team, the 2nd seeded team arguing against the 7th seeded team, and so on. Seeding will be established according to a team's average score from the octo-final rounds. If there are teams with the same average score, the team with the higher brief score will be seeded higher. In the semi-final round, the winners of the arguments involving the 1st and 3rd seeded teams will argue against each other, and the winners of the arguments involving the 2nd and 4th seeded teams will argue against each other. Seeding will be strictly followed in the quarter-final, semi-final, and final rounds. Therefore, teams that have argued against each other in the preliminary or octo-final rounds may be paired against each other in the quarter-final, semi-final, and final rounds. Argument sides for all Later Rounds will be assigned at the discretion of the Board.

XVI. Oral Argument Awards

(a) Team Awards

The two teams that advance to the final round will be a “Finalist” in the Competition. The winning team will be awarded the First-Place Team award. The runner-up will receive the Second-Place Team award. The two teams that advance to the semi-final round but not the final round will receive the Third-Place Team awards. The winner of the Final Round of the Competition will be announced at the Awards Reception. The winner of each pairing in the quarter-final and semi-final rounds will be announced after each argument.

(b) Best Oral Advocate Awards

The competitor with the highest average score for oral argument during the preliminary rounds will receive the “Best Oral Advocate” award. In addition, the competitors with the next four highest average scores for oral argument during the preliminary rounds will receive “Outstanding Oral Advocate” awards. If there is a tie, the competitor from the team with the higher brief score will be chosen. If there are 3 preliminary rounds, a competitor must argue at least twice to be considered for the oral advocacy awards. The winners of the “Best Oral Advocate” award and the “Outstanding Oral Advocate” awards will be announced at the Awards Reception.

XVII. Attendance at Arguments

During the Preliminary Rounds, the attendees at each argument are limited to the members of the competing teams and up to three additional coaches or advisors per arguing team. During the octo-final, quarter-final, and semi-final rounds, attendance is not limited to the competing advocates and their coaches/advisors; all are welcome. For the final round of oral arguments—to be held before distinguished members of the judiciary—all competitors are encouraged to attend. For every round, attendees shall sit wherever the Bailiff designates.

XVIII. Communication During Rounds

Once a round has begun, there shall be no communication in any form between the team members arguing in the round and any member of the audience, including coaches, faculty advisors, or team members who will not be arguing during that round. Teams are not permitted to disclose the identity of their schools to judges or other competitors prior to the Competition's conclusion or the disclosing team's elimination.

XIX. Report of Team Standing

After completion of the Competition, the Board will send to the Official Team Contact Person: (1) the oral argument score sheets from the preliminary rounds; (2) the brief score sheets; and (3) the brief score computation sheet showing the calculation of the brief score under **Rule X(a)** and an indication of any penalties assessed under **Rule XXIV**. Each Official Team Contact Person bears the responsibility to share these materials with their team. The Board will not retain copies of scores.

XX. Consent to Competition Photographs and Recordings

Participation in the Competition—as a team member, coach, advisor, or attendee—constitutes consent to be photographed and/or recorded. Photographs and recordings may be displayed or distributed during and after the Competition in a variety of formats and media, including projection during the Awards Reception, posting on the Internet, and use in press releases as well as promotional materials. Participants waive all claims for any compensation, damages, or other remedies in connection with such photographs or recordings and their use.

RECORD INTERPRETATION AND ENFORCEMENT OF THE RULES

XXI. Clarification, Interpretation, and Determinations

Submit requests for clarification of the rules to:

Duberstein@stjohns.edu
Subject: Duberstein Rules

Submit requests for clarification of the fact pattern to:

Duberstein@stjohns.edu
Subject: Duberstein Fact Pattern

Requests for clarification must be received no later than **1:00 PM Eastern Standard Time on Tuesday, January 7, 2025**. Clarifications and interpretations will be posted on the Competition website at www.stjohns.edu/law/duberstein. Please check the website often throughout the competition.

XXII. Amendments to Rules, Procedures, and Format

(a) Rule Changes

The Board reserves the right to make and implement any further rules and procedures or take any actions deemed advisable for the conduct of the Competition. Each participating school will be notified of any changes by email to the Official Team Contact Person as soon as practicable.

(b) Format Changes

The Board reserves the right to amend the format of the Competition. This includes limiting the preliminary rounds, removing octo-final rounds completely, or converting some or all rounds to a virtual format. In the event it is necessary to convert the Competition to a virtual format, each Official Team Contact Person will receive an updated rules packet as soon as practicable.

XXIII. Reporting Suspected Rule Infractions

(a) Obligation To Report Rule Infractions

Each competitor, coach, or other affiliate of any team bears responsibility for reporting suspected and known rule infractions. Strict enforcement of the rules is integral to running an honest and impactful competition. If you suspect another infringed any of the above-listed rules, you have a duty to report it as soon as practicable, but not later than twenty-four hours after the breach became apparent to you.

(b) Format of Rule Infraction Reports

Submit reports of suspected rule infringement as follows:

To: Duberstein@stjohns.edu
Subject: Duberstein Infraction Report
Priority: High
Include: — The team(s), by number, you suspect infringed the rules;
— The rule you suspect was infringed;
— A brief explanation for the basis of your suspicion;
— When you learned of the alleged infraction; and
— Documentation, if any, supporting or giving rise to your suspicion.

XXIV. Penalties

The Board may assess any such penalties, including disqualification, as it deems reasonable and appropriate for failure to comply with the foregoing Rules. **All penalties imposed by the Board shall be final and binding.** Specific penalties that will be deducted from a team's brief score or oral argument score for the following rule violations are set forth below:

- **Late Briefs:** Briefs submitted less than an hour late will be deducted two points. Late briefs will be deducted an additional five points per calendar day late up to a maximum of ten points.
- **Long Briefs:** Briefs exceeding the page limit will be deducted two points per page beyond the page limit up to a maximum of twenty points.
- **Briefs Abusing Footnotes:** Briefs containing excessive material in footnotes will be deducted points the Board deems equivalent to the advantage the team gained relative to other teams by placing excessive material in footnotes.

- **Improperly Formatted Briefs:** Briefs violating the formatting rules, especially to the team's advantage (to be decided by the Board), will be deducted up to half-a-point for each violating page up to a maximum of ten points.
- **Improper Assistance:** If a team breaches any of the above rules or expectations that briefs be completed independently, the Board may assess a penalty, including disqualifying the team.
- **Improper Coaching:** If there is any communication during an argument round prohibited by Rule XVIII, the Board may assess a penalty, including disqualifying the team.
- **Improper Technology Use:** If a competitor accesses their phone, laptop, tablet, or smart device during an argument round, the team may be deemed to violate Rule XVIII, and the Board may assess a penalty, including disqualifying the team.
- **Miscellaneous Penalties:** Additional penalties may be imposed if a team gains an advantage as a result of not following the aforementioned rules or by breaching the expectation of a reasonable and honest competitor. Such penalties will be determined at the Board's discretion and will be applied in proportion to the severity of the violation.