

October 4, 2013

Fallon Burns
400 Esna Park Drive,
Markham, Ontario,
L3R 3K2

Sent Via E-mail

Re: Letter to Mooters

Dear Mooter,

My name is Fallon Burns. I am the Student Director of the Paralegal Society of Ontario. It is with great pleasure that I, on behalf of the Board of Directors, as well as the Mooting Committee, present to you the first moot package for the Paralegal Society of Ontario's First Annual Intercollegiate Mooting Competition. This package will include your marking scheme, a copy of the rules and the guide to mooting. As a student, these materials will help you prepare to be a successful mooter. That is, it will give you a feel of what to expect during moot court.

I would like to draw your attention to the rubric. On the rubric, we have assigned different levels. These levels were written to be exhaustive descriptions of behaviour. This rubric was written for your convenience. However, it was also written so that we can reward students for demonstrating excellence in each of the categories. The descriptions are entirely objective so that all of the students will be marked fairly. If you have any questions regarding the rubric, please email Fallon Burns at fallon.burns@paralegalsociety.on.ca.

I would also like to address the written submission. The written submission has to be read by the judges after the round is over. The judges will make notes of your argument as you present. Then, after all the mooters have presented, you will be dismissed to the hallway so they can read your written submission. They are going to compare what each mooter said during their presentation to what they wrote in their summary of their submission. The written submission has three purposes. First, it rewards students who correctly applied the law and understand the law. Next, it rewards students who might not be as strong speakers or who were interrupted so often that they could not make their points during the submission process. Finally, it serves as an excellent opportunity to practice grammar and spelling in a written argument form. If you have any questions or concerns about this aspect, please email Fallon Burns at fallon.burns@paralegalsociety.on.ca.

This competition will be hosted by Humber College, at the Lakeshore Campus. The address of Humber College Lakeshore Campus is 3199 Lakeshore Boulevard West. It is located in Toronto, Ontario. The postal code is M8V-1K8. The dates of the competition are set on Saturday November 23rd and Sunday November 24th.

You will receive the edited version of the case and the factums on October 15th, 2013.

Let the games begin!

Best Regards,

Fallon Burns

Competition Rules

Qualification and Registration

1. To qualify for competition teams must:
 - a) Consist of two students from selected colleges by invitation only.
 - b) Have official pre-registration for their team as designated by their school liaison.
 - c) Be currently enrolled in an undergraduate or graduate Paralegal program recognized under the Law Society of Upper Canada.
 - d) Provide photo identification confirming active enrollment at the time of registration/check-in.
 - e) Check-in no later than thirty minutes prior to the beginning of the first round of the day. All registration time determinations will be made by the Chief Bailiff and designated member(s) PSO Mooting Committee.
- The competition is closed to students who are currently attending professional law schools or University Arts Degree Programs.
- The moot competition and featured venue will be open to the public.
- Food and beverages will be exclusively provided to competitors, judges and sponsors

Competition Structure and Format

2. If a scheduled team does not arrive at the competition venue on time, the assigned judges of that round shall contact the Chief Bailiff or designated member(s) of the PSO Mooting Committee immediately. The preliminary rounds will be held on the first day of competition. If more than one team does not qualify to compete during the preliminary rounds, teams may be reassigned to compete against each other. When only one, or an unequal number of teams fail to qualify for the competition, the team without an opponent will be allowed to proceed with their submissions and receive oral advocacy marks from the judges. Teams that win by default are not impeded from continuing on to the quarter final rounds.
3. Participants must confine their arguments to the information contained in the provided fact scenario, factums and related case law. They are not permitted to include any other jurisprudence, legislation or arguments not contained within the fact scenario, factums and related case law.
4. Participants must submit a summary submission to the judges. It is a portion of their final mark. The submission is not to contain facts or legislative quotes. It is a summary of their analysis and why their conclusion should be accepted. The submission is limited 500 words. Failure to submit this document in full sentence form within the prescribed word count will result to an automatic grade of **ZERO** in that component.

5. Teams must be prepared to argue as both the Appellant and the Respondent. Every team will argue each side twice during the course of the preliminary rounds. The teams proceeding to the Quarter Final rounds will be announced following the preliminary rounds.
6. Each round will last one hour and twenty minutes, consisting of ten minutes for Appellant submissions, followed by ten minutes for Respondent submissions, followed by ten minutes for the Appellant and a final ten minutes for the Respondent. Judges will deliberate while the competing teams and any spectators wait outside of the competition venue. The twenty additional minutes are provided so that the judges have time to mark the written submissions and provide feedback. Judges will not reveal who wins after any round. Feedback will be provided after all rounds. No numerical scores, including oralist scores, will be revealed after individual rounds.
7. Time-keepers shall be responsible for timing and ensuring that each round is completed within the one hour spoken allotment.
8. Judges shall be responsible for marking written submissions, speaker scores and argument scores.
9. Both team members for each competing team must make submissions during each round. Each member will use one of the ten minute slots allotted to their team. Only one team member may speak during each ten minute allotment.
10. Competitors may end their arguments before their ten minute allotment is reached, however, they may not continue beyond ten minutes unless they have requested and received permission at the discretion of the judge or panel of judges. Individual time extensions may be granted to a maximum of two minutes.
11. No oral communication should take place between teammates while their opposing team is making their submissions. Any overly distracting or inappropriate conduct on the part of a participant during rounds may impact that individual's oralist score under *Professionalism*. Serious and ongoing inappropriate conduct could lead to a forfeit and early termination of the round. Scoring, determination of the appropriateness of a competitor's conduct and forfeiture is made at the discretion of the presiding judge or panel, in concurrence with the Chief Bailiff and PSO Mooting Committee.
12. The teams participating in the Quarter Final rounds will be selected based on the highest number of points earned under the Marking Scheme.
13. The teams proceeding to the Quarter Final rounds will be announced following the preliminary rounds, at which time teams will select which side of the case they will be arguing. The higher-ranking team will be permitted to choose which side of the matter they will argue for the Quarter Finals. If the higher ranking team is not present, they will have forfeited the option of choosing which side of the matter they will argue for the Quarter Finals and by default, their opposing team will be permitted to make the decision.
14. Following the Quarter Finals, teams will be assigned to argue the opposite side of the case from their previous round's arguments. Where both teams would be assigned to the same side of the

case, a coin toss will be used to determine assignments. The coin toss will be called by the team with the higher combined oralist scores from the preliminary rounds.

15. The team proceeding to the Final Round that has the higher combined oralist scores from the preliminary rounds will choose which side of the case they will argue.
16. The winning teams from the Quarter Final rounds will proceed to the Semi-Final rounds. The winning teams from the Semi-Final rounds will proceed to the Final Round.
17. The winners of the Final Round are the winners of the PSO Mooting Competition.
18. PSO Mooting oralists will be named based on the top five individual oralist scores as combined from the preliminary rounds.

Judging

1. Judges will be selected by the PSO Mooting Committee and will be professional members of the judiciary from Canada, lawyers licensed by a Canadian law society, professors teaching law courses at a Canadian college or university, Canadian law students or other appropriate legal professionals from Canada as determined by the PSO Mooting Committee.
2. Judges are not paid but the PSO Mooting Committee may convey standardized gifts of appreciation to all of the judges involved in the competition.
3. The preliminary rounds will be judged by a minimum of one and a maximum of three judges. If more judges are sitting upon a Bench, the highest three scores will be taken.
4. The Quarter and Semi Finals will be judged by panels consisting of five or seven judges, either of which may not consist of more than one or two judges currently affiliated with the finalist's school, respectively.
5. Any round with at least one team participating from the host college may only be presided over by a judge currently affiliated with the host college¹, if at least two other judges who are not currently affiliated with the host college sit on the same panel.
6. The Final Round will be judged by a panel of nine and shall not have more than two judges currently affiliated² with the host college as members.
7. During the preliminary rounds judges will (as a panel if more than one judge is presiding) score each individual oralist using a score sheet provided by the PSO Mooting Committee based on: *Argument Score, Professionalism Score, Speaking Score and Written Submission.*
8. The PSO Mooting Committee will provide judges with general instructions and all required materials including score sheets and envelopes before the competition. They will be given a brief training session the morning before the preliminary rounds.

¹ current or past faculty member or contract instructor (within two years)

² *ibid*

9. The PSO Mooting competition's Chief Bailiff shall be the PSO Student Director, unless otherwise delegated by the PSO Executive Committee. The Chief Bailiff shall be the chair of the PSO Mooting Committee. The Chief Bailiff is responsible for the maintenance and disclosure of the competition's Official Rules, to participants and judges and for monitoring general adherence.

Fair & Collegial Conduct

1. Participants must not take any deliberate steps to attempt to influence the results of a competition round in any way other than through fair competition during the round itself. Any attempts to improperly interfere with an opposing team may lead to forfeiture of the round at the discretion of the judge or panel, and/or disqualification from the tournament at the discretion of the Chief Bailiff in consultation with the PSO Mooting Committee, PSO Executive Committee, the Organizing Committee and judges involved.
2. All persons involved in the PSO Mooting Competition must conduct themselves in a manner consistent with reasonable, general ideas of fairness, integrity and collegiality at all times. The Chief Bailiff and PSO Mooting Committee will remove any participants who disrupt the event in contravention of this rule, with no refund given.

General Provisions

These rules are subject to change at any time, with or without notice, by the PSO Mooting Committee or the PSO Executive Committee or designated representative(s). They are intended to lay out the general procedure of the PSO Mooting Competition as well as to set a standard to which all participants must adhere at all times. The PSO Mooting Committee or the PSO Executive Committee may, in its sole discretion, make such exceptions as it may deem to be necessary to the Rules in order to ensure that the tournament proceeds successfully. In any situation where an unexpected set of circumstances leads to uncertainty about how an aspect of the tournament should proceed, the Chief Bailiff and PSO Mooting Committee will make a final decision on how to proceed.

Paralegal Society of Ontario: Mooting Competition Marking Scheme 2013

STUDENT NAME:		TEAM NUMBER:		
START TIME:		END TIME:		
	LEVEL ONE: Poor 0-50 points	LEVEL TWO: Fair 50-65 points	LEVEL THREE: Good 65-80 points	LEVEL FOUR: Excellent 80+ points
Argument Score: -Organization of argument -Logical flow -Road Map (included and easy to follow) -Clear structure /70	Student's position is unclear. Student did not introduce their argument and/or how it would flow. Did not address case issues. The student did not list the issues they would address. Student's submissions do not support their thesis or position.	Student's position is somewhat stated clearly. Student somewhat introduced their argument but, it is not clear how it would flow. Partially addressed the case issues. The student lists the issues to be discussed, but does not provide context. Student's submissions do not support their thesis or position.	Student's position is clearly stated. Student introduced the order of their points and gave context for the case issues. Student's submissions support their thesis or their position, but they lack clarity and are not complete.	The student's position is clearly and concisely stated. The student lists the issues of the case and addresses their context. Their significance is explained fully and thoroughly. The student's submissions support their position or thesis entirely and are complete.
Professionalism Score: -Ability to stay in character (ability to play advocate, persuasiveness, confidence) -Address formalities -Civility (P. R. of C.) -Decorum with competitors /15	Student does not meet the definition of civility in accordance with Rule 2.01. Student is consistently rude to judges and/or peers. Student does not follow the formalities of a moot and is not acting as a professional licensed paralegal.	Student acts somewhat in accordance with Rule 2.01. Student is not necessarily rude, however, they use unprofessional tones. Student sometimes uses the correct formalities. With cues and assistance, they act as a professional licensed paralegal.	Student consistently acts in accordance with Rule 2.01. Student consistently maintains the formalities required. Student gives a strong presentation. It is clear that they are well prepared, however, their demeanour is not persuasive. Student does not embody the role of an advocate.	Student embodies the definition of integrity and civility under Rule 2.01. Student always uses the appropriate formalities. Student's demeanour is striking and very persuasive. Student is well prepared and their advocacy skills are remarkable.

Paralegal Society of Ontario: Mooting Competition Marking Scheme 2013

<p>Speaking Score: -Ability to answer and address questions effectively -Speaking pace -Speaking tone -Precise language choice</p> <p style="text-align: center;">/5</p>	<p>Student does not answer questions. They delegate them to their partner or say that they will address them later in their submissions.</p> <p>Student's pace is highly variable.</p> <p>Student's submissions are unintelligible, unorganized and utilize inappropriate word choice.</p>	<p>Student answers some questions partially but they delegate some questions to their partner or say that they will address them later in their submissions.</p> <p>Student has some variability in their pacing.</p> <p>Student's word choice is consistently inappropriate, making their submissions difficult to understand.</p>	<p>Student readily answers questions, however, their answers do not fully address the question.</p> <p>Student references case law or other resources in answers but does not include page numbers so that judges can easily refer to materials.</p> <p>Student pacing and volume is adequate but lacks enthusiasm and/or charisma.</p> <p>Student's word choice is appropriate and submissions are understandable.</p>	<p>Student answers questions accurately.</p> <p>Student provides answers with citations and references and offers direction in either the policy or legislative intent.</p> <p>Student's pacing and volume is excellent. They are enthusiastic and charismatic.</p> <p>Student's word choice is appropriate, precise and thorough.</p>
<p>Written Submission: -Is within mandatory word count -Addresses topics -Clearly and concisely addresses and summarizes topics that will be discussed during the submissions</p> <p style="text-align: center;">/10</p>	<p>The submission does not clearly indicate what the student was trying to communicate. It is not useful in summarizing their position.</p> <p>Student lists topics to discuss, but does not cover them in their submissions.</p> <p>There are many spelling and/or grammatical errors.</p>	<p>The submission barely indicates what the student was trying to communicate. It is somewhat useful in trying to summarize their position.</p> <p>Student lists topics to discuss and attempts to discuss a few of the points in their submissions, but does so ineffectively.</p> <p>There are some spelling and/or grammatical errors.</p>	<p>The submission somewhat indicates what the student communicated. It is useful when trying to summarize their position, but it is limited.</p> <p>Student lists almost all of their topics in their summary presented in their submissions. However, the while the topics are covered, there are many points that are still not fully addressed.</p> <p>There are a few spelling and/or grammatical errors.</p>	<p>The submission is an accurate representation of their submission. It recounts the topics the student discussed clearly.</p> <p>Student addressed every topic that came up during their submission and recounts its significance.</p> <p>There are no spelling or grammatical errors.</p>



Dear Mooter,

Congratulations! You have been selected to be a competitor in the Paralegal Society of Ontario's First Annual Intercollegiate Mooting Competition. Your school was invited to compete, and then your program coordinator chose you to represent your school. Not only have you been recognized for your achievements at school, you will represent the paralegal profession in this exclusive and ground-breaking event.

This event was written exclusively for students in the legal field. By the end of this competition, it is our hope that your legal writing skills, legal research skills and most importantly, your advocacy skills have been improved and developed. The judges and volunteers have created this event so that you will be a stronger advocate. In other words, we have all worked to give you an opportunity to learn.

This package is designed to be your guide to mooting. This guide include the this letter, a guide titled, "How to Moot" and a guide titled, "How to Write your Submissions". In addition to these documents, you will be given a copy of the "PSO First Annual Moot Marking Scheme" which illustrates what the judge's expectations and a copy of the rules. It is important that you understand what is expected of you before the competition so that when you sit down to write your submissions, you will be able to do so. This guide is designed to help you be successful.

This package of materials will be made available to you starting October 1st, 2013. The actual case and facta will be released on October 23rd. You will have four weeks to construct your submissions and then present them on the weekend of November 23rd and 24th.

We look forward to seeing you and hearing from you.

Best Regards,

PSO Moot Committee:

Fallon Burns
Jeffrey Aikman
Alexander Aguilera
Doug Taylor
Karen Fair

Guide to Mooting: Introduction:

What is a Moot?

A moot is a competitive mock trial. However it is held in an appellate court setting. Mooters are not interested in questions of evidence or determining the facts. All of these things have been decided at the trial level. Instead, mooters are interested in analysing the relevant legislation, examining the facts of the case and the public policy that accompanies the legal issues. Mooters present these subjects and form a position about law in front of a panel of judges, within a limited period of time.

The judges are experienced professionals in the legal industry. That is, licensed paralegals, law students, lawyers and judges. The judges will interrupt the students at their discretion to ask the mooters questions. The questions may be designed to help clarify a mooter's point. Questions might also challenge and question the student's position. Regardless of the question, the student must defend their position. It is important to know that time does not stop when the judges ask questions.

Why participate in a moot?

The purpose of competition in a moot is to introduce students to advocacy and mock proceedings. It forces to students to be thorough in their analysis and to be innovative when they consider the outcome of the hearing. But it also requires the mooters to do all of this analysis concisely and professionally. This exercise teaches mooters how to be better professionals when they graduate from their respective programs.

How does the competition work?

Mooters have five weeks to prepare their submissions for the Appellant and for the Respondent. During the competition, mooters will participate in four proceedings. They will appear twice for the Appellant and twice for the Respondent. They will compete against different schools and appear before different panels each time.

How are mooters marked?

Judges will mark students using the prescribed rubric. Mooters are marked on the accuracy and clarity of their argument. In particular, mooters are marked on their ability to communicate and articulate their position to the panel of judges. Mooters are also being marked to see if the students follow the rules, stay within their time constraints and follow the formalities that mooting requires.

In sum, the competition will come down to who knows the case best, who answers the judges' questions best, but also who can present it the best.

Writing your submissions:

In order to moot, you need to have something to talk about. Your written submissions should be your script; they should be an essay of your position.

When you write your arguments that will later be presented, it is important that you know the material inside and out. This starts by reading the case, perhaps three times, before trying to develop positions for the Appellant or the Respondent.



Paralegal Society of Ontario: First Annual Mooting Competition:

Dear Mooters,

After two weeks of reading and understanding the case, it is now time for you to start writing your submissions.

You will be appealing the Ontario Court of Appeal decision of *Bedford v. Canada* (Attorney General). Therefore, when you bring forward your case in this moot, you will be presenting before the Supreme Court of Canada. You will refer to the panel of judges as "Members of the Court" for plural. Please be advised that if you are addressing one judge, you will use the title of, "Your Honour". You will refer to your teammate as your "colleague". Your opponents are to be called your "friends". Do not call them your "learned friends".

The Court of Appeal decision addresses many issues in their decision. You are only to examine one issue, and only this issue.

1) There is no question that the bawdy house provisions under the criminal code impinge on the s7 charter rights of Terry Jean Bedford et al. Under the Oakes test, it calls for the impairment to rights to be, "Beyond a reasonable limit".

What is the intent of the legislation? Who does it target? Why?
Does the legislation truly infringe the rights, BEYOND a reasonable limit?

(THE APPELLANT SAYS THE INFRINGEMENT IS JUSTIFIED, THE RESPONDENT SAYS IT IS UNDUE)

Speaker One has to analyze the legislation. The Ontario Court of Appeal found that the causal link of the violation to the right isn't direct. It is a less proximate violation, but it is still serious.

You need to drive this argument using the second criteria, which is public policy.

2) Based on the interpretation of the Charter right, what is the public policy and the effect of this decision? In particular, who is going to be made vulnerable by letting the law stand? What does this mean for women's rights and sex workers? What about the global human trafficking and sex worker trade?

Assuming that the only way to regulate prostitution is as a business, the only way to make collection of the unpaid contractual sex fees is through the Superior Court of Justice and in the Small Claims Court. What does this mean for the rest of the justice system?

Finally, what behaviour is going to be considered "sex". Where do fetish houses stand? What extent is it actually sex vs assault? If sex is contractual within a binding agreement what does this do to the notion of consensual sex, sex that is legal is centered around two people agreeing to engage in intercourse. What happens if during the act, one of the parties chooses not to execute the terms of contract.

Consider the **affect** the of the law as broadly as possible.

You will be required to address the relevance of the 1990 Supreme Court of Canada's analysis of prostitution. The Ontario Court of Appeal found that it was persuasive but distinguished it. Are there any components that are salvageable? Why or why not?

You have 10 minutes to present to the judges. They will ask you questions.

Some things to keep in mind:

-Charter law is centered around individual rights. The primary intention is not to accommodate the public.

-The prostitutes want to drive a private industry and use private security. ... They are venturing away from paternal-based government. Does this burden Canadian Society? Or will it result in a further absence or inaccessibility of justice?

-Prostitution was never illegal in Canada, however, planning and promoting has been.

-You can reference any case listed in the edited Ontario Court of Appeal decision. Do not quote those cases. You can only use the quotes that are listed in the edited decision. You can paraphrase what those cases say and what court they are from, but you cannot go any further.

This exercise is designed to be an enjoyable opportunity to speak on your feet and learn to be an organized and logical advocate. At worst, you lose the round. Gain new experiences in a safe environment, make friends and network with your colleagues, role models and mentors.



First Annual Paralegal Society of Ontario Student Moot Competition

School Name:	
Program Coordinator Name:	Phone #:
E-mail Address:	

<u>Team #1</u>	
Student 1	Student 2
Name:	Name:
E-mail:	E-mail:
Phone:	Phone:

<u>Team #2</u>	
Student 1	Student 2
Name:	Name:
E-mail:	E-mail:
Phone:	Phone:

A check for \$120 per team **MUST** be enclosed with this registration form. Please make all checks payable to Paralegal Society of Ontario RE Moot.

I certify that all students named above are current students in our paralegal program. I further certify that the students have received all moot related materials as forwarded to the school by the moot committee.

Program Coordinator Signature: _____ Date: _____