



# National Animal Law Competitions

## APPELLATE ADVOCACY COMPETITION 2023 RULES

PRESENTED BY:



In collaboration with:



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## RULE I. ORGANIZATION

The National Animal Law Competitions (NALC) is an inter-law school event comprised of three distinct components:

- Appellate Advocacy Competition
- Closing Argument Competition
- Legislative Drafting & Lobbying Competition

NALC is an exciting educational event presented by the Brooks Institute for Animal Rights Law & Policy in collaboration with several leading law schools that include Harvard, Lewis & Clark, Vermont, University of Denver, University of San Francisco, and Yale. The purpose of the event is to provide law students an opportunity to develop knowledge in the field of animal law and hone their written and oral advocacy skills.

## RULE II. PARTICIPATION

### A. Competitor and Team Eligibility.

The Appellate Advocacy Competition is open to all current full- or part-time J.D students at ABA-approved law schools in the United States who have completed at least one year of their studies.\* This competition is team-based, with each team composed of two (2) law students. The two (2) students need not be attending the same law school provided both currently attend an ABA-approved law school in the United States.

*\* First-year law students are eligible to compete in the Closing Argument and Legislative Drafting & Lobbying components of the National Animal Law Competitions. First-year law students are not eligible to compete in the Appellate Advocacy component.*

### B. Substitution.

In the event of an emergency, teams may send an alternate team member. The team must immediately notify the competition administrators of the change.

### C. Registration.

**Registration for the 2023 National Animal Law Competitions will open on Thursday, September 15, 2022, at 12 p.m. Eastern Time (ET).**

**Registration closes at 11:59 p.m. (ET) on Tuesday, November 15, 2022.**

To register, please visit [TheBrooksInstitute.org/NationalAnimalLawCompetitions](https://TheBrooksInstitute.org/NationalAnimalLawCompetitions).

Competitors must submit a completed [Registration Form](#) with the [Certification of Authenticity](#) and arrange payment for the registration fee of \$25 per team. **Please note: registration is not complete until the competitors submit their written and video-recorded responses to the prompts provided later in these instructions.**

Preliminary rounds, including both written and video-recorded components, will be submitted and judged electronically. Up to eight (8) teams with two (2) competitors each then will be selected to compete virtually in the semi-final and final rounds on March 18–19, 2023. More information about submitting your materials, the selection process for the preliminary, semi-final, and final rounds is provided below.

## **RULE III. COACHING**

### **A. Timing and Preliminary Round Assistance (VERY IMPORTANT!).**

**Do not risk disqualification! Competitors are not allowed to receive ANY coaching or assistance with the problem prior to January 17, 2023.**

**This means that the written brief and preliminary round video-recorded arguments submitted must be the sole work product of the competitors. As part of the registration process, all competitors must sign and submit the [Certification of Authenticity](#) form attesting to the originality of their work product and consenting to have the final rounds video recorded.**

**As a reminder, the completed [Registration Form](#), including the [Certification of Authenticity](#), the written brief, and video-recorded argument submissions are due no later than November 15, 2022, at 11:59 p.m. ET. Failure to meet the submission deadline will result in disqualification from the competition.**

**In addition, competitors may *not* discuss the problem with anyone (other than their teammate), including professors, coaches, students, colleagues, or any other individuals prior to January 17, 2023—which is when the semi-final round competitors will be announced and notified.**

**After January 17, 2023, and through the end of the competition, the selected semi-finalists and, later, finalists, may receive coaching to prepare for the semi-final and final appellate advocacy rounds pursuant to the additional restrictions outlined in these rules.**

**In sum, only *after*: 1) the written brief and the video-recorded arguments have been submitted with your registration; 2) the semi-final round competitors have been notified on January 17, 2023; and 3) pursuant to the additional restrictions outlined in these rules, may competitors receive assistance from coaches in preparation for the semi-final and final appellate advocacy rounds.**

**Violating any of these rules will result in automatic disqualification.**

## B. Other Restrictions.

Competitors also *may not* receive *any* coaching, advice, or assistance at *any time* from individuals who:

1. Served as lead author of the 2023 Appellate Advocacy Competition problem; or
2. Are serving as a judge for the 2023 Appellate Advocacy Competition.

The burden of determining coaching eligibility rests on the competitors. Therefore, before receiving any coaching, advice, or assistance from anyone, competitors first should inquire whether the person was involved in authoring the problem or if they will be serving as a judge for the 2023 Appellate Advocacy Competition.

## C. During the Semi-final and Final Rounds.

Every effort is made to make NALC as fair as possible. Consequently, rounds are not open to the public, and competitors and their coaches who are invited to compete virtually for the semi-final rounds may not observe any rounds other than those in which they or their team are participating. Semi-final competitors and their coaches who are not participating in the final round may observe the final round. Recording of any sessions by any competitor(s) or their coaches is not permitted.

## D. Communication with Judges.

At all stages of the competition, competitors and coaches may not discuss the rules, problem, cases, strategy, or scoring with any NALC judges. Competitors and coaches also may not seek or receive any advice, feedback, or coaching from the NALC judges beyond the feedback that is provided immediately after each round. **Likewise, competitors and coaches may not disclose to any NALC judges which school they represent until after the competition has concluded.**

# RULE IV. COMPETITION PROBLEM

## A. Distribution and Components.

The Appellate Advocacy Competition problem is comprised of several documents. These include: three (3) Affidavits, a Briefing Order, and an Opinion and Order Granting Defendants' Motion for Summary Judgment. All these documents are posted on the NALC website, under "Problems." Please visit: [TheBrooksInstitute.org/NationalAnimalLawCompetitions](https://TheBrooksInstitute.org/NationalAnimalLawCompetitions).

### **Preliminary Round**

The preliminary round of the Appellate Advocacy Competition consists of both written and oral components. For the preliminary round written component, competitors must draft a joint appellate brief that may not exceed thirty (30) pages in length. Teams are free to choose whether to write their brief for either the Plaintiff-Appellants or Defendant-Respondents.

For the preliminary round oral component, each team member must submit a video recording of themselves answering one of two prompts (outlined below) as if they were responding to a

judge in oral argument. One team member must answer Question 1, the other must answer Question 2. Each video recorded answer must be no longer than three (3) minutes. All preliminary round submissions are due by 11:59pm (ET) on November 15, 2022.

### **Semi-Final and Final Rounds**

On January 17, 2023, up to eight (8) teams will be invited to participate virtually in the Appellate Advocacy Competition semi-final round on Saturday, March 18, 2023, where they will present their thirty (30) minute oral argument to a panel of competition judges. No later than 6 pm ET that evening, two (2) finalist teams will be selected to compete virtually in the Appellate Advocacy Competition final round, where they again will present thirty (30) minute oral argument to a panel of competition judges on Sunday, March 19, 2023.

**The written and oral components are both crucial aspects of the Appellate Advocacy Competition. Therefore, competitors should strive to submit the very best work product possible.**

## **B. Questions and Competition Administrators.**

If you have any questions about the Appellate Advocacy Competition problem, requirements, or rules, please contact the competition administrators at [info@thebrooksinsitute.org](mailto:info@thebrooksinsitute.org) at the earliest date possible using the subject line “NALC Question.” Be sure to read both the problem and the rules in their entirety before requesting clarification. Also be sure to refer to the rules again prior to the semi-final and final competition rounds. The competition administrators will not be able to respond to questions that already are answered in the rules and, if needed, can provide only minimal clarification on the problem.

## **RULE V. THE BRIEFS**

### **A. General.**

Competitors are instructed to draft and submit a brief as outlined in the Briefing Order portion of the Appellate Advocacy Competition problem. The written brief is a crucial aspect of the Competition that constitutes 75% of the preliminary round score and serves as the determining factor in the event of a tie. *See* Rule VI. Note that a special award for Best Brief will be sent to the winner of that award after the conclusion of the National Animal Law Competitions on Sunday, March 19, 2023.

Each team will write only one brief, which must be written by those arguing the problem. Teams are free choose whether to write for the Plaintiff-Appellants or Defendant-Respondents (as identified by the court in the Briefing Order instructions), but will argue *both* sides of the problem during the semi-final rounds if selected. *See* Rule VI(C). The submission of work produced by any person other than a teammate in preparing the brief is strictly prohibited, and competitors may not receive assistance from anyone prior to January 17, 2023. *See* Rule III(A).

## B. Length and Form of Briefs.

### 1. **Content of Briefs.** Briefs must contain, under appropriate headings, and in the order indicated:

- a. a table of contents – with page references;
- b. a table of authorities – cases (alphabetically arranged), statutes, and other authorities – with references to the pages of the brief where they are cited;
- c. a statement of the issues presented for review;
- d. a statement of the case briefly indicating the nature of the case, the course of proceedings, and the disposition below;
- e. a statement of facts relevant to the issues submitted for review;
- f. a summary of the argument – which must contain a succinct and accurate statement of the arguments made in the body of the brief, and which must not merely repeat the argument headings;
- g. the argument – which must contain:
  - i. the parties’ contentions and the reasons for them, including any public policy considerations, with citations to the authorities and to the parts of the record relied upon; and
  - ii. for each issue, a concise statement of the applicable standard of review (which may appear in the discussion of the issue or under a separate heading placed before the discussion of the issues); and
- h. a short conclusion stating the precise relief sought.

### 2. **Form of Brief.**

- a. **Cover.** The cover of the appellants’ brief must use blue text; the respondents’ brief must use red text. The front cover of the briefs must contain:
  - i. the number of the case centered at the top;
  - ii. the name of the court;
  - iii. the title of the case;
  - iv. the nature of the proceeding (e.g., Appeal, Petition for Review) and the name of the court, agency, or board below;
  - v. the title of the brief, identifying the party or parties for whom the brief is filed; and
  - vi. the individual team members’ names and the school(s) they represent. After registration, teams will be assigned a team number, which you must use going forward to maintain anonymity. The judges grading the briefs will receive copies of

the brief that have had identifying information removed and replaced with the team number.

- b. Layout and Line Spacing.** The brief must be formatted for 8½ by 11-inch paper. The text must be double-spaced, except that quotations more than two lines long may be indented and single-spaced, and headings and footnotes may be single-spaced. Margins must be at least one inch on all four sides. Page numbers may be placed in the margins, but no text may appear there.
  - c. Type Styles.** The brief must be set in plain, 12-point Century or Garamond font with footnotes in 11-point Century or Garamond font; italics or boldface may be used for emphasis. Case names must be italicized or underlined.
  - d. Length.** The total length of the brief, excluding the Cover, Table of Contents, Table of Authorities, and any Appendices, may not exceed thirty (30) pages.
  - e. Citations.** All citations shall be contained within the text, not in footnotes. Any footnotes (for explanatory information only) shall be in 11-point Century or Garamond font, single-spaced. All citations shall be complete and in the form prescribed by the latest edition of *The Bluebook: A Uniform System of Citation* (Bluebook).
  - f. Citation Permitted.** The briefs may cite judicial opinions, orders, judgments, or other written dispositions that have been designated as “unpublished,” “not for publication,” “non-precedential,” “not precedent,” or the like.
  - g. Unpublished Law Review or Other Articles.** Law review or other articles unpublished at the time a brief is filed may not be cited.
  - h. Appendices.** Appendices may be used to recite the text of statutes, constitutional provisions, regulations, and other permitted materials that are not generally available.
- 3. Number of Briefs.** Each team must upload a total of one (1) electronic copy of its brief using the [Registration Form](#). The electronic copy must be prepared according to the specifications provided herein. No hard copies of the brief shall be submitted.
- 4. Certification.** Each team must certify that its brief and video-recorded oral question responses were prepared in accordance with these rules and that the work product is solely that of the team members. The [Certification of Authenticity](#) must be signed and uploaded electronically with the brief and video-recorded oral question responses upon registration.

## C. Submission of Brief and Certification.

### 1. Submission to the Competition Administrator.

Briefs must be submitted as follows:

- a. Each team must upload an electronic copy of their brief and video-recorded oral question responses (*see* Rule VI) by 11:59 p.m. ET on Tuesday, November 15, 2022 using the NALC [Registration Form](#).
- b. Each team also must upload an electronic copy of the [Certification of Authenticity](#) signed by both members through the NALC [Registration Form](#). **To avoid disqualification, the competition administrator must receive the Certification, written brief, and video-recorded oral question responses no later than 11:59 p.m. ET on Tuesday, November 15, 2022.**

## 2. Revision of Briefs.

Briefs may not be revised after submission.

## RULE VI. THE ORAL ARGUMENT

### A. General.

The oral argument is a crucial aspect of the Appellate Advocacy Competition. It constitutes 25% of the preliminary round score and 100% of the score in the semi-final and final rounds (with the brief score serving as the determining factor in the event of a tie). Note that a special award for Best Oral Advocate also will be sent to the winner of this award after the conclusion of the National Animal Law Competitions on Sunday, March 19, 2023. We will use Zoom as the virtual platform, and an individualized link will be sent to the semi-finalists by March 1, 2023.

### B. Preliminary Round.

For the video-recorded oral argument submission of the Appellate Advocacy Competition, the registration materials must include video uploads of each team member answering one of the two prompts below as if they were responding to a judge in oral argument. One team member must answer Question 1, the other must answer Question 2. Each video recorded answer must be no longer than 3 minutes and in mp4 format. Instructions on [how to video record](#) your question responses via Zoom are available on the NALC website, but you may use any method that supplies the video in mp4 format.

Teams are free choose whether to respond to these questions on behalf of the Plaintiff-Appellants or Defendant-Respondents but if selected for the semi-final rounds must be prepared to argue *both* sides of the problem.

Appellate Argument Judge Video Question #1:

“Doesn’t the Wiscabama Public Speech Act ‘answer the same question’ as the federal rules governing the availability of and right to conduct discovery and recognizing the Seventh

Amendment right to a jury trial? Doesn't the Act conflict with the federal rules in allowing a defendant to bypass discovery and denying a plaintiff their right to a trial?"

Appellate Argument Judge Video Question #2:

"How should we analyze whether Animal Action Now's activities were 'in connection with' a television program, news report, etcetera, for the purpose of deciding whether they fall within subsection (c) of the definition of 'free speech in connection with public issues'? If certain allegedly defamatory statements appeared on Animal Action Now's website but not in news reports, for example, would the website statements still be considered 'in connection with' a news report and, if so, how?"

### C. Semi-Final and Final Rounds.

Up to eight (8) teams will be selected from the Preliminary Round to compete virtually in the semi-final rounds, where they will present their thirty (30) minute oral argument to a panel of competition judges. Competitors will be informed on January 17, 2023 if they have advanced to the semi-final round. Competition administrators then will determine the schedule and post it on the NALC website as soon as is practicable after the semi-finalists have been notified. The schedule, however, is subject to change at any time.

Each team will compete virtually in two (2) semi-final rounds that will take place on Saturday, March 18, 2023. For the first semi-final rounds, the competition administrators randomly will assign which teams will argue for the Plaintiff-Appellants and which teams will argue for the Defendant-Respondents. Each team then will argue for the other side in their second semi-final rounds. All teams will receive comments and feedback from judges at the close of each round. Teams may not witness the rounds of other competitors.

Two (2) teams will progress to the final round, which will take place virtually on Sunday, March 19, 2023 (*see Rule VII for scoring rules*). For the final round, the competition administrators randomly will assign which team will argue for the Plaintiff-Appellants and which team will argue for the Defendant-Respondents.

### D. Order and Timing of the Oral Arguments.

#### 1. Time Allowed for Arguments.

Oral argument will be limited to a total of thirty (30) minutes per team, fifteen (15) minutes for each team member, except as discussed below. Judges, at their discretion, may interrupt arguments to ask questions but may not allow additional time, except that judges may allow a few seconds at the end of an argument to finish answering a question and/or to briefly conclude. If allowed to conclude after time has expired, competitors must finish within ten (10) seconds.

Appellants argue first, then Respondents. Appellants, for each question and by advance stipulation, may reserve up to five (5) minutes of the allotted thirty (30) minutes for

rebuttal. Only one team member may speak during the rebuttal and the rebuttal time will be subtracted from the arguing team member's time allotment.

At the commencement of each round, the competitors will be allowed a few moments to prepare. Competitors will relay whether they would like all available time warnings (seven (7), five (5), and three (3) minute marks), or fewer. When everyone is ready, the bailiff or timekeeper will announce that the first party may begin.

The bailiff or timekeeper will display a green card until only one (1) minute remains of the competitor's allotted time. Additional signals can be given as requested by the competitor at the start, at the seven (7), five (5), and three (3) minute marks. When one (1) minute remains, a yellow card will be displayed. When the competitor's time has expired, a red card will be displayed, signaling that the competitor must conclude promptly.

**2. Order of Arguments.** The order of the arguments will be as follows:

**Semi-Final Rounds:**

The side each team will argue and whom they will argue against is randomly assigned, and the teams will be notified of this assignment and schedule by March 1, 2023.

**Final Round:**

The side each team will argue is randomly assigned, and the teams will be notified no later than 6 pm ET, following the conclusion of the semi-final rounds on Saturday, March 18, 2023.

## **RULE VII. SCORING**

### **A. Preliminary Round.**

A committee of experienced attorneys, and/or law professors will score all the submitted briefs and video-recorded oral question responses. A total score for each competitor will be calculated as follows:

75% – based on the team's written brief; and

25% – based on the team's video-recorded question responses.

Based on those combined scores, up to eight (8) Preliminary Round teams will be selected to participate virtually in the Appellate Advocacy Competition semi-final round on Saturday, March 18, 2023. In the event of a tie, the higher brief score will serve as the determining factor.

**Written Brief:**

A well-written, well-researched brief is crucial to the Appellate Advocacy Competition. *See* Rule V(A). Total brief scores will be calculated by the average score of the panel of graders who are reading for content, thoroughness of research, depth of analysis,

persuasiveness of argument, clarity of writing, inclusion of public policy, grammar, format, correct Bluebook citation, spelling, syntax, punctuation, capitalization, length, proper certification, ability to follow instructions, etc.

The panel will determine the overall best brief, earning its authors the Best Brief award announced after the conclusion of the National Animal Law Competitions on Sunday, March 19, 2023.

#### **Oral Video-Recorded Question Responses:**

A panel of graders will review and score the preliminary round video-recorded question responses. The committee of competition judges will review and score the preliminary video recorded oral arguments. The judges will consider a variety of factors including organization, preparation, presentation, handling of questions, and legal reasoning.

### **B. Semi-Final Rounds.**

A panel of up to three (3) judges will view and score the semi-final round oral arguments. The judges will consider a variety of factors including organization, preparation, courtroom presentation, handling of questions, and legal reasoning. Each of the semi-final round teams will compete in two rounds and will receive comments and feedback from the judges at the close of each round. The score for each team in a particular semi-final round is the total of the scores given to each team member by the judges of that round. Each judge also will note in their scoring which of the two teams “won” each semi-final round argument.

At the conclusion of the two semi-final rounds, a total score for each team will be calculated as follows:

- 50% – score from the first semi-final round
- 50% – score from the second semi-final round

The two (2) teams with the highest total scores then will advance to the final round. In the event of a tie, the team with the greater number of “wins” from the judges in the two semi-final rounds will advance. Any persisting tie will be decided by the teams’ brief scores.

### **C. Final Round.**

A panel of up to three (3) judges will view and score the final round oral arguments. The judges again will consider a variety of factors including organization, preparation, courtroom presentation, handling of questions, and legal reasoning. The final round winners will be determined solely by the scores each team received in the final round. Scores from the briefs, preliminary round, and semi-final rounds are not included in this determination, except in cases where there is a need to implement a tie-breaking mechanism, in which case the written brief scores will be factored into the overall score.

### **D. Results.**

Teams will receive oral feedback at the end of each semi-final and final round. The two (2) semi-finalist teams advancing to the final round will be announced no later than 6 pm ET, Saturday

night, March 18, 2023, at which time selected finalists will be notified via email of their selection and which side they will represent in the final round. Winners of the competition will be announced following the final round on Sunday, March 19, 2023.

## **RULE VIII. AWARDS**

The winning team of the Appellate Advocacy Competition will receive two individual plaques, as well as a plaque for display by their law school. The Runner-Up team will receive two individual plaques. The remaining semi-finalist teams will receive individual certificates. The winning team of the Competition additionally will receive a cash prize of \$1,000 to be shared equally between the two team members.

Awards also will be given for the Best Oral Advocate and the team with the Best Brief who may not necessarily be competition finalists.

The competitors' names and photos may be posted on the Brooks and collaborating law schools' websites, along with video recordings of the final round competition.

## **RULE IX. PENALTIES.**

Penalties, including disqualification, may be assessed at the discretion of the administrators for failure to comply with any rule or deadline set pursuant to these rules.

## **RULE X. INTERPRETATION OF THE RULES**

Requests for interpretation of these rules should be made to the competition administrator at [info@thebrooksinstitute.org](mailto:info@thebrooksinstitute.org) at the earliest date possible using the email subject line "NALC Rules Question." All competitors will receive prompt notification of any new rules, as well as revisions to or interpretations of existing rules. All competitors shall be bound by any changes, effective at the time of notification.

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**The Brooks Institute for Animal Rights Law & Policy wishes you an  
exciting and productive 2023 Appellate Advocacy Competition.  
Best of luck to all competitors!**



# National Animal Law Competitions