

RULES OF THE 35th ANNUAL NATIONAL TRIAL COMPETITION



Sponsored by
Texas Young Lawyers Association
American College of Trial Lawyers

Dallas, Texas
March 24-27, 2009

Article I. General

1. The National Trial Competition (NTC) was created to stimulate student interest in developing trial advocacy skills and to encourage law schools to teach trial advocacy skills.
2. NTC is sponsored by the Texas Young Lawyers Association (TYLA) and the American College of Trial Lawyers.

Article II. Administration

The Competition will be administered by the TYLA, through its designee(s), the chair(s) of the competition.

Article III. Teams

1. A team must consist of two or three law students attending the same ABA-accredited law school. For the purpose of these rules, a law student is a person enrolled during the semester or quarter of the Regional competition. Only students who are candidates for a J.D. or L.L.B. degree may compete.
2. Each team entering the competition must send an entry form and the applicable entry fee to the TYLA's office by October 16, 2009. Entries postmarked after October 16, 2009 will be accepted only with the consent of the TYLA.
3. A school may enter one or two teams in the Regional Competition.
4. Team members may not be substituted, except for good cause, such as death, severe illness, or other uncontrollable circumstance. A team must obtain written approval of the TYLA to substitute a team member after the Regional Competition.
5. Each team will be randomly assigned a number or letter prior to the beginning of the Regional and National Competitions. This will be the sole method of identifying a team during the Competition. Participants and coaches may not divulge the names of their law school directly or indirectly.

Article IV. The NTC Problem

1. The TYLA will distribute a regional problem and a final problem. The problems will include pleadings, witness instructions, witness statements, and any other information, discovery, or materials that the TYLA may deem appropriate.
2. The Federal Rules of Evidence and the Federal Rules of Civil Procedure will control unless stated in the problem or otherwise modified by the NTC Rules.
3. All documents, witness statements, depositions, photographs, diagrams, and other material included as part of the problem shall be deemed as originals and authentic. All signatures are to be considered authentic. All documents that appear to have been sent to, or by a witness are to be considered as having been sent or received by that witness. Nothing in this rule precludes different instructions included in the problem.
4. Counsel may use only those exhibits provided in the problem. No other evidence or audiovisual aids will be allowed. If the regional hosts decide to enlarge two exhibits, the exhibits chosen shall be voted on by the participating schools. Two exhibits will be enlarged for the National Competition. Teams may mark on enlarged exhibits only if: (1) any marking can be removed easily, i.e. dry erase markers; (2) the team marking on the exhibit is willing, upon request by the

opposing team, to erase any markings made; and (3) the marking team agrees not to offer the marked exhibit for admission into evidence.

5. The regional problem and the final problem are copyrighted by the TYLA and may not be used for purposes other than their intended use without the express written consent of the TYLA.

Article V. Regional Competition

1. The TYLA will assign teams to a particular region and will designate a Regional Host.
2. The Regional Host, in consultation with the TYLA will determine the date and place for the Regional Competition and will notify each participating school of the selected date.
3. The Regional Competition may be single-elimination, double elimination, or preliminary-break as determined by the Regional Host after consultation with the TYLA. The advancement and seeding of teams from preliminary rounds to final rounds may be done by win-loss record, number of ballots won, total point differential or total points. However, the Regional Host in consultation with the TYLA must determine the process and such process must be communicated to all teams prior to the commencement of the first round.
4. Pairing and byes, if any, will be determined by lot, by the Regional Host. However, two teams from the same school may not compete directly against one another unless they are the only two teams remaining in the Regional Competition.
5. All witnesses will be supplied by the Regional Host. Witnesses made available for each team will be selected by lot from the witness pool. Nothing prohibits the Regional Host from using witnesses from other schools, but nothing in this rule compels the use of witnesses from other schools.
6. The top two teams in the Regional Competition will be declared the Regional Winners and will be invited to participate in the National Finals.

Article VI. National Finals

1. The National Finals will be held in Dallas, Texas, March 24-27, 2010.
2. Each team will argue a minimum of three preliminary rounds. The TYLA will assign sides and pairings for the preliminary rounds.
3. Eight teams advance to the quarterfinal round. All undefeated teams will automatically advance. Teams will be seeded according to:
 - 1) win-loss record,
 - 2) number of ballots won
 - 3) total points differential, and
 - 4) total points.

Pairings for the quarterfinal round will be power protected. The winning teams of the quarterfinal round will advance to the semi-final round; the winning teams of the semi-final round will advance to the final round; and the winning team of the final round will be declared the National Champion.

4. Teams from the same law school will not compete directly against one another unless they are the only two remaining teams in the National Finals. In addition, and to the extent possible, the following circumstances will be considered when pairings are made. First, the same teams will not play each other during the three preliminary rounds. During the advanced rounds, the same teams

will not compete against each other on the same side of a case. In other words if team A and team F previously played each other and A was the Defense then A and F can play again but F must be Defense. Second, in those circumstances where a school has two teams at Finals, teams should not face the second team from a school were the first team saw the same side of the case. NTC reserves the right to alter or amend pairings, or not, or to take other actions to address these issues in the most equitable manner possible under the circumstances with due regard to the interests of all teams and the competition as a whole.

5. By participating in Finals, the participants from any school that has two teams at Finals agree to refrain from any discussions of the rounds. This two-team scouting rule does not apply to conversations between members of a specific team or between a coach and a specific team as long as the coach does not discuss in any manner what happened during a round in which the school's other team participated.
6. The TYLA will provide witnesses for the National Finals Competition.
7. Prior to the start of the National Competition and at any point during the National Competition, TYLA reserves the right to make changes or additions to the stipulations, depositions, and exhibits. The participating teams will be furnished copies of changes in advance of the start of the round.

Article VII. Conduct of Trials

1. Two members will participate in each trial. If a team has three members, the third may not sit at counsel table or communicate with the two participating team members during the course of a trial. One team member must make an opening statement and the other the closing argument. Each team member must conduct one direct examination and one cross examination. The team member conducting a direct examination will make objections to that witnesses' cross examination and the member who cross-examines a witness will make objections to the direct examination of that witness.
2. Time Limits
 - A. Each team will be allocated seventy-five minutes, exclusive of time spent on pretrial motions, to present and argue its case. The burden for the effective use of time is on each team. No team may waive its opening statement. Each side must call two witnesses.
 - B. Each team will be allowed a total of fifteen minutes to confer with its witnesses before the commencement of a trial.
 - C. Presentation and argument of pretrial motions shall be limited to a total time of sixteen minutes divided equally between the parties as follows:
 - (1) the prosecution (or plaintiff) shall have four minutes to present any pretrial motions;
 - (2) the defense shall have four minutes to respond to the prosecution's (plaintiff's) motion(s);
 - (3) the defense shall have four minutes to present any pretrial motions;
 - (4) the prosecution (plaintiff) shall have four minutes to respond to the defense's motions(s).

- D. Teams may make motions after the opening statement but the total time for all motions may not exceed five minutes. The presiding judge, in his/her sole discretion, may call for a limited response.

3. Motions

A. Pretrial

- (i) A Motion in Limine or Motion in Aid of Presentation of Evidence may be presented, but such motion must be made orally and not in writing. The presiding judge will be instructed that he/she may rule on the motion(s) or may defer a ruling on the motion(s).
- (ii) An oral motion to exclude witnesses or "invoke the rule" may be offered. The presiding judge will rule on the motion, but in no event will any witness or other person be required to actually leave the courtroom.
- (iii) The Regional Host or the NTC Chair(s) may direct all participating schools to make no pretrial motions because of time considerations. The decision of the Regional Host or the NTC Chair(s) is final.

- B. During Trial - At the appropriate time during the trial, either party may move for a motion for judgment as a matter of law and may receive a response to the motion; however, the court must summarily deny the motion in all instances. Time limits are governed by Article VII(2)(D).

4. Witnesses

- A. Each team must call two witnesses. A witness may be called only by his/her team and may not be recalled by either side. Neither side may call a witness of the other party.
- B. A team may prepare written questions and answers to give to a witness during the preparation period. All preparation materials must be collected from the witness at the end of the witness preparation period. The team members may not confer with the witness at any other time for the purposes of preparing testimony.
- C. During the presentation of their cases, participants and their witnesses may use only the facts contained in the problem. If a witness testifies to a fact not contained in the case materials, the witness-if questioned on that subject-must admit that the fact was suggested by counsel, if true. A witness may testify as to a reasonable inference drawn from the case materials on non-material facts, such as the witnesses' background. However, participants are prohibited from enhancing their position by presenting testimony about material facts not contained in case materials.
- D. Notwithstanding the foregoing, a witness, during cross examination, may provide details not contained in the problem only if: (1) the team cross examining the witness asks a question not addressed by the prior testimony or exhibits authenticated by the witness; (2) the added detail is in direct response to the question; (3) the detail does not invent an individual or significantly add or detract from the credibility of a witness or party; and (4) the team who woodshedded the witness did not suggest directly or indirectly the detail added by the witness.
- E. The presiding judge may not entertain the objection that a particular question calls for information outside the scope of the record. An answer to a question is not objectionable on the ground that it is outside the scope of the record.

- F. A witness may take any materials provided in the problem to the witness stand. In addition, a witness may highlight or underline the materials permitted to be taken to the witness stand, but may not write on or otherwise mark those materials, without prior approval from the Regional Host or an NTC committee member.
5. Objections
- A. Objections must be brief, limited to legal basis and application to the specific facts at issue.
- B. Time consumed by objections is not charged against either team; however, the presiding judge, in his/her sole discretion, may order time charged against any team that makes excessive objections or uses excessive time to argue or respond to an objection.
6. All trials will be conducted as if a jury were present. There will be no ruling by a judge that precludes the trial from being presented to conclusion, to a jury, as if the jury were present.
7. The presiding judge may or may not direct counsel to approach the bench or seek leave of court before introducing evidence on a point.
8. When questioning a witness, team members may either sit or stand. However, no comment should be given as to why one method or the other was chosen.
9. To the extent that a chalkboard or easel is available in the courtroom, these aids may be used. Any writing on such aids may be done only by witness or attorneys during the trial.
10. Handwritten summaries or charts to be used during a closing argument may not be prepared until after both sides have rested and the evidence is closed. However materials created while examining a witness during a trial may be used during the closing argument of that same trial.
11. A written charge will be provided to each team. No objection to the jury charge will be considered. No additional jury instructions will be received from the parties.
12. Prosecution's/plaintiff's closing rebuttal is limited to the scope of defendant's closing.
13. Members of the bench and bar will serve as judges. Each panel will consist of at least three judges, who will evaluate each advocate's performance upon a 100 point scale. Each judge gets one vote. The decision of a majority of the judges determines the winner of the round. One judge will be designated as the presiding judge.
14. No team may receive advice or assistance from any faculty advisor, supervisor personnel, alternate team member or observers between the time a round commences (this includes witness preparation) and concludes. Faculty advisors, supervisor personnel, alternate team members, and observers may not talk to, signal, communicate with, or otherwise coach their teams during the trials.

Article VIII. Protests

1. Protest Procedures - Except as provided below, violation of any rule governing the National Trial Competition will subject the offending team to disqualification. The spirit of the competition will be considered in determining whether a breach of rules should result in disqualification from the competition. Taking into consideration that the Regional Competitions and the National Finals Competition are to be conducted as realistically as possible, would the breach of the spirit of the competition have resulted in a lawyer being held in contempt in an actual trial? If so, the spirit of the competition has been breached and would constitute grounds for disqualification.

2. All protests must be lodged to the Regional Host or NTC Chairs within five minutes of the conclusion of the trial in question.
3. Protest Procedure - Regional Competition
 - A. In the beginning of each Regional Competition, the Regional Host will designate five (or an odd number if less than five) coaches or representatives of the competing schools to serve as a protest committee.
 - B. A protest (other than a protest concerning witness testimony, which will be handled in the manner described in Article VIII, section 5) must be lodged with the Regional Host who, will promptly convene the protest committee. Protest committee members who are coaches or representatives of the school lodging the protest or of the school against which the protest is lodged may not participate in deciding the protest. However, every protest must be decided by at least three members of the protest committee.
 - C. If, by disqualification, unavailability or otherwise: less than three members of the protest committee remain, an additional qualified member or members of the committee will be selected by the committee member or members who remain.
 - D. Protests may be considered and decided according to such procedures and standards as the protest committee may determine, subject to the following guidelines:
 - (1) Protests are not intended to be and should not become part of the competitive process. They are a last resort. Accordingly, protests should be allowed only for a substantial violation of the contest rules and relevant ethical standards.
 - (2) Since uncertainty and surprise play a large role in many trials, the protest committee should give special weight to the question of whether the protesting team was able, or through the use of resourceful trial techniques should have been able, to neutralize the protested conduct.
 - (3) Since questionable conduct is often self-defeating, the protest committee should consider whether the scores of the protested round reflected an appropriate penalty for the protested conduct. Similarly, the protest committee should disallow a protest on the ground that, due to the disparity in scores, the objectionable conduct did not, or probably did not, affect the result of the protested round. The protest committee may also decline to decide a protest if allowance of the protest would not affect the outcome, that is, the determination of the winners of the Regional Competition.
 - (4) The protest committee may consult with those who judged the protested round to determine their views on the relevant issue.
 - (5) Protests should be determined promptly.
 - (6) The NTC Chair(s) may be consulted by a regional protest committee as to any relevant matter including his/her reaction to the substance of the protests which have been resolved by other regions. However, the views of the NTC Chair(s) are not binding on the regional protest committee.
 - (7) A complete report of all protest committee proceedings must be furnished to the NTC Chair(s) within five days of the hearing.
 - (8) Decisions of a regional protest committee may be appealed to the NTC Chair(s). The NTC Chair(s) have sole discretion as to whether and how the

decision of a regional protest committee will be reviewed or reversed. The NTC Chair(s) may reverse the decision of a protest committee only if the decision (a) is manifestly incorrect and (b) affected the outcome of the Regional Competition. Specifically, but in no way limiting the generality of the foregoing, the NTC Chair(s) may not review or revise the decision of the regional protest committee on the grounds that the regional protest committee was improperly constituted or that different results were reached on the same or similar issues by protest committees in different regions. Similarly, review of the decisions of the regional protest committee can but need not be resolved by permitting more than two teams from a given region to participate in the finals. All decisions of the NTC Chair(s) will be final.

4. Protest Procedure - National Finals Competition. In the event a violation occurs during the National Finals Competition (other than a protest concerning witness testimony, which will be handled in the manner described in Article VIII, section 5), the participants and the faculty advisors involved will be given an opportunity to be present and heard at the session in which the alleged violation is considered. In the event a violation is found to have occurred, any penalty will be determined by the NTC Chair(s).
5. Protests - Evidence Outside the Record. The procedure for protests relating to alleged violations of Article VII, section 4(c) will be as follows:
 - A. After investigation, to the extent that the Regional Host or the NTC Chair(s) believes the team members have suggested material facts to their witnesses, he or she may, in his or her discretion, take the following actions:
 - (1) Indicate to the judges and evaluators that breach of the Rules may have occurred, and that the offending team should be penalized according to the judge's and evaluator's discretion;
 - (2) Require the offending team to forfeit the round; or
 - (3) Disqualify the offending team from the Competition. A decision to disqualify a team from a Regional Competition under Article VIII, section 5(A)(3) above may be made only pursuant to the procedures set out in Article VIII, sections 1, 2, 3 and 5.
 - B. The severity of the sanction will depend on the nature of the offense. Protests under this procedure are not encouraged. Any complaints should be limited to serious violations that are well grounded in fact. All participants are encouraged to act within the spirit and letter of the Rules.

Article IX. Assistance

No team may receive advice or assistance from any faculty advisor, supervisor personnel, alternate team member or others from the time witness preparation begins until the time the trial concludes.

Article X. Scouting

1. Faculty advisors, coaches and team members may only observe their own team and the team opposing their team in that particular trial. This rule does not apply after a team is eliminated from the competition unless the team is from a school that has a team still in the competition.
2. While spectators are permitted in any round, spectators should not view trials for purposes of scouting. Accordingly, team members, faculty advisors and coaches should not obtain assistance from or discuss with anyone any trial not involving that team. By competing in NTC, each team

member, faculty advisor and coach specifically agrees that they will not discuss with anyone or receive any information regarding any trial not involving their particular team. This Article applies from the beginning of the first preliminary round to the conclusion of the final round. This Article does not prohibit any person from raising with the Regional Host, TYLA Chair(s) or TYLA committee members any issue or concern.

Article XI. Information

1. Request for information or rule interpretations should be sent in writing to:

Bree Trevino, NTC Coordinator
Texas Young Lawyers Association
P. O. Box 12487
Austin, Texas 78711-2487

2. The TYLA will issue a written response to each inquiry. All teams will receive a copy of the question and the response.

Article XII. Interpretation of these Rules

The NTC Chair(s), in its sole discretion, will interpret these rules. Decisions of the TYLA are final.

Article XIII. Supplemental Rules

The NTC Chairs (s), in its sole discretion, may create additional rules to address situations not presently covered by these rules.

Article XIV. Conduct

The conduct of all participants in the competition, including team members and coaches will be governed by the standards set out in the ABA-Model Code of Professional Responsibility and the ABA-Model Rules of Professional Conduct.



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