2018-2019
DUKE LAW DEAN’S CUP COMPETITION
BRIEF-WRITING GUIDELINES

Preliminary Brief

As of the 2018-2019 Duke Law Dean’s Cup Competition, there is no Preliminary Brief Requirement.

Competition Brief

Each team in the semifinals must submit a Competition Brief.

1. **Party Represented.** Coordinators will assign teams to represent either the Petitioner or Respondent. Each team must write a Competition Brief for the party assigned.

2. **Issues Argued.** Competition Briefs must address the following issues:
   (1) Whether the Fourth Amendment can be applied extraterritorially to J.A., a foreign national; **AND**
   (2) Assuming the Fourth Amendment’s application here, whether the defendant is entitled to qualified immunity on that claim.
   (3) Whether there is an implied right of action under *Bivens*.

3. **Submission Deadline.** Each team must email a copy of the to the Deans Cup Coordinators ([deanscup@law.duke.edu](mailto:deanscup@law.duke.edu)) by 11:59pm on Sunday, January 20, 2019. Digital submissions shall be in a .doc or .docx format. Each team must also submit four hard copies of their Qualifying Briefs to the Moot Court Board Office (Room 4041) by 12:00pm (noon) on Monday, January 21, 2019. The hard copies must match the digital submission exactly; competitors may not make any changes after submitting their electronic briefs.

   **8.A. Late Submissions.** Any team submitting a late brief shall have its ranking dropped one spot per day that the brief is late. This restriction is subject to exceptions made for extraordinary circumstances with the permission of the Coordinators. See Rule 10(b) for details of brief scoring.

4. **Formatting Guidelines.**
9.A. **Length.** Briefs shall be no more than 10,000 words, using 14-point Times New Roman font and one-inch margins.

9.A.i. **Penalty for Exceeding Word Limit.** Briefs exceeding the 10,000-word limit shall automatically receive rank of “4” from the brief judges.

9.A.ii. **Components Included in Word Limit.** The following components shall be included in the 10,000-word limit: Statement of the Case, Summary of the Argument, Argument, and Conclusion.

5. **Brief Contents.**

10.A. **Components.** Briefs shall include the following components, under appropriate headings and in the order indicated:

10.A.i. **Cover Page.** The Cover Page shall be printed on plain white paper. It shall indicate both team members’ names and whether the team represents the Petitioner or Respondent.


10.A.iii. **Table of Contents.** The Table of Contents shall include page references to the components of the brief, including argument headings and subheadings.

10.A.iv. **Table of Authorities.** The Table of Authorities shall include cases (alphabetically arranged), statutes, and other authorities, with references to the pages of the brief where they are cited.

10.A.v. **Statement of the Case.** The Statement of the Case shall set forth the facts material to the consideration of the questions presented, with appropriate references to the Joint Appendix.

10.A.vi. **Summary of the Argument.** The Summary of the Argument should be a clear and concise condensation of the argument made in the body of the brief; mere repetition of the headings under which the argument is arranged is not sufficient.

10.A.vii. **Argument.** The Argument must contain:
(1) A concise statement of the applicable standard(s) of review (which may appear in the discussion of the issues or under separate headings placed before the discussion of each issue); AND
(2) The party’s contentions and the reasons for them, with citations to the authorities and parts of the Joint Appendix on which the party relies.

10.A.viii. Conclusion. The Conclusion shall specify with particularity the relief the party seeks.

10.B. Brief Binding. Competition Briefs shall be securely bound in the top left corner.

10.C. Page Numbering. Page numbers for components included in the word limit shall appear in Arabic numerals centered in the bottom page margin, beginning with “1”. With the exception of the Cover Page, all other page excluded from the word limit shall appear in lowercase Roman numerals centered in the bottom page margin, beginning with “i”.

10.D. Competitor Names on Brief. With the exception of the Cover Page, a team member’s name shall not appear anywhere on his or her brief. All briefs will be randomly assigned identifying numbers for blind grading.

10.E. Joint Appendix. A Joint Appendix shall be furnished by the Coordinators to all teams. Any citation to the record or other case materials, including relevant statutory and constitutional provisions, must cite to the Joint Appendix.


11.A. Scorers. Competition Briefs shall be scored name-blind by faculty members.

11.B. Scoring Guidelines. Each faculty scorer shall rank the briefs in each group from 1 to 4, with the best brief in each group receiving a “1.” These scores shall be counted twice in determining the teams’ final scores.

**Finals Brief**

*The Finals Brief is written by each team competing in the Finals and is sent to the judges prior to oral arguments.*

7. Submission Deadline. Each team must email a copy of the to the Deans Cup Coordinators ([deanscup@law.duke.edu](mailto:deanscup@law.duke.edu)) by 11:59pm on Monday, February 11, 2019. Finalists do not need to submit a hard copy of their final briefs.
8. **Formatting Guidelines.** Finals Briefs shall follow the format specified for Competition Briefs. It shall also include the following additions and alterations:

13.A. **List of Parties.** Finals Briefs shall include a list of all parties to the proceeding in the court whose judgment is under review (unless the caption of the case on the Cover Page contains the names of all parties). This list shall appear after the Cover Page.

13.B. **Jurisdictional Statement.** Finals Briefs shall include a Jurisdictional Statement setting forth a concise statement of the basis for jurisdiction in the Supreme Court, including the statutory provisions and time facts on which jurisdiction rests. This Statement shall appear after the Table of Authorities.

13.C. **Cited Authorities.** Finals Briefs shall include the constitutional provisions, treatises, statutes, ordinances, and regulations involved in the case, set out verbatim with appropriate citation. If the provisions involved are lengthy, their citation alone shall suffice, and their pertinent text, if not already set out in the Joint Appendix, shall be set out in an appendix to the brief. These Authorities shall appear after the Jurisdictional Statement.

13.D. **Signature Block.** Finals Briefs shall include a signature block naming the counsel of record, as identified on the cover of the brief. This signature block shall appear after the Conclusion.

13.E. **Brief Binding.** The Moot Court Board shall bear the cost of binding the briefs and mailing them to the Finals judges.

9. **Faculty Consultation.** Finalists may be required to consult with faculty members regarding the content and styling of Finals Briefs. However, Finals Briefs must still be entirely the Finalists' own work as required by the Honor Code and the Dean's Cup Rules.
In The

SUPREME COURT OF THE UNITED STATES

UNITED STATES OF AMERICA, et. al.,

Petitioners,

v.

STATE OF TEXAS, et. al.,

Respondents.

ON WRIT OF CERTIORARI FROM THE
UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR PETITIONERS

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