

The background features a dark blue gradient. In the upper half, there is a faint, light blue silhouette of a pair of scales of justice. In the lower half, there is a faint, light blue silhouette of a globe showing continents and oceans. The text is overlaid on these elements.

**NATIONAL**  
**FLASH TRIAL**  
*Competition*

**2022**  
**RULEBOOK**

## I. Format

- A. These rules are promulgated by the Tournament Committee of the 2022 National Flash Trial Competition (NFTC). The Tournament Committee reserves the right to amend these rules at any time before the start of the 2022 NFTC.
- B. Each NFTC team will consist of two advocates and at least one coach. Teams may bring more than one coach to NFTC and may use different coaches during the competition, but only one coach can participate in the preparation period before each round.
- C. The NFTC will consist of four preliminary trials, Semifinals, and Finals.
- D. Each NFTC round will be conducted in “flash trial” format, meaning that teams will receive a new case file for every round and will have a limited amount of time before the round to prepare the case for trial.
- E. Two preliminary trials will be 2 vs. 2; the other two preliminary trials will be 1 vs. 1.
- F. The order of the preliminary trials will be as follows:
  - 1. Round 1: 2 vs. 2
  - 2. Round 2: 1 vs. 1
  - 3. Round 3: 1 vs. 1
  - 4. Round 4: 2 vs. 2
- G. During each of the 2 vs. 2 preliminary trials, each advocate must perform each of the following roles exactly once: statement (opening or closing), direct examination, cross examination. The team may decide amongst themselves which advocate will

deliver the opening statement and closing argument, which witnesses they will examine, and who will conduct any preliminary matters or motions.

- H. During each of the 2 vs. 2 preliminary trials, each team will direct examine two witnesses, and each team will cross examine two witnesses.
- I. During each of the 1 vs. 1 preliminary trials, one advocate will serve as first chair and the other will serve as second chair. The first chair must perform every component of the trial themselves, including any pretrial matters or motions, opening statement, direct and cross examinations, and closing argument. The second chair may provide assistance to the second chair during the preparation period and at counsel table during the trial.
- J. Each advocate must serve as first chair for one of the 1 vs. 1 rounds and second chair for the other 1 vs. 1 round. Teams have up until the moment the first 1 vs. 1 round begins to elect which team member will serve as first chair in the round.
- K. During each of the 1 vs. 1 preliminary trials, each team will direct examine 1 witness, and each team will cross examine 1 witness.

## II. Coaching and Preparation

- A. Before the tournament begins, teams may receive assistance from anyone they like. There is no restriction on pre-tournament consultation.
- B. Once case files are released and the preparation period begins for each round, advocates may only communicate with one coach, and that team's witness(es) for that round.

- C. Once each round begins, advocates are not permitted to communicate with their coach. For purposes of this rule, the round begins when the judges enter the room and ends when the judges' ballots are submitted to the tabulation room.

### III. Trial Procedures

#### A. Trial Preparation and Witness Communication

1. All witnesses will be provided by the Tournament Committee.
2. In the 1 vs. 1 rounds, advocates will have 45 minutes per round after receiving the case file to prepare for trial. In the 2 vs. 2 rounds, including the Semifinal and Final trials, advocates will have 60 minutes per round after receiving the case file to prepare for trial.
3. The preparation period begins once the case is released. Witnesses will be available to teams during the entire preparation period. During that time, the plaintiff/prosecution team may prepare the plaintiff/prosecution witnesses and the defense team may prepare the defense witnesses. Advocates may spend as much or as little of the preparation period communicating with the witnesses as they choose.
4. A team's advocates and coach may communicate with their witness(es) for that round for purposes of preparing the witness(es) to testify, but witnesses may not contribute to trial strategy discussions between the advocates and the coach.
5. Advocates may show or give witnesses any materials they like, whether prepared during or in advance of the preparation period. When the preparation period ends, no witness may retain any item given, written, or prepared by the team members.

6. Advocates may not communicate with adverse witnesses before the trial.
7. Once the trial begins, an advocate and witness may communicate only if the witness is seated at counsel table (though judges may take such communication into account when scoring).

#### B. Order of Events

1. First, the Tournament Committee will release the case file, starting the preparation period for that round. Teams will prepare the case for trial and prepare witnesses to testify.
2. At the conclusion of the preparation period and 15 minutes before the trial begins, advocates from opposing teams will meet and confer with each other. During the meet-and-confer period, teams may propose stipulations and discuss motions *in limine*, and teams must disclose any demonstrative aids that were prepared during or before the preparation period. At the conclusion of the meet-and-confer period, teams must be ready to represent to the judge that both parties are prepared to proceed to trial without any waste of time or undue delay.
3. Judges will enter the room with ballots provided by the Tournament Committee.
4. Advocates will state appearances for the record and briefly address pretrial matters if necessary.
5. Teams may each elect to make 1 motion *in limine*.
6. Teams will deliver opening statements. Plaintiff/prosecution will go first. Defense may not reserve its opening statements and must deliver it before cases-in-chief open.

7. The plaintiff/prosecution will present its case-in-chief.
8. The defense will present its case-in-chief.
9. The attorneys will deliver closing arguments.  
Plaintiff/prosecution goes first. Plaintiff/prosecution is allowed a rebuttal if time remains. Defense does not have rebuttal.
10. Judges will submit their ballots and provide brief feedback.

## C. Time Limits

### 1. General Time Rules

- a. The Tournament Committee will select one witness per round to serve as the timekeeper for the trial. The timekeeper will update teams on their time remaining upon request.
- b. A team will be timed during their scored pieces (opening statement, direct and cross examinations, and closing argument).
- c. Preliminary matters (appearances, housekeeping, stipulations, and motions *in limine*) are untimed, but advocates are advised to keep them brief.
- d. Objections are untimed; the clock will stop when an objection is made and will not resume until the objection is ruled on or otherwise resolved.
- e. Court reporters will be present to transcribe the trial proceedings. During round, advocates may ask court reporters to read back specified portions of prior trial testimony. The time spent by the court reporter locating the prior testimony is untimed and will not be deducted

from a team's remaining time, but the time spent by the court reporter reading the prior testimony aloud will be deducted from a team's time.

- f. Timing rules will be strictly enforced, and judges will not have discretion to grant additional time beyond what is provided for in these rules except in extraordinary circumstances.

## 2. 1 vs. 1 Trial Time Limits

- a. All of a team's scored pieces (opening statement, direct and cross examination, closing argument) must not exceed 30 minutes total.

## 3. 2 vs. 2 Trial Time Limits

- a. All of a team's scored pieces (opening statement, direct and cross examination, closing argument) must not exceed 45 minutes total.

## 4. Grace Period

- a. If a team exhausts its allotted time before it begins any of its scored pieces, the team will be granted a grace period of 1 minute per remaining piece so that judges have some basis on which to score the piece. E.g., if a prosecution team exhausts its time during direct examination, it will receive 1 minute for each of its cross examinations and 1 minute for closing argument.

## D. Local Rules

1. Witnesses may not be recalled, so the scope of cross examination is not limited to the scope of direct examination. Redirect and recross examinations are permitted at the



- discretion of the presiding judge, but they are limited by the scope of the previous examination.
2. Voir dire of witnesses is permitted at the discretion of the presiding judge.
  3. All trials are jury trials. Objection arguments are presumed to be heard in a constructive sidebar, outside the presence of the jury.
  4. Motions for a directed verdict, a judgment as a matter of law, or a judgment of acquittal are not permitted and will not be entertained.
  5. Court reporters will be present to transcribe the trial proceedings. During trial, advocates may ask court reporters to read back specified portions of prior trial testimony.
  6. Because trials are short, advocates may not request breaks absent an emergency.
  7. The United States Federal Rules of Evidence apply to all trials.
  8. The United States Federal Rules of Civil Procedure apply to all trials with civil case files.
  9. The United States Federal Rules of Criminal Procedure apply to all trials with criminal case files.
  10. This is a closed-universe competition. Advocates may not invoke any statutes, cases, or sources of law or fact not expressly included in the case file or discussed in these rules.
  11. The fact that a document exists does not necessarily mean it is admissible.

#### E. Invention of Fact



1. On direct examination, a witness may only testify to (a) material facts contained in their witness statement, and (b) material facts that are reasonably inferred from their witness statement. For the purposes of this rule, a witness statement is a witness's affidavit, expert report, deposition, interview transcript, etc. A fact is "reasonably inferred" from a witness statement if it is the logical conclusion to be drawn from the statement. A fact is not reasonably inferred simply because it does not contradict the witness statement.
2. On cross examination, witnesses will be instructed to remain responsive and not to contradict their witness statements. However, if a cross examiner asks a question whose answer is not contained in the witness statement, the attorney has forced the witness to invent facts and the witness may give any answer that does not contradict their witness statement.
3. There is no "invention of fact" objection. Should an improper invention of fact occur, the appropriate remedy is impeachment, and judges will be instructed on impeachment as a means to address inventions and will be empowered to change scores accordingly.
4. Witnesses will be instructed not to disclaim any statements they have given in their witness statements; i.e., witnesses will be barred from saying that their opinion or testimony has changed or that they did not mean what they said previously in their witness statement.

#### F. Demonstrative Aids

1. A demonstrative aid is anything, other than the documents included in the case file, that a party presents during trial to help the judge or jury understand the evidence. This includes

- anything fitting the above description that was created with the use of technology.
2. Demonstrative aids are permitted so long as they do not invent material information and are not otherwise barred by the Federal Rules of Evidence. Demonstrative aids are subject to evidentiary objections during trial.
  3. Demonstrative aids that are prepared before trial must be shown to opposing counsel during the meet-and-confer period. Demonstrative aids that are prepared after the start of trial but before they are used must be shown to opposing counsel before they are used. For instance, in a 1 vs. 1 round, if a second chair prepares a demonstrative aid during the opening statements for the first chair to use during a direct examination, the demonstrative aid must be shown to opposing counsel before beginning the direct examination. This rule does not prohibit advocates from attempting to create a demonstrative aid “from scratch” while conducting an examination or delivering a statement without providing notice to opposing counsel that an advocate intends to do so.
  4. Once a team elects to make use of a demonstrative aid during trial, it may be used by the adverse party. An adverse party may write on an opponent’s demonstrative aid so long as they do not permanently deface the opponent’s original copy.
  5. The Tournament Committee will provide one whiteboard or easel in each courtroom.

#### G. Technology

1. Case files will be provided to teams in both hard-copy and digital formats.

2. Each courtroom will be equipped with TVs and/or projectors and will be logged into its own separate Zoom meeting. Each team will log into the Zoom meeting for that courtroom on their own laptops or other devices, and will be permitted to share exhibits via Zoom screen share. Nothing in this rule prohibits teams from electing to use hard-copy documents to enter evidence or from using any hard-copy or physical objects as demonstrative aids.

#### **IV. Tabulation Rules**

##### **A. Trial Assignments and Round Pairings**

1. In Rounds 1 and 2, trial assignments will be random, and each team will represent the plaintiff/prosecution and defense once during these two rounds. In Round 3, teams will be power-matched based on their performance in Rounds 1 and 2. In Round 4, teams will be power-matched based on their performance in Rounds 1, 2, and 3, but teams will be required to represent the opposite party from the party they represented in Round 3. However, all trial assignments are subject to the following restrictions:
  - a. During the preliminary trials, teams will never face the same opponent twice.
  - b. Any conflicts created by the above rules will be resolved by swapping teams with the most similar scores in the current standings until conflicts are resolved.
2. Trial assignments for Rounds 1 and 2 will be announced at least 24 hours before Round 1 begins. Trial assignments for all other trials will be announced as soon as possible after the end of the previous trial.

##### **B. General Scoring Rules**

1. Each trial will have at least three judges. Each judge will complete a ballot that awards each team points based on the quality of the advocates' performances.
2. Judges will be instructed to score advocates based on the quality of their trial advocacy skills, not the merits of the case. They will be instructed on the format of the NFTC and the limited time that the advocates had to prepare the case.
3. Teams will receive scores for various components of the trial. Each component will receive a score that is a whole-number value between 1 and 10, inclusive.
  - a. In a 1 vs. 1 trial, teams will receive scores for opening statement, direct examination, cross examination, and closing argument, totaling 40 possible points.
  - b. In a 2 vs. 2 trial, teams will receive scores for opening statement, direct examination #1, direct examination #2, cross examination #1, cross examination #2, and closing argument, totaling 60 possible points.
4. At the completion of the trial, the ballots will be tallied. The team that earns more points wins that judge's ballot. A tied ballot will count as half a ballot for each team.

### C. Qualifying for the Semifinals

1. The four teams with the best overall ballot records (accounting for tiebreakers) will compete in the Semifinal trials. The top-ranked team will face the fourth-ranked team. The second-ranked team will face the third-ranked team.
2. If teams are tied on ballots won, the following tiebreakers will be used (in this order):
  - a. Head-to-head victory.

- b. Combined strength (“CS”). The sum of the ballot records of a team’s opponents.
- c. Opponents’ combined strength (“OCS”). The sum of the CS scores of a team’s opponents.
- d. Point differential (“PD”). The team’s point differential across all four preliminary rounds.
- e. Total PD after removing each team’s most favorable and least favorable ballot differentials.
- f. Total raw points earned.
- g. Total raw points after removing each team’s highest and lowest raw point ballots.
- h. Flip of a United States coin: “heads” results in the team with the greater team number winning; “tails” results in the team with the small team number winning.

#### D. Qualifying for the Final Trial

- 1. The winners of the Semifinal trials will face each other in the Final trial.

#### E. Special Rules for Semifinals and Final

- 1. There is no restriction on prior opponents facing each other again in the Semifinals or Final, even on the same sides, because every trial features a new case.
- 2. In the Semifinal and Final trials, the higher-ranked team will be permitted to select the party they will represent based on a short summary of the case as provided by the Tournament Committee.

3. The winner of the Semifinal and Final trials is the team that wins more ballots. If teams are tied on ballots won, then the following tiebreakers will be used (in this order):
  - a. The team with more total points earned in the trial.
  - b. The team with more total points earned in the round after discarding each team's ballot with the highest and lowest total points earned.
  - c. The team that won more ballots in all preceding trials.
  - d. The team that earned more total points in all preceding trials.
  - e. If a tie remains after the above tiebreakers have been performed, any judges who submitted a tied ballot will be asked to submit a vote for the winning team. The team who receives their vote will be awarded their ballot to determine the winner.

## **V. Protests and Intervention Requests**

- A. Due to the nature of the competition and the limited case files, judges are uniquely situated to resolve disputes and advocates are expected to resolve disputes before the presiding judge whenever possible. Protests and intervention requests are an extreme remedy and should not be sought unless absolutely necessary.
- B. Competitors are expected to conduct themselves in a manner that comports with the high ethical standards of our profession and the law school trial advocacy community. After the ballots have been submitted in each round, advocates are expected to meet and confer with each other to determine whether either team is planning to file a protest and whether that protest can

be resolved without Tournament Committee intervention. No protest or intervention request will be considered by the Tournament Committee unless the teams have first made a good-faith effort to resolve the issue between themselves and before the judge.

- C. If a protest is received, the Tournament Committee will convene a Protest Committee consisting of a quorum of the Tournament Committee members. The Protest Committee has complete discretion in its resolution of the protest and may choose to issue a penalty against either team or both teams, or to issue no penalty at all.
- D. The Tournament Committee is committed to hosting an inclusive competition that is welcoming to participants of diverse backgrounds. The Tournament Committee will take seriously any reports of discriminatory conduct on the part of advocates, coaches, witnesses, or judges, and the above restrictions on protests and intervention requests do not apply to such situations.

Amended 8/29/2022