



# An Introduction to Moot Court

## From the Yale Moot Court Tournament Staff

### What is moot court?

Moot court is a style of debate that simulates advocacy in non-jury trials, from moot Common-Law Courts in seventeenth-century England to moot International Court of Justice today. At YUMC, we compete in the American moot court Association's moot US Supreme Court, and our annual Yale Moot Court Tournament follows the same model. The real Supreme Court accepts written briefs from each side and then hears oral arguments before it decides the case. While moot court brief-writing can be a great learning experience, the Yale Moot Court Tournament focuses only on Supreme Court Oral Argument.

### What is oral argument?

In a real Supreme Court oral argument, attorney-advocates for each side spend an hour pleading their case in front of the nine justices. To better understand the issues - and sometimes to argue the issues themselves - the justices ask each advocate questions. The idea of oral argument is to put each side's theories under the pressure of organic, real-time delivery. While the Court gets most of its information from briefs, oral argument is important because it gives justices a chance to interact with the case.

The best oral arguments sound almost like conversations. Instead of trying to force the Court into one conclusion by brute force of logic and rhetoric, great advocates help the Court see the justice of their cause by articulating a reasonable theory and helping to address the justices' concerns.

### How does the Supreme Court make and explain decisions?

Lower Courts across the country are bound by the Court's interpretation of the Constitution, so Supreme Court cases affect everyone. In order to trust each other and live together under the law, we rely on the Court to keep the laws we have now from changing their meaning over time. That reliance is called *stare decisis*. Because of *stare decisis*, the Court cannot afford to change the law arbitrarily, and instead tries to make decisions that match the precedent set by its past decisions. As with most issues in American jurisprudence, though, legal theorists disagree about the importance of *stare decisis*, and the Court can sometimes overturn its past rulings.

To apply precedent, the Court has to decide which past cases are relevant and deserve to be applied. In making that decision, the Court examines the facts of the case at hand and compares them to the facts in past cases. When the facts are similar, the Court can choose to apply similar reasoning in the case at hand as it did in the past.

When a majority of justices have agreed on a decision, they explain their reasoning in the Court's majority opinion, which becomes precedent for future cases. You can read more about the Court's opinions in our guide, *How to Read Cases*.

## How does moot court work?

Moot court is just like the real Supreme Court, but with a few key differences.

First, moot court oral arguments last for 40 minutes instead of an hour. Those 40 minutes are split evenly between the two sides, and each side's 20 minutes are split between the pair of student-advocates who represent that side. Partners are not required to split their time evenly, but the maximum time that one student-advocate is allowed to speak is thirteen minutes, and the minimum is seven minutes. However they divide their time, each student-advocate uses their time to address only one of the issues in the case. The side that speaks first can reserve a few minutes of their time for rebuttal, which will allow them to address the other side's arguments—on both issues—after the other side has spoken.

To help the Court reach a decision, student-advocates have to make arguments that the Court can understand. Generally, advocates recommend that the Court rely on precedential cases that support their side's argument and that the Court not rely on cases that support the other side's argument. Justices question student-advocates on their reasoning, the other side's case, how their argument will apply if it becomes precedent, and anything else that any particular justice thinks is important.

Student-advocates are scored on their knowledge of the case and precedent, their responses to justices' questions, their presentation and forensic skills, and the quality of their arguments. You can read more about making arguments in our guide, *How to Craft an Argument*.

If you'd like to see what a round of moot court lookslike, we recommend these examples:

- [2017 Florida High School Moot Court Championship](#)
- [Harvard Law School Ames Moot Court Competition 2018](#)

## Suggested Steps for Preparation

1. Carefully read the facts of the tournament case.
2. Decide which student-advocate will be arguing which issue.
3. Each student-advocate reads the cases in their issue's table of authorities (and continues rereading the cases until they're familiar with the Court's opinions and reasoning). See our guide, *How to Read Cases*.
4. Each student advocate decides how, using the cases from the table of authorities and tournament case facts, they're going to argue for each side. See our guide, *How to Craft an Argument*.
5. Student-advocates practice making their arguments with each other, their coaches, other teams, or their friends and family, allowing their audience to interrupt their arguments with questions.

6. Learning their strengths and weaknesses as they practice, student-advocates tweak their arguments until they're confident that they can defend their weaknesses and rely on their strengths.