



RU Moot Court – COMS 400

WHO. WHAT. WHERE. WHEN. WHY.

RU Moot Court – Who

- ▶ All students in COMS 400 must participate in moot court.
- ▶ At a minimum, students will write 1) a research memo / first draft of a brief, and also 2) a final brief. The oral argument at the end of the semester is semi-optional.
- ▶ Legal representation in a moot court case may involve from one to three student attorneys.

RU Moot Court – What

- ▶ **Moot court is a three-step process:**
- ▶ 1) legal research → write a preliminary memo;
- ▶ 2) Write the formal brief and turn it in; and
- ▶ 3) Oral argument in person or zoom.

Moot Court – Where

- ▶ Radford University Communications Law COMS 400
- ▶ In class
- ▶ Two opposing sides take places at front of room
- ▶ Other students act as jury.
- ▶ Plaintiffs start and describe facts
- ▶ Respondents give their side
- ▶ Both sides rebut
- ▶ Student jurors question

Moot Court – When

- ▶ MC1 Research memo – 3 weeks before end of semester
- ▶ MC2 First draft of brief – 2 weeks before end of semester
- ▶ MC3 Final brief and oral argument
 - Final week of semester

Moot Court – Why

- ▶ One of the principles of higher education is that all students are introduced to the research methods of the discipline being taught.
- ▶ This is to prepare students to adopt and adapt these methods for real-world problems and/or graduate education

Moot Court – Details - The brief

- ▶ **MC 1 Decide on a case**

- ▶ From this list

<https://revolutionsincommunication.com/law/moot-court/> OR propose a case in advance. (Obviously, it has to be about a communications law topic).

- ▶ Sign up location on D2L

- ▶ And research the issue

Moot Court – Details - The brief

- ▶ **MC 1 Legal research** involves looking up
 - ▶ 1) case briefs and opinions of the court and
 - ▶ 2) law journal articles that attempt to make sense of the many case briefs and opinions out there.
- ▶ In your preliminary memo (MC1) you should summarize the legal argument with three or more cases and/or law reviews.
- ▶ You should also assess the current state of similar cases from a Google search that finds two or three news articles. The memo should be at least 500 words long.

Moot Court – Details - The brief

- ▶ **MC 2 Writing the brief**
- ▶ – The brief should be about three to five pages (700 + words long) and it should put the case in context, summarize your legal argument, and ask for relief.
- ▶ You should be able to cite five cases and apply at least one legal test.
- ▶ See “[writing the brief](#)” on the class web site

Moot Court – Details – Oral Argument

- ▶ **Oral argument –**
- ▶ Legal arguments and tests are described in the moot court, and questions from judges are answered.
- ▶ Grades will be assigned for quality of the legal argument, for responsiveness to questions and challenges, and for persuasiveness.
- ▶ It's not possible to make up an oral argument absence

Moot Court – Details – Citing cases

- ▶ When you read opinions of the court, you notice that almost everything is said with reference to another case.
- ▶ Often this is an argument by analogy. If it says “X” in that case, then “X” must apply in this case.
- ▶ The details of how that works often including “distinguishing” one part of X from another part.

Moot Court – Details – Citing cases 2

- ▶ The details of how that works often including “distinguishing” one part of X from another part.
- ▶ Example: In *NYT v Sullivan*, the court had to distinguish political advertising from commercial advertising, which had no First Amendment protection.

Moot Court – Details – Legal Tests

- ▶ A legal test is another major form of argument in law.
- ▶ Example: Central Hudson has a four-part test for intermediate scrutiny of content neutral speech regulation.
- ▶ You cite CH, then go through the four-part test with your case specifics and explain how each part would apply.

Moot Court – Comments? Questions?

- ▶ Email Prof. Kovarik. [Wkovarik @ Radford.edu](mailto:Wkovarik@Radford.edu)