



# **TOM NEWHOUSE MEDIATION COMPETITION**

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# WHAT IS MEDIATION?

- **Mediation** is a private process where a neutral third person (a mediator) helps the parties discuss and potentially resolve the dispute.
- **Caucus:** a confidential, private meeting held by the mediator with individual parties during the mediation process.
  - Assumption is the conversation is confidential BUT you can ask the mediator to share certain information with the other side.
- **Best Alternative to a Negotiated Agreement (BATNA):** The BATNA represents the best-case scenario in the event that negotiations fail and a deal cannot be reached with the other party.
  - Consider the value of the relationship, the time, and the money, as well as the likelihood that the other party will live up to their obligations under an agreement.
- **Worst Alternative to a Negotiated Agreement (WATNA):** The WATNA represents the worst-case scenario in the event that negotiations fail and a deal cannot be reached with the other party.

Mediation puts the power of the law into the people's hands!

# WHAT IS MEDIATION?

- Each team consists of 2 students:
  - One as the **attorney** and other as the **client**
  - Teams **must switch roles** after the initial round
- This is a closed research competition:
  - Your only sources are in the competition packet
  - You may make reasonable inferences
  - Cannot agree to or state anything that is not within your authority
- Each problem set has **General information**, given to both sides of the mediation.
- **Confidential information** is given only to one side
- **Caucuses** may be called as many times as needed and may last as long as the teams/mediator decide—**be strategic about this!**

# BASICS

- Rounds will be 120 minutes + 10 minutes of Judge Critique
- Mediator & Bailiff Duties
  - The Mediator oversees each round (break out rooms + caucuses)
  - There will be a bailiff in each room if you run into technical issues
- Team Requirements
  - All teams are required to compete in 2 preliminary rounds (switching roles)
  - Team members must be in separate rooms
  - Cameras and microphones must be on during the entire competition
  - No virtual backgrounds allowed
  - May not consult attorneys or professors for strategies or tactics

# BASICS

- Each round is broken into:
  - **10 minutes (or less): Mediator's Opening**
    - Mediator explains the purpose and function of mediation and verifies the parties' consent to the mediation process.
  - **10 minutes (or less): Plaintiff's Opening Statement**
    - Plaintiff attorney and client outline opening positions.
  - **10 minutes (or less): Defendant's Opening Statement**
    - Defendant attorney and client outline opening positions.
  - **90 minutes: Mediation Session**
    - Mediators and parties work together through mutual exploration and caucuses to reach a joint settlement.

# BASICS

**Judges rank teams on a scale of 1-10 based on the following criteria:**

- Preparation
- Case Analysis
- Presentation of the Case
- Client's Goals & Expectations
- Understanding the Opposition
- Alternative Courses of Action
- Answering & Asking Questions
- Attorney/Client Working Relationship
- Client Performance
- Time Management

Failure to reach a settlement will not impact your score!

# PRELIMINARY & SEMI SCHEDULE

## • Friday, October 8, 2021 – Preliminaries

- **9:30 AM** → Check in via Zoom for Round 1
- **9:45 AM** → Log into your Zoom room
- **10:00 AM – 12:30 PM** → Preliminary Round 1
- **1:30 PM** → Check in via Zoom for Round 2
- **1:45 PM** → Log into your Zoom room
- **2:00 PM – 4:30 PM** → Preliminary Round 2
- **5:00 PM** → Announcement of Teams that Advance

## • Saturday, October 9, 2021 – Semi's

- **9:30 AM** → Check in via Zoom for Semifinals
- **9:45 AM** → Log in to your Zoom Room
- **10:00 AM – 12:30 PM** → Semi Final Round

You must login to the call using a computer, you cannot use your cell phone!

# CHAMPIONSHIP SCHEDULE

- Saturday, October 9 – Championship Rounds
  - **1:00 PM** → Check in via Zoom
  - **1:15 PM** → Log in to your Zoom Room
  - **1:30 PM – 3:30 PM** → First Championship Round (team 1 and 2)
  
  - **3:45 PM** → Log in to your Zoom room
  - **4:00 PM – 6:00 PM** → Second Championship Round (team 3 and 4)



# REGISTRATION

- **Registration is live TODAY AT 6 PM (ends 27 Sept)!**
- **Must pay a Competition fee**
  - \$50 per person for non-Advocates Members
  - \$10 for Advocates Members
- **Submit online application on the Advocates website and submit payment**
- **UNLIKE OTHER COMPETITIONS, participants must provide at least 1 week notice if they are unable to participate**
  - We have a set number of Mediator-competitors.
  - Last-minute cancelations negatively impact our Mediator-competitors.
  - Failure to do so may result in being blocked from upcoming competitions
- **If you encounter a registration issue, follow us on Facebook!**
  - Advocates at UHLC



## HOW WILL IT WORK?

- Teams will get a confirmation of who's registered after registration closes.
- Fact patterns will be made available **the week before the competition.**
- Zoom links will be sent to each individual team for preliminary prior to the competition weekend.

# CREDIT

- Students can earn 1 hour non substantive credit by:
  - Making a GOOD FAITH EFFORT in the competition, **and**
  - Completing the timely submission of the writing assignments.
  - Email the documents to [theadvocatesatuhlc@gmail.com](mailto:theadvocatesatuhlc@gmail.com).
- Writing assignments are due by 11:59 pm on the date listed.
- Teams complete the documents together and list both names.
- You cannot send one email for the team - each person wanting credit will need to submit their own email.
- **Round 1 and Round 2 are different problem sets.** Please pick either the problem from Round 1 or Round 2 corresponding to your side (A or B) for the writing requirement.

# CREDIT

- **All writing:** 1" margin, Times New Roman, double spaced, 12 pt. font
- **Due 7 October 2021:** Position Statement & Proposed Settlement Strategy
  - One per team, include the name of both team members
  - Each person submits
  - Written mediation position statement **(1 page)**
  - A proposed settlement strategy in light of your position statement **(5 page minimum)**
- **Due 25 October 2021:** Post-competition Analysis
  - One per team, include the name of both team members **(5 page minimum)**
  - Each person submits
  - A post-competition analysis of the final outcome
  - How well did your team's strategy work, what would you change etc.

# CREDIT

- **Due 7 October 2021 by 11:59 pm:** Position Statement
  - Mediators often require parties to provide a position statement prior to the mediation.
  - A **team** must submit **one written Position Statement** not to exceed **one page** in length, with the **name of both team members** on the document.
  - Follow the **subject line** and **file name** requirements.
  - The Position Statement should include the **legal and factual issues in dispute** from your team's perspective, as well as **your team's positions on the issues**.

*Positions are the surface objectives a party asserts that it desires as an outcome of negotiations, as opposed to interests, which are a party's underlying needs whose fulfillment the conflict appears to be disrupting.*

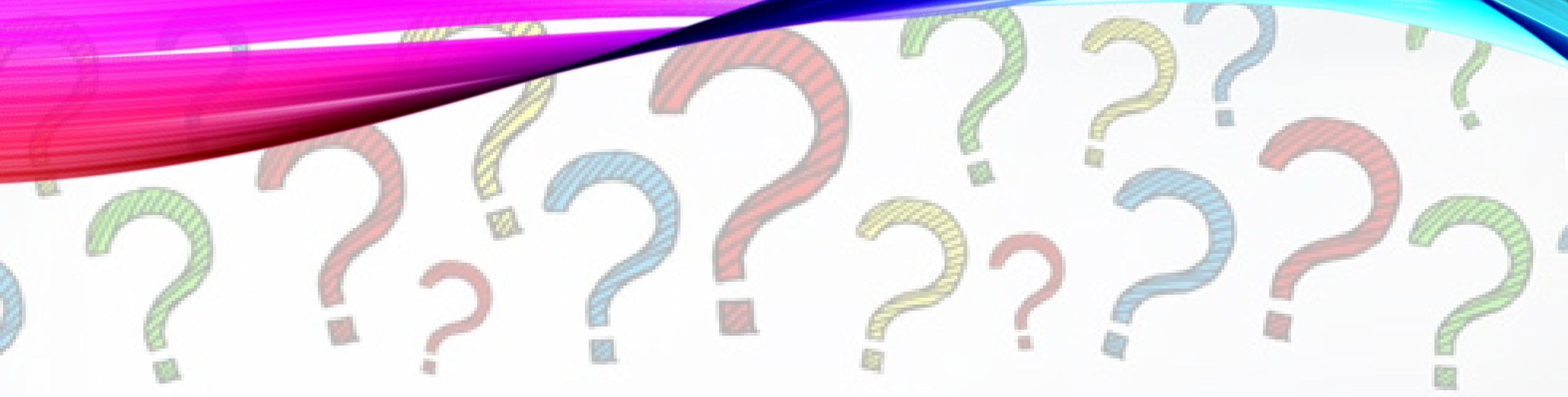
***Example:** "Get the neighbors to turn down their music" (position) "Enjoy time at home in peace and quiet" (interest).*

# CREDIT

- **Due 7 October 2021 by 11:59 pm:** Settlement Strategy
  - The settlement strategy is the risk assessment analysis of the client's position and the strategy developed as a result of the legal & factual analysis.
  - Include your client's
    - Interests
    - Desired outcome going into the mediation
    - Best Alternative to a Negotiated Agreement (BATNA)
    - Worst Alternative to a Negotiated Agreement (WATNA)
    - What your client would be willing to accept or give up
  - The Opponent's
    - Projected interests
    - Projected BATNA
    - Projected WATNA

# CREDIT

- **Writing Assignment due 25 October 2021 by 11:59 pm**
  - **5 page minimum:** post-competition analysis of the final outcome
  - Detail what actually happened during the mediation in light of your team's projected settlement strategy.
  - How well did your team's strategy work, what would you change etc.



# Questions

