



BACKGROUND

Before 1974, domestic appellate mooting was largely the domain of individual law schools. In 1974, organizers decided to launch the Gale Cup Moot named in honour of the Honourable George A. Gale, Chief Justice of the Ontario Court of Appeal. In 1984, the Gale Cup opened its doors to all law schools in Canada and it is now a national bilingual competitive moot. In most years, between 20-24 common and civil law schools participate. No other moot in Canada has as many participating law schools. The Gale Cup is generally regarded as one of Canada's premiere advocacy moots.

[The Gale Cup](#) is currently co-sponsored by the [Ontario Criminal Lawyers Association](#) and the [American College of Trial Lawyers](#).

CASE SELECTION, LOCATION AND DATE

Each year a Supreme Court of Canada criminal law decision is chosen by the Gale Cup Committee and the case becomes the moot problem. The moot takes place at Osgoode Hall in Toronto which is the home of the Ontario Court of Appeal. Judges are drawn from provincial trial and appellate courts across the country. This year, the problem is *R v Beaver* 2022 SCC 54. This year the competition will take place on February 9-10, 2024.

THE COMPETITION

Four students are selected with two acting as the appellant and respondent. The appellant and respondent will each moot one time at the competition. There is simultaneous translation for bilingual moots. The top four teams are selected for the finals. Historically, there is a Supreme Court of Canada justice on the final bench. Every two to three years, the winner of the Gale Cup represents Canada at the Commonwealth Finals which have been held in Melbourne, Glasgow, Cape Town, Hong Kong, London, Hyderabad and Nairobi.

HISTORY OF WINDSOR LAW SUCCESS

In the 48-year history, Windsor has only won the Gale Cup once (1978). It has reached the finals on nine (9) other occasions (2020 (2nd place), 2017 (4th place), 2012 (4th place), 2010 (4th place), 2006 (2nd place), 2001 (4th place), 1998 (4th place), 1996 (2nd place) and 1986 (3rd place)). A number of Windsor students including Michelle Booth (2006) and Robert Tomovski (2001) have won the Chief Justice Dickson Medal for top oralist. In 2020, Aditi Gupta won the Chief Justice Dickson Medal for top oralist in the Finals. Windsor teams have also won Peter Cory Factum prizes given to the top three facta each year including the 2017 Respondent team (3rd place).

LEARNING OUTCOMES

After completing the Gale moot students will be able to:

1. Analyze an appellate judgment moot problem and identify grounds of appeal;
 2. Identify the standard format of an appellate factum for both the appellant and respondent;
 3. Distinguish cases based on the facts and application of the law;
 4. Develop a persuasive opening and closing statement;
 5. Identify and develop persuasive legal arguments;
 6. Identify and explain the relevant legal, social and policy issues surrounding the specific topic under appeal;
 7. Identify the relevant procedures and protocols associated with appellate advocacy;
 8. Conduct research that enhances the strength of the legal arguments;
 9. Identify elements of a persuasive factum and oral argument; and,
 10. Recognize when advocacy becomes unprofessional.
-

EXPECTATIONS

As a member of the Gale mooting team, it is expected that you will:

1. Read all of the required readings;
2. Watch the oral hearing of the case before the Supreme Court of Canada and to review all of the facta filed by the parties and intervenors (if any);
3. Commit and properly organize your time to prepare your written and oral argument. This includes a minimum of 10 practice rounds organized by Professor Tanovich and/or the team;
4. Attend all meetings prepared and on time;
5. Work collaboratively with your team members and Professor Tanovich; and,
6. Ensure that your conduct meets the standards of professionalism for appellate advocacy and courtroom decorum.

READING LIST

R v Beaver 2022 SCC 54

Gale Cup Moot Rules 2024

Gale Cup (Windsor Law) Casebook

Effective Factum Writing (Tabs A-C)

TAB A

Justice John Laskin, “Forget the Wind-Up and Make the Pitch: Some Suggestions for Writing More Persuasive Factums” (1999)

TAB B

Justice Robert Richards, “Some Thoughts on Effective Briefs” (2012)

TAB C

Justice Eleanore A Cronk (Windsor Law alum), “Lessons from Lewis Carroll on excellence in written appellate advocacy” (2011) & “More lessons on excellence in written appellate advocacy” (2011)

Effective Oral Advocacy (Tabs 4-10)

TAB 4

Justice Ruth Ginsberg, “Remarks on Appellate Advocacy” (1999)

TAB 5

William Richardson, “The Art and Science of Appellate Advocacy” (2009)

TAB 6

Justice Renee Pomerance, “Appellate Advocacy: Presenting the Oral Argument” (2002) (written when she was at Crown Law Criminal)

TAB 7

Justice John Laskin, “What persuades (or, What’s going on inside the judge’s mind) (2004)

TAB 8

Justice Marshall Rothstein, “Winning Appellate Advocacy: Persuasive Presentations” (2006)

TAB 9

Torys, “Keys to Successful Oral Advocacy: One View from the Bar” (2013)

TAB 10

Allan Ruben, “Oral Argument before the Supreme Court of Canada”

EVALUATION

The Factum [40%]

Appellant’s Factum – DUE JANUARY 5, 2024

Respondent’s Factum – DUE JANUARY 19, 2024

The team factum will be evaluated on the following basis with an assessment of the extent to which it reveals the relevant learning outcomes:

Format

Identification of Issues

Research

Analysis

Organization

Oral Argument [60%]

The oral argument grade will be based on the following factors, including progress through the practice rounds to the competition:

1. Effectiveness Of Oral Argument

Preparation

Development of Argument

Strength/Creativity of Argument

Familiarity of Argument

Persuasiveness of Argument

Integration of Facts and Law

2. Presence

Etiquette/Department

Voice Level

Diction

Eye Contact

3. Response To Questions

Directness of Response

Reference to Authorities

Interaction with Bench

Ability to Return To Argument
