

# GALE CUP SYLLABUS 2015

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## 2015 GALE CUP (Professor Tanovich)

### 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 18-20 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 [Lenczner Slaght](#) and the Canadian Bar Association.

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.

Four students are selected with two acting as the appellant (usually an accused) and respondent (usually the Crown). 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 South Africa (2013), Hong Kong, London, Hyderabad (India) and Nairobi.

Windsor won the Gale Cup in 1978 and has reached the finals on seven (7) other occasions (2012 (4<sup>th</sup> place), 2010 (4<sup>th</sup> place), 2006 (2<sup>nd</sup> place), 2001 (4<sup>th</sup> place), 1998 (4<sup>th</sup> place), 1996 (2<sup>nd</sup> place) and 1986 (3<sup>rd</sup> place)). Windsor also finished in the top 10 in 2008 (tied for 5<sup>th</sup> place); 2007 (tied for 6<sup>th</sup> place) and 2004 (tied for 7<sup>th</sup> place). A number of Windsor students including Michelle Booth (2006) and Robert Tomovski (2001) have won the Dickson Medal for top oralist.

### LEARNING OUTCOMES

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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. Commit and properly organize your time to prepare your written and oral argument. This includes a minimum of five practice rounds organized by Professor Tanovich. One of the practice rounds will be before a Justice of the Ontario Court of Appeal the day before the Gale Cup;
3. Attend all meetings prepared and on time;
4. Work collaboratively with your team members and Professor Tanovich; and,
5. Ensure that your conduct meets the standards of professionalism for appellate advocacy and courtroom decorum.

## READING LIST

“Gale Cup Moot 2015 Rules”

*R v Gauthier* 2014 SCC

Lebovits et. al., “Winning the Moot Court Oral Argument ...” (SSRN) (2012)

Hon. Ian Binnie, “In Praise of Oral Advocacy” (2003), 21 *Advocates’ Society J.* 3-18

Hon. Ian Binnie, “A Survivor’s Guide to Advocacy in the Supreme Court of Canada”

(unpublished presentation to the Ontario Criminal Lawyers Association Conference, 1998)

Hon. John Laskin, “What persuades (or, What’s going on inside the judge’s mind)” (2004), 23

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*Advocates' Soc. J.* 4-9

Hon. John Laskin, "Forget the wind-up and make the pitch" 20 *For the Defence* 12

David Lepofsky, "The Unsung Art of Written Advocacy - Strategies, Tips and a Call for Unorthodoxy" (2004), 23 *Advocates' Society J.* 10

### **EVALUATION**

#### **The Factum** [30%]

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

Formal award for factum will automatically raise the students= (i.e. the Appellant or Respondent team) grade for the factum to an A+.

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#### **Oral Argument** [70%]

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

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Etiquette/Deportment  
Voice Level  
Diction  
Eye Contact

### 3. Response To Questions

Directness of Response  
Reference to Authorities  
Interaction with Bench  
Ability to Return To Argument

Formal award for oral argument will automatically raise the student's oral argument grade to an A+.

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