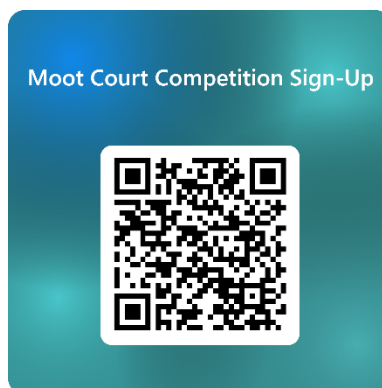


Wabash College Moot Court Competition

Fall 2026 Participant's Guide

Preliminary rounds of the Competition will be on Saturday, October 24. Participants should report to Baxter Hall at 8:30 A.M.; room assignments will be available outside Baxter 101. The First Round will begin at 9:00 A.M., and the Second Round will begin at 11:00 A.M. Each two-member team will argue in two rounds, once for Petitioner and once for Respondent. **To be on the competition participant list, you must sign up on the Microsoft form at this QR code by Friday, October 9 at 5:00 p.m.:**



If you have problems signing up, please contact Ms. Amber King (kinga@wabash.edu). If you have questions about competition logistics, please contact Dean McDorman (mcdormat@wabash.edu).

I. THE PARTIES:

<i>Party</i>	<i>Name before Trial Court</i>	<i>Result in Trial Court</i>	<i>Name in the Court of Appeals</i>	<i>Result in the Court of Appeals</i>	<i>Name in the Supreme Court</i>
JANE BOND	Plaintiff	Lost	Appellant	Lost	Petitioner
AURIC GOLDFINGER, ATTORNEY GENERAL, STATE OF BLUE, in his official capacity, ("the State")	Defendant	Won	Appellee	Won	Respondent

II. THE PROBLEM:

A. This case concerns the constitutionality of Blue State's Act Addressing Gun Violence (Act A123), which prohibits the possession and acquisition of certain semiautomatic firearms, including AR-15-style rifles, and magazines capable of holding more than ten rounds of ammunition.

Jane Bond currently possesses two AR-15-style rifles and six magazines that hold more than ten rounds. She argues that Act A123 violates the Second Amendment right to keep and bear arms and, independently, the Takings Clause of the Fifth Amendment because the statute requires current owners to surrender, modify, transfer, or sell affected firearms and magazines without compensation.

The United States Court of Appeals for the Fourteenth Circuit upheld Act A123 against both constitutional challenges. The Supreme Court granted certiorari to resolve the constitutional questions presented.

B. The case is to be decided on the merits. The issue as stated in the petition for certiorari is:

(A) Does Blue State's "Act Addressing Gun Violence," Act A123, violate the Second Amendment to the United States Constitution; and (B) Even assuming the State may constitutionally prohibit continued possession of AR-15 rifles and large-capacity magazines, must it nonetheless provide compensation to owners who lawfully acquired those items before enactment under the Fifth Amendment to the United States Constitution?

III. DIVISION OF THE ARGUMENT:

A. Petitioner (Jane Bond): The Court of Appeals is wrong and should be reversed.

1. First Petitioner's counsel: The Court of Appeals erred in concluding that Blue State's ban on AR-15-style rifles and large-capacity magazines is consistent with the Second Amendment. Under *District of Columbia v. Heller* and *New York State Rifle & Pistol Association v. Bruen*, arms commonly possessed by law-abiding citizens for lawful purposes are protected by the Constitution. AR-15-style rifles and large-capacity magazines are among the most commonly owned firearms and firearm accessories in the United States. The Founders expected citizens to possess the ordinary military arms of their day, and the Second Amendment protects weapons commonly possessed by law-abiding citizens unless a robust historical tradition demonstrates otherwise. The absence of Founding-era or Reconstruction-era prohibitions on possession of commonly owned firearms weighs heavily against Blue State's attempt to ban AR-15-style rifles and large-capacity magazines today. Moreover, the historical analogues relied upon by the Court of Appeals are insufficient under *Bruen's* history-and-tradition framework, as Bowie knife regulations generally restricted the manner of carrying weapons rather than possession itself, and machine-gun regulations addressed fully automatic military firearms that are fundamentally different from semiautomatic AR-15-style rifles. Because Act A123 prohibits arms that are commonly possessed by law-abiding citizens for lawful purposes, it lacks a sufficiently similar historical analogue. Act A123 therefore violates the Second Amendment.

2. Second Petitioner's counsel: Even if Blue State possesses authority under the Second Amendment to prohibit continued possession of certain firearms and magazines, the Fifth Amendment independently requires just compensation when the government forces owners to surrender, transfer, sell, remove, or permanently alter lawfully acquired property. The State's purported alternatives for gunowners are illusory, because none permits an owner to continue possessing the property in the condition in which it was lawfully acquired. Owners must either surrender their AR-15s and large-capacity magazines, sell them into a depressed and restricted market, remove them from the state, or permanently alter them. As a result, the Act strips owners of one of the fundamental attributes of property ownership: the right to possess their lawfully acquired property. Act A123 effects either a physical taking under cases such as *Horne* and *Loretto*, or, alternatively, a compensable regulatory taking. The Court of Appeals erred in concluding otherwise.

B. Respondent (Auric Goldfinger, Attorney General for Blue State): The Court of Appeals is right and should be affirmed.

1. First Respondent's counsel: The Court of Appeals correctly concluded that Act A123 is consistent with the Nation's historical tradition of firearm regulation. The statute imposes targeted restrictions on unusually dangerous firearms and magazines while leaving law-abiding citizens with numerous alternatives for lawful self-defense. The Second Amendment has never protected every

weapon in existence. From the Founding forward, state and federal governments have exercised authority to regulate weapons that posed unusual threats to public safety, and *Bruen* directs courts to identify analogous historical traditions rather than demand historical twins. Historical regulations of dangerous weapons demonstrate that Act A123 is constitutional under *Heller*, *Bruen*, and related case law. Like nineteenth-century restrictions on Bowie knives, Act A123 targets weapons viewed by legislators as possessing characteristics that make them especially useful for offensive violence while preserving alternative arms for lawful self-defense. Likewise, regulations of machine guns and submachine guns demonstrate a historical tradition of responding to technological innovations that dramatically increase a weapon's lethality. Act A123 reasonably restricts the right to armed self-defense in a manner that is both comparably justified and comparably limited, and so it does not violate the Second Amendment.

2. Second Respondent's counsel: Act A123 does not effect a compensable taking. The statute does not require the government to appropriate private property for public use, nor does it deprive owners of all economically beneficial interests in their firearms or magazines. Current owners may comply with the statute by: (1) permanently modifying their AR-15s or large-capacity magazines so they accept ten rounds or fewer; (2) selling the firearms or magazines to a federally licensed firearms dealer or other lawful purchaser; (3) transferring the firearms or magazines outside Blue State; or (4) voluntarily surrendering them to law enforcement. These various alternatives show that the statute imposes a permissible regulatory restriction rather than a compensable taking. The Act therefore represents a valid exercise of Blue State's police power to address significant public-safety concerns. Moreover, the State's "police power" has long allowed governments to prohibit or destroy property deemed harmful to public health, safety, or welfare without compensating owners. Historically, dangerous items such as diseased property, contraband, and other harmful instrumentalities could be removed from circulation without triggering compensation requirements, and Act A123 reflects that same historical tradition. Accordingly, the Fifth Amendment does not require compensation to affected gunowners.

IV. OUTSIDE RESEARCH:

- A. Outside research is NOT required. Time is much better spent on understanding and refining the arguments presented than on doing outside research.** Suppress, if you can, the desire to find the "gotcha" or killer authority, statistic, or quotation. There's plenty of "ammunition" for the arguments in the two opinions you have.
- B.** The problem is based on a combination of *Grant v. Higgins*, No. 25-566 (2d Cir. 2025) and *Duncan v. Bonta*, No. 25-198 (9th Cir. 2025). *Grant v Higgins* is currently pending before the United States Supreme Court, with oral argument not yet scheduled. The actual cases differ procedurally and include issues beyond the scope of this problem.

V. ORAL ARGUMENT PROCEDURE:

- You will argue before a panel of three judges, usually made up of a mixture of practicing attorneys, professors, and judges who have had moot court, trial, and appellate experience.
- Put your argument in a manila folder or a nice folder/padfolio. It is NOT a crutch. DO NOT READ FROM IT VERBATIM. Use it for reference and to keep your place in your argument. Your folder should contain relevant facts, summaries of legal authorities or concepts, and other pertinent information.

- When you enter the room, put your name and the side you will be arguing on the blackboard. If you are in a “courtroom” without a blackboard, the judges will ask your name and the respective side you are arguing and will write it on their evaluation sheets.
- The Petitioner (here Jane Bond) always argues first. When the judges ask if you are ready to proceed, respond “Yes, Your Honor.”
- The introduction both sides should use is “May it please the Court. My name is _____, and I represent _____, the [Petitioner or Respondent] in this appeal.” The Petitioner is allowed rebuttal and **MUST** reserve rebuttal time. Unless a judge asks you prior to the start of the round, you ask for rebuttal immediately after your introduction: “At this time, I would like to reserve (1 to 3) minutes of my time for rebuttal.” That time will be deducted from the ten minutes of your first speech.
- You will be timed by one of the three (3) judges. The timekeeper will remind you how much time you have left. **EACH** person gets ten minutes. This may sound like an eternity, but it will go by quickly once you get into your argument. You will get a “5 minutes” left signal card, a “2 minutes” left signal card, “1 minute” left signal card, and finally a STOP card.
- When the STOP card is flashed, it means STOP regardless of where you are in your argument, but don’t stop mid-sentence. The best way to handle this is to say, “I see my time has expired. May I have a moment to conclude?” The judge will then grant you additional time quickly to finish your thought and cut to your prayer. More about the prayer later.
- Respect the Court. Be deferential, but assert your client’s position. Never interrupt a judge – let him or her get the question out before you answer. Listen carefully to the question to ensure you are really answering it. Never get mad at a judge or be argumentative – be respectful and assertive. Converse with the judges – don’t run over them with a truck and call it advocacy!
- Refer to each of the judges – regardless of gender, profession in the non-moot-court world, or age – as “your Honor” or “Justice (fill in the individual’s last name).”
- **DON’T** talk too fast. Speak clearly and in a moderate tone of voice. Don’t dance behind the lectern. It is distracting, unprofessional and makes you appear nervous and tentative. Appear confident and collected (even if you don’t feel it). Be calm and alert – you’ll be amazed with how much it will enhance your argument.
- Dress in a suit and tie. If you don’t own a suit, please borrow a jacket and tie from a friend or from Career Services. Don’t let lack of attire keep you from participating.

VI. PREPARING A SUCCESSFUL ARGUMENT:

- An oral argument has three parts – the introduction, the body of the argument, and the prayer.
- The Petitioner may briefly state the **RELEVANT** facts of the case which should only last about one to two minutes. They must be fair, but they can be slanted toward your theory of the case. Don’t give facts unless they are contained in the record. Do not be surprised if a judge asks a question before you get through your facts. If it happens, answer and move on with the argument. Your focus should, however, be on the **APPLICATION OF THE LAW TO THE FACTS**.
- The Respondent should do one of the following: (1) accept the Petitioner’s statement of the facts; (2) make corrections in the Petitioner’s statement of facts; (3) clarify or point out any ambiguity in the Petitioner’s statement of the facts; or (4) make any necessary additions to the Petitioner’s statement of the facts. Take issue with the facts to suit your theory of the case. Be brief! **DON’T ARGUE THE**

FACTS: ARGUE THE LAW! That said, this case demands that all litigants have an excellent command of the relevant facts to make the most effective arguments. DO NOT MAKE UP FACTS. YOU MUST STAY WITHIN THE PROBLEM ITSELF.

- After introducing yourself, road map your argument for the judges. State the issues for the court to consider in clear, concise terms. For example: “There are three reasons our client should prevail. First, . . .” BE PERSUASIVE. That is the whole object of an appellate argument. Tell the Court why you should win. “The Court of Appeals erred in finding for the Respondent because...” or “this Court should uphold the ruling of the Court of Appeals because...”
- After you have “road mapped” your issues for argument, go back to point one and begin your analysis of each point or reason why you should win.
- When you end, offer a Prayer or Request: Tell the Court in one sentence what you want them to do for your client. “We respectfully request that this Court reverse/affirm the Court of Appeals’ decision.” After your prayer, close your folder and sit down.
- For rebuttal, do not be verbose. Only one of Petitioner’s attorneys gives a rebuttal. Your rebuttal should include one or two strong points. Listen to the Respondent’s argument closely to pick up on what the judges are questioning him about. If it favors your side, hit it hard in your rebuttal. An example might be the correction of a case that the Respondent did not analyze or apply correctly. Rebuttal is very important because it is a great way to win points.
- EYE CONTACT IS VERY IMPORTANT! Look directly at the judges as much as possible, especially when answering questions. This will also help you appear confident in your argument and enhance your overall advocacy style.
- The most important thing to keep in mind is that you are very familiar with your case, and you know what you are talking about. The best way to avoid feeling nervous is to prepare your argument well, think clearly, and HAVE FUN!
- The judges will give you feedback after the entire argument, including rebuttal, is complete. These helpful hints and comments will be invaluable in the next round.

VII. WHY SO MANY QUESTIONS?

- The judges will ask EVERYONE questions about the case. The purpose is not to humiliate or confuse you. To the contrary, the judges need your help in figuring out how to decide this case. That is why they ask questions. Also, in a moot court competition, they want to determine how well you know your material, how well you can think on your feet, and how well you respond and return to the flow of your argument.
- Anticipate what questions might be and prepare to respond to them. BUT don’t try to write out answers and read them back. Answer the question briefly and then get back into your argument. Remember, YOU control the flow of your argument as much as possible, so don’t open yourself up to distractions and interruptions by silently fumbling around trying to figure out what to say next.
- Remember to listen to EACH question before you answer it. It may not be as difficult as you think. If you do not hear or do not understand what a judge is asking, it is acceptable to ask him or her to repeat the question so long as you do so politely and on a limited basis.