



WitEx Competition 2018

Competition Coordinators' Manual

MinterEllisonRuddWatts

Regional checklist

Locate the winner's trophy from last year	
Book law faculty rooms for preliminary and semi-final rounds – advise MERW	
Book formal room for the final – discuss with MERW	
Organise/book a central distribution centre for competition material distribution	
Discuss judging requirements for all rounds with MERW	
Book a room for judges to discuss the selection of semi-finalists/finalists	
Advertise submission date for entry forms	
Ensure everyone knows what time and where they have to meet for each stage and where hearings are to take place	
Forward a list of all competitors to MERW on the first day of preliminaries	
Make sufficient copies of fact patterns for competitors	
Copy and distribute materials to witnesses	
Arrange and distribute a sufficient number of marking schedules to judges	
Arrange for the exam rooms to have a table or podium for competitors' use, a table for the judge's use, a chair for witnesses to use, and water glasses and jugs	
Organise two witnesses for the final round	
Organise timekeeper's/judge's assistants for semi-final and final rounds	
Supply MERW with a report on the competition after the finals, including the winner	

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Competition Coordinators' Manual

Thank you for coordinating the MinterEllisonRuddWatts (**MERW**) Witness Examination (**WitEx**) Competition at your university for 2018. This manual is intended to be a step-by-step guide to assist you with organising the competition.

For your convenience, we have enclosed a checklist in the front of this manual.

Please do not hesitate to contact us should you wish to discuss any matter related to the competition. We recommend corresponding by e-mail during the working day in order to keep your costs down and this will almost always facilitate a prompt reply.

The co-ordinating partner at MinterEllisonRuddWatts for the competition is:



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Please contact Hannah in the first instance if you have any questions.

Introduction

“WitEx” is short for Witness Examination Competition. The competition is a mock court hearing before a “judge” in a preliminary and finals format. Each hearing comprises two counsel: one for the prosecution/plaintiff and one for the defence. Each counsel calls one witness. They conduct examination-in-chief of their witness and cross-examine their opponent’s witness. Unlike a real trial, there is no re-examination of witnesses in WitEx.

The rules of evidence, as applicable in the New Zealand courts, apply in the competition. However, the competition focuses on the rules of evidence as they apply to examination and cross-examination of witnesses, rather than those related to procedure. The competition fact problems will be framed in this way as the competition is often the first occasion that competitors learn about, and use, rules of evidence, as well as deal with witnesses.

This document is structured as follows:

- (a) organising the competition;
- (b) the competition – on the day; and
- (c) post-competition matters.

We have included copies of the Competition Rules; Judge’s Materials (that we arrange for competitions); Witness Materials; and Competitor Materials. Please familiarise yourself with these documents.

Fact patterns for each round will be distributed closer to the competition date.

You will also receive posters that promote the competition. We would be grateful if you would place these posters in prominent positions around your law faculty to advertise the competition, as well as advertising in through your online pages.

The competition: organisation

Dates

The WitEx Competition must be held in the first semester of the academic year, ideally early on. If you have not set them already, factors that should be taken into account when setting the date for your competition include:

- (a) opinion due dates;
- (b) exam times;
- (c) the Easter break;
- (d) dates set for other student competitions; and
- (e) law firm recruitment dates.


The general format for the competition is: preliminary rounds, semi-finals, and a final. Accordingly, you should allow for three or four days when setting dates for the competition.

Once you have determined the dates that the competition will be held, please contact us to discuss the schedule, judging requirements, and intended location of the final.

Arrangements and Bookings

You should book rooms within your Law Faculty for use during the preliminary and semi-finals rounds of the competition. All rooms used for the hearings must have a table or podium for the competitors, a table for the judges, and a central witness seat for witnesses to give evidence. Water glasses and a jug of water should also be available and should be refilled between rounds.

You may also need to book a room to be used as a central meeting place for handing out materials throughout the competition.



The final should be held in a larger and more formal room, or the local District or High Court. Moot courts provide a good option if your law school has such a facility and lecture theatres can also provide a satisfactory venue. Our experience is that Court Registries are more responsive to booking requests from members of the profession. Accordingly, we suggest that you contact us to discuss booking a courtroom as soon as possible.

Judges

You should discuss judging requirements with MERW and provide us with a list of proposed judges for each round of the competition. You will need one judge to preside over each hearing. If, for example, you have 24 competitors, you could have 4 judges adjudicating 3 consecutive hearings for a preliminary round. Please endeavour to use a single judge at the semi-final stage as this will provide a measure of consistency for selecting the two finalists.

Where there are a number of judges in the preliminary rounds, you should ensure that judges have a place to meet after the hearings to discuss the selection of semi-finalists and make sure that their marking is consistent.

Other matters

The official entry form (attached to the competitor materials) should be submitted by a specified date. This date should give you (and us) enough time before the preliminary rounds of the competition to ensure that we can finalise numbers, room bookings and judging requirements with the least possible stress.

The entry form provides for one participant, as well as for a witness. Competitors will need to organise a person to be their witness for the preliminary and potentially semi-final rounds.

We would be grateful if you could forward us a list of confirmed competitors on the first day of the preliminary rounds. Please keep in touch with us if it becomes apparent that the entries received for the competition exceed the estimated numbers. This is particularly important for arranging judges for the preliminary rounds of competition.

Please note that you will need to organise individuals to appear as witnesses for the final round.

The competition: on the day

We will send you fact patterns to be used during the competition shortly. Where we have organised judges, we will be responsible for forwarding the relevant fact patterns to them.

Please ensure that the fact patterns are kept in a safe place – preferably in the space provided in the back of this manual – and are not distributed before the required time.

The timetable for each hearing must follow the following format:

- (a) competitors receive the fact pattern one and a half hours before the hearing;
- (b) witnesses receive their statements and witness materials one hour before the hearing;
- (c) competitors meet with their witnesses half an hour before the start.


You will need to organise a central distribution centre where materials for competitors and witnesses can be handed out at the allotted times. Ensure that everyone, including the judges (who will be guests), knows what time and where they must be for each hearing.

It goes without saying that the judges, who most often will be senior practitioners giving their time voluntarily, should be treated with respect and courtesy at all times. You will need to ensure that the judges have a sufficient number of marking schedules (attached to the competition rules).

Please take the time to familiarise yourself with the judge's materials so that you understand how the judges score. Note that the semi-finalists in a competition with two preliminary rounds should be the top four competitors across the two rounds.

Marks should not be disclosed to individuals, but please encourage judges to give each competitor some feedback at the end of each hearing.

Please organise a person to take photos during the course of the hearing of the final and forward these to us.



The final should be followed immediately by a catered function, hosted by you and us, where the trophy is presented to the winner. You will need to organise the catering for the function, which will be open to all competitors, witnesses, judges, organisers and spectators. If possible, participant certificates can also be presented. We will endeavour to have a senior firm representative attend the function, as well as the final.

Please liaise with us regarding the presentation and catering for this function.

NB: Please ensure that you locate the competition trophy before the final!

Post-competition matters

Please supply us with a report on the competition following the final including the names of the winner, runner up and semi finalists and a brief summary of how the competition went and the success of the final. We would also be grateful for any comments that you might have as to how we could improve on the competition or this manual in the future.

In the days after the competition you should also contact us to discuss writing to all judges to thank them for their involvement in the competition.

Please note that you will need to organise engraving on the cup detailing this year's competition winner. Engraving should be consistent with the engraving already inscribed on the cup. This expense can be included on your claim form to us which we would appreciate you send us as soon as possible.

Sponsorship funds distributed by NZLSA are then used to send the winner to represent your Law Students' Society at the ALSA and NZLSA Conference Competitions.

Competition Rules

The competitor must be enrolled in an undergraduate law degree at the university holding the competition.

Fact patterns used for the competition may be in either the criminal or civil jurisdiction.

The rules of evidence as applicable in the New Zealand courts shall apply. However, emphasis is on examination and cross-examination of witnesses. Accordingly:

- (a) counsel are not permitted to refer to an opponent’s witness brief in cross-examination (e.g. for the purpose of prior inconsistent statement);
- (b) exhibits and contemporaneous notes will not be entered into evidence;
- (c) witnesses will not be expert witnesses.

Further, several assumptions are made:

- (a) any potential police obligations under the New Zealand Bill of Rights Act have been complied with;
- (b) while the legal framework is expected to be discussed in opening and closing submissions, matters of law are not at issue.

Competitors will receive the background competition materials from the university law students’ society competitions coordinator in the weeks prior to the competition.

There will be one counsel for the prosecution/plaintiff and one counsel for the defence.

Competitors receive the fact pattern 90 minutes prior to the commencement of a hearing. The fact pattern will consist of counsel instructions, a witness brief, and a copy of the opponent’s witness brief.

NB: the opponent’s witness brief is provided to assist in preparation for cross-examination.

Witnesses receive their briefs together with witness instructions one hour prior to the commencement of the session, and competitors meet with their witness half an hour before the hearing.

Competitors will not discuss the contents of the hearing with any persons other than their witness.

After introductions to the bench, the conduct of the hearing shall be as follows:

opening by prosecution/plaintiff	2 minutes
examination in chief by prosecution/plaintiff of prosecution/plaintiff witness	10 minutes
cross-examination by defence of prosecution/plaintiff witness	15 minutes
opening by defence	2 minutes
examination in chief by defence of defence witness	10 minutes
cross-examination by prosecution/plaintiff of defence witness	15 minutes
summation by defence	3 minutes
summation by prosecution/plaintiff	3 minutes

Witnesses should not embellish their evidence beyond that in their witness briefs. If cross-examined on a point not covered in a brief, a witness should give an answer likely to be consistent with the role being played.

Judges will keep time during preliminary rounds and provide warnings at the appropriate times, being:

- (a) for examination in chief/cross-examination: a warning when 2 minutes remain
- (b) for opening/summation: a warning when 30 seconds remain



The time limits will be enforced in the semi-finals and final. Three marks will be deducted for every minute exceeding the time limit. Note: the clock will be stopped during any objections.

All rounds will be marked by a single judge to a set format (attached to these Rules). At the end of the case the judge may make comments as to the style and presentation of the individual counsel.

Each competitor shall be allocated a mark out of 100 (which will be kept confidential). This mark is assessed as follows:

(a)	examination in chief	30
(b)	cross-examination	30
(c)	submissions	20
(d)	advocacy and manner	20

There will be no re-examination of witnesses.

All the usual formalities are to be observed when addressing the Bench and normal courtroom etiquette is to be adopted by counsel. Although counsel are not required to robe, counsel's personal appearance and dress should conform to the expectations of the courts.

The Judge may disallow, or direct that a witness is not obliged to answer any question that the Judge considers improper, unfair, misleading, needlessly repetitive, or expressed in language that is too complicated for the witness to understand (as under section 85, Evidence Act 2006).



Marking Schedule

Name of competitor:

Criteria and Marks

Examination in Chief

Established credibility	_____ / 5
Drew out relevant information	_____ / 10
Witness control	_____ / 5
Style/demeanour/eye contact with witness	_____ / 5
No leading questions	_____ / 5
Subtotal	_____ / 30

Cross – Examination

Short questions	_____ / 5
Leading/closed questions	_____ / 5
Addressed important questions	_____ / 5
Witness controls	_____ / 5
Style/demeanour/eye contact with witness	_____ / 5
Effective cross-examination to obtain concessions	_____ / 5
Subtotal	_____ / 30

Questions Asked / Notes



Criteria and Marks

Submissions

Clear theory of the case present from opening of case	_____ / 5
Closed case appropriately utilising evidence led during hearing	_____ / 5
Utilised information obtained during cross-examination in closing	_____ / 5
Observed rules of evidence during examination of witnesses	_____ / 5
Subtotal	_____ / 20

Advocacy and manner

Style/demeanour/eye contact with Judge	_____ / 5
Manner of delivery	_____ / 5
Appropriately raised/responded to objections	_____ / 5
Response to questions from Judge	_____ / 5
Subtotal	_____ / 20

Total

_____ / 100

Questions Asked / Notes



WitEx Competition 2018

Judge's Manual

MinterEllisonRuddWatts

Judge Manual

Thank you for volunteering to act as a judge in the WitEx Competition in 2018.

The competition involves university law students acting as counsel in a mock court hearing before a judge in a preliminary and finals format. Each hearing comprises two counsel: one for the prosecution/plaintiff and one for the defence. Each counsel calls one witness each: they are then required to conduct examination-in-chief of their witness, and cross-examination of the opponent's witness. There is no re-examination of witnesses.

The rules of evidence, as applicable in the New Zealand courts, apply in the competition. However, the competition focuses on rules of evidence as they apply to examination and cross-examination of witnesses, rather than rules of evidence related to procedure.

Competition Rules

opening by prosecution/plaintiff	2 minutes
examination in chief by prosecution/plaintiff of prosecution/plaintiff witness	10 minutes
cross-examination by defence of prosecution/plaintiff witness	15 minutes
opening by defence	2 minutes
examination in chief by defence of defence witness	10 minutes
cross-examination by prosecution/plaintiff of defence witness	15 minutes
summation by defence	3 minutes
summation by prosecution/plaintiff	3 minutes

The recommended conduct of the case, which competitors have in their materials, is included at the end of this document for your reference.

If you are judging a preliminary round, please keep an eye on time taken by counsel at each stage (allowing for objections) and advise them if they have exceeded the relevant allocated time.

If you are judging a semi-final or final, please enforce time limits (allowing for objections) by deducting three marks for each minute exceeding a time limit.

Hearings can be judged by either one judge sitting alone, or a panel of up to three judges. Usually, preliminary rounds are heard by a single judge, with finals being heard by a panel. For finals, competition organisers will endeavour to obtain the services of a sitting District Court Judge (or more senior member of the judiciary), to sit with two others (usually a partner of MinterEllisonRuddWatts and another senior practitioner or academic).

Marking

All rounds will be marked by you to a set format (a copy of the marking schedule is attached to the Competition Rules). A sufficient number of copies of the marking schedule should be distributed to you by the competition organiser.

Each competitor is given a mark out of 100, which is assessed as follows:

(a)	examination in chief	30
(b)	cross-examination	30
(c)	submissions	20

Please make comments on the performance of counsel at the conclusion of the hearing. Do not, however, disclose the actual marks awarded to the competitors. If you are judging the final, it would be at this stage that you would then announce the competition winner.

At the end of a preliminary or semi-final round, judges will meet to discuss the marks awarded to each competitor and, where applicable, select the competitors to continue into the next round. Generally, the marking schedules will be used as a guide to selecting the semi-finalists and finalists: semi-finalists should generally be selected as being the top four competitors across the preliminary rounds.

We are grateful that you are able to act as a judge in this competition. Should you have any questions, please do not hesitate to contact the student competition organiser.

Recommended Conduct of the Case

Each counsel stands as the judge enters the hearing room, bows to the judge, and then sits after the judge sits.

The respective counsel introduce themselves to the Judge by stating:

“May it please the Court, counsel’s name is X, and I appear for the plaintiff/prosecution/defendant.”

Counsel for the prosecution/plaintiff will then open the case by stating the nature and elements of the case and briefly explain the version of events asserted by the prosecution/plaintiff.

The Judge will then request that the first witness be called.

- Counsel for the prosecution/plaintiff will call the first witness, saying:

“I call ...”

- The Judge (or, where appropriate, the timekeeper/judge’s assistant) will call the name of the witness, ask him or her to sit in the witness box, and swear him or her in, saying:

“It is your duty to assist the court in these proceedings by faithfully answering questions put to you. Do you understand?”

Counsel for the prosecution/plaintiff will then examine the witness.

Counsel for the defence will cross-examine the prosecution/plaintiff witness. At the end of cross-examination, counsel for the prosecution/plaintiff will finish by saying:

“Your Honour, that is the case for the prosecution/plaintiff.”

Counsel for the defence will then open his/her case, and then follow the same procedure for calling the witness and leading evidence in chief.

Once both counsel have led their evidence in chief, and each have cross examined the respective witnesses, counsel for the defence will give his/her closing address.

Following the closing address of the counsel for the defence, counsel for the prosecution/plaintiff will then give his/her closing address.

NB: As a note, if you are judging a preliminary round and taking your own time keeping, please do not use your phone as a stopwatch as there is a risk of receiving calls during the competition.

Additional procedure in finals (where appropriate)

In most instances, there will be a timekeeper/judge’s assistant in the semi-finals and the final. In these instances, the following additional procedure should be followed:

- At the start of the hearing, the timekeeper/judge’s assistant will stand and announce the case, when the Judge is ready, saying:

“All rise! Court is now in session, for the case of ...”

- Once all presentations have been completed in the hearing, the timekeeper/judge’s assistant will close the Court, saying:

“All stand! This Court is now adjourned.”

Competition Rules

The competitor must be enrolled in an undergraduate law degree at the university holding the competition.

Fact patterns used for the competition may be in either the criminal or civil jurisdiction.

The rules of evidence as applicable in the New Zealand courts shall apply. However, emphasis is on examination and cross-examination of witnesses. Accordingly:

- (a) counsel are not permitted to refer to an opponent’s witness brief in cross-examination (e.g. for the purpose of prior inconsistent statement);
- (b) exhibits and contemporaneous notes will not be entered into evidence;
- (c) witnesses will not be expert witnesses.

Further, several assumptions are made:

- (a) any potential police obligations under the New Zealand Bill of Rights Act have been complied with;
- (b) while the legal framework is expected to be discussed in opening and closing submissions, matters of law are not at issue.

Competitors will receive the background competition materials from the university law students’ society competitions coordinator in the weeks prior to the competition.

There will be one counsel for the prosecution/plaintiff and one counsel for the defence.

Competitors receive the fact pattern 90 minutes prior to the commencement of a hearing. The fact pattern will consist of counsel instructions, a witness brief, and a copy of the opponent’s witness brief.

NB: the opponent’s witness brief is provided to assist in preparation for cross-examination.

Witnesses receive their briefs together with witness instructions one hour prior to the commencement of the session, and competitors meet with their witness half an hour before the hearing.

Competitors will not discuss the contents of the hearing with any persons other than their witness.

After introductions to the bench, the conduct of the hearing shall be as follows:

opening by prosecution/plaintiff	2 minutes
examination in chief by prosecution/plaintiff of prosecution/plaintiff witness	10 minutes
cross-examination by defence of prosecution/plaintiff witness	15 minutes
opening by defence	2 minutes
examination in chief by defence of defence witness	10 minutes
cross-examination by prosecution/plaintiff of defence witness	15 minutes
summation by defence	3 minutes
summation by prosecution/plaintiff	3 minutes

Witnesses should not embellish their evidence beyond that in their witness briefs. If cross-examined on a point not covered in a brief, a witness should give an answer likely to be consistent with the role being played.



Judges will keep time during preliminary rounds and provide warnings at the appropriate times, being:

- (c) for examination in chief/cross-examination : a warning when 2 minutes remain
- (d) for opening/summation : a warning when 30 seconds remain

The time limits will be enforced in the semi-finals and final. Three marks will be deducted for every minute exceeding the time limit. Note: the clock will be stopped during any objections.

Each competitor shall be allocated a mark out of 100 (which will be kept confidential). This mark is assessed as follows:

(e)	examination in chief	30
(f)	cross-examination	30
(g)	submissions	20
(h)	advocacy and manner	20

There will be no re-examination of witnesses.

All the usual formalities are to be observed when addressing the Bench and normal courtroom etiquette is to be adopted by counsel. Although counsel are not required to robe, counsel's personal appearance and dress should conform to the expectations of the courts.

Counsel have been informed that the Judge may disallow, or direct that a witness is not obliged to answer, any question that the Judge considers improper, unfair, misleading, needlessly repetitive, or expressed in language that is too complicated for the witness to understand (as under section 85 Evidence Act 2006).



Marking Schedule

Name of competitor:

Criteria and Marks

Examination in Chief

Established credibility	_____ / 5
Drew out relevant information	_____ / 10
Witness control	_____ / 5
Style/demeanour/eye contact with witness	_____ / 5
No leading questions	_____ / 5
Subtotal	_____ / 30

Cross – Examination

Short questions	_____ / 5
Leading/closed questions	_____ / 5
Addressed important questions	_____ / 5
Witness controls	_____ / 5
Style/demeanour/eye contact with witness	_____ / 5
Effective cross-examination to obtain concessions	_____ / 5
Subtotal	_____ / 30

Questions Asked / Notes



Criteria and Marks

Submissions

Clear theory of the case present from opening of case	_____ / 5
Closed case appropriately utilising evidence led during hearing	_____ / 5
Utilised information obtained during cross-examination in closing	_____ / 5
Observed rules of evidence during examination of witnesses	_____ / 5
Subtotal	_____ / 20

Advocacy and manner

Style/demeanour/eye contact with Judge	_____ / 5
Manner of delivery	_____ / 5
Appropriately raised/responded to objections	_____ / 5
Response to questions from Judge	_____ / 5
Subtotal	_____ / 20

Total

_____ / 100

Questions Asked / Notes



WitEx Competition 2018

Witness Materials

MinterEllisonRuddWatts

Witness Materials

Thank you for volunteering to act as a witness in the WitEx Competition for 2018.

This competition involves university law students acting as counsel in a mock court hearing before a judge in a preliminary and finals format. Each hearing comprises two counsel: one for the prosecution/plaintiff and one for the defence. Each counsel calls one witness. They are then required to conduct examination-in-chief of their witness, and cross-examination of the opponent's witness. There is no re-examination of witnesses.

The rules of evidence, as applicable in the New Zealand courts, apply in the competition. However, the competition focuses on rules of evidence as they apply to examination and cross-examination of witnesses, rather than rules of evidence related to procedure.

You receive your witness brief one hour prior to the start of the hearing. Please note that you meet with your counsel half an hour before the start of the hearing. During this time, you should not discuss the contents of the hearing with any persons other than your counsel.

During the course of the hearing you may be asked questions about facts that are not covered in your brief: in answering such questions, you should not embellish evidence. Rather, any answer should be consistent with the role and the context that you are playing.

We are grateful that you are able to act as a witness in this competition. Should you have any questions, please do not hesitate to contact the student competition organiser.

Competition Rules

The competitor must be enrolled in an undergraduate law degree at the university holding the competition.

Fact patterns used for the competition may be in either the criminal or civil jurisdiction.

The rules of evidence as applicable in the New Zealand courts shall apply. However, emphasis is on examination and cross-examination of witnesses. Accordingly:

- (a) counsel are not permitted to refer to an opponent's witness brief in cross-examination (e.g. for the purpose of prior inconsistent statement);
- (b) exhibits and contemporaneous notes will not be entered into evidence;
- (c) witnesses will not be expert witnesses.

Further, several assumptions are made:

- (a) any potential police obligations under the New Zealand Bill of Rights Act have been complied with;
- (b) while the legal framework is expected to be discussed in opening and closing submissions, matters of law are not at issue.

Competitors will receive the background competition materials from the university law students' society competitions coordinator in the weeks prior to the competition.

There will be one counsel for the prosecution/plaintiff and one counsel for the defence.

Competitors receive the fact pattern 90 minutes prior to the commencement of a hearing. The fact pattern will consist of counsel instructions, a witness brief, and a copy of the opponent's witness brief.

NB: the opponent's witness brief is provided to assist in preparation for cross-examination.

Witnesses receive their briefs together with witness instructions one hour prior to the commencement of the session, and competitors meet with their witness half an hour before the hearing.

Competitors will not discuss the contents of the hearing with any persons other than their witness.

After introductions to the bench, the conduct of the hearing shall be as follows:

opening by prosecution/plaintiff

2 minutes



examination in chief by prosecution/plaintiff of prosecution/plaintiff witness	10 minutes
cross-examination by defence of prosecution/plaintiff witness	15 minutes
opening by defence	2 minutes
examination in chief by defence of defence witness	10 minutes
cross-examination by prosecution/plaintiff of defence witness	15 minutes
summation by defence	3 minutes
summation by prosecution/plaintiff	3 minutes

Witnesses should not embellish their evidence beyond that in their witness briefs. If cross-examined on a point not covered in a brief, a witness should give an answer likely to be consistent with the role being played.

There will be no re-examination of witnesses.



WitEx Competition 2018

Competitor's Manual

MinterEllisonRuddWatts

Competitor Materials

Congratulations on your decision to enter the WitEx Competition in 2018. We hope you will find the experience rewarding, educational and, most importantly, fun!

These materials introduce you to the format of the WitEx Competition. Separate materials that introduce you to the substance of the WitEx Competition – i.e. the skills and knowledge required – will be distributed by your university competition organiser.

We recommend that you go over all the materials again in your own time. We hope that you will then complete the entry form, which can be found at the end of these materials, by the required date.

Please note that you will need to organise a person to act as your witness for the preliminary rounds.

Overview of the WitEx Competition

The WitEx Competition involves university law students acting as counsel in a mock court hearing before a judge in a preliminary and finals format. Each hearing comprises two counsel: one for the prosecution/plaintiff and one for the defence. Each counsel calls one witness each: they are then required to conduct examination-in-chief of their witness, and cross-examination of the opponent's witness. There is no re-examination of witnesses.

The rules of evidence, as applicable in the New Zealand courts, apply. However, the WitEx Competition focuses on rules of evidence as they apply to examination and cross-examination of witnesses, rather than rules of evidence related to procedure.

Competition Rules

The competition Rules are **attached** to these materials. Please note that the conduct of the session is as follows:

opening by prosecution/plaintiff	2 minutes
examination in chief by prosecution/plaintiff of prosecution/plaintiff witness	10 minutes
cross-examination by defence of prosecution/plaintiff witness	15 minutes
opening by defence	2 minutes
examination in chief by defence of defence witness	10 minutes
cross-examination by prosecution/plaintiff of defence witness	15 minutes
summation by defence	3 minutes
summation by prosecution/plaintiff	3 minutes

The recommended conduct of the case is also **attached** to these materials

The WitEx Competition: on the day

The timetable for each hearing follows the following format:

- (a) competitors receive the fact pattern one and a half hours prior to the commencement of the hearing;

- (b) witnesses receive their statements and the witness materials one hour prior to the commencement of the hearing:
- (c) competitors meet with their witnesses half an hour before the start.

Please ensure that you know in advance where to collect the fact patterns for your hearing and where your hearing is to take place.

All rooms used for the hearings will have a table or podium for the use of competitors, a table for the judge's use, and a suitable chair/position for witnesses to give evidence.

It goes without saying that the judges, who most often will be senior practitioners giving their time voluntarily, should be treated with respect and courtesy at all times. While you are not required to robe, please dress appropriately for the occasion.

Marking

All rounds will be marked to a set format (a copy of the marking schedule is attached to the Competition Rules).

Each competitor is given a mark out of 100 which is assessed as follows:

(a)	examination in chief	30
(b)	cross-examination	30
(c)	submissions	20
(d)	advocacy and manner	20

Comments on the performance of counsel will be given by the judge at the conclusion of the hearing. Actual marks awarded to the competitors will not, however, be disclosed to competitors.

At the end of a preliminary or semi-final round, judges will meet to discuss the marks awarded to each competitor and, where applicable, select the competitors to continue into the next round. Generally, the marking schedules will be used as a guide to selecting the semi-finalists and finalists: semi-finalists will generally be selected as being the top four competitors across the preliminary rounds.

Should you have any questions, please do not hesitate to contact your university competition organiser.

Recommended Conduct of the Case

Each counsel stands as the judge enters the hearing room, bows to the judge, and then sits after the judge sits.

The respective counsel introduce themselves to the Judge by stating:

“May it please the Court, counsel’s name is X, and I appear for the plaintiff/prosecution/defendant.”

Counsel for the prosecution/plaintiff will then open the case by stating the nature and elements of the case and briefly explain the version of events asserted by the prosecution/plaintiff.

The Judge will then request that the first witness be called.

- Counsel for the prosecution/plaintiff will call the first witness, saying:

“I call ...”

- The Judge – or, where appropriate, the timekeeper/judge’s assistant – will call the name of the witness, ask him or her to sit in the witness box, and swear him or her in, saying:

“It is your duty to assist the court in these proceedings by faithfully answering questions put to you. Do you understand?”

Counsel for the prosecution/plaintiff will then examine the witness.

Counsel for the defence will cross-examine the prosecution/plaintiff witness. At the end of cross-examination, counsel for the prosecution/plaintiff will finish by saying:

“Your Honour, that is the case for the prosecution/plaintiff.”

Counsel for the defence will then open his/her case, and then follow the same procedure for calling the witness and leading evidence in chief. Accordingly, counsel for the prosecution/plaintiff will then cross-examine the defence witness.

Once both counsel have led their evidence in chief, and each have cross examined the respective witnesses, counsel for the defence will give his/her closing address.

Following the closing address of the counsel for the defence, counsel for the prosecution/plaintiff will then give his/her closing address.

Additional procedure in finals (where appropriate)

In most instances, there will be a timekeeper/judge’s assistant in the semi-finals and the final. In these instances, the following additional procedure should be followed:

- (a) At the start of the hearing, the timekeeper/judge’s assistant will stand and announce the case, when the Judge is ready, saying:
“All rise! Court is now in session, for the case of ...”
- (b) Once all presentations have been completed in the hearing, the timekeeper/judge’s assistant will close the Court, saying:
“All stand! This Court is now adjourned.”

Competition Rules

The competitor must be enrolled in an undergraduate law degree at the university holding the competition.

Fact patterns used for the competition may be in either the criminal or civil jurisdiction.

The rules of evidence as applicable in the New Zealand courts shall apply. However, emphasis is on examination and cross-examination of witnesses. Accordingly:

- (a) counsel are not permitted to refer to an opponent’s witness brief in cross-examination (e.g. for the purpose of prior inconsistent statement);
- (b) exhibits and contemporaneous notes will not be entered into evidence;
- (c) witnesses will not be expert witnesses.

Further, several assumptions are made:

- (a) any potential police obligations under the New Zealand Bill of Rights Act have been complied with;
- (b) while the legal framework is expected to be discussed in opening and closing submissions, matters of law are not at issue.

Competitors will receive the background competition materials from the university law students’ society competitions coordinator in the weeks prior to the competition.

There will be one counsel for the prosecution/plaintiff and one counsel for the defence.

Competitors receive the fact pattern 90 minutes prior to the commencement of a hearing. The fact pattern will consist of counsel instructions, a witness brief, and a copy of the opponent’s witness brief.

NB: the opponent’s witness brief is provided to assist in preparation for cross-examination.

Witnesses receive their briefs together with witness instructions one hour prior to the commencement of the session, and competitors meet with their witness half an hour before the hearing.

Competitors will not discuss the contents of the hearing with any persons other than their witness.

After introductions to the bench, the conduct of the hearing shall be as follows:

opening by prosecution/plaintiff	2 minutes
examination in chief by prosecution/plaintiff of prosecution/plaintiff witness	10 minutes
cross-examination by defence of prosecution/plaintiff witness	15 minutes
opening by defence	2 minutes
examination in chief by defence of defence witness	10 minutes
cross-examination by prosecution/plaintiff of defence witness	15 minutes
summation by defence	3 minutes
summation by prosecution/plaintiff	3 minutes

Witnesses should not embellish their evidence beyond that in their witness briefs. If cross-examined on a point not covered in a brief, a witness should give an answer likely to be consistent with the role being played.

Judges will keep time during preliminary rounds and provide warnings at the appropriate times being:

- (a) for examination in chief/cross-examination : a warning when 2 minutes remain
- (b) for opening/summation : a warning when 30 seconds remain

The time limits will be enforced in the semi-finals and final. Three marks will be deducted for every minute exceeding the time limit. Note: the clock will be stopped during any objections.

All rounds will be marked by a single judge to a set format (attached to these rules). At the end of the case the judge may make comments as to the style and presentation of the individual counsel.

Each competitor shall be allocated a mark out of 100 (which will be kept confidential). This mark is assessed as follows:

- | | | |
|-----|----------------------|----|
| (a) | examination in chief | 30 |
| (b) | cross-examination | 30 |
| (c) | submissions | 20 |
| (d) | advocacy and manner | 20 |

There will be no re-examination of witnesses.

All the usual formalities are to be observed when addressing the Bench and normal courtroom etiquette is to be adopted by counsel. Although counsel are not required to robe, counsel's personal appearance and dress should conform to the expectations of the courts.

The Judge may disallow, or direct that a witness is not obliged to answer, any question that the Judge considers improper, unfair, misleading, needlessly repetitive, or expressed in language that is too complicated for the witness to understand (section 85 Evidence Act 2006).

Fact Patterns

Fact patterns are re-used in the competitions. Students must not share other fact patterns from previous competitions as this may give them an unfair advantage. Competitors who receive or give away prior years' fact patterns may be subject to disciplinary action, including disqualification from the competition.

An example of a fact pattern, together with witness examination demonstrations are available on the MinterEllisonRuddWatts website.



Marking Schedule

Name of competitor:

Criteria and Marks

Examination in Chief

Established credibility	_____ / 5
Drew out relevant information	_____ / 10
Witness control	_____ / 5
Style/demeanour/eye contact with witness	_____ / 5
No leading questions	_____ / 5
Subtotal	_____ / 30

Cross – Examination

Short questions	_____ / 5
Leading/closed questions	_____ / 5
Addressed important questions	_____ / 5
Witness controls	_____ / 5
Style/demeanour/eye contact with witness	_____ / 5
Effective cross-examination to obtain concessions	_____ / 5
Subtotal	_____ / 30

Questions Asked / Notes



Criteria and Marks

Submissions

Clear theory of the case present from opening of case	_____ / 5
Closed case appropriately utilising evidence led during hearing	_____ / 5
Utilised information obtained during cross-examination in closing	_____ / 5
Observed rules of evidence during examination of witnesses	_____ / 5
Subtotal	_____ / 20

Advocacy and manner

Style/demeanour/eye contact with Judge	_____ / 5
Manner of delivery	_____ / 5
Appropriately raised/responded to objections	_____ / 5
Response to questions from Judge	_____ / 5
Subtotal	_____ / 20

Total

_____ / 100

Questions Asked / Notes



WitEx Competition 2018 entry form

Please enter me as a WitEx Competition competitor

COMPETITOR NAME:

PHONE:

EMAIL:

YEAR OF LAW:

WORK OR OTHER COMMITMENTS:

My witness in the preliminary rounds will be:

WITNESS NAME:

PHONE:
