SIMULATION DESIGN

Moot Court: Three Days

The full version: a new authority handed out cold, and a rehearing of the court's own opinion.

College and high school.

Days one and two below are the one-day and two-day designs, unchanged. The third day is where the outcome is genuinely allowed to fail, and you should say so in advance.

The teaching problem

Students argue the facts. Appellate advocacy forbids it. You take the record as the trial court found it, and you argue about the standard of review and the law, which is a genuinely alien discipline and the entire point of running this format rather than a trial.

The session

One certified question on a real circuit split, argued by pairs before a three-judge bench drawn from the class and rotated every round. Choose a question where both sides are respectable and the facts are unattractive for everyone, which is most of the good ones.

The bench is the assessment instrument, not the audience

Each judge must ask at least two questions and must sign a one-paragraph ruling giving a reason. That requirement does more work than any rubric: **a student cannot write a reason for a decision they did not follow**, so the bench listens in a way an audience does not. Rotate so that every student judges once and argues once.

The element that does the teaching

The concession rule. Under questioning, students fold; they concede the case to be agreeable. So: you may concede a point only in the form “I concede X, and it does not matter, because Y.” If you cannot supply the Y, you may not concede. That single sentence teaches more appellate advocacy than an hour of instruction.

Speaking turns

Six advocates across three rounds, nine judging seats, and the closing vote of the whole class.

With more than twenty students, run two courts on the same question and have the two benches reconcile their rulings in the last ten minutes, which is a free lesson in why circuit splits exist.

The running order

0–12	Opening. The question presented, the standard of review, and the concession rule stated in full. Say plainly that the facts are not open for argument.
12–30	Round 1. You seed questions from the bench yourself, and each student judge has two written questions they must ask.
30–48	Round 2, new advocates, new bench, scaffolding reduced.
48–58	**Break.** Ten minutes. Benches draft their one-paragraph rulings.
58–76	Round 3, no seeded questions.
76–86	Rulings read aloud with their reasons, then a vote of the whole class on the question.
86–100	**Debrief**, starting from where the rulings disagree.

Day two

Between the days, each advocate files a two-page brief: question presented, standard of review, two arguments, and **the single worst fact for their side**, which they must address rather than omit.

Day two is argued before judges who have read the briefs and are instructed to open by asking about that worst fact. This is the version that teaches what appellate practice actually is, because the argument becomes a defense of something already committed to paper.

Day three

The development on day two is a supplemental authority handed out at the start: a decision from another circuit, released that morning, that cuts against the side that was winning. Both sides must address it without preparation, which is the most realistic thing in the whole three days.

Day three is an en banc rehearing on the losing side's petition, in which **the court's own day-two opinion is the thing under attack**, and the students who wrote that opinion sit on the bench defending it.

The trap in this format

A cold bench. If student judges do not ask questions, the format collapses into a speech contest and the lesson is lost. Seed the first two rounds yourself from the bench, hand each judge two written questions they must ask in their first outing, and withdraw the scaffolding by round three.

Before you publish the agenda

1. Can you say in one sentence what the session is for, without using the word coverage?
2. Does the question genuinely divide the room, and can the body actually decide it?
3. Is every role down for at least two scheduled turns?
4. Have the demanding roles been spread deliberately rather than claimed?
5. Does someone know they are chairing, and have they been briefed?
6. Have the real questions gone out, with a line saying they are the real ones?
7. Is anything artificial about the setup named in the student document?
8. Is there a ten-minute break in the middle for students to find allies, and is the room arranged so they can stand up and move?
9. Is the closing act something the room can watch fail?
10. Is the debrief in the running order, with time of its own?

The three floor rules to read aloud, and a minute-by-minute template, are in Running Order, Floor Rules, and the Day-Of Check on the Class-Based Simulations page. The topics below are defaults. Replace them with whatever is live when you run the session; what should not be replaced is the one structural element in each design that does the teaching.