About Us

The KCL Mooting Society was established in 2012 and is officially registered as a student society with the Kings' College London Student Union (KCLSU). We are a niche society run by students for students, our sole focus being to create more opportunities for mooters of all levels to build on their advocacy skills. We host a wide range of events, including workshops, practice moots and internal competitions, and we also put teams of mooters forward to represent King’s in a variety of national and inter-university competitions. The aim is to provide you, the student, with the right environment to gain confidence in your own abilities and give you the assistance you need to really succeed.
Welcome to the wonderful world of mooting! If, like me, you didn’t even know what a moot was before you came to King’s then this guide is a handy tool to help you get started. We’ve covered all the essentials – from court etiquette to skeleton arguments – and thrown in some useful examples along the way. Don’t forget we’ve also got loads of great opportunities lined up for you to learn more about mooting throughout the year, from introductory workshops to mooting mentorship schemes and fortnightly practice moots. As always, the KCL Mooting Society is here to help with all things mooting and advocacy related, so if you need a bit of extra support please do drop us a line!
Committee 2016/2017

Emily Lawson
President
emily.lawson@kcl.ac.uk

Reece Patel
Vice President
reece.patel@kcl.ac.uk

Asen Gadzhanov
Master of Moots
asen.gadzhanov@kcl.ac.uk

John Cheung
External Mooting Officer
ming.cheung@kcl.ac.uk

Micaela Boström
Practice Moots Officer
micaela.bostrom@kcl.ac.uk

Maria Shah
Secretary
syeda.shah@kcl.ac.uk

Emily Lemaire
Communications Officer
emily.lemaire@kcl.ac.uk
What is Mooting?

**A legal debate** – mooters take the role of either appellant or respondent in a courtroom setting. Moot problems are almost exclusively set in the courts of appeal. Appellants are parties whom have lost in the first instance while respondents are parties whom have won for the first instance. Hence, mooters are not required to cross examine witnesses but rather, argue points of law before a judge.

Victory is not determined by whether the judge feels you win on the point of law, but whether your skills of persuasion have been the most impressive on display.

Why Mootin?*

- Practical Application of what you learn in the classroom - a chance for you to apply substantive law to a moot problem
- Adrenaline - Mooting will allow you to satisfy the inner competitive streak
- Enhance your Curriculum Vitae - Demonstrate your willingness to go beyond the standard curriculum
- Improves your communication and advocacy. With more practice, you will become a confident moorer!
Moot Etiquette

Dress Code

- Ensure that you are presentable.
- For gentlemen: a collared shirt, jacket, and a tie are required.
- For ladies: office attire is sufficient and a jacket is recommended.

Addressing the Court

- Mooters should always stand when speaking.
- The senior appellant will begin his submission with the following:

  “May it please this Court, my name is (Insert name), appearing as senior counsel for the appellant and (Insert name), is appearing as junior counsel for the appellant. My learned friends, (Insert name) is appearing as senior counsel for the respondent and (Insert name) is appearing as junior counsel for the respondent.”

- The other mooters should also begin their submissions by introducing themselves:

  “May it please this Court, my name is (Insert name) and I appear as junior counsel for the respondent.”

- Do not address the other mooters as “opponents” or “colleagues”. Address them as “counsel”, “my learned friend”, or by their title, “e.g. the senior respondent”.
- Male judges are referred to as “My Lord” and female judges are referred to as “My Lady”. Similarly, “you” and “your” are replaced with “Your Lordship” or “Your Ladyship”.
- When making an argument, you should use the word ‘submit’ or the phrase “it is submitted”, instead of ‘think’ or ‘believe’.

Citation of Cases

- Note that you should mention the full citation of the cases that you will be using as authorities. In civil cases, the ‘v’ is read as ‘and’. While in criminal cases, the ‘v’ is read as ‘against’ and ‘R’ should be referred to as “The Crown”.
- For instance, the case of Carlill v Carbolic Smoke Ball Co [1893] 1 QB 256 should be cited to the judge as the case of Carlill and Carbolic Smokeable Co as reported in Volume 1 of the Queen’s Bench Law Report for 1893 and page 256.
- Subsequent citation of the case can be referred to as the party names.
  - Some judges will not require you to give a full citation of the case the first time it is cited, however, it is good practice to check with them first by asking the following:

    “May I have the Court’s permission to dispense with the full, official citation of the case authorities?”

- It is also good practice to ask the judge whether he or she would like a summary of the facts of a new case that you are citing.

    “Would your Lordship like a summary of the facts of the case?”
Speaking Order

- The general order which the counsels speak is as follows:
  1) Senior Counsel for the Appellant
  2) Senior Counsel for the Respondent
  3) Junior Counsel for the Appellant
  4) Junior Counsel for the Respondent
  5) Senior Counsel for the Appellant (Right of Reply*)

* While the 5-minute right of reply is not mandatory, it is a useful opportunity for the senior appellant to highlight the weaknesses of the respondents’ arguments. It is not a chance to introduce a new submission.

General Tips

- When you refer a judge to an authority in your case bundle, pause for a moment to allow the judge to read the relevant paragraph or sentence.

- Do not interrupt when the judge is speaking. Ensure that the question raised by the judge is addressed before moving on to your next submission.

- Do not read from a prepared script as you are likely to lose the attention of the judge. It will also seem as though you are unfamiliar with your own submissions or the authorities. If necessary, prepare cue cards to remind you of the points that you wish to address.

- Vary the tone of your presentation to keep the judge sufficiently engaged. It is also a good presentation habit to emphasize on important points of your argument.
Drafting Your Submissions

Identify the problem

• Understand the facts of the case and ensure that you are clear which point of law you are arguing - there are usually two grounds of law in a moot.

• Determine whether you are the appellant or the respondent. In essence, the appellant seeks to reverse the decision of the lower court and the respondent attempts to uphold the decision.

• Note the court in which your moot is set in. This is vital as it will determine which case authorities will bind the court. For example, if your case is being heard in the Supreme Court, mooters will have the option of arguing that precedent cases were wrongly decided and should be overturned.

• The assigned roles of “senior” and “junior” counsel are not indicators of the level of experience of the mooters or the complexity of the point of law.

Legal Research

• Understand the area of law that you are arguing. If the point of law is set on a particular legislation, it might be helpful to research the intention of Parliament when the provision was enacted.

• If there are cases that are cited in the moot problem, a good way to start is to read the full judgment of the case.

• If it be necessary, you might wish to refer to practitioners’ guide for the relevant area.

    Contract Law: Chitty
    Criminal Law: Archibald
    Land Law: MeGarry and Wade
    Tort Law: Clerk and Linsell

How do you use the cases that you have found?

• For cases that are in favour of the point of law that you are arguing, highlight to the court that the facts of those cases are relevant to the facts of your moot problem and in that regard, the same principle will apply. For cases that are not favourable, determine how you can best distinguish the facts of those cases from yours. In other words, you ought to demonstrate to the court that the principle that is not in your favour should not even apply to your case because the facts are simply different.

• Ensure that the authorities that you are relying upon can be submitted in the court (i.e. whether the decision is given by a lower court or a judgment that has since been reversed on appeal).
Drafting Your Submissions

Academic Articles/Judgments of Commonwealth Jurisdictions

- Articles that are written by academics will usually not be considered by the court if there are other case authorities that the judge should rely upon.
- You might wish to consider relying upon these opinions only if the area of law is novel and the academic is well-regarded.
- In the same vein, judgments of other commonwealth jurisdictions should only be relied upon in exceptional circumstances.
- The court is not bound by the judgments of other commonwealth jurisdictions or academic opinions. These will only be helpful as references, should the court wish (and have the authority) to overrule a settled point of law or decide on a novel area.

Skeleton Argument

- Once you have consolidated your resources, you will then be able to construct your arguments.
- Do keep in mind that you have limited time in each moot to present your arguments. You are hence encouraged to present two strong and convincing submissions (instead of three weak ones).
- There is no hard and fast rule as to the way to structure your argument. It will frequently depend on the style of each individual. The general rule of thumb is to engage the judge with the authorities that you wish to cite. Allocate considerable time to demonstrate why and how the authorities should apply to the facts of your case.
- A good skeleton argument should not be more than two pages.
- The rules of the competition will usually require you to submit your skeletal arguments to the rest of the mooters and the judge two days (48 hours) before the moot. This might vary with the different competitions and it is a good practice to check the rules of the moot each time.
- A sample of a skeleton argument can be found in the following page.
Margaret Sconely, a woman in her late 60s, recently discovered the Internet. Being an avid supporter of the Scottish independence movement, though domiciled in England, she decided that there was no better place to take her opinions than the popular social networking website, Spitter. She created a username “@MrsWallace”, and began spitting her opinions on independence, the Scottish Pound and Shortbread in February 2014.

Nigel Kwif, a 34-year-old single man from Norfolk was also an avid Spitter user, using the handle “@RedPill420BlazeIt”. He noticed the rising popularity of @MrsWallace, who had reached an impressive 120,000 followers by April 2014. Being an opponent of the Scottish Independence movement, and of Spitter users who were more popular than him, Kwif decided that revenge was in order. He decided to send a number of spits and DMs (direct messages) to @MrsWallace. The messages and spits that were sent over the course of 4 weeks included minor threats of hacking, mildly insulting messages, and the following spit:

“Stop spittin about independence becos its neva gunna happen okay William Wallace was a douche if you don’t stop im gonna kill u”.

Unfortunately for Nigel, neither the volume of @MrsWallace’s spits, nor her popularity declined and by May 2014 the account had almost half a million followers.

On 3 May 2014, Margaret was contacted by email from the account SupaSpy@Tepidmail.com, written by a man claiming to be Jack Steel, cyber security expert and Internet troll hunter. For a small fee of £15,000, Steel would not only hunt down @RedPill420BlazeIt, but would also close the account and hand over his details to the police. Margaret thought that the fee, although high, was necessary in order to stop
her cyber troll. She duly transferred the money through Bestern Union on 15 May 2014. To her surprise, not only did @RedPill420BlazeIt’s spits not subside, but Jack Steel also disappeared without a trace. At this point, Margaret contacted the police. After a police investigation, it was discovered that Jack Steel was none other than Nigel Kwif, aka @RedPill420BlazeIt, and had used his knowledge of both the Spitter trolling and Margaret’s relative inexperience to take her money. Kwif was arrested and charged.

On 15 July, at the court of first instance, Mallet J held firstly, on the basis of R v Nimmo & Orr [2014] that Kwif was guilty of an offence under s127(1) of the Communications Act 2003 for improper use of a public electronic communications network due to the series of offensive messages and spits. Secondly, it was held that Kwif was guilty of the theft of the £15,000, on the basis that he had dishonestly appropriated property belonging to Margaret Sconely.

Kwif now appeals to the Court of Appeal on the following grounds:

1. That, in light of the vastly different circumstances of R v Nimmo & Orr [2014] which led to a conviction under s127(1), and the relative placidity of Kwif’s spits, Kwif should not be guilty of an offence.

2. Kwif could not be guilty of theft, but only of fraud, as Sconely had voluntarily given up her money, thinking Kwif to be Jack Steel.
Sample Skeleton Argument

IN THE COURT OF APPEAL

BETWEEN:

R

Respondent

- v -

NIGEL KWIF

Appellant

SKELETON ARGUMENT OF THE SENIOR RESPONDENT

It is submitted that the current case is comparable to that of R v Nimmo & Ors [2014], and should therefore be decided similarly. Nevertheless, in the alternative that the Court finds the facts are dissimilar to those in R v Nimmo & Ors, Mr Kwif still fulfills the requirements for s 127 of the Communications Act 2003 and his conviction should stand.

Submissions:

1. The current case is comparable to that of R v Nimmo & Ors, and should therefore be decided similarly.

1.1. The factual difference between both cases is related to the aggravating features increasing sentencing, not to whether the message was grossly offensive or menacing.

2. Following Director of Public Prosecutions v Collins [2006] 1 WLR 2223 and Chambers v Director of Public Prosecutions [2013] 1 All ER 149 Mr Kwif fulfills the necessary actus reus and mens rea for s 127 of the Communications Act 2003.
2.1. Following *DPP v Collins*, a message is 'grossly offensive' if in taking account of the context and relevant circumstances a reasonable person would find it so, and if the person intends the message to be grossly offensive.

2.2. Following *Chambers v DPP*, a message is menacing if it causes fear and apprehension.

2.2.1. Applying this to the current facts, Mr Kwif's message was grossly offensive, he intended this to be the case, and Mr Kwif's spits caused fear and apprehension as Ms Sconely took steps to stop the Cyber troll.

2.3. Even if the facts are dissimilar to those in *R v Nimmo & Ors*, Mr Kwif still fulfills the requirements for s 127 of the Communications Act 2003, as the message was both grossly offensive and menacing.

**Authorities:**

*R v Nimmo & Ors* [2014]
*Director of Public Prosecutions v Collins* [2006] 1 WLR 2223
*Chambers v Director of Public Prosecutions* [2013] 1 All ER 149
Communications Act 2003

[Name]
Senior Respondent
A good bundle is the first step to winning the moot. What exactly is “the bundle of authorities”? As part of your submissions, you will be using case law and other sources to support your arguments.

These authorities will have to be printed and compiled. For easy reference, you are suggested to use dividers for each of the authorities that you will be using.

The next step is to ensure that the section that you wish to refer the judge to is highlighted. It will also be helpful to use a sticky tab or post-it note to label the specific page. This will allow you to easily refer the judge to a particular paragraph instead of having to flip through the pages of the judgment (some of which can be rather lengthy).

A good mooter ought to be familiar with the authorities that he or she is intending to rely on. It is thus extremely important that you are acquainted with the facts and judgment of the cases in your bundle of authorities. The judge may question you on certain parts of the judgment that you may not have highlighted in your submissions.

Below is a sample of a cover page for the bundle of authorities:-

<table>
<thead>
<tr>
<th>Tab</th>
<th>Item</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Moot Problem</td>
</tr>
<tr>
<td>2</td>
<td>Skeleton Argument (Senior Appellant)</td>
</tr>
</tbody>
</table>

**Case Authorities**

<table>
<thead>
<tr>
<th></th>
<th>Item</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Carill v Carbolic Smoke Ball Co [1893] 1 QB 256</td>
</tr>
<tr>
<td>4</td>
<td>Grainger &amp; Son v Gough (Surveyor of Taxes) [1896] AC 325</td>
</tr>
<tr>
<td>5</td>
<td>Partridge v Crittenden [1968] 1 WLR 1204</td>
</tr>
<tr>
<td>6</td>
<td>Lefkowitz v Great Minneapolis Surplus Stores 86 N2 2d 689 (1957)</td>
</tr>
</tbody>
</table>
Ready to get involved?
Check out www.kclmootingsociety.com for a full list of all our upcoming events.

Have any questions?
Email us at kclmooting@gmail.com

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Every effort has been made to ensure the information contained in this guide is accurate and updated.
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