

The logo for the New York City Bar, featuring the words "NEW YORK" and "CITY BAR" in a serif font, centered between two blue horizontal bars.

NEW YORK CITY BAR

SEVENTY-FOURTH ANNUAL NATIONAL MOOT COURT COMPETITION

CLARIFICATIONS TO THE RECORD

The below clarifications are included in the Amended Record on Appeal for the Seventy-Fourth Annual National Moot Court Competition. The Amended Record supersedes, in all respects, the prior version of the Record on Appeal. For purposes of briefing and oral argument, competitors and judges should refer to the Amended Record simply as the Record.

In issuing these clarifications to the Record, the Committee considered all requests for clarification submitted by competitors. Requests for clarification that were redundant or addressed matters that the Committee wished to leave as originally drafted are not addressed in the Clarifications below or in the Amended Record. The Committee reminds competitors that, including the changes noted below, the Record is complete and accurate in all respects regarding the events that led to this appearance before the United States Supreme Court.

For the purpose of this competition, the Supreme Court has only granted certiorari as to the Questions Presented. The Court has accepted the parties' stipulations of law in order to ensure that briefing is focused on the certified issues. Counsel may assume that the Court would not look favorably on arguments that are foreclosed by the stipulations.

Note that many of the clarifications reflected in the Record are stated more generally. Please refer to the "Amended Record on Appeal (with changes in redline) – 73rd Annual National Moot Court Competition" to view the portions of the Record that have been altered.

1. We have added the civil enforcement action brought by the United States Securities and Exchange Commission (the "SEC") against Kim Possible for the violation of Section 17(b) of the Securities Act of 1933.
2. We have added the complaint brought by a private plaintiff, Dr. Henry Drakken, alleging the violation of Section 12(a)(2) of the Securities Act of 1933.
3. We have included that Kim Possible does not challenge that the OCTOCoin is a security, subject to the United States federal securities laws.

4. We have clarified that SEC has plenary authority and broad discretion to enforce the nation's securities laws. Note that although a particular provision has been afforded a private right of action does not in any way prevent the SEC from enforcing that provision, or any provision of the securities laws.
5. We have revised the questions on certiorari to the Supreme Court of the United States to clarify the issues to be decided by the Court.
6. We have revised and clarified the procedural posture throughout the record.
7. We have clarified that OCTOCoin management drafted the February 1, 2023 promotional post and that Kim Possible published the post to her Y account.
8. We have included, revised, or clarified various factual details throughout the record.
9. We have clarified that for the purposes of oral argument, the same attorney will represent both the SEC and the private plaintiff, Dr. Henry Drakken. You should assume that there are no conflict of interest issues in such a representation.