

Tips for Giving an Effective Oral Argument

I. Preparation

- A. Decide whether to ask for oral argument.
- B. Understand the purpose of an argument: Dialogue.
- C. Think about the essence of what your case is about.
- E. Plan to be flexible.
- D. Anticipate all questions—hard questions and easy questions.
- E. Know the record. Know the law. Know how the law applies to the facts in your case.
- F. Think about the limits of your position.
- G. Visit the courtroom or go to the court's website and watch an argument or two.
- H. Learn about the judges on your panel.

II. Beginning Your Argument

- A. Tell us – in one minute – who you are, who you represent, what the case is about, and why you should prevail under existing precedent.
- B. Lead off with your strongest argument.
- C. Be correct in the law, but also advocate for justice and fairness in the result.
- D. Probably not beneficial to rehash a lot of the record.
- E. Keep in mind that the COA is an error correcting court.

F. Understand appellate standards of review.

III. Responding to Questions

A. Anticipate questions. Brainstorm if you can.

B. Welcome questions.

C. Answer questions directly, without conceding, if you can.

D. Concede if you must.

E. If you are evasive or non-responsive to a question, it looks like your opponent's answer is the right one.

F. If there are questions about a particular case, explain the rationale behind the case.

G. Explain why you should prevail even with the weaknesses in your case.

IV. Credibility

A. Don't be perturbed by the position of opposing counsel and by statements made by opposing counsel. Focus on the panel.

B. Don't be disrespectful of the trial judge.

C. If you don't know an answer to a question, say so.

V. Time Management

A. You don't need to use up all of your time.

B. Appellant: reserve time for rebuttal. But watch your time.

C. Don't keep talking once the light turns red.