



*The mission of the Court of Appeals is to provide the citizens of Colorado with clear, impartial, and timely resolutions of appealed orders and judgments as provided by law.*

## Oral Argument Procedures and Protocols



A Court of Appeals courtroom

Oral arguments are video recorded through a live stream and will also be archived on the state judicial branch website. Please do not disclose confidential or sensitive information. Please also do not refer to minors or to victims of sexual assault using their names. Use either initials or refer to them generically (e.g., “the victim,” “the child,” etc.).

### **Time Limits:**

- ◇ Each side is allocated 15 minutes for oral argument, unless the court has granted additional time. When more than one lawyer represents two or more parties on one side, counsel will need to decide how to divide the time. Understand that questions and comments may intrude into the other attorney’s time.
- ◇ The digital timer indicates how much time remains. The light is green for the first ten minutes, turns yellow when five minutes remain, and turns red when time is up.
- ◇ Appellant may reserve time for rebuttal argument.

### **Protocols:**

- ◇ To facilitate the video and audio recording of the argument, please do not stray from the microphone or the lectern during your argument. A red light on the microphone lights up when it is picking up your voice.
- ◇ There is a toggle switch on the lower right side of the podium that you may use to adjust the height of the podium.
- ◇ When you begin your argument, please state your name and attorney registration number.
- ◇ Please silence all electronic devices.

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# Some Tips for a More Persuasive Oral Argument

## Advance Preparation

- ⇒ Know the record
- ⇒ Know the law (yours and your opponent's)
- ⇒ Know the standard of review
- ⇒ Prepare to answer the questions you are likely to get
- ⇒ Consider what you can and cannot concede
- ⇒ Consider the relief you are seeking
- ⇒ Know that we have all read the briefs and at least one of us has reviewed the record in detail
- ⇒ Consider the time limit, anticipating that we will ask questions
- ⇒ Check for *new* authority that might require a supplemental filing (and timely file any such authority)
- ⇒ Remember that the purpose of oral argument is not just to persuade but also to assist the court

## Being Persuasive

- ⇒ Credibility counts
- ⇒ Be respectful to the court and your opponent
- ⇒ Get to the legal issues, arguing your strongest issue(s) first, and don't spend your limited time recounting the facts
- ⇒ Welcome our questions; they are windows into our concerns about the case
- ⇒ Listen to our questions and answer the questions we ask; we want your help
- ⇒ Pay attention to the cues we may be giving you about what is important to us
- ⇒ Be flexible and go where we take the argument
- ⇒ Do not be afraid to address weaknesses in your case
- ⇒ Tell us the relief you are seeking
- ⇒ Remember that the best oral argument feels like a discussion about the law

## Some Things to Avoid

- ⇒ Arguing facts or law not in the record or appellate briefs
- ⇒ Belittling opposing counsel, their arguments, or the trial court
- ⇒ Making jury arguments or arguing facts that were resolved against your client
- ⇒ Reading from the briefs, cases, or your outline
- ⇒ Acting perturbed when you are asked a question
- ⇒ Postponing an answer to a more convenient time
- ⇒ Talking when a judge is talking
- ⇒ Rushing to make all of your remaining points in your last few seconds
- ⇒ Repeating your arguments or responding to immaterial points in rebuttal
- ⇒ Arguing after your time has expired

