

Preparing for Oral Argument
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One of the most rewarding parts of my appellate practice is oral argument and the opportunity to engage the judges and shape their thinking about the case even after briefing is complete. Effectively using the short time that I get at the podium, however, requires an enormous amount of preparation. I generally prepare in four stages.

First, about one month before oral argument, I sit down with the briefs and record excerpts. I try to put myself in the shoes of an impartial judge to identify what is most (and least) persuasive in both parties' briefs to someone reading these materials for the first time. I also jot down every question that occurs to me, no matter how small. This exercise helps me re-familiarize myself with the case, identify effective themes for argument, and prepare practice questions.

Second, I do a deep dive into the case, including reviewing the record, case law, and other authorities. It is essential *not* to rely on the briefing or prior notes for this. Re-visiting the source materials ensures that I will represent them accurately at oral argument and yields new insights. I may, for example, notice that a cited case has a helpful parallel that was previously overlooked, find an impactful quotation for argument, or discover a useful rebuttal in a concurrence or dissent. I also update my research for any developments that may have occurred since the close of briefing. At the end of this stage, I have a detailed outline of arguments and authorities, an even longer list of practice questions, and a stack of annotated cases and record materials.

Third, I work on the presentation itself. Oral argument time is short, so I must be concise without sacrificing complexity or accuracy. I also need pivot strategies if I become bogged down on a single issue or unfavorable line of questioning, and memorable turns of phrases and analogies to crystallize complicated points at argument. In my experience, the best way to prepare for all of this is out-loud, on-my-feet practice, both on my own and (if possible) by holding a moot argument. I also whittle down my outline until it is just a page or two of key phrases and authorities, and prepare a sheet of essential case and record citations. Anything longer is useless in the heat of argument.

Finally, on the morning of argument I focus on putting myself in the right frame of mind. After years of litigation, it is easy to become combative in response to a skeptical question or the other side's presentation. I remind myself that oral argument is a chance to provide information to neutral judges whose only goal is to reach a fair and correct judgment, and that goodwill towards the audience—not defensiveness—is the key to persuasion. That mindset helps me be both a better listener and advocate at the podium.

Happy arguing!