

**Preparing for Oral Argument:
Review, Rehearse, Refine, Repeat**

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You are working through an email backlog when you spot these five important words in a subject line – *Case Tentatively Calendared for Argument*. This short declaration typically inspires some immediate excitement and anticipation. But those initial feelings eventually give way to the sobering realizations that briefing concluded months ago, you've not thought much about the case since then, and the countdown to the green "go" light on the podium has begun.

This upcoming argument date is like a rivalry game circled on a team's schedule months in advance. Coaches approaching that big event often speak of "sticking to their process." That is, no matter the opponent, date, location, or stakes, they follow a trusted, time-tested preparatory routine. Drawing on mentors and personal experience as an advocate and supervisor, my oral-argument prep process is to review, rehearse, refine, and repeat.

Review. First, create a binder with the briefs, district-court opinion on review, and key cases, then read everything multiple times. My office typically represents appellees, so I spend some extra time reviewing the reply to see if anything warrants special attention in the argument outline. Only once I've sufficiently re-familiarized myself with the briefs and record do I begin outlining. That first-draft outline is usually an overlong, wordy mess, but that's expected. The next steps in the process will transform that clutter into the concise, two-page roadmap you'll have opened on the podium while arguing.

Rehearse. My ideal moot team includes one panelist knowledgeable about the case, or at least the issues, and someone new to the matter. We begin with a general roundtable discussion about our step-one review: Why did this case land on the argument calendar? Relatedly, what issues may concern the Court? Where are we strong? Where are we vulnerable? Then, I typically do a cold-panel, no-question time trial using my messy first-draft outline. Inevitably, it runs at or over the full 20 minutes, triggering significant work in the next step.

Refine. The goals in this step are to synthesize and incorporate the roundtable comments from the moot, and sweat down my first-draft outline to a workable two pages that runs about eight to 12 minutes without interruption. This target time should leave ample room for questions without sacrificing the critical portions of the argument. Working off the messy first draft, aim to reduce sentences to phrases, phrases to word triggers, then commit those triggers to memory. Some necessary deletions from the first draft often find their way to a back-up document available at the podium if needed, albeit under the principal outline. An ideal secondary resource

document should include short summaries of key cases, ROA citations, and draft responses to tricky questions anticipated from a hot panel, but not otherwise part of the presentation to a cold one. Finally, consider a short list of indispensable yellow-light points just in case a red-hot panel has steered you off your prepared remarks for the green-light portion of the allotted time.

Repeat. Continue steps one through three in the week leading up to argument. Once the Court identifies your panelists, see if any authored or joined opinions relevant to your issues. KeyCite your main cases a final time to ensure no derogatory commentary has developed since the briefing. Then, reconvene your moot team to test drive your refined outline. This moot should resemble the actual argument as closely as possible – argue it on your feet, time it at 20 minutes (with a two-minute, yellow-light warning), and instruct your moot panel to question you unmercifully. An effective moot will test you on the past (case precedent and the ROA), the present (the parties’ briefing), and the future (hypotheticals and the down-the-line effects of your requested relief). I’ll usually make some minor refinements to my outline after this moot, but try to avoid any major upheaval. At this stage, consistency creates confidence, and that’s the characteristic I want to cultivate for that walk to the podium at kickoff time.