

How to prepare for oral argument

Steps to PREPARE FOR ORAL ARGUMENT

- **Review all the information in the appeal.** That includes the record on appeal, the arguments both sides made in the briefs, and the important legal authorities.
- **Do not plan too much to say.** Think realistically about how many points you can make in a short amount of time. Remember the justices may also ask you questions during your time for oral argument.
- **Focus your argument on legal issues.** Appeals usually center on one or two crucial issues. So focus on talking about the legal principles that you believe apply to those crucial issues. Do not focus on talking about facts from the trial court case.
- **Make an outline.** Prepare your key talking points in an outline to help you be clear about the most important things you want to say. You can use the outline when you make your oral argument before the justices.
- **Check the laws that you referenced in your brief.** Make sure the law has not changed. Check your legal authorities (published court decisions, constitutions, statutes, court rules or others in your brief) to see if they are outdated. Cases may have been overruled or depublished (which means they may or may not be cited as authority). New laws may be in place.
- **Notify the court and other parties if you find new laws.** If you find out that any authority in your briefs is not valid anymore *or* if you discover new authorities, then notify the court and other parties in writing as many days before oral argument as possible. This is especially important if you want to talk about the new authorities at oral argument. You only need to provide the legal citations. You cannot write a legal argument or discussion. Remember to include proof of service on opposing counsel, or on other parties if they are self-represented.
- **Do not focus on visuals.** Exhibits and charts are not likely to help you in oral argument because the justices will focus on legal issues not on disputing the facts.
- **Practice your argument.** You can use your outline and practice with others. In court, you may choose to use some of your time to respond to arguments made in the other side's brief. Read the other side's brief again and try to think of what he or she will argue. Practice your response. You can also put yourself in the shoes of the Court of Appeal and think about questions they might ask.
- **Watch an oral argument.** If you have time, go to the court before your argument date and watch some oral arguments. Check the court's website or call the clerk's office for calendar information to make sure you go on a day when there are oral arguments scheduled. Oral argument is open to the public, so you do not need special permission to attend. Some courts broadcast oral argument online to allow for viewing of oral arguments remotely and without requiring a viewer to be physically at

the court. For live-streaming options of oral arguments, you can visit the California Courts website.

[Get the Step-by-Step Guide on How to Prepare for Oral Argument \(pdf\)](#)