GUIDE
FOR
COUNSEL

IN CASES TO BE ARGUED

BEFORE THE

SUPREME COURT OF
THE UNITED STATES

October Term 2008 (Revised)

Prepared by:
Clerk of the Court
Supreme Court of the United States
1 First Street, N. E., Washington, D. C. 20543
www.supremecourtus.gov

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SUPREME COURT OF THE UNITED STATES

GUIDE FOR COUNSEL IN CASES TO BE ARGUED
BEFORE THIS COURT

I. INTRODUCTION

This guide is designed to assist attorneys preparing cases for argument before this Court, especially those who have not previously argued here. It is not a substitute for the Rules of the Supreme Court. Counsel should familiarize themselves with the Rules, effective **October 1, 2007.**

The Clerk will notify counsel when the Court enters an order noting probable jurisdiction, postponing jurisdiction, or granting a petition for a writ of certiorari. Counsel will be furnished written instructions concerning information on the preparation and filing of the joint appendix and the briefs on the merits. A specification chart that clearly displays the colors to be used for the covers of briefs will also be furnished. Please read these materials carefully, as they set forth certain steps counsel must take. Any questions counsel have respecting cases to be argued shall be directed to the Clerk through the Merits Cases Clerk, Denise McNerney, 202–479–3032. Since all records are kept by docket number, it is important that counsel have at hand the Supreme Court docket number when seeking information. IMPORTANT: The Merits Cases Clerk must be notified immediately of any changes, including any change of counsel. The Merits Cases Clerk relies upon those attorneys listed as counsel of record for all communications, as do parties interested in filing *amicus* briefs when making their requests for letters of consent.

When a party changes counsel of record, or when any party of a multi-party side of a case originally represented by one attorney at the petition stage choose to separately retain counsel of record, a letter must be submitted to the Clerk and all other counsel of record indicating such.

II. ORAL ARGUMENT

A. SCHEDULING & PREPARATION

Oral arguments are normally conducted during October through April. A 2-week session is held each month with arguments scheduled on Monday through Wednesday of each week. Unless the Court directs otherwise, each side is allowed one-half hour for argument. The Court generally hears argument in 2 cases (hours) each day beginning at 10 a.m. and adjourns after the argument in the second case ends, usually around noon. If more than two cases are to be argued in one day, the Court will reconvene at 1 p.m. to hear the additional arguments. Rules 27 & 28 contain additional information concerning oral arguments.

When your case has been calendared for argument, the Clerk will send a notice to counsel, together with a map of Capitol Hill and an argument form to be completed and returned promptly. Please note that after the argument schedule is set, the Clerk cannot make changes.

If counsel have any longstanding professional or religious commitments or for some reason cannot appear for oral argument on any date in the future (particularly within the two argument sessions following the due date of respondent's brief), these matters must be called to the Clerk's attention by letter with a copy to opposing counsel. To the extent possible, the Clerk will endeavor to schedule the oral argument to avoid conflicts.

Please advise the Clerk of any necessary accommodations (*e. g.*, a wheelchair), to permit the Clerk and the Marshal to make suitable arrangements at the counsel tables.

B. DAY OF ARGUMENT

Arguing counsel and co-counsel who will be seated at the counsel tables for cases to be argued in the morning must report to the Lawyers' Lounge on the first floor of the Court between 9:00 and 9:15 a.m. on the day of argument. The Clerk will brief counsel at this time on Courtroom protocol, answer any last minute questions they may have, and issue counsel and co-counsel identification cards. Arguing counsel and co-counsel whose cases are scheduled for the afternoon session need not be present in the morning for the Clerk's briefing or the oral arguments. They must report to the Lawyers' Lounge between 12:15 and 12:30 p.m. for a briefing by the Clerk. Should counsel find themselves in need of anything unexpectedly, the Clerk will accommodate counsel's needs (*e. g.* cough drops, sewing kit).

If arguing counsel and co-counsel encounter a line when they arrive at the Court building, they should proceed to the front of the line, identify themselves to the Police, and proceed into the building.

Appropriate attire for counsel is conservative business dress in traditional dark colors (*e. g.*, navy blue or charcoal gray).

No personal computers, cellular phones, cameras, PDAs, or any other electronic devices are allowed in the Lawyers' Lounge or the Courtroom. They must be checked in a locker at the Court. Lockers are located at the front of the building on the first floor (Courtroom level). Coats, hats, and papers of arguing counsel and co-counsel may be left in the Lawyers' Lounge.

The Court has a large, residential corps of journalists who follow its docket closely. No interviews or news cameras are permitted in the Court building; however, they are allowed on the front plaza on argument days, where reporters frequently wait there to talk to counsel after argument has concluded.

Transcripts of oral arguments will be posted on the Supreme Court Website (www.supremecourtus.gov) on the

same day the argument is heard by the Court. To obtain a copy of a transcript, contact Alderson Reporting Company, 800–367–3376 or 202–289–2260. Any noted errors in a transcript should be brought to the attention of the Marshal of the Court, 202–479–3333.

Courtroom artists, who are employed by various news organizations, may be contacted in advance to commission a sketch on the day of oral argument. The Public Information Office, 202–479–3050, will provide the names and phone numbers of such artists upon request.

C. SEATING FOR COUNSEL

After you have met with the Clerk and received your identification card, you should report immediately to the Courtroom officials inside the railing to be assigned an appropriate seat. You should advise the Courtroom officials if you are scheduled to move the admission of an attorney.

Four seats are available at each counsel table in the Courtroom. When only one counsel is to argue a case per side, the arguing counsel and three co-counsel will be accommodated at the table. If divided argument has been granted and two counsel are to argue on the same side, the Court will accommodate only one co-counsel per each arguing counsel at the table.

The quill pens at counsel table are gifts to you—a souvenir of your having argued before the highest Court in the land. Take them with you. They are handcrafted and usable as writing quills.

It is appropriate for co-counsel to occupy the arguing counsel's chair when the latter is presenting argument. Except in extraordinary circumstances, co-counsel do not pass notes to arguing counsel during argument.

D. IN THE COURTROOM—ORDER OF BUSINESS

Arguing counsel and their co-counsel should be settled in the Courtroom and seated in their assigned seats at the counsel tables about 5 minutes before Court is scheduled to open. The Marshal of the Court cries the Court in at 10

a.m. The Chief Justice makes routine announcements (*e. g.* orders are released). Opinions, if any, are then released. The authoring Justice will read a summary of the opinion; this takes about five minutes for each opinion. Motions for admission to the Bar occur next. The Chief Justice will then announce that the Court will hear argument in the first case for argument that day. If you are counsel for the petitioner, you should proceed promptly to the lectern—do not wait for the Chief Justice to issue an invitation. Remain standing at the lectern and say nothing until the Chief Justice recognizes you by name. Once he has done so, you may acknowledge the Court by the usual: "Mr. Chief Justice and may it please the Court. . . ." Do not introduce yourself or co-counsel. Under the present practice, "Mr." is only used in addressing the Chief Justice. Others are referred to as "Justice Scalia," "Justice Ginsburg," or "Your Honor." Do not use the title "Judge." If you are in doubt about the name of a Justice who is addressing you, it is better to use "Your Honor" rather than mistakenly address the Justice by another Justice's name.

E. YOUR ARGUMENT

1. Preparation

Many attorneys find it very educational to attend a Courtroom session before their scheduled argument day. If you choose to do this, feel free to come by the Clerk's Office and introduce yourself to the Clerk. The same applies to the Marshal.

Remember that briefs are different from oral argument. A complex issue might take up a large portion of your brief, but there might be no need to argue that issue. Merits briefs should contain a logical review of all issues in the case. Oral arguments are not designed to summarize briefs, but to present the opportunity to stress the main issues of the case that might persuade the Court in your favor.

It has been said that preparing for oral argument at the Supreme Court is like packing your clothes for an ocean cruise. You should lay out all the clothes you think you will

need, and then return half of them to the closet. When preparing for oral argument, eliminate half of what you initially planned to cover. Your allotted time passes quickly, especially when numerous questions come from the Court. Be prepared to skip over much of your planned argument and stress your strongest points.

Some counsel find it useful to have a section in their notes entitled "cut to the chase." They refer to that section in the event that most of their time has been consumed by answering questions posed by the Justices. This allows them to use the few precious minutes remaining to stress their main points.

If your argument focuses on a statute, regulation, or ordinance, be sure that the law is printed in full in one of your pleadings so that you can refer the Justices to it and they can be looking at it during your argument.

Do not bring numerous volumes to the lectern. One notebook will suffice. Please note that a legal sized pad does not fit on the lectern properly. Turning pages in a notebook appears more professional than flipping pages of a legal pad. Some brave counsel know their cases so well that they argue without any notes.

Know the record, especially the procedural history of the case. Be prepared to answer a question like: "Why didn't you make a motion for summary judgment?" You have the opportunity to inform the Justices about facts of which they are not aware. Justices frequently ask: "Is that in the record?" Be prepared to answer. It is impressive when you can respond with the volume and page where the information is located. It is also quite effective to quote from the joint appendix. Do not make assertions about issues or facts not in the record.

Know your client's business. One counsel representing a large beer brewing corporation was asked the following by a Justice during argument: "What is the difference between beer and ale?" The question had little to do with the issues, but the case involved the beer brewing business. Counsel gave a brief, simple, and clear answer that was understood

by everyone in the Courtroom. He knew the business of his client, and it showed. The Justice who posed the question thanked counsel in a warm and gracious manner.

For an excellent example of a counsel who was intimately familiar with her client's business, see the transcript of argument in *United States* v. *Flores-Montano*, 541 U. S. 149 (2004). The case dealt with the searching of vehicle gas tanks by customs agents at an international border. Government counsel had a total grasp of why and how the agents conducted the searches and provided convincing explanations to all questions posed by the Court.

The following are excellent sources of information for arguing counsel: *Making Your Case, the Art of Persuading Judges*, by Justice Antonin Scalia and Bryan Garner; Chapter 14, Oral Argument, *Supreme Court Practice* (9th ed.), by Eugene Gressman, Kenneth Geller, Stephen Shapiro, Timothy Bishop, and Edward Hartnett; and *Supreme Court Appellate Advocacy: Mastering Oral Argument*, by David Frederick.

2. Time

Your argument time is normally limited to 30 minutes. You need not use all your time. Counsel for the respondent in *Whitfield* v. *United States*, 543 U. S. 209 (2005) argued for only 10 of the allotted 30 minutes. Counsel for the respondent in *Burgess v. United States*, 553 U. S. —— (2008) argued for only 7 of the allotted 30 minutes. Both respondents prevailed in unanimous decisions of the Court.

Unless you make other arrangements with the Marshal, the white light on the lectern will be activated when five minutes of your allotted time remains. The red light will be activated when your time has expired. Upon request prior to argument, the Marshal will flash the white light at a time requested by counsel.

When the Marshal activates the white light you should be prepared to stop your argument in five minutes. When the red light comes on, terminate your argument immediately and sit down. If you are answering a question from a Justice,

you may continue your answer and respond to any additional questions from that Justice or any other Justice. In this situation you need not worry that the red light is on. Do not, however, continue your argument after the red light comes on.

In a divided argument, it is effective for counsel to inform the Court of their argument plan. For example, petitioner's counsel might say: "I will cover the Fourth Amendment aspects of this case and counsel for the *amicus* will argue the Fifth Amendment issues."

Regardless of how many attorneys argue in a case, only one is permitted to present rebuttal argument. If two counsel argue for the petitioner, the one who argued first should be the one to present rebuttal. A petitioner's counsel who wants to reserve time for rebuttal should, about five minutes before the allotted time is to expire (white light), say, "If there are no further questions, I would like to reserve the remainder of my time for rebuttal." Petitioner's counsel then sits down and the Chief Justice calls on the respondent's counsel for argument. Respondent's counsel proceeds to the lectern, waits for acknowledgment by the Chief Justice, and then opens with: "Mr. Chief Justice and may it please the Court." When respondent's counsel has finished and gathered all items from the lectern, petitioner's counsel should return to the lectern and wait for acknowledgment by the Chief Justice at which time he will say, *e. g.*, "You have 5 minutes remaining." You may begin your rebuttal at this time without having to repeat, "Mr. Chief Justice and may it please the Court."

Promptly and quietly vacate the front argument table after the Chief Justice announces that "The case is submitted." Counsel at the back-up tables should move to the front tables for the next case. You may move to the back-up table if you wish to listen to the next argument.

3. Protocol

The Supreme Court is not a jury. A trial lawyer tries to persuade a jury with facts and emotion. At this Court,

counsel should try to persuade the Court by arguing points of law.

Your argument should focus only on the question or questions presented in the petition that was granted. Do not deviate from it.

Ordinarily, the Justices will know whether you are making your first argument before the Court. Be assured that some first-time arguments have been far superior to presentations from counsel who have argued several times.

As noted, if your argument focuses on a statute, regulation, or ordinance, be sure that the law is printed in full in one of your pleadings so that you can refer the Justices to it and they can be looking at it during your argument.

Counsel for the petitioner need not recite the facts of the case before beginning argument. The facts are set out in the briefs, which have been read by the Justices.

You should speak in a clear, distinct manner, and try to avoid a monotone delivery. Speak into the microphone so that your voice will be audible to the Justices and to ensure a clear recording. Avoid having notes or books touch the microphones, since this interferes with the recording process. Under no circumstances should you read your argument from a prepared script.

You should not attempt to enhance your argument time by a rapid fire, staccato delivery.

Exhibits can be useful in appropriate cases, but be very careful to ensure that any exhibit you use is appealing, accurate, and capable of being read from a distance of about 25 feet. Be sure to explain to the Court precisely what the exhibit is. Counsel must advise the Clerk of the intent to use an exhibit as soon as possible. For a good example of an exhibit used at oral argument in this Court, see *Shaw* v. *Reno*, 509 U. S. 630, 658 (1993).

You should be knowledgeable about what is and is not in the record in your case. Justices frequently ask counsel if particular matters are in the record. If you are asked a question that will require you to refer to matters not in the

record, your answer should so state; then proceed to respond to the question unless advised otherwise by the Justice.

Never interrupt a Justice who is addressing you. Give your full time and attention to that Justice—do not look down at your notes, and do not look at your watch or at the clock located high on the wall behind the Justices. If you are speaking and a Justice interrupts you, cease talking immediately and listen.

When a Justice makes a point that is adverse to you, do not "stonewall." Either concede the point, as appropriate, or explain why the point is not dispositive of your case and proceed with your argument.

Do not "correct" a Justice unless the matter is essential. In one case a Justice asked a question and mentioned "waiver." Counsel responded by stating that a "forfeiture" rather than a "waiver" was involved. The distinction was irrelevant, but the comment generated more questions and wasted valuable time.

Be careful to use precise language. In one case, counsel stated, "The Supremacy Clause does not apply in this case." A Justice responded: "The Supremacy Clause applies in every case. Perhaps counsel meant that the statute in question does not conflict with the Supremacy Clause."

Be careful not to use the "lingo" of a business or activity. The Court may not be familiar with such terms, even if widely understood within that business or activity. For example, you should not say "double-link connector" or "section 2b claims" unless you have explained what those terms mean. Similarly, do not use the familiar name of your client during argument. For instance, say "Mr. Clark denied the request" rather than "Buddy denied the request."

Do not refer to an opinion of the Court by saying: "In Justice Ginsburg's opinion." You should say: "In the Court's opinion, written by Justice Ginsburg."

If you quote a document verbatim (*e. g.*, a statute or ordinance), tell the Court where to find the document (*e. g.*, page 4, appendix B to the petition).

Attempts at humor usually fall flat. The same is true of attempts at familiarity. For example, do not say something like: "This is similar to a case argued when I clerked here." Do not denigrate opposing counsel. It is far more appropriate and effective to be courteous to your opponent.

Avoid emotional oration and loud, impassioned pleas. A well-reasoned and logical presentation without resort to histrionics is easier for listeners to comprehend. Do not argue facts. Argue to the question or questions of law presented in the petition for a writ of certiorari that was granted.

Counsel for respondents are often effective when they preface their argument by answering questions that petitioner's counsel could not answer or answered incorrectly or ineffectively. This can often get you off to a positive start.

If your opponent is persuasive on a certain theme during argument, especially one that was not anticipated, you should address that issue at the outset of argument or rebuttal argument rather than adhere to a previously planned presentation. You take a great risk if you ignore a persuasive point made by your opponent.

Rebuttal can be very effective. But you can be even more effective if you thoughtfully waive it when your opponent has not been impressive. If you have any rebuttal, make it and stop. There is no requirement that you use all your allotted time.

4. Answering Questions

You should assume that all of the Justices have read the briefs filed in your case, including *amicus curiae* briefs. Expect questions from the Court, and make every effort to answer the questions directly. If at all possible, say "yes" or "no," and then expand upon your answer if you wish. If you do not know the answer, it is suggested you so state. On one occasion, instead of responding to a question from a Justice, an attorney posed a question to the Justice, only to have another Justice chastise him for doing so.

Anticipate what questions the Justices will ask and be prepared to answer those questions. If a case with issues similar

to yours was previously argued in this Court, consider obtaining a transcript of the oral argument in that case to review. That might help you anticipate questions that those Justices who heard the previous case might ask in your case.

If a counsel stumbles on a question from the Court or does not fully answer it, it is a good tactic for an *amicus curiae* counsel supporting that counsel's side to begin argument by repeating the question and answering it correctly and completely. The *amicus* counsel will have had time to reflect on the initial question and perhaps develop a better answer.

A Justice will often ask counsel seeking to establish a new precedent: "Do any cases from this Court support your position?" Be ready for the question, but be careful to cite only those cases that truly support your position. Do not distort the meaning of a precedent. The author of the opinion is likely to be a member of the Court and to have a remarkable memory of exactly what the opinion says. If you are relying on a case that was announced by a "plurality opinion," be sure to mention that there was no "opinion for the Court" in the case.

In appropriate cases, suggest to the Court that bright-line rules should be adopted and suggest what they should be.

If a question seems hostile to you, do not answer with a short and abrupt response. It is far more effective to be polite and accurate.

If a Justice poses a hypothetical question, you should respond to that question on the facts given therein. In the past, several attorneys have responded: "But those aren't the facts in this case!" The Justice posing the question is aware that there are different facts in your case, but wants and expects your answer to the hypothetical question. Answer, and thereafter, if you feel it is necessary, say something such as: "However, the facts in this case are different," or "The facts in the hypothetical question are not the facts in this case." A "yes" or "no" answer might be suitable for a narrow question. Nevertheless, your answer should be carefully tailored to fit the question. A simple "yes" or "no" in response to a broad question might unintentionally concede

a point and prompt a follow-on question or statement which ultimately may be damaging to your position.

When other Justices ask questions before you complete your answer to the first Justice, you should take a commonsense approach in determining which of the questions to answer first. You might consider responding to the last question, indicating, if you believe it to be the proper thing to do, that you will answer that question first before completing your answer to the prior question. Alternatively, you may indicate to the last questioner that it would assist you in making your response if you could first conclude your answer to the first Justice's question, at which time you would complete your response to the first Justice. There is no definite rule of protocol. However, ordinarily if two Justices start to speak at once, the junior Justice will withdraw in deference to the senior. Perhaps by analogy you could respond to the senior Justice's question first, and then address questions from junior Justices.

III. COURTROOM SEATING

Courtroom seating is extremely limited. Spectators are seated first come, first seated, either for an entire argument or on a short (three minute) rotation to view proceedings. Groups can request reserved seating of up to 15 persons by writing the Marshal of the Court as far in advance as possible.

If arguing counsel desires to reserve space in the public section, counsel must contact the Marshal's Office after completing and returning the argument form to the Clerk. A letter concerning reservations, including the names of guests, should be sent to: Marshal, Supreme Court of the United States, Washington, D. C. 20543. The Marshal, depending on available space, will endeavor to accommodate as many of your guests as possible—not exceeding six spaces per side. When two counsel are arguing on one side, those counsel are each permitted a maximum of four spaces, subject to availability.

When your guests arrive at the Court on the argument day, they should check coats, hats, briefcases, cameras, electronic equipment, and similar items in the cloakroom (Courtroom level) that is located on the first floor by the Main Door. They should then proceed to the Marshal's Office, which is located to the right as you face the main entrance to the Courtroom. An attendant, seated at a small table in the hallway outside the Marshal's door, will receive your guests. Guests must be escorted through the metal detectors and into the reserved seating area of the Courtroom.

Members of this Court's Bar are invited to sit inside the brass railing. Before entering, they will be required to report to the Clerk's assistant who is seated adjacent to the statue of Chief Justice John Marshall in the Lower Great Hall on the ground floor. Use the north entrance door (Maryland Ave. side of the building) to reach the check-in desk. The north entrance opens at 7:30 a.m. The Supreme Court Bar check-in process normally begins at 9:00 a.m. Show the assistant a photo identification card and your name will be checked against the Bar membership roster. Inform the assistant if your name is different from the one used when you were admitted to the Bar. Bar members will be issued a pass and directed to proceed to the Courtroom on the first floor. Seating is on a first come, first seated basis. Bar members may leave hats, coats, and papers in the Lawyers' Lounge. When the Bar section is filled, remaining Bar members will be seated in the Lawyers' Lounge where arguments can be heard through a loudspeaker. Bar members are asked to wear professional business attire.

If you or a guest needs an impaired hearing device, please request assistance from the Marshal's Office.

IV. DECISIONAL PROCESS

After a case has been argued, the Court will vote at a Conference, and the case will be assigned to a Justice to write the majority opinion. Opinions may be handed down at any time after the argument. The only information the

Clerk or his staff can give you in this regard is that cases argued during the Term are usually decided before the end of June.

Opinions are released in the Courtroom on any day the Court is sitting, but usually on Tuesday or Wednesday when the Court sits for oral argument and on Monday when the Court sits for the announcement of orders and group Bar admissions. Counsel should also be aware that in June the Court frequently adds additional sittings to announce opinions. Counsel may call the Clerk's Office or Public Information Office on Friday afternoons to learn the schedule for the coming week.

Opinions are typically announced at 10 a.m. and are released to the public and news media—in both written and electronic form—as they are read from the Bench. When an opinion is announced, an Assistant Clerk will call arguing counsel and advise them of the ruling. However, due to time zone differences, counsel might not be notified until several hours after the media have had access to an opinion. Opinions are available on the Court's Website and other Websites soon after announcement. Copies of opinions are mailed to arguing counsel and counsel of record on the day of release.

The judgment or mandate of the Court will be issued by the Clerk following the end of a 25-day period after the release of the opinion, unless a petition for rehearing has been timely filed. Rule 45.

If the petitioner prevails, the Clerk will provide for an award of costs, if appropriate, in the judgment or mandate. Only the costs of printing the joint appendix and the docketing fee may be awarded. Rule 43.

V. RECORDS

If the certified record of the proceedings below has not been filed previously in this Court, the Clerk will request the clerk of the court possessing the record to certify and transmit it to this Court. This is generally done upon the

Court's scheduling of a case for oral argument. Consequently, if counsel desires to have the record remain in the lower court for a certain period of time, counsel must notify the Clerk's Office immediately. Rule 16.2.

VI. JOINT APPENDIX & MERITS BRIEFS

1. Preparation. Rules 25, 26, 33.1 & 34

The time for filing and preparation requirements for the joint appendix are governed by Rule 26. Preparation of the joint appendix may be deferred until after the briefs have been filed upon approval of the Clerk. Deferral of the joint appendix is not favored. Parties wishing to dispense with the requirement of the joint appendix must seek leave of the Court. Rule 26.7.

Because the entire certified record is available to the Court for reference and examination, only those significant portions of the record which have not been included within a brief for filing with the Court, and which are directly relevant to the issue/s for the Court's consideration, shall be included in the joint appendix. A brief may always cite directly to anything contained in the certified record.

Counsel for the petitioner must keep the Clerk advised respecting any disagreement on the designations or dates when the designations are made concerning the joint appendix. Copies of the designations need not be forwarded to the Clerk.

The time for filing the parties' briefs on the merits is dictated by Rule 25. Content requirements and word limits are governed by Rules 24 and 33.1. Counsel seeking leave to file a brief on the merits in excess of the word limits must do so in the form of an application to an individual Justice submitted in accordance with Rule 22. Rule 33.1(d). Such applications should be submitted only in the most extraordinary circumstances, and submitted promptly to enable counsel adequate time to modify and timely file their brief in accordance with the Rules should the Circuit Justice deny the application.

It is the responsibility of counsel to read a brief before it is submitted to the Clerk and to make appropriate changes as necessary. If a brief has been filed with the Clerk and not yet circulated to the Court, counsel may arrange to have a representative come to the Clerk's Office to note the changes in the 40 copies of the brief on file. Counsel should contact the Clerk's Office for instruction as to what method of correction is most appropriate. Opposing counsel must be informed of such changes immediately. After a brief for distribution has been circulated to the Court, the Clerk will consider receiving 40 copies of a "corrected" brief for distribution only when a meritorious reason and sufficient time exist.

2. Time. Rules 25 & 30.4.

Absent an order of the Court setting forth a briefing schedule, the time within which to file the briefs on the merits is as set out in the Rules and the due dates do not appear on the Court's docket.

For good cause, the time limit for filing the joint appendix and the opening briefs on the merits may be extended by the Clerk pursuant to Rule 30.4. Extensions of time to file briefs on the merits are not favored. Any request for an extension of time to file a joint appendix or an opening brief on the merits should be presented in the form of a letter to the Clerk and served on all other counsel of record pursuant to Rule 29.2. The letter should set out the specific reasons why an extension of time is justified and indicate opposing counsel's position on the request. The Clerk or the Court may at any time modify a briefing schedule. Rule 25.4.

The reply brief for the petitioner, if any, must be filed within 30 days after the brief for the respondent or appellee is filed, but any reply brief must actually be received by the Clerk not later than 2 p.m. one week before the date of oral argument. NOTE: In the latter instance, Rules 29.2 and 30.1 do **not** apply. Counsel should note that if the seventh day prior to the oral argument date falls on a holiday, the

reply brief due date moves to the prior business day to allow sufficient time for distribution to and review by the Justices.

The Clerk is not authorized to extend the time to file a reply brief on the merits. Counsel seeking such an extension must do so in the form of an application to an individual Justice submitted in accordance with Rule 22.

3. Filing and submission. Rules 25.8 and 29.

On the day a merits brief is filed, counsel shall submit a PDF version of the brief on the merits to the Clerk and opposing counsel via e-mail. The Rules also dictate that a PDF version of *amicus* briefs be submitted to the Clerk and to all counsel of record via e-mail. Rules 25.8 and 37.3(a).

The Clerk will not file a brief on the merits after a case has been argued except by leave of the Court. Rule 25.6. In such instances, a motion for leave to file and the brief sought to be filed shall be submitted as one document and prepared in accordance with the requirements of Rule 33.1.

VII. INFORMATION

The Clerk and the staff wish to be helpful to counsel and will endeavor to answer all requests to assist them in their visit to the Supreme Court.

The Court's Website (www.supremecourtus.gov), provides access to the automated docket, slip opinions, Court calendar, argument calendar, transcripts of oral arguments, Bar admission forms and instructions, Rules of the Court, guides to filing paid and *in forma pauperis* petitions, order lists, granted/noted lists, merits briefs in cases to be argued, this Guide, and other information about the Court. Counsel can also obtain the status of cases on the Supreme Court docket by calling the Clerk's Automated Response System (CARS) at 202–479–3034. Callers should have the Supreme Court docket number available. A synthesized voice will provide callers with current case status information.

The Supreme Court is located at the corner of First Street and Maryland Avenue, N. E., directly across from the United States Capitol, and is easily reached by taxi or Metro (sub-

way) from Ronald Reagan (National) Airport. The Union Station rail terminal and the Capitol South Metro terminal are within walking distance. The building is open from 9 a.m. to 4:30 p.m., Monday through Friday. Arguing attorneys and co-counsel may enter through the north door (Maryland Ave. side of the building) after 7:30 a.m. The building is closed Saturdays, Sundays, and holidays. It is accessible to persons with disabilities through the Maryland Avenue entrance. There is virtually no parking available in the vicinity of the Supreme Court building.

Topcoats, raincoats, umbrellas, hats, cameras, cell phones, PDAs, and recording devices are not permitted in the Courtroom. A checkroom and lockers are located at the front of the building on the first floor (Courtroom level). Members of the Bar and spectators in the public section can use writing materials.

There are many hotels in the Washington metropolitan area, several of which are in the vicinity of Capitol Hill within walking distance of the Court. A detailed map of the Supreme Court and its immediate surrounding area will be furnished by the Clerk's Office on request. A map is also included on the Court's Website.

Some hotels check regularly for the release of the argument calendar and will communicate with counsel respecting reservations. Except for inclement weather, there is normally no reason why counsel in the last argument would be required to stay in the Courtroom beyond 3 p.m. Accordingly, airline reservations can be made for departures after 6 p.m. from Ronald Reagan (National) Airport and 7 p.m. from Dulles Airport and Baltimore-Washington International Thurgood Marshall Airport, with no difficulty in meeting scheduled departures.

The Supreme Court Historical Society has a gift shop on the ground floor of the Court building. A cafeteria and public telephones are also located on the ground floor.

SUPREME COURT CALENDAR

OCTOBER TERM 2008

Opening conference: September 29, 2008

OCTOBER

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	(13)	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

NOVEMBER

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	(11)	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	(27)	28	29
30						

DECEMBER

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	(25)	26	27
28	29	30	31			

2009

JANUARY

S	M	T	W	T	F	S
				(1)	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	(19)	20	21	22	23	24
25	26	27	28	29	30	31

FEBRUARY

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	(16)	17	18	19	20	21
22	23	24	25	26	27	28

MARCH

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

APRIL

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

MAY

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	(25)	26	27	28	29	30
31						

JUNE

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

Argument days marked in RED

Non-argument sessions marked in BLUE

Conference days marked in GREEN

Holidays Circled in (BLACK)

JULY

S	M	T	W	T	F	S
			1	2	(3)	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

AUGUST

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

SEPTEMBER

S	M	T	W	T	F	S
		1	2	3	4	5
6	(7)	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			