

ORAL ARGUMENT FREQUENTLY ASKED QUESTIONS

Assigned Seating

As counsel approaches the bench, appellant's counsel is seated at the table on the left and appellee's counsel is seated on the right.

Sitting At Counsel's Table

Only attorney's are permitted to sit at the tables before the Bench.

Oral Argument Time Allotment

In multi-defendant criminal cases, counsel is usually allotted 10 minutes per defendant. In all other cases, unless the court has indicated otherwise, counsel is allotted 15 minutes per side.

Decisions

There are currently no guidelines that dictate the length of time before a decision in a case may be issued. A decision can come anytime after the case has been submitted to the panel.

Rebuttal Time

Counsel for the appellant wishing to reserve some of his or her allotted argument time for rebuttal should so advise the presiding judge **before** starting argument.

Presenting Oral Argument

Counsel should prepare for oral argument with the knowledge that the judges have already studied the briefs and the lower court or agency record. Reading from briefs, decisions or the record is not permitted except in unusual circumstances. Counsel should be prepared to answer questions raised by the hearing panel.

Notice of Hearing and Request for Postponement

The Clerk's office gives approximately six weeks' advance notice to counsel of the assignment of cases to the oral argument calendar. A request for postponement must be made immediately and with notice to all counsel, and should indicate where possible the consent or objection of other counsel.

Timer System

The court uses a timer system to assist counsel and the court in keeping track of the time allotted for argument. The operational aspects of the system will be demonstrated and explained before each argument session by the courtroom deputy assigned to each courtroom. Briefly, the system will provide both a digital count-down clock pre-set with the time allotted for arguments (appellant's time will be adjusted downward at the start of argument to reflect time reserved for rebuttal) as well as green, yellow and red light indicators.

The lights will mean the following:

GREEN - Talk,

YELLOW - One Minute to Summarize,

RED - Time has expired

Filing of Documents

If counsel brings documents not previously filed with the clerk's office to court the date of argument, the documents must be provided to the clerk's office when checking in. The Clerk's office will distribute the documents to the hearing panel prior to oral argument.

Panel Identity

Two weeks before the date of oral argument, the names of the judges who will hear the case may be learned by contacting the clerk's office.

Electronic Devices

All electronic devices, *e.g.*, laptop computers, cellular telephones, pagers, must be turned off when in or in the vicinity of a courtroom.

Attorney Admissions

If counsel has not been admitted to the bar of the Sixth Circuit prior to oral argument, please notify the calendaring deputy in the clerk's office so that the necessary arrangements can be made.

Subsequent Appeals Returned to Original Panel.

In appeals brought to this Court after an earlier appeal has returned a case to the district court for further proceedings, the original panel will determine whether the second appeal should be submitted to it for decision, or assigned to a panel at random. Where it becomes necessary to bring in a new third judge to complete a panel, the clerk will draw a name from among the active judges not already on the panel, and the judge whose name is drawn will be the third judge of the panel regardless of whether or not he or she is scheduled to sit during the same weeks as the other two members of the panel.

Expedited Cases

In the following cases, the Court will direct the parties to file briefs on an expedited basis and will schedule an oral hearing or submission on briefs as soon as possible: recalcitrant witnesses under 28 U.S.C. § 1826 and grand jury contempt appeals. Issuance of a routine briefing schedule and expedited argument or submission on briefs is directed in the following cases: appeals from orders denying or granting preliminary or temporary injunctions; interlocutory appeals under 28 U.S.C. § 1292(b); direct criminal appeals; and appeals in cases filed pursuant to 28 U.S.C. §§ 2241, 2254 and 2255. See also FRAP 45(b). Any other case may be expedited upon this Court's granting of a motion pursuant to 6 Cir. R. 27(f). If an appeal is ordered expedited, the clerk will fix a briefing schedule which will permit the appeal to be set for oral argument at an early date, unless an earlier hearing date is directed by a judge. The clerk will usually have some idea of the approximate date of the hearing and will so advise counsel when the order is issued.

Sixth Circuit Library

The Library, Room 312, is open from 8:00 a.m. to 5:00 p.m.

Recordings of Proceedings

An audio recording of the proceedings may be obtained from the clerk's office for the current fee of \$26.00 per tape.

Feel free to ask questions of the calendaring or courtroom deputy in the event you require additional information.