

Oral Argument During COVID

I. Preparation

- A. Follow the Court's Rules and Guidelines!
- B. Get familiar with the virtual courtroom
 - 1. Watch other arguments!
 - 2. 9th District has its own YouTube channel
 - 3. Ohio Supreme Court has the Ohio Channel
- C. Prepare your physical appearance
 - 1. Get appropriate attire ready
 - a) NEVER LOOK LIKE A CLIENT!
 - b) Your clothing must reflect respect for the Court, and self-esteem for yourself as an attorney
 - (1) Avoid anything unprofessional, gaudy, or distracting
 - c) Men
 - (1) Sorry, but a suit, a shirt, a tie, and dress shoes are mandatory.
 - (2) Chinos or jeans and a polo shirt with gym shoes are not appropriate
 - d) Women - everything professional
 - (1) Professional dress
 - (2) Professional separates, which must include a jacket
 - (a) Cardigans are not jackets
 - (b) Leggings are not trousers
 - (3) Professional suit
 - (4) Professional shoes
 - (a) Ballet flats are fine; crocs and flip-flops are not
 - (b) Doc Martens are for the campaign trail, not the courtroom
 - 2. Grooming and hygiene
 - a) A neat, clean appearance is mandatory
 - b) Avoid anything distracting
 - (1) Attention-grabbing hair & accessories
 - (2) Anything flamboyant — such as obvious glitter — should be avoided

II. The argument itself

- A. Be respectful
 - 1. DON'T interrupt the judges!
 - 2. Do bring the discussion back to your important points
 - 3. Be conversational but not overly casual
 - a) Avoid being flippant, sarcastic, or vulgar
 - 4. Don't shout at the Court.
- B. Engage the Court
 - 1. Have a discussion with the judges
 - 2. Make eye contact
 - 3. Adopt good posture
 - 4. Avoid distracting gestures that are not connected to your arguments
 - a) Ex: avoid flailing
 - 5. Mind your time
 - a) Be aware that many courts will have a clock or timer in sight

- b) Your computer displays the time
- c) You can also use a timer app on your smartphone

III. Remote arguments

- A. Again, see the Court's guidelines and Rules
 - 1. 9th District: <http://www.ninth.courts.state.oh.us/Remote.htm>
- B. Do these things ahead of your argument date!
 - 1. Follow the Court's instructions to let the Court know whether you plan to participate in oral argument
 - a) 9th District will e-mail the parties; respond to this e-mail
 - b) Ohio Supreme Court will send detailed instructions
 - 2. Download and test the remote meeting software the Court will use well ahead of time
 - a) Ohio Supreme Court and 9th District use Zoom
 - b) Ohio Supreme Court will set you up for a pre-argument technical rehearsal session with its IT staff
 - c) On the day before the argument, the 9th District will e-mail participating counsel a link, meeting number, and password to participate in the Zoom argument
 - (1) You can share the Zoom link with others so they may watch the argument in real time
 - d) Make sure you use your real name when you sign on to the software, rather than something stupid like "Boaty McBoatface" or "My iPad."
 - 3. Test your microphone and video equipment!
 - 4. Choose the physical location from which you will present the argument
 - a) Be mindful of the scene around and behind you
 - (1) If your computer meets the system requirements, you can use a virtual background
 - (a) 9th District provides one; it is a photo of the courtroom from the judges' perspective
 - (b) Zoom will allow you to see what your camera is seeing ahead of time. Go to "preferences" and look for "video" or "virtual background"
 - (2) Select a quiet, non-distracting setting, even if you are using a virtual background
 - (3) Mind the lighting - face a light source and avoid being backlit
 - (4) Mind the camera position
 - (a) If possible, the camera should be at or above your eye level
 - (5) If there will be a bookcase behind you during the argument, pay attention to the spines of those books.
 - (a) People are paying attention to newscasters and news interviewees' bookcases; because these arguments are posted later on the Court's video channel, one can expect that members of the public will notice your reading choices.
 - (6) If you intend to have your coffee with you during the proceeding, make sure that your mug does not bear a distracting message or image.

- (7) If you have human or furry children who are likely to make noise or be distracting, try to find a place where you can exclude them
 - b) Be aware that when you use a virtual background, Zoom may replace white clothing and documents, or even a brightly lit window, with the virtual background!
 - (1) You can end up looking like a disembodied floating head
 - (2) So, if you're using a virtual background, don't wear a garment with white sleeves, and think about printing any notes on colored paper - and don't hold it very far from your body
- C. Argument Day
1. The Court will give you specific instructions for how and when to sign into the remote argument software
 2. The Court expects you to dress as professionally for a Zoom argument as you would for a live argument at the Court.
 - a) So, wear a suit and be appropriately groomed
 3. You will either stand or be seated
 - a) However you begin the argument, you will maintain that position through the argument
 - b) Make sure your camera is in a stable, fixed position
 - (1) It will be distracting to the Court if it's obvious that you're holding your cell phone in front of your face while you're strolling through the courthouse with your facemask pulled down under your chin
 4. Mute your microphone during your opponent's portion(s) of the argument.
 - a) Be careful not to say or do anything embarrassing from the moment you click the link to sign into the argument until the moment you close down the software!
 - b) Assume that you can be seen and heard at all times!
 5. Keep a poker face and refrain from making distracting movements during your opponent's portion(s) of the argument
 - a) **YOU ARE ON CAMERA DURING THE ENTIRE ARGUMENT!**