

1. Know the basis of the court's jurisdiction.

Example

Does court have jurisdiction over denial of motion for summary judgment on cross-appeal of a final order?

First DCA has said yes. *See Jordan v. Fehr*, 902 So. 2d 198, 200-01 (Fla. 1st DCA 2005) ("Because appellate jurisdiction over the final order on motions for summary judgment was properly invoked by the timely filing of the notice of appeal, pursuant to rule 9.110(h), Florida Rules of Appellate Procedure, this court may review any ruling or matter occurring prior to the filing of the notice.").

The 4th DCA says no. *See Roth v. Nautical Engineering Corp.*, 654 So. 2d 978, 979 (Fla. 4th DCA 1995) ("We dismiss the cross-appeal because an order denying summary judgment is a nonfinal, non-appealable order pursuant to rule 9.130(a)(3) of the Florida Rules of Appellate Procedure.").

2. Presentation counts.

- Minimize notes & materials at podium
- Address the court directly
- Speak clearly in a conversational tone - never read your argument.
- Avoid poor body posture & distracting habits (waiving hands, pointing glasses, etc.)
- Do not seat client at counsel table

3. Appellant should lead with your strongest argument. Appellee should first attack Appellant's strongest argument.

- Limited time in oral argument – can't leave it to the end because you may not have time
- Court has read the briefs. They want to know how Appellee will address the tough issue

4. Know your record on appeal.
 - Don't reference facts outside of the record – it will hurt your credibility with the court
 - Questions may call for facts outside of the record – important to advise the court of this

5. Don't make jury arguments to the panel.
 - Be cautious about using visual aids – they are the exception, not the rule

6. Welcome questions.
 - Answer the question that is asked, not the one you want to answer.
 - Answer a yes/no question with “yes” or “no” – then qualify.
 - If you don't know the answer, advise the court that you don't know.
 - Don't fail to recognize a softball question and hit it out of the park.
 - Don't concede issues that defeat your case.
 - Never postpone an answer.

7. Don't make disparaging remarks about the trial judge/JCC – We're human!

8. Never speak over a judge.
 - Stop as soon as a judge asks you a question – even if it's in mid-sentence.
 - Answer the question and then go back to the points in your presentation

9. Appellant should always reserve rebuttal time (but not necessarily use it all)
 - Hit major points that need repair.
 - If appellee does not lay a glove on your argument, leave well enough alone.

10. Don't go past allotted time, and don't ask for more time
 - If you finish early, ask if there are further questions and sit down (especially if it's clear you won)