

Rule 34. Oral Argument.

(a) In General. Argument will be scheduled as provided in Rule 33.

(b) Postponement. If counsel or an unrepresented party cannot, for good cause, appear on the scheduled argument date, a motion for postponement must be promptly filed. Proceedings in any trial court, whether federal, state, or local, will not ordinarily be deemed good cause for postponing argument; however, a case may be set first or last in order to accommodate a trial judge.

(c) Order and Contents of Argument. The appellant opens and concludes the argument. Counsel must not read at length from briefs, records, or authorities.

(d) Cross-Appeals, Consolidated Appeals, and Separate Appeals. If there is a cross-appeal, Rule 28(i) determines which party is the appellant and which is the appellee for purposes of oral argument. When cases have been consolidated, they are deemed one case for purposes of argument. Separate parties should avoid duplicative argument. Unless the court directs otherwise, a cross-appeal or separate appeal must be argued when the initial appeal is argued.

(e) Nonappearance of a Party. If the appellee fails to appear for argument, the court ordinarily will hear the appellant's argument. If the appellant fails to appear for argument, the court may hear the appellee's argument. If neither party appears, the case will be decided on the briefs, unless the court orders otherwise. See also Rule 31(c).

(f) Submission on Briefs. The parties may agree to submit a case for decision on the briefs, but the court may direct that the case be argued.

(g) Time Allowed.

(1) Specific Allotments. Each side will be allowed time for argument in accordance with the court's Internal Operating Procedures.

(2) Apportionment. The time allowed may be apportioned between counsel on the same side at their discretion. If counsel on the same side, between whom time is to be apportioned, represent different interests, any agreed upon apportionment must be reported to the court at the opening of the argument; or, if an agreement has not been made, the apportionment will be made by the court.

(3) Intervenors. Counsel for an intervenor will be permitted to argue to the extent that counsel on whose side the intervenor has intervened is willing to share the allotted time.

(4) Motion for Additional Time. A motion for additional time for argument must be filed within 10 days after the appellee's brief has been filed.