

1 **Rule 29. Oral argument.**

2 (a) In general. Oral argument will be allowed in all cases unless the court concludes:

3 (a)(1) The appeal is frivolous; or

4 (a)(2) The dispositive issue or set of issues has been recently authoritatively decided; or

5 (a)(3) The facts and legal arguments are adequately presented in the briefs and record and
6 the decisional process would not be significantly aided by oral argument.

7 (b) Notice by clerk and request by a party for argument; postponement. Not later than 30
8 days prior to the term of court in which a case is to be submitted, the clerk shall give notice to all
9 parties that oral argument is to be permitted, the time and place of oral argument, and the time to
10 be allowed each side. Oral argument shall proceed as scheduled unless all parties waive the same
11 in writing filed with the clerk not later than 15 days from the date of the clerk's notice. If one
12 party waives oral argument and any other party does not, the party waiving oral argument may
13 nevertheless present oral argument. A request for postponement of the argument or for allowance
14 of additional time must be made by motion filed reasonably in advance of the date fixed for
15 hearing.

16 (c) Order and content of argument. ~~The appellant is entitled to open and conclude the~~
17 ~~argument. The opening argument shall include a fair statement of the case. Counsel will not be~~
18 ~~permitted to read at length from briefs, records or authorities. The appellant shall argue first and~~
19 ~~the appellee shall respond. The appellant may reply to the appellee's argument if appellant~~
20 ~~reserved part of appellant's time for this purpose. Such argument in reply shall be limited to~~
21 ~~answering points made by appellee in appellee's oral argument.~~

22 (d) Cross and separate appeals. A cross or separate appeal shall be argued with the initial
23 appeal at a single argument, unless the court otherwise directs. If a case involves a separate
24 appeal, the plaintiff in the action below shall be deemed the appellant for the purpose of this rule
25 unless the parties otherwise agree or the court otherwise directs. If separate appellants support the
26 same argument, care shall be taken to avoid duplication of argument. Unless otherwise agreed by
27 the parties, in cases involving a cross-appeal the appellant, as determined pursuant to Rule 24(g),
28 shall open the argument and present only the issues raised in the appellant's opening brief. The
29 appellee/cross-appellant shall then present an argument which answers the appellant's issues and

30 addresses original issues raised by the cross-appeal. The appellant shall then present an argument
31 which replies to the appellee/cross-appellant's answer to the appellant's issues and answers the
32 issues raised on the cross-appeal. The appellee/cross-appellant may then present an argument
33 which is confined to a reply to the appellant's answer to the issues raised by the cross-appeal. The
34 court shall grant reasonable requests, for good cause shown, for extended argument time.

35 (e) Non-appearance of parties. If the appellee fails to appear to present argument, the
36 court will hear argument on behalf of the appellant, if present. If the appellant fails to appear, the
37 court may hear argument on behalf of the appellee, if present. If neither party appears, the case
38 may be decided on the briefs, or the court may direct that the case be rescheduled for argument.

39 (f) Submission on briefs. By agreement of the parties, a case may be submitted for
40 decision on the briefs, but the court may direct that the case be argued.

41 (g) Use of physical exhibits at argument; removal. If physical exhibits other than
42 documents are to be used at the argument, counsel shall arrange to have them placed in the
43 courtroom before the court convenes on the date of the argument. After the argument, counsel
44 shall remove the exhibits from the courtroom unless the court otherwise directs. If exhibits are
45 not reclaimed by counsel within a reasonable time after notice is given by the clerk, they shall be
46 destroyed or otherwise disposed of as the clerk shall think best.

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