

1 **Rule 29. Oral argument.**

2 **(a)(1) In cases before the Supreme Court.** Oral argument will be held unless the Supreme Court
3 determines that it will not aid the decisional process.

4 **(a)(2) In cases before the Court of Appeals.** Oral argument will be allowed in all cases in which the
5 court determines that oral argument will significantly aid the decisional process.

6 **(b)(1) Notice by Supreme Court; request for cancellation or continuance.** Not later than ~~30-28~~
7 days ~~prior to~~ before the date on which a case is calendared, the clerk ~~shall~~ will give notice of the time and
8 place of oral argument, and the time to be allowed each side. If all parties to a case believe oral argument
9 will not benefit the court, they may file a joint motion to cancel oral argument not later than ~~45-14~~ days
10 from the date of the clerk's notice. The court will grant the motion only if it determines that oral argument
11 will not aid the decisional process. A motion to continue oral argument must be supported by (1) a
12 stipulation of all parties or a statement that the movant was unable to obtain such a stipulation, and (2) an
13 affidavit ~~of counsel~~ specifying the grounds for the motion. A motion to continue filed not later than ~~45-14~~
14 days from the date of the clerk's notice may be granted on a showing of good cause. A motion to continue
15 filed thereafter will be granted only on a showing of exceptional circumstances.

16 **(b)(2) Notice by Court of Appeals; waiver of argument; continuance.** Not later than ~~30-28~~ days
17 ~~prior to~~ before the date on which a case is calendared, the clerk ~~shall~~ will give notice to all parties that oral
18 argument is to be permitted, the time and place of oral argument, and the time to be allowed each side.
19 Any party may waive oral argument by filing a written waiver with the clerk not later than ~~45-14~~ days from
20 the date of the clerk's notice. If one party waives oral argument and any other party does not, the party
21 waiving oral argument may nevertheless present oral argument. A request to continue oral argument or
22 for additional argument time must be made by motion. A motion to continue oral argument must be
23 supported by (1) a stipulation of all parties or a statement that the movant was unable to obtain such a
24 stipulation, and (2) an affidavit ~~of counsel~~ specifying the grounds for the motion. A motion to continue filed
25 not later than ~~45-14~~ days from the date of the clerk's notice may be granted on a showing of good cause.
26 A motion to continue filed thereafter will be granted only on a showing of exceptional circumstances.

27 **(e)-(d) Order of argument.** The appellant ~~shall~~ argues first and the appellee ~~shall~~ responds. The
28 appellant may reply to the appellee's argument if appellant reserved part of appellant's time for this
29 purpose. ~~Such a~~ Argument in reply ~~shall~~ must be limited to responding to points made by appellee in
30 appellee's oral argument and answering any questions from the court.

31 **(d)-(e) Cross and separate appeals.** A cross or separate appeal ~~shall~~ will be argued with the initial
32 appeal at a single argument, unless the court otherwise directs. If a case involves a separate appeal, the
33 plaintiff in the trial court action ~~below shall be~~ is deemed to be the appellant for the purpose of this rule
34 unless the parties otherwise agree or the court otherwise directs. If separate appellants support the same
35 argument, care ~~shall~~ must be taken to avoid duplication of argument. Unless otherwise agreed by the
36 parties, in cases involving a cross-appeal the appellant, as determined pursuant to Rule [24\(g\)](#), ~~shall~~ must
37 open the argument and present only the issues raised in the appellant's opening brief. The

38 appellee/cross-appellant ~~shall~~must then present an argument which answers the appellant's issues and
39 addresses original issues raised by the cross-appeal. The appellant ~~shall~~must then present an argument
40 which replies to the appellee/cross-appellant's answer to the appellant's issues and answers the issues
41 raised on the cross-appeal. The appellee/cross-appellant may then present an argument which is
42 confined to a reply to the appellant's answer to the issues raised by the cross-appeal. The court ~~shall~~will
43 grant reasonable requests, for good cause shown, for extended argument time.

44 **~~(e)-(f)~~ Non-appearance of parties.** If the appellee fails to appear to present argument, the court will
45 hear argument on behalf of the appellant, if present. If the appellant fails to appear, the court may hear
46 argument on behalf of the appellee, if present. If neither party appears, the case may be decided on the
47 briefs, or the court may direct that the case be rescheduled for argument.

48 **~~(f)-(g)~~ Submission on briefs.** By agreement of the parties, a case may be submitted for decision on
49 the briefs, but the court may direct that the case be argued.

50 **~~(g)-(h)~~ Use of physical exhibits at argument; removal.** If physical exhibits other than documents
51 are to be used at the argument, counsel ~~shall~~must arrange to have them placed in the courtroom before
52 the court convenes on the date of the argument. After the argument, counsel ~~shall~~must remove the
53 exhibits from the courtroom unless the court otherwise directs. If exhibits are not reclaimed by counsel
54 within a reasonable time after notice is given by the clerk, they ~~shall~~will be destroyed or otherwise
55 disposed of as the clerk shall think best.

56 **Advisory Committee Notes**

57 The 2013 amendments to rules 29(a) and (b) reflect current practices. The amendment to Rule 29(c)
58 clarifies that this provision is not intended to place any limitation on the scope or timing of the questions
59 posed by an appellate court during argument.
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