



## ANSWERS TO FREQUENTLY ASKED QUESTIONS REGARDING ORAL ARGUMENT

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The following information is intended to supplement and explain the court's oral argument notice; the oral argument related materials on the court's website; Federal Rule of Appellate Procedure 34; and Tenth Circuit Rule 34. Additional questions or concerns should be directed to the Tenth Circuit Calendar Team at 303-335-2708; 10th\_Circuit\_CalTeam@ca10.uscourts.gov; or 1823 Stout Street, Denver, CO 80257.

### **What forms need to be returned/filed before oral argument?**

- All arguing counsel in all appeals must complete and file a [Calendar Acknowledgement Form](#). Non-arguing counsel need not complete and file the acknowledgement form.
- In addition to the Calendar Acknowledgement Form, a [Custody Status Questionnaire](#) must be completed and filed by counsel for a defendant in a direct criminal appeal (including interlocutory appeals, and regardless of which party filed the appeal); a petitioner in a habeas corpus or immigration appeal, or any appeal where the plaintiff, defendant or petitioner is in custody.
- The Calendar Acknowledgment and Custody Status Questionnaire (if applicable) must be completed and filed within 10 days of the issuance of the oral-argument notice.
- Even if your case is submitted on the briefs, the Calendar Acknowledgement Form and Custody Status Questionnaire (if applicable) must be filed.
- Oral argument forms are available at <https://www.ca10.uscourts.gov/clerk/oral-argument-forms>.
- **Counsel filing both forms must docket each of them individually, in separate ECF transactions.** Completed forms must be in either native .pdf format or scanned. This applies only to these two calendar documents, not to motions and other pleadings.
- When docketing the Calendar Acknowledgment Form in ECF, the attorney will be prompted to check a box if s/he is the arguing attorney. Only the arguing attorney should check that box. Please do not un-check that box for other counsel who have marked themselves as the arguing attorney previously.
- Counsel for amici curiae may not participate in oral argument without express permission of the court; such counsel need not file a Calendar Acknowledgement Form unless the court grants permission to argue.

### **What if arguing counsel did not receive the required form(s)?**

- An arguing attorney who is new to an appeal and/or has not previously filed an [Entry of Appearance Form](#) must do so before filing a [Calendar Acknowledgement Form](#). Once the entry of appearance has been docketed by counsel, it will be reviewed and formally filed by Clerk's Office staff. Once counsel receives notice that the entry of appearance has been filed, s/he may file the Calendar Acknowledgment Form.

### **How early should I arrive, and where do I need to check in?**

- Arguing attorneys must check-in 45 minutes before the argument session is scheduled to begin (e.g., at 8:15 a.m. for a 9:00 a.m. oral-argument calendar). Check-in at the Clerk's Office front desk on the main floor of the Byron White United States Courthouse. If the court is hearing arguments outside of Denver, check-in will be with the courtroom clerk in the courtroom. Non-arguing attorneys need not check in.

### **What is required to enter the courthouse?**

- A valid government-issued ID, and security screening are required to enter the courthouse. There is often a line at the security-screening checkpoint; please be sure to arrive at the courthouse early enough to be screened and check in on time.

### **Are cellphones and other electronic devices permitted in the courthouse/courtroom?**

- Cellphones may be brought into the courthouse, but must be silenced before entering the courtroom. The use of audio or video recording devices in the courtrooms is also strictly prohibited. Laptops and tablets may be used in the courtroom, but only to refer to (or take) notes during argument.
- Photography is prohibited in the courthouse.

### **How much time do I get for oral argument?**

- Unless otherwise ordered by the court, oral arguments last thirty minutes, with the time allocated evenly between the two opposing sides. Counsel for the appellant(s) may reserve a portion of his/her fifteen minutes for rebuttal.
- If more than one attorney plans to argue for the appellant(s) or appellee(s), counsel must decide how the time will be divided prior to appearing at argument. While counsel splitting time need not notify the Clerk in advance, they must advise the courtroom deputy on the day of the argument. Arguing counsel is responsible for managing their time; the second lawyer's ability to argue depends upon the first lawyer's ability to sit down.
- If two or more appeals are consolidated for oral argument, each side will still only have fifteen minutes to argue unless the court orders otherwise.
- For initial hearing or rehearing en banc, sixty minutes are allotted for argument; each side is allocated thirty minutes.

### **When can I find out which judges will hear my case?**

- One week before the first day of oral arguments in a session, the three-judge panels will be posted to [oral argument calendar page](#) of the court's website. Panel members are not disclosed before this time.

### **May I use exhibits during oral argument?**

- The use of exhibits at oral argument is unusual. If arguing counsel feels strongly about using exhibits, a motion must be filed prior to the argument date. *See* Fed. R. App. P. 34(g). All motions must be timely filed and comply with 10<sup>th</sup> Cir. R. 27.1. A proposed order is not necessary.

### **Does the Tenth Circuit live-stream oral arguments?**

- During the COVID-19 Pandemic, the Tenth Circuit will live-stream audio (only) of oral arguments via YouTube: <https://www.youtube.com/channel/UCz4oP87ziTjb7WpRwIGZf0g>

### **How do I get a transcript of the proceeding?**

- We do not have court reporters in the courtroom; oral arguments are not transcribed. Instead, the proceedings are recorded electronically, and posted to the court's website usually within 48 hours.

Counsel may move for permission to have a court reporter present at their own expense. Any such motion should be filed well in advance of the argument. *See* 10<sup>th</sup> Cir. R. 34.1(E)(2).

### **I have a disability; how do I go about asking for assistance?**

- The court invites attorneys or visitors with special needs to contact the Clerk’s Office regarding accommodations. The courthouse is ADA compliant. With notice, the Clerk’s Office is able to provide a variety of accommodations, including auxiliary microphones, assisted listening devices, and interpreters.

### **Do you have a Hearing Loop?**

- Courtrooms I and IV of the Byron White United States Courthouse are equipped with a hearing loop. If you wear a hearing aid or cochlear implant with a “T-coil” (telecoil) setting, it may be compatible with these hearing loops. With many hearing aids and cochlear implants on the market, it is best to check with your audiologist to see if yours is compatible. Hearing aid and cochlear implant without a T-coil setting may not work with the hearing loops.

### **What happens if I have a conflict with the date set for oral argument?**

- Argument settings will be changed/continued only by leave of court. If arguing counsel has a conflict, s/he must promptly file a motion explaining the details of the conflict, and noting opposing counsel’s position on vacating the setting. The motion must also state whether the case can be submitted on the briefs in lieu of rescheduling argument. If the motion proposes rescheduling argument to a future oral argument session, the proposed future date(s) must be cleared with all arguing counsel. All motions to reschedule argument must be filed as soon as possible, and no later than twenty days before the scheduled argument. 10th Cir. R. 34.1(A)(3).
- Future oral argument session dates can be found on the [oral argument calendar page](#) of the court’s website. Counsel are invited to call the Calendar Team with questions about the court’s oral argument calendar.

### **May my co-counsel, client, and/or legal assistant would like to accompany me to court?**

- Yes, but only members of the Tenth Circuit Bar may sit at counsel table in the courtroom.
- Clients and visitors are welcome, but they must sit in the gallery of the courtroom to observe and listen to the proceedings.

### **I need to bring my suitcase with me to court. Is there a place to store it?**

- There is a small attorney lounge near the Clerk’s Office front desk. Attorneys are welcome to leave coats and bags there if they do not want to take them in the courtroom. The attorney lounge is unattended and open to the public; leaving belongings unattended is always at your own risk.
- Attorneys may use the lounge area to read, relax and prepare for argument. Please note food and beverages are not available in the lounge or courthouse. There are several coffee shops within a block of the courthouse.