



## ANSWERS TO FREQUENTLY ASKED QUESTIONS REGARDING ORAL ARGUMENT

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**Counsel and parties should note that all calendar acknowledgment documents must be filed by counsel via the court's ECF system.**

**The questions below are those most frequently asked by counsel when preparing to attend oral argument. If you don't see your question answered here, please call the clerk's office at 303-335-2708 and ask for a calendar team member.**

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

- The Calendar Team sends out a Calendar Acknowledgement Form with the notice setting the argument. This form identifies the specific argument date and time for counsel and asks counsel to confirm who will be presenting oral argument. All arguing counsel must fill out and file the acknowledgment form. If there are multiple attorneys on your side of the case and only one is coming to argue, the others attorneys need not file the form. If the court decides that an appeal will be submitted on the briefs, counsel need not return/file the acknowledgment form. Please note it is not up to counsel to decide if the case will be submitted on the briefs once a notice has issued. The court will make that determination after a proper motion has been filed. Counsel for Amici Curiae are not allowed to argue without special permission of the court. Attorneys for these parties need not file an acknowledgement form unless the court grants them permission to argue.
- If you are counsel for the defendant in a direct criminal appeal (including interlocutory appeals, 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 in custody, you must complete the Custody Status Questionnaire. This form is found on our website, <http://www.ca10.uscourts.gov>. Once on the website go to the Argument Calendar tab. Even if your case is submitted on the briefs, this **Custody Status Form still needs to be filed.**
- The Calendar Acknowledgment and Custody Status forms must be completed and filed within 10 days of receipt. These are separate ECF filings and counsel must docket each of these forms individually. The court will accept filing of these two documents in either a native .pdf format or a scanned format. This applies only to these two calendar documents, not to motions and other pleadings filed in the case.
- When docketing the Calendar Acknowledgment Form in ECF, the attorney will be prompted to put a checkmark in a box if he or she is the arguing attorney. Only the arguing attorney need check a box. Please do not un-check that box for other counsel who have marked themselves as

the arguing attorney previously. This section pertains to all arguing attorneys in the case and not just the attorney filing the document.

### **Where are the calendar forms located online?**

- Only the Calendar Acknowledgement Form (and Custody Status Forms in applicable cases) will be sent to counsel via email. The form(s) must be completed and returned electronically in either scanned or native .pdf format. These forms and others are located on the court's website. Counsel must access the court's website <http://www.ca10.uscourts.gov> and click on the **Argument Calendar** under the Case Management tab to download other necessary documents and information prior to appearing for oral argument. No forms will be sent by U.S. Mail. In addition, please note the court does not accept any filings from counsel via U.S. Mail.

### **What if arguing counsel did not get a form?**

- Any attorney who is new to an appeal will need to download and file both an Entry of Appearance Form and a Calendar Acknowledgement Form. These forms are available on our website <http://www.ca10.uscourts.gov> under the Argument Calendar Tab. Once the entry of appearance has been submitted on the docket via ECF it will be reviewed by court staff. The court will formally file the entry of appearance. Once counsel receives a notice of docket activity showing the entry of appearance has been filed, the attorney may then file via ECF and may submit the calendar acknowledgment form, as well as any other pleadings.

### **What should I consider in order to be assured entrance into the Federal Courthouse for argument?**

- You will need a valid picture ID and will be required to walk through security. Make sure you leave a few extra minutes for the security check, and be sure to turn off your cellphone before entering the courtroom. Cellphones may not be used in court. The use of audio or video recording devices in the courtrooms is also strictly prohibited. You may use an electronic device such as a laptop or tablet in the courtroom, but only to refer to notes or to take notes during the proceedings.

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

- We do not have court reporters in the courtroom and there are no transcripts available. The proceedings are recorded electronically for the use of the court. Attorneys or parties may request a copy of the recording by filing a proper motion **after** the oral argument is concluded. Counsel may also 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) regarding Oral Argument Recording and Transcription.

### **When and where do I need to check in?**

- Attorneys will need to check-in at the front desk of the Clerk’s Office at the Byron White United States Courthouse 45 minutes before the court session convenes. If the court is traveling somewhere outside of Denver, check-in will be with the courtroom clerk in the courtroom you are assigned.

### **When can I find out who my panel will be?**

- One week before the first day of oral arguments in a session, the three-judge panels will be listed on our website. Panel members are not disclosed before this time. Please go to <http://www.ca10.uscourts.gov> and click on the Argument Calendar tab to find your panel on the appropriate calendar.

### **Can I use exhibits in the courtroom?**

- The use of exhibits at oral argument is unusual. If counsel feel there is a strong need to use exhibits, a motion should be filed prior to the argument date. *See* Fed. R. App. P. 34 and 10<sup>th</sup> Cir. R. 34 regarding Oral Argument. All motions must be timely filed and comply with 10<sup>th</sup> Cir. R. 27.3. Counsel do not need to prepare a Proposed Order.

### **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 so that accommodations may be made. The courthouse is ADA compliant. With notice, we will provide anything from auxiliary microphones to assisted listening devices or, as needed, interpreters or sign language experts. Arrangements can be made by contacting the Calendar Team or writing a letter to Chief Deputy Clerk/Access Coordinator for the Court.

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

- Courtrooms I and IV of the Byron White US Courthouse have a Hearing Loop. If you wear a hearing aid or cochlear implant with a “T” (telecoil) setting on the program switch, this is typically the selection for the hearing loop function. With many hearing aids and cochlear implants on the market, it is best to check with your

audiologist to see if yours is compatible. The only way to use the hearing loops is to have a hearing aid or cochlear implant with the T-coil setting.

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

- Unless otherwise specified by the Court, oral arguments are thirty minutes in length, with the time allocated evenly between the two opposing sides. Appellant's attorney may reserve a portion of the fifteen minutes for rebuttal. If more than one attorney plans to present argument per side, the lawyers must decide how the time will be divided prior to appearing at argument. Counsel need not notify the clerk in advance how they will allocate their time. They will, however, need to advise the courtroom deputy on the day of the argument. If more than one lawyer argues on a side, counsel will be responsible for managing the allocation. That is, the second lawyer's ability to speak will be dependent on 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.
- If a matter is set for an en banc rehearing, the time for oral argument will be sixty minutes; thirty minutes per side being allocated.

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

- Argument settings will be changed or continued only upon leave of the court. If counsel has a conflict, he or she must file a motion providing the details of the conflict, and must include the opposing counsel's position on vacating the setting. If counsel is willing to submit his or her argument on the briefs rather than continuing the matter, the motion should reflect that willingness. All motions to continue argument should be filed as soon as possible, but at a minimum several weeks before the court date.
- Counsel are invited to call the calendar team to determine future calendar session dates (and those dates may also be found on the court's website) and should clear future dates on both sides' calendars when requesting a continuance and suggesting a change to a future calendar.
- The Court will issue an order on the motion to continue after the panel assigned to the case determines whether or not the argument date will be vacated.

### **Is audio available to listen to oral arguments remotely via the internet?**

- No. We do not live stream audio, nor does the court allow telephonic conferencing.

**My co-counsel, client, or legal assistant would like to accompany me to court. How does that work?**

- Only members of the Tenth Circuit Bar can sit at counsel table in the courtroom with you.
- 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 where items may be stored. Attorneys are welcome to leave coats and bags there if they do not want to take them in the courtroom. 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, however.

**How do I contact the Calendar Team?**

- You can reach the Calendar Team in the following manner:
- Telephone – 303.335.2708
- Email – [10th\\_Circuit\\_CalTeam@ca10.uscourts.gov](mailto:10th_Circuit_CalTeam@ca10.uscourts.gov)
- Mail – United States Court of Appeals Tenth Circuit, 1823 Stout Street, Denver, CO 80257.