

1 **Rule 29. Oral argument.**

2 (a)(1) In cases before the Supreme Court. Oral argument will be held unless the Supreme
3 Court 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
5 which the 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
7 days prior to the date on which a case is calendared, the clerk shall 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
9 argument will not benefit the court, they may file a joint motion to cancel oral argument not later
10 than 15 days from the date of the clerk's notice. The court will grant the motion only if it
11 determines that oral argument will not aid the decisional process. A motion to continue oral
12 argument must be supported by (1) a stipulation of all parties or a statement that the movant was
13 unable to obtain such a stipulation, and (2) an affidavit of counsel specifying the grounds for the
14 motion. A motion to continue filed not later than 15 days from the date of the clerk's notice may
15 be granted on a showing of good cause. A motion to continue filed thereafter will be granted
16 only on a showing of exceptional circumstances.

17 (b)(2) Notice by Court of Appeals; waiver of argument; continuance. Not later than 30 days
18 prior to the date on which a case is calendared, the clerk shall give notice to all parties that oral
19 argument is to be permitted, the time and place of oral argument, and the time to be allowed each
20 side. Any party may waive oral argument by filing a written waiver with the clerk not later than
21 15 days from the date of the clerk's notice. If one party waives oral argument and any other party
22 does not, the party waiving oral argument may nevertheless present oral argument. A request to
23 continue oral argument or for additional argument time must be made by motion. A motion to
24 continue oral argument must be supported by (1) a stipulation of all parties or a statement that
25 the movant was unable to obtain such a stipulation, and (2) an affidavit of counsel specifying the
26 grounds for the motion. A motion to continue filed not later than 15 days from the date of the
27 clerk's notice may be granted on a showing of good cause. A motion to continue filed thereafter
28 will be granted only on a showing of exceptional circumstances.

29 (c) Order of argument. The appellant shall argue first and the appellee shall respond. The
30 appellant may reply to the appellee's argument if appellant reserved part of appellant's time for

31 this purpose. Such argument in reply shall be limited to responding to points made by appellee in
32 appellee's oral argument and answering any questions from the court.

33 (d) Cross and separate appeals. A cross or separate appeal shall be argued with the initial
34 appeal at a single argument, unless the court otherwise directs. If a case involves a separate
35 appeal, the plaintiff in the action below shall be deemed the appellant for the purpose of this rule
36 unless the parties otherwise agree or the court otherwise directs. If separate appellants support
37 the same argument, care shall be taken to avoid duplication of argument. Unless otherwise
38 agreed by the parties, in cases involving a cross-appeal the appellant, as determined pursuant to
39 ~~Rule 24(g)~~Rule 24A, shall open the argument and present only the issues raised in the appellant's
40 opening brief. The ~~appellee~~/cross-appellant shall then present an argument which answers the
41 appellant's issues and addresses original issues raised by the cross-appeal. The appellant shall
42 then present an argument which replies to the ~~appellee~~/cross-appellant's answer to the appellant's
43 issues and answers the issues raised on the cross-appeal. The ~~appellee~~/cross-appellant may then
44 present an argument which is confined to a reply to the appellant's answer to the issues raised by
45 the cross-appeal. The court shall grant reasonable requests, for good cause shown, for extended
46 argument time.

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

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

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

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60 **Advisory Committee Notes**

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

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