

Effective Oral Advocacy

Edward C. Stone Moot Court Workshop
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Introduction to Oral Argument

1. How to prepare
2. Mechanics
3. Conduct
4. Feedback

How to Prepare – The Basics

- Read and brief cases – from both sides
- Prepare responses to common questions, especially weaknesses
- Write out your introduction and conclusion and memorize them

How to Prepare – Know your Case

- Record and facts
- Standard of review
- Key cases
- Apply the law to YOUR case

How to Prepare – Structure

- Start with a summary or a story
- Structure your argument
- Back up each point

How to Prepare – Believe It!

- Be confident
- Speak clearly
- Maintain eye contact
- Stand up straight
- Be still

The Best Way to Prepare?

- PRACTICE!
 - Substance – facts and cases
 - Hypotheticals
 - Body language and verbal tics
- Ask for help

Mechanics – The Basics

- Each side: 30 minutes
- Each speaker: 15 minutes
- Rebuttal (for Appellants/Petitioner): Up to 2 minutes

Mechanics – Setting Up

- Arrive early, check in, head to courtroom
- Appellant on left, Appellee on right
- All rise, judges enter, all sit
- **STAND UP** when the clerk asks if ready and say **YES**

Mechanics – First Speaker

- Clerk: “Appellant [Petitioner], commence your argument.”
- First speaker for Appellant [Petitioner] goes to podium and begins

Mechanics – First Speaker

- “May it please the court”
- Introduce yourself and partner.
- Explain what each of you will show
 - Briefly state your partner’s issue
 - Give your issue in the form of your brief answer

Mechanics – The Beginning

- Briefly outline your main points
- Tell the court what you want them to do (affirm, reverse)
- Begin your argument

Mechanics – Facts?

- First Appellant speaker: May ask court if it wants a brief recitation of the facts
- Appellee speakers: Mention facts only if the Appellant speaker for your issues discusses and misstates

Mechanics – Second Speaker

- First speaker finishes and sits down
- Second speaker goes up to the podium
 - Introduce just yourself
 - Explain what you will show (your brief answer)
 - Start argument (using the same introduction techniques)

Mechanics – Concluding

- Confidence! Last chance to “make a splash”
- Write out one or two sentences summarizing argument and . . .
- Memorize!

Mechanics – If Time Remains

- Pay attention to time – Once the “1 minute” card goes up, try to wrap up your argument/answer
- Move to your memorized conclusion
- Thank the judges
- Sit down

Mechanics – If Time Runs Out

- Stop talking
- Acknowledge
- Thank the judges and sit
- Middle of answering?
 - Acknowledge, ask if you may finish, briefly finish

Mechanics – Rebuttal

- Only Appellants
- Only one team member
- ONLY for things that demand response
- Waive it if you do not need it

Conduct – Judicial Deference

- Never interrupt
- Do not show frustration
- Listen carefully
- Take 3 seconds and think
- Eye contact

Conduct – Judicial Deference

- NEVER argue with a judge
 - Listen to the question carefully
 - Disagree respectfully
 - Accept hypotheticals
 - Know when to concede

Conduct – General

- Minimal, intentional hand gestures
- Be comfortable, but stand up straight
- Do not use “I” or “we”
- Never talk during someone else’s argument

Following the Round – Feedback

- Clerk will say “All Rise” – stand
- Judges usually file out
 - Feedback from the bench
- Return to moot court reception area
- Get feedback and ask questions