

Rule 352. Conduct of Oral Arguments

(a) Request; Waiver; Dispensing With Oral Argument. A party shall request oral argument by stating at the bottom of the cover page of his or her brief that oral argument is requested. If the party has elected to allow a petition for leave to appeal or answer to stand as the party's brief, the party may file a request for oral argument, with proof of service upon opposing parties. This request shall be filed within the time that the party could have filed a further brief. If any party so requests, all other parties may argue without an additional request.

No party may argue unless that party has filed a brief as required by the rules and paid any fee required by law. A party who has requested oral argument and who thereafter determines to waive oral argument shall promptly notify the clerk and all other parties. Any other party who has filed a brief without requesting oral argument may then request oral argument upon prompt notice to the clerk and all other parties.

After the briefs have been filed, the court may dispose of any case without oral argument if no substantial question is presented, but this power shall be exercised sparingly and only upon the entry of a written order stating with specificity why such power is being exercised in the affected case. Notwithstanding the foregoing, oral argument shall be held in any case in which at least one member of the panel assigned to the case requests it.

(b) Length. Unless the court otherwise orders, each side shall be allowed not to exceed 20 minutes for its main argument. In all cases, the appellant shall have not to exceed an additional 10 minutes strictly confined to rebuttal. If only one side argues, the argument shall not exceed 15 minutes. The court may grant additional time on motion filed in advance of the date fixed for hearing if it appears that additional time is necessary for the adequate presentation of the case. A party is not obliged to use all of the time allowed, and the court may terminate the argument whenever in its judgment further argument is unnecessary.

(c) Reading Prohibited. Reading at length from the record, briefs, or authorities cited will not be permitted.

(d) Divided Arguments. No more than two counsel will be heard from each side except by leave of court, which will be granted when there are several parties on the same side with diverse interests. Divided arguments are not favored and care shall be taken to avoid duplication of arguments.

(e) Multiple Parties. If a case involves appeals by more than one party the sequence of oral argument shall be as the parties agree or as the court directs.

(f) Limitation on Briefs and Memoranda. No brief or memorandum shall be filed after the due date of the reply brief or after oral argument except by leave of court or a judge thereof.

(g) When Oral Argument Not Requested. If a case is submitted to the court without request for oral argument, it shall be decided on the briefs unless the court orders oral argument.

Amended effective July 1, 1975; amended May 28, 1982, effective July 1, 1982; amended June 19, 1989, effective August 1, 1989; amended August 18, 1989, effective September 1, 1989; amended December 17, 1993, effective February 1, 1994; amended Feb. 6, 2013, eff. immediately; amended June 22, 2017, eff. July 1, 2017; amended May 25, 2018, eff. July 1, 2018.

Committee Comments
(Revised July 1, 1975)

This rule is based upon former Supreme Court Rule 43. See also former Second, Third, Fourth, and Fifth District (and earlier Uniform) Appellate Court Rule 13(4).

Paragraph (a)

Paragraph (a) is based largely upon the first paragraph of former Rule 43. The last two sentences are new; the former provision did not require notice of an election to waive oral argument, but provided that if a party appeared at the argument and the other party failed to appear, the party who appeared could argue anyway. The new provision, stated in the last two sentences of the paragraph, requires prompt notice of waiver and a prompt notice by the opposite party if he desires oral argument.

The last paragraph was added in 1975. As to the length of argument, see comment to paragraph (b).

Paragraph (b)

This paragraph is based in part upon the second paragraph of former Rule 43. The provision for requesting additional time by motion filed in advance of the date fixed for hearing is new. The final sentence, which reminds counsel that he need not use all the time allowed and which provides that the court may terminate the argument whenever in its judgment further argument is unnecessary, is also new.

Paragraph (a) limits the power of the court to deny permission to argue orally to cases in which it is determined that no substantial question is presented, and cautions that the power to dispense with oral argument is to be used sparingly. Paragraph (b), on the other hand, leaves the court free to limit the length of the argument in advance, as well as to terminate it once it has begun. when argument is to be limited in advance, ordinarily counsel should be notified reasonably in advance of the date set for argument.

Paragraph (c)

This provision is taken from Second, Third, Fourth, and Fifth District (and earlier Uniform) Appellate Court Rule 13(4), second paragraph, last sentence.

Paragraph (d)

This paragraph is based upon the first sentence of the third paragraph of former Rule 43 and paragraph 4 of Rule 44 of the rules of the Supreme Court of the United States.

Paragraph (e)

This paragraph is new.

Paragraph (f)

This paragraph is derived from the second sentence of former Supreme Court Rule 43 (which did not provide for the filing of another brief upon leave of court or a judge thereof) and the last paragraph of former Second, Third, Fourth, and Fifth District (and earlier Uniform) Appellate Court Rule 13(4).

Paragraph (g)

This paragraph is new.