

RULE 34-4 | ORAL ARGUMENT CALENDAR

(a) General. All appeals not assigned to the non-argument calendar shall be assigned to the oral argument calendar. Appeals to be orally argued will be calendared by the clerk based upon the court's calendaring priorities. Counsel for each party scheduled to present oral argument to the court must appear for oral argument unless excused by the court for good cause shown. The oral argument calendar will show the time the court has allotted for each argument.

(b) Waiver or Submission Without Argument. After an appeal has been scheduled for oral argument, argument may only be waived by the court upon motion filed in advance of the date set for hearing. If counsel for parties agree to submit the appeal on briefs, that appeal will be governed by FRAP 34(f).

(c) Failure to Appear for Oral Argument. If counsel for appellant fails to appear in an appeal from criminal conviction, the court will not hear argument from the United States; in all other appeals, the court may hear argument from counsel present.

(d) Number of Counsel to Be Heard. Only two counsel will be heard for each party whose appeal is scheduled to be argued, and the time allowed may be apportioned between counsel at their discretion.

(e) Change in or Addition to Counsel. After an appeal has been assigned to an oral argument panel, any change in or addition to counsel in the appeal requires leave of court. An appeal is considered assigned to an oral argument panel when the clerk notifies counsel of the specific day of the week on which oral argument in the appeal is scheduled to be heard.

(f) Expediting Appeals. The court may, on its own motion or for good cause shown on motion of a party, advance an appeal for hearing and prescribe an abbreviated briefing schedule.

(g) Continuance of Hearing. After an appeal has been set for hearing it may not be continued by stipulation of the parties or their counsel but only by an order of the court on good cause shown. Usually the engagement of counsel in other courts will not be considered good cause.

(h) Sealing Oral Arguments. Any motion to seal argument must be filed at least five days before oral argument, unless the



court extends that period upon a showing of good cause. Recordings of sealed oral arguments will not be released absent an order of the court.

(i) Recording Oral Arguments. With advance approval of the court, counsel may arrange and pay for a qualified court reporter to be present to record and transcribe the oral argument for counsel's personal use. When counsel has received such approval, counsel must provide the court with a copy of the transcript without delay and at no expense to the court. Except as otherwise provided in this rule, recording of court proceedings by anyone other than the court is prohibited. Also see I.O.P. 16, CD Recordings of Oral Arguments and I.O.P. 17, Posting of Oral Argument Recordings on the Website, following this rule.

(j) Citation of Supplemental Authorities During Oral Argument. If counsel intend to cite supplemental authorities during oral argument that were not provided to the court and opposing counsel prior to the day of oral argument, counsel must bring to oral argument a sufficient number of paper copies of the opinion(s) or other authorities being cited to permit distribution to panel members and opposing counsel.

