

Diversity and the North Carolina Supreme Court: A Look At The Advocates



May 17, 2023

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The first time I set foot in the North Carolina Supreme Court was to observe oral argument in a technical tax appeal, one of my first cases as an attorney in the state Solicitor General’s office. Our opposing counsel included a senior member of the bar, who had driven from Wilmington to watch his junior colleague do battle with mine. As we chatted amiably before the show, he gestured up at the courtroom’s ornate wood paneling, imposing portraits of the former Chief Justices peering down at us from the courtroom walls. “Every time I step foot in this room,” he said, voice rising, “I am reminded how privileged we are to get to do what we do.”

For most North Carolina lawyers, the chance to present oral argument before our state’s highest court is a career milestone, a seminal professional moment. It also serves as an important professional building block—a chance to show that you can cut it at the highest levels. But these opportunities are also a scarce commodity, especially outside of public service. Many of the best lawyers I know rarely, if ever, get the chance.

To be true, as any appellate lawyer worth their salt can confirm, the oral argument usually plays only a modest role in determining the outcome of a case. The briefs are almost always vastly more important, as are the multitude of strategic and tactical decisions made well before anyone enters an appellate courtroom. Given these realities, one might fairly question whether undue attention—and credit—is afforded to the oral advocate. After all, especially in complex cases, the chosen oralist is often not the lawyer who played the greatest role in formulating the arguments they are chosen to voice. Other members of the litigation team understandably cringe whenever an oralist claims it to be “my” case.

But the argument is still a special, and extremely high-stakes, moment. It is the one time that an advocate has the opportunity to look the Judges or Justices in the eyes, answer their questions, and assuage their concerns. It offers the thrills—and perils—of unscripted, spontaneous exchanges between bench and bar. Moments when an unwise concession can sink a case, or an honest retreat to a fallback position can save it. It is up to the lawyer at the lectern to decide.

More broadly, as the culminating crescendo in a protracted legal battle, the appellate argument plays an outsized role in shaping public understanding of a case. The drama and accessibility of oral argument often draw media attention. And in an era of livestreaming, it also increasingly attracts attention from the general public as well.

In short, the appellate advocate is the client’s literal voice to the world—the lead singer of the band. Yes, the music may have been written by others. And the vocalist is often supported by a multitude of better musicians. But at the end of the day, the diva better be able to sing.

Given the significance of this role, there has been increased attention in recent years to whose voices are heard in such settings, and whether distribution of these opportunities reflects the bar as a whole. The findings are underwhelming. For example, a recent [study by the Washington Post](#) found that “the elite group of lawyers who argue before the justices [of the U.S. Supreme Court], remains mostly White and male.”^[1] Similar studies of the [Minnesota Supreme Court](#) and [the U.S. Court of Appeals for the Seventh Circuit](#) have found gross gender disparities in the advocates appearing before those courts—with the gap in both courts especially large among lawyers from private practice.^[2]

To date, however, no similar analysis has been done on the backgrounds of the advocates in our state’s highest court. This article seeks to fill that gap.

Using a dataset painstakingly compiled over the last two years, we find that women and non-white attorneys are underrepresented on our state’s brightest legal stage. Specifically, we found that over the course of 2021 and 2022, over ninety percent of oral advocates in the North Carolina Supreme Court identified as white and over seventy percent as male. Women and non-white attorneys were also more likely to work in government or public interest than in private practice.

Unlike some courts, the North Carolina Supreme Court does not compile or make public the names of the advocates who argue at the Court. However, in 2020, the Court began holding virtual oral arguments and streaming them online. Although the court has returned to in-person arguments, it has continued to post videos of arguments on its [YouTube channel](#). Using these videos, we compiled the names of every attorney who presented oral argument in the North Carolina Supreme Court during calendar years 2021 and 2022. We then cross-checked those names against the [public case dockets](#), which list the names of the attorneys who have appeared in a case but do not list who argued.

To compile demographic information about these attorneys, we relied entirely on information that was self-reported by the attorneys themselves. The main source of information was the voter-registration database maintained by the North Carolina State Board of Elections. When North Carolinians register to vote, they are given the option to self-report information on their gender and race.^[3] This database uses the race and Hispanic ethnicity categories employed by the U.S. Census Bureau, as well as the binary gender categories of male and female.

Demographic information on around two dozen attorneys could not be located on the voter-registration database. Some attorneys are not registered to vote in North Carolina (for example, because they are from out of state), or declined to self-report their demographic information when they registered. By contacting these attorneys directly, we were able to identify information for all but one attorney. We excluded that advocate from our statistical analysis.

Using these two methods, we were able to verify the names and self-reported demographic backgrounds for all but one of the oral advocates in the North Carolina Supreme Court over the two-year period.

Two preliminary clarifications on the data: first, we tracked unique *arguments*, not unique advocates. Because some advocates make multiple arguments, the number of unique advocates is lower than the number of unique arguments. (For example, a single Asian American attorney, one of the authors of this piece, accounted for all but one of the arguments completed by an attorney of that background in 2021 and 2022.)

Findings

Oral advocates in the North Carolina Supreme Court are predominantly men (72.2%). Likewise, the vast majority of oral advocates identify as white (91.5%). These figures do not match the demographics of North Carolinians or North Carolina attorneys. According to the [latest Census Bureau estimates](#), 51.1% of North Carolinians are female, while 70.1% are white, 22.3% are Black, 10.2% Hispanic, 3.4% Asian, and 1.6% American Indian. According to the [North Carolina State Bar](#), 43% of active state bar members are female and 9% are Black.

By any measure, women and minority attorneys are starkly underrepresented among attorneys appearing at our state’s highest court. For example, although women make up a majority of our state’s population, barely a quarter of oral advocates at our state’s highest court are women. As another example, although nearly a quarter of our state’s population is Black, they represent less than 5% of oral advocates at our supreme court (including one advocate who represented himself pro se). More detailed figures are shown in Table 1 below.

Table 1: North Carolina Supreme Court Advocates by Gender and Race

	Count	% of total
Female	105	27.8%
Male	273	72.2%
Total	378	100%
White	346	91.5%
Black	17	4.5%
Hispanic	7	1.9%
Asian	6	1.6%
Two or more races	2	0.5%
Total	378	100%

Drilling deeper into the data, we find that women and non-white attorneys are far more likely to argue criminal cases, as opposed to civil cases. And of the civil cases argued by female attorneys, a disproportionate number involve family law. For example, criminal and family law cases accounted for over 73% of all oral arguments by female advocates.

Female and non-white attorneys are also far less likely to be employed in private law practice, as opposed to government and nonprofit employers. For example, men account for the great majority of private-practice advocates (81.3%). And among private-practice advocates, nearly all advocates identify as white (95.9%). In other words, it is especially rare for a paying, private client to send a woman or non-white attorney to the lectern.

Table 2: Gender Diversity by Case Type[4]

Type	Female		Male		Total Count
	Count	Percent	Count	Percent	
Family/Civil Commitment	25	38.5%	40	61.5%	65
Other Civil	32	18.2%	144	81.8%	176
Criminal	48	35.0%	89	65.0%	137
Total	105	31.6%	273	68.4%	378

Table 3: Gender Diversity by Employer Type

Employer	Female		Male		Total
	Count	Percent	Count	Percent	
Private Firm	41	18.7%	178	81.3%	219
Government	35	35.4%	64	64.6%	99
Public Interest	29	49.2%	30	50.8%	59
Total	105		273		378

Table 4: Racial Diversity by Employer Type

Employer	Non-white		White		Total
	Count	Percent	Count	Percent	
Firm	9	4.1%	210	95.9%	219
Government	18	18.2%	81	81.8%	99
Public Interest	4	6.7%	55	93.2%	59
Total	32		346		378

Analysis

North Carolina is a dynamic, fast-growing, and diverse state. Our bar increasingly reflects this trend. However, a study of oral advocates at our state’s highest court shows that, at least in this rarified space, opportunities remain scarce for attorneys from certain backgrounds. Of course, appellate advocacy is not every lawyer’s field of practice, and oral argument is merely one slice of appellate advocacy. But trends in this elite and highly visible space offer insight into the state of legal practice in North Carolina. Our hope is that compiling and presenting this data will enable the bar to track—and perhaps even encourage—future progress.

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[2] The study on the Minnesota Supreme Court found that less than 30% of advocates were women, and less than 15% among lawyers in private practice. The American Bar Association study found that 28% of advocates were women, that government lawyers made up nearly half of this group, and that women were especially unlikely to argue complex civil cases. See also “[If trends persist, there won’t be gender parity among lawyers arguing at 7th Circuit until 2059.](#)”

[3] See the [North Carolina State Board of Elections page](#).

[4] We also compiled data on case type by race, but the number of arguments by non-white attorneys was too small to generate useful comparisons on this score.

Written by



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