General Instructions and Tips for Oral Arguments

1. Preparation is essential. The object of an appeal is to persuade the Moot Court that a judgment should be rendered in your client's favour. Do your research and analysis, subject to any limitations imposed by these Rules or your professor as to the scope of case law and other materials on which you are permitted to rely, and organize your argument accordingly.

2. Give careful thought to the arguments of the other side, but fight the battle on your own ground. As counsel for the appellant, your case should stand on its own feet. As counsel for the respondent, you must try to fully counter the appellant's argument, but you may also attempt to improve upon the judgment that you seek to uphold.

3. Anticipate difficulties with your argument and questions that the judges may have. Prepare answers to those questions in advance. Judges will traditionally ask about weaknesses in your argument alleged by the opposing party, the broader implications of position you take, and whether the cases you rely upon are distinguishable from the circumstances of your case.

4. Use your factum strategically during oral arguments: inform the judges where you are in your factum so that they can follow your argument more easily, but avoid pure recitation of your factum. Oral advocacy is a not a chance to present new arguments, but rather, an opportunity to expand upon the arguments set out in your factum and address the judges' questions about your factum submissions.

5. The essence of advocacy is persuasion; your task is to influence the judges. The following points should be observed:

    (a) The argument should be a logical sequence of acceptable propositions buttressed by authority. If your argument has some particular challenges, set those challenges out during your argument and then argue why, in this particular case, you can meet those challenges.

    (b) Use your strongest authority first. If the court is persuaded, proceed to the next point. Do not bore the court with needless repetition of authority. In other words, pay close attention to the judges' reactions to your arguments and adjust accordingly.

    (c) State your propositions clearly so that the judges can follow the steps of your argument.

    (d) Although you must respond to the judges' questions, do not permit yourself to be side- tracked. Figure out a way to get back to where you were before the question.

6. Observe some simple yet fundamental rules of courtroom decorum:

    (a) Do not interrupt the judges while they are speaking, and always remain composed in your response. If they are asking a question, let them complete it first.

    (b) Use plain language.

(c) Think before you speak.

(d) Address opposing counsel as your "**friend**".

(e) Pause and take time when responding to judges' questions. Think before answering. If the question from the Judge takes you to a different part of your submissions, it is preferable to address the issue at the time the question is asked rather than telling the Judge that "you will deal with that issue later".

Additional Oral Advocacy Resources

A list of additional resources on oral advocacy is provided below. Please note that these resources provide *general* guidance, and are not meant to be a substitute to any specific rules or court procedures that may apply (e.g. the 1L Moot at Allard Law).

- Bowman Tax Moot: Tips for Virtual Oral Advocacy
- BCCA: Appearing Before the Court Practice Direction November 2021
- CBABC: Counsel Introduction Scripts (2020)
- Harvard Law School: Ames Moot Court Competition (Virtual, 2020) (video)
- Ontario Justice Education Network: Charter Challenge Resource: Presenting your Case at the Court of Appeal
- The Supreme Court Advocacy Institute: Appellate Advocacy: Presenting the oral Argument (2002)
- The Supreme Court of Canada: Webcast of AGBC v. Council of Canadians with Disabilities (2022)
- Thompson Reuters: Tips for Moot Court Tryouts: 7 Steps of Preparation (2019)
- Thompson Reuters: Tips for Moot Court Tryouts: Oral Arguments Dos and Donts (2019)