

**GUIDE
FOR
COUNSEL**

IN CASES TO BE ARGUED

BEFORE THE

**SUPREME COURT OF
THE UNITED STATES**

October Term 2018

Prepared by:
Clerk of the Court
Supreme Court of the United States
1 First Street, N.E., Washington, D.C. 20543
www.supremecourt.gov

SUPREME COURT OF THE UNITED STATES

GUIDE FOR COUNSEL IN CASES TO BE ARGUED BEFORE THIS COURT

I. INTRODUCTION

This guide is designed to assist attorneys preparing cases for argument before this Court, especially those who have not previously argued here. It is not a substitute for the Rules of the Supreme Court. Counsel should familiarize themselves with the Rules, effective **November 13, 2017**.

The Clerk will notify counsel of record for the parties when the Court enters an order noting probable jurisdiction, postponing jurisdiction, or granting a petition for a writ of certiorari. Counsel will be furnished written instructions concerning the preparation and filing of the joint appendix and the briefs on the merits. A specification chart that clearly displays the colors to be used for the covers of briefs will also be furnished. Please read these materials carefully, as they set forth certain steps counsel must take. Any questions counsel have respecting cases to be argued should be directed to the Clerk through the Merits Cases Clerk, Denise McNerney, 202-479-3032, dmcnerney@supremecourt.gov. The Merits Cases Clerk should be notified as soon as possible of changes in counsel of record at the merits stage in addition to the filing of a notice of appearance through the Court's electronic filing system. A party, or parties jointly filing, may have only 1 counsel of record.

II. ORAL ARGUMENT

A. SCHEDULING & PREPARATION

Oral arguments are normally conducted from October through April. A two-week session is held each month with arguments scheduled on Monday through Wednesday of each week. Unless the Court directs otherwise, each side is allowed one-half hour for argument. The Court generally hears argument in two cases each day beginning at 10 a.m. and adjourns after the argument in the second case ends, usually around noon. If more than two cases are to be argued in one day, the Court will reconvene at 1 p.m. Rules 27 and 28 contain additional information concerning oral arguments.

When a case has been calendared for argument, the Clerk will send a notice to counsel. Please note that after the argument schedule is set, the Clerk cannot make changes.

If counsel have any longstanding professional or personal commitments or for some reason cannot appear for oral argument on any date in the future (particularly within the two argument sessions following the due date of respondent's brief), these matters must be called to the Clerk's attention by letter with a copy to opposing counsel. To the extent possible, the Clerk will endeavor to schedule the oral argument to avoid conflicts.

Please advise the Clerk of any necessary accommodations to permit the Clerk and the Marshal to make suitable arrangements at the counsel tables.

B. DAY OF ARGUMENT

Arguing counsel and co-counsel should enter the building through the southwest door (First St., N.E.). It is located on the ground level, to your right as you face the front of the building. Do not walk up the front steps. If there is a line, you should proceed to the front of the line and identify yourself as arguing counsel.

Arguing counsel and co-counsel who will be seated at the counsel tables for cases to be argued in the morning must

report to the Lawyers' Lounge on the first floor (Courtroom level) of the Court between 9:00 and 9:15 a.m. on the day of argument. The Clerk will brief counsel at this time on Courtroom protocol, answer any last minute questions, and issue counsel and co-counsel identification cards. Arguing counsel and co-counsel whose cases are scheduled for the afternoon session need not be present in the morning for the Clerk's briefing or the oral arguments. They must report to the Lawyers' Lounge between 12:15 and 12:30 p.m. for a briefing by the Clerk.

Appropriate attire for counsel is conservative business dress in traditional dark colors (*e.g.*, navy blue or charcoal gray).

No personal computers, cellular phones, cameras, PDAs, or other electronic/wireless devices are allowed in the Courtroom, and they may not be used in the Lawyers' Lounge. Counsel and co-counsel may leave such devices, coats, hats, and similar items in the Lawyers' Lounge. Others should check items in lockers located at the front of the building on the first floor (Courtroom level).

The Court has a residential corps of journalists who follow its docket closely. Although interviews and news cameras are not permitted in the Court building, they are allowed on the front plaza on argument days, where reporters frequently wait to talk to counsel after argument has concluded.

Transcripts of oral arguments are posted on the Supreme Court website www.supremecourt.gov/oral_arguments/argument_transcript/2018 on the same day the argument is heard by the Court. To obtain a bound copy of an individual transcript, contact Heritage Reporting Corporation at 202-628-4888, or www.hrccourtreporters.com. Any noted errors in a transcript should be brought to the attention of the Marshal of the Court, 202-479-3333.

Audio recordings of arguments are made available on the Court's website the Friday of the week in which the case is argued. www.supremecourt.gov/oral_arguments/arguments_audio/2018.

C. SEATING FOR COUNSEL

After you have met with the Clerk and received your identification card, you should report to the Courtroom officials inside the railing to be assigned an appropriate seat.

Four seats are available at each counsel table in the Courtroom. When only one counsel is to argue a case per side, the arguing counsel and three co-counsel will be accommodated at the table. If divided argument has been granted and two counsel are to argue on the same side, the Court will accommodate only one co-counsel per each arguing counsel at the table.

The quill pens at counsel table are gifts to you—a souvenir of your having argued before the highest Court in the land. Take them with you. They are handcrafted and usable as writing quills.

It is appropriate for co-counsel to occupy the arguing counsel's chair when the latter is presenting argument. Except in extraordinary circumstances, co-counsel should not pass notes to arguing counsel during argument.

D. IN THE COURTROOM—ORDER OF BUSINESS

Arguing counsel and their co-counsel should be settled in the Courtroom and seated in their assigned seats at the counsel tables about ten minutes before Court is scheduled to convene. The Marshal of the Court cries the Court at 10 a.m. The Chief Justice makes routine announcements (*e.g.* orders are released). Opinions, if any, are then released. The authoring Justice will read a summary of the opinion; this takes about five minutes for each opinion. Motions for admission to the Bar occur next. The Chief Justice will then announce that the Court will hear argument in the first case for argument that day. If you are counsel for the petitioner, you should proceed promptly to the lectern—do not wait for the Chief Justice to issue an invitation. Remain standing at the lectern and say nothing until the Chief Justice recognizes you by name. Once he has done so, you may acknowledge the Court by the usual: “Mr. Chief Justice and may it please the Court. . . .” Do not introduce

yourself or co-counsel. Under the present practice, “Mr.” is only used in addressing the Chief Justice. Others are referred to as “Justice Thomas,” “Justice Ginsburg,” or “Your Honor.” Do not use the title “Judge.” If you are in doubt about the name of a Justice who is addressing you, it is better to use “Your Honor” than to address the Justice by another Justice’s name.

E. YOUR ARGUMENT

1. Preparation

Many attorneys find it very educational to attend a Courtroom session before their scheduled argument day. If you choose to do this, feel free to visit the Clerk’s Office and introduce yourself to the Clerk. The same applies to the Marshal.

Remember that briefs are different from oral argument. A complex issue might take up a large portion of your brief, but there might be no need to argue that issue. Merits briefs should contain a logical review of all issues in the case. Oral arguments are not designed to summarize briefs, but to present the opportunity to stress the main issues of the case that might persuade the Court in your favor.

It has been said that preparing for oral argument at the Supreme Court is like packing your clothes for an ocean cruise. You should lay out all the clothes you think you will need, and then return half of them to the closet. When preparing for oral argument, eliminate half of what you initially planned to cover. Your allotted time passes quickly, especially when numerous questions come from the Court. Be prepared to skip over much of your planned argument and stress your strongest points.

Some counsel find it useful to have a section in their notes entitled “cut to the chase.” They refer to that section in the event that most of their time has been consumed by answering questions posed by the Justices. This allows them to use the few precious minutes remaining to stress their main points.

If your argument focuses on a statute, regulation, or ordinance, be sure that the law is printed in full in one of your pleadings so that you can refer the Justices to it and they can be looking at it during your argument.

Do not bring numerous volumes to the lectern. One notebook will suffice. Please note that a legal sized pad does not fit on the lectern properly. Turning pages in a notebook appears more professional than flipping pages of a legal pad.

Know the record, especially the procedural history of the case. Be prepared to answer a question like: “Why didn’t you make a motion for summary judgment?” You have the opportunity to inform the Justices about facts of which they are not aware. Justices frequently ask: “Is that in the record?” Be prepared to answer. It is impressive when you can respond with the volume and page where the information is located. It is also quite effective to quote from the joint appendix. If you are asked a question that will require you to rely upon facts that are not in the record, say so explicitly. Know your client’s business. One counsel representing a large beer brewing corporation was asked the following by a Justice during argument: “What is the difference between beer and ale?” The question had little to do with the issues, but the case involved the beer brewing business. Counsel gave a brief, simple, and clear answer that was understood by everyone in the Courtroom. He knew the business of his client, and it showed. The Justice who posed the question thanked counsel in a warm and gracious manner.

For an excellent example of a counsel who was intimately familiar with her client’s business, see the transcript of argument in *United States v. Flores-Montano*, 541 U. S. 149 (2004). The case dealt with the searching of vehicle gas tanks by customs agents at an international border. Government counsel had a total grasp of why and how the agents conducted the searches and provided convincing explanations to all questions posed by the Court.

The following are excellent sources of information for arguing counsel: *Making Your Case, the Art of Persuading Judges*, by Justice Antonin Scalia and Bryan Garner; *Su-*

preme Court Practice (10th ed.), by Stephen Shapiro, Kenneth Geller, Timothy Bishop, Edward Hartnett and Dan Himmelfarb; and *Supreme Court and Appellate Advocacy: Mastering Oral Argument* (2nd ed.), by David Frederick.

2. Time

Your argument time is normally limited to 30 minutes (Rule 28.3). You need not use all your time. Counsel for the respondent in *Whitfield v. United States*, 543 U. S. 209 (2005) successfully argued for only 10 of the allotted 30 minutes. Other examples of successful brief arguments are: *Burgess v. United States*, 553 U. S. 124 (2005) (respondent argued seven of the allotted 30 minutes); *Logan v. United States*, 552 U. S. 23 (2007) (respondent argued 10 of the allotted 30 minutes); *United States v. Clintwood Elkhorn Mining Co.*, 553 U. S. 1 (2008) (petitioner argued 17 of the allotted 30 minutes); *United States v. Ressam*, 553 U. S. 272 (2008) (petitioner argued 17 of the allotted 30 minutes); and *United States v. Marcus*, 560 U. S. 258 (2010) (petitioner argued 16 of the allotted 30 minutes).

Requests for additional time for argument or for division of time for argument "...shall be presented by motion under Rule 21 in time to be considered at a scheduled Conference prior to the date of oral argument and no later than 7 days after the respondent's or appellee's brief on the merits is filed..."

When the Marshal activates the white light, there are five minutes of argument time remaining. When the red light comes on, there is no argument time remaining. If you are answering a question from a Justice, you may ask the Chief Justice for leave to continue your answer. At that point, you should only respond to pending questions, and should not conclude with a summation.

Time for rebuttal must be reserved and is taken out of the total time allocated to you for argument. If more than one counsel is arguing on behalf of petitioners, only one arguing counsel may reserve time for rebuttal. A petitioner's counsel who wants to reserve time for rebuttal should, about five minutes before the allotted time is to expire, say,

“If there are no further questions, I would like to reserve the remainder of my time for rebuttal.” Petitioner’s counsel then sits down, and the Chief Justice calls on respondent’s counsel for argument. Respondent’s counsel proceeds to the lectern, waits for acknowledgment by the Chief Justice, and then opens with: “Mr. Chief Justice and may it please the Court.” When respondent’s counsel has finished and gathered all items from the lectern, petitioner’s counsel should return to the lectern and wait for acknowledgment by the Chief Justice. At this point, the Chief Justice will inform counsel of the time remaining for rebuttal. You may begin your rebuttal at this time without having to repeat, “Mr. Chief Justice and may it please the Court.”

Promptly and quietly vacate the front argument table after the Chief Justice announces that “The case is submitted.” Counsel at the back-up tables should move to the front tables for the next case. You may move to the backup table if you wish to listen to the next argument or return to the Lawyers’ Lounge where the arguments can be heard through a loudspeaker.

3. Protocol

The Supreme Court is not a jury. A trial lawyer tries to persuade a jury with facts and emotion. Counsel should try to persuade this Court by arguing points of law.

Your argument should focus only on the question or questions presented in the petition that was granted. Do not deviate from it.

Ordinarily, the Justices will know whether you are making your first argument before the Court. Be assured that some first-time arguments have been far superior to presentations from counsel who have argued several times.

Counsel for the petitioner need not recite the facts of the case before beginning argument. The facts are set out in the briefs, which have been read by the Justices.

You should speak in a clear, distinct manner, and try to avoid a monotone delivery. Speak into the microphone so that your voice will be audible to the Justices and to en-

sure a clear recording. Avoid having notes or books touch the microphones, since this interferes with the recording process. Under no circumstances should you read your argument from a prepared script. You should not attempt to enhance your argument time by a rapid fire delivery. Exhibits can be useful in unusual cases. Be very careful to ensure that any exhibit you use is appealing, accurate, and capable of being read from a distance of about 25 feet. Be sure to explain to the Court precisely what the exhibit is. Counsel must advise the Clerk of a request to use an exhibit well in advance of argument. For a good example of an exhibit used at oral argument in this Court, see *Shaw v. Reno*, 509 U. S. 630, 658 (1993).

Never interrupt a Justice who is addressing you. Give your full time and attention to that Justice—do not look down at your notes, and do not look at your watch or at the clock located high on the wall behind the Justices. If you are speaking and a Justice interrupts you, cease talking immediately and listen.

When a Justice makes a point that is adverse to you, do not “stonewall.” Either concede the point, as appropriate, or explain why the point is not dispositive of your case and proceed with your argument.

Do not “correct” a Justice unless the matter is essential. In one case a Justice asked a question and mentioned “waiver.” Counsel responded by stating that a “forfeiture” rather than a “waiver” was involved. The distinction was irrelevant, but the comment generated more questions and wasted valuable time.

Be careful to use precise language. In one case, counsel stated, “The Supremacy Clause does not apply in this case.” A Justice responded: “The Supremacy Clause applies in every case. Perhaps counsel meant that the statute in question does not conflict with the Supremacy Clause.”

Be careful not to use the “lingo” of a business or activity. The Court may not be familiar with such terms, even if widely understood within that business or activity. For example, you should not say “double-link connector” or “sec-

tion 2b claims” unless you have explained what those terms mean. Similarly, do not use the familiar name of your client during argument. For instance, say “Mr. Clark denied the request” rather than “Buddy denied the request.”

Strunk and White warned us to “avoid fancy words” when writing. The same is true for oral argument. Counsel used the word “orthogonal” in a recent case. This caused a minor disruption that detracted from the argument. Counsel could just as easily have said “right angle.”

Do not refer to an opinion of the Court by saying: “In Justice Ginsburg’s opinion.” You should say: “In the Court’s opinion, written by Justice Ginsburg.”

If you quote from a document verbatim, tell the Court where to find the document (*e.g.*, page 4, appendix B to the petition).

Attempts at humor usually fall flat. The same is true of attempts at familiarity. For example, do not say something like: “This is similar to a case argued when I clerked here.” Do not denigrate opposing counsel. It is far more appropriate and effective to be courteous to your opponent.

Avoid emotional oration and loud, impassioned pleas. A well-reasoned and logical presentation without resort to histrionics is easier for listeners to comprehend.

Counsel for respondents are often effective when they preface their argument by answering questions that petitioner’s counsel could not answer or answered incorrectly or ineffectively. This can often get you off to a positive start.

If your opponent is persuasive on a certain theme during argument, especially one that was not anticipated, you may wish to address that issue at the outset of argument or rebuttal argument rather than adhere to a previously planned presentation. You take a great risk if you ignore a persuasive point made by your opponent.

Rebuttal can be very effective. But you can be even more effective if you thoughtfully waive it when your opponent has not been persuasive. If you have any rebuttal, make it and stop. There is no requirement that you use all your allotted time.

4. Answering Questions

You should assume that all of the Justices have read the briefs filed in your case, including *amicus curiae* briefs.

Expect questions from the Court, and make every effort to answer the questions directly. If at all possible, say “yes” or “no,” and then expand upon your answer if you wish. If you do not know the answer, say so.

Anticipate what questions the Justices will ask and be prepared to answer those questions. If a case with issues similar to yours was previously argued in this Court, consider obtaining a transcript of the oral argument in that case to review. That might help you anticipate questions that those Justices who heard the previous case might ask in your case. If a counsel stumbles on a question from the Court or does not fully answer it, it is a good tactic for another attorney supporting that counsel’s side to begin argument by repeating the question and answering it correctly and completely. The other counsel will have had time to reflect on the initial question and perhaps develop a better answer.

A Justice will often ask counsel seeking to establish a new precedent: “Do any cases from this Court support your position?” Be ready for the question, but be careful to cite only those cases that truly support your position. Do not distort the meaning of a precedent. The author of the opinion is likely to have a clear memory of exactly what the opinion says. If you are relying on a case that was announced by a “plurality opinion,” be sure to mention that there was no “opinion for the Court” in the case.

In appropriate cases, suggest to the Court that bright-line rules should be adopted and suggest what they should be. If a Justice poses a hypothetical question, you should respond to that question on the facts given therein. In the past, several attorneys have responded: “But those aren’t the facts in this case!” The Justice posing the question is aware that there are different facts in your case, but wants and expects your answer to the hypothetical question. Answer, and thereafter, if you feel it is necessary, say some-

thing such as: “However, the facts in this case are different.” A “yes” or “no” answer might be suitable for a narrow question. Nevertheless, your answer should be carefully tailored to fit the question. A simple “yes” or “no” in response to a broad question might unintentionally concede a point and prompt a follow-on question or statement which ultimately may be damaging to your position.

When other Justices ask questions before you complete your answer to the first Justice, you should take a commonsense approach in determining which of the questions to answer first. You might consider responding to the last question, indicating, if you believe it to be the proper thing to do, that you will answer that question first before completing your answer to the prior question. Alternatively, you may indicate to the last questioner that it would assist you in making your response if you could first conclude your answer to the first Justice’s question, at which time you would complete your response to the first Justice. There is no definite rule of protocol. However, ordinarily if two Justices start to speak at once, the junior Justice will withdraw in deference to the senior. Perhaps by analogy you could respond to the senior Justice’s question first, and then address questions from junior Justices.

III. COURTROOM SEATING

Courtroom seating is extremely limited. Spectators from the general public are seated first come, first seated, either for an entire argument or on a short (three minute) rotation.

If arguing counsel wishes to reserve space in the public section, counsel must contact the Marshal’s Office after completing and returning the argument form to the Clerk. A letter concerning reservations, including the name of the arguing counsel and the names of those for whom they wish to reserve guest seating, should be sent to: Marshal, Supreme Court of the United States, Washington, D.C. 20543. The Marshal, depending on available space, will endeavor to accommodate as many of your guests as possible—not exceeding six spaces per side. When two counsel are arguing

on one side, those counsel are each permitted a maximum of four spaces, subject to availability.

When your guests arrive at the Court on the argument day, they should check coats, hats, briefcases, cameras, electronic equipment, and similar items in the cloakroom that is located on the first floor (Courtroom level) at the front of the building. They should then proceed to the Marshal's Office, which is located to the right as you face the main entrance to the Courtroom. An attendant, seated at a small table in the hallway outside the Marshal's door, will receive your guests. Guests must be escorted through the metal detectors and into the reserved seating area of the Courtroom.

Members of this Court's Bar are invited to sit inside the brass railing. Before entering, they will be required to report to the Clerk's assistant who is seated in the Lower Great Hall on the ground floor. The Supreme Court Bar check-in process normally begins at 8:30 a.m. Show the assistant a photo identification card, and your name will be checked against the Bar membership roster. Inform the assistant if your name is different from the one used when you were admitted to the Bar. Bar members will be issued a pass and directed to proceed to the Courtroom on the first floor. Seating is on a first-come, first-seated basis. When the Bar section is filled, remaining Bar members will be seated in the Lawyers' Lounge, where arguments can be heard through a loudspeaker. Bar members are asked to wear professional business attire.

If you or a guest needs an impaired hearing device, please request assistance from the Marshal's Office.

IV. DECISIONAL PROCESS

After a case has been argued, the Court will vote at a Conference, and the case will be assigned to a Justice to write the majority opinion. Opinions may be handed down at any time after the argument. The only information the Clerk or his staff can give you in this regard is that cases argued during the Term are usually decided before the end of June.

Opinions may be released in the Courtroom on any day the Court is sitting, but usually on Tuesday or Wednesday when the Court sits for oral argument and on Monday when the Court sits for the announcement of orders and group Bar admissions. Counsel should also be aware that in June the Court frequently adds additional sittings to announce opinions. Information about additional sittings is posted on the Court's website on Friday afternoons.

Opinions are typically announced shortly after 10 a.m. and are released to the public and news media—in both written and electronic form—as they are read from the Bench. Opinions are available on the Court's website soon after announcement. Copies of opinions are mailed to arguing counsel and counsel of record on the day of release.

The judgment or mandate of the Court will be issued by the Clerk following the end of a 25-day period after the release of the opinion, unless a petition for rehearing has been timely filed. Rule 45.

If the petitioner prevails, the Clerk will provide for an award of costs, if appropriate, in the judgment or mandate. Only the costs of printing the joint appendix and the docketing fee may be awarded. Rule 43.

V. RECORDS

If the certified record of the proceedings below has not been filed previously in this Court, the Clerk will request the clerk of the court possessing the record to certify and transmit it to this Court. This is generally done upon the Court's scheduling of a case for oral argument. Consequently, if counsel desires to have the record remain in the lower court for a certain period of time, counsel must notify the Clerk's Office immediately. Rule 16.2. Information noting the receipt/access of the lower court records of each case set for oral argument is noted on our docket.

VI. JOINT APPENDIX and MERITS BRIEFS

1. Preparation. Rules 25, 26, 33 and 34

The time for filing and preparation requirements for the joint appendix are governed by Rule 26. Preparation of the

joint appendix may be deferred until after the briefs have been filed upon approval of the Clerk. Deferral of the joint appendix is not favored. Parties wishing to dispense with the requirement of the joint appendix must seek leave of the Court. Rule 26.8.

Because the entire certified record is available to the Court for reference and examination, only those significant portions of the record that have not been included within a brief for filing with the Court, and that are directly relevant to the issue(s) for the Court's consideration, should be included in the joint appendix. A brief may always cite directly to anything contained in the certified record.

Counsel for the petitioner must keep the Clerk advised respecting any disagreement on the designations. Copies of the designations need not be forwarded to the Clerk.

The time for filing briefs on the merits is governed by Rule 25. Content requirements and word limits are governed by Rules 24 and 33.1. Counsel seeking leave to file a brief on the merits in excess of the word limits must submit an application to an individual Justice in accordance with Rule 22. Rule 33.1(d). Such applications should be submitted only in the most extraordinary circumstances, and submitted promptly to enable counsel adequate time to modify and timely file the brief in accordance with the Rules should the Circuit Justice deny the application.

It is the responsibility of counsel to read a brief before it is submitted to the Clerk and to make appropriate changes as necessary. If a brief has been filed with the Clerk and not yet circulated to the Court, counsel may arrange to have a representative come to the Clerk's Office to note minor changes in the 40 copies of the brief on file. Counsel should contact the Clerk's Office for instruction as to what method of correction is most appropriate and as to the best method to submit a revised version through the electronic filing system. Opposing counsel must be informed of such changes immediately. After a brief has been circulated to the Court, the Clerk will consider receiving 40 copies of a "corrected"

brief for distribution only when a meritorious reason and sufficient time exist.

2. Time. Rules 25 and 30

Absent an order of the Court setting forth a briefing schedule, the time to file briefs on the merits is set out in the Rules, and due dates do not appear on the Court's docket. For good cause, the time limit for filing the joint appendix and the opening briefs on the merits may be extended by the Clerk pursuant to Rule 30.4. Extensions of time to file briefs on the merits are not favored. Any request for an extension of time to file a joint appendix or an opening brief on the merits should be presented in the form of a letter to the Clerk that is served on all other counsel of record pursuant to Rule 29.2. The letter should set out the specific reasons why an extension of time is justified and indicate opposing counsel's position on the request.

The reply brief for the petitioner, if any, must be filed within 30 days after the brief for the respondent or appellee is filed, but any reply brief must actually be received by the Clerk not later than 2 p.m. one week before the date of oral argument. Counsel should note that if the seventh day prior to the oral argument date falls on a holiday, the reply brief due date moves to the prior business day to allow sufficient time for distribution to and review by the Justices.

The Clerk is not authorized to extend the time to file a reply brief on the merits. Rule 30.3. Counsel seeking such an extension must do so in the form of an application to an individual Justice submitted in accordance with Rule 22.

3. Supplemental Briefs. Rule 25.

The Clerk will not file a brief on the merits after a case has been argued except that of a party filed by leave of the Court. Rule 25.7. In such instances, a motion for leave to file and the brief sought to be filed should be submitted as one document and prepared in accordance with the requirements of Rule 33.1. Supplemental Briefs. Rule 25.

4. Electronic Filing. Rule 29.

Pursuant to Rule 29.7, most documents from filers represented by counsel must be submitted through the Court's

electronic filing system. Paper remains the official filing, and the electronic submission requirement is in addition to the existing paper filing requirement. Documents are to be submitted through the system contemporaneously with their filing pursuant to Rule 29.2, *i.e.*, at or near the time they are delivered to the Court, placed in the mail, or delivered to a third-party carrier

Please note that documents in existing cases will become available on the Court's website for public view within minutes after submission through the system, before review by the Clerk's Office. As a result, counsel must be careful to ensure that the correct and final electronic version has been submitted, and that any necessary redactions under Rule 34.6 have been made. In addition, documents containing any sealed material, including motions to file documents under seal, should be submitted in paper form only. Information about the types of documents that should and should not be submitted through the system can be found in paragraphs 1, 7, 8, 9 and 14 of the Guidelines for the Submission of Documents to the Supreme Court's Electronic Filing System ("Guidelines").

In cases governed below by Federal Rule of Civil Procedure 5.2, including immigration cases addressed in Federal Rule of Criminal Procedure 49.1(c), filings prior to the grant of certiorari are not submitted through the electronic filing system. But once certiorari is granted, the parties are to submit electronic versions of all prior and subsequent filings with the Court in the case, subject to redaction rules set forth in paragraph 8 of the Guidelines. Counsel should contact the Merits Cases Clerk to discuss the logistics of providing electronic versions of documents that were filed prior to the grant of certiorari.

If there is a change in counsel of record in a case once certiorari has been granted or a case has otherwise been designated for oral argument, that change must be reflected promptly through the electronic filing system. Outgoing counsel of record must remove a designation as counsel of record, and incoming counsel must enter an appearance

with a designation as counsel of record. These actions are taken solely through the electronic filing system, but new counsel should also inform the Merits Cases Clerk of the change directly.

VII. INFORMATION

The Clerk and the staff wish to be helpful to counsel and will endeavor to answer all requests to assist them in their visit to the Supreme Court.

The Court's Website (www.supremecourt.gov), provides access to the automated docket (including electronic copies of most filings), information on the electronic filing requirements and system, opinions, Court calendar, argument calendar, transcripts and audio of oral arguments, Bar admission forms and instructions, Rules of the Court, guides to filing paid and *in forma pauperis* petitions, order lists, granted/noted lists, this Guide, and other information about the Court.

The Supreme Court is located at the corner of First Street and Maryland Avenue, N.E., directly across from the United States Capitol, and is easily reached by taxi or Metro (subway) from Ronald Reagan National Airport. The Union Station rail terminal and the Capitol South Metro terminal are within walking distance. The building is open from 9 a.m. to 4:30 p.m., Monday through Friday. Arguing attorneys and co-counsel may enter through the ground level southwest door after 7:30 a.m. The building is closed Saturdays, Sundays, and holidays. It is accessible to persons with disabilities by way of a ramp near the north entrance. There is virtually no parking available in the vicinity of the Supreme Court building.

Topcoats, raincoats, umbrellas, hats, cameras, cell phones, laptop computers, tablets, and recording devices are not permitted in the Courtroom. Watches that have the ability to record, conduct telephone calls, or send or receive text messages and email, also are not allowed in the Courtroom. A checkroom and lockers are located at the front of the building on the first floor (Courtroom level). Members of

the Bar and spectators in the public section are permitted the use of writing materials that can easily fit on one's lap (notepad and pen).

Members of the Supreme Court Bar may use the Supreme Court Library, located on the third floor of the Court building. The Library is open from 9 a.m. to 4:15 p.m., Monday through Friday. For access, obtain a blue pass from the Clerk's Office and present the pass at the reception desk in the Library. Quiet use of laptops and tablets is permitted, but no wireless access is available unless arrangements are made through the Marshal's Office. Quiet use of cell phones is permitted in unobtrusive areas only, taking care to avoid disturbing other Library users or staff. In addition, there is a computer workstation in the Library for Bar member access to selected subscription databases. Printing from the workstation is free of charge. Photocopy machines are available for a charge of 20 cents per page.

There are many hotels in the Washington metropolitan area, several of which are within walking distance of the Court. A map is included on the Court's Website.

The Supreme Court Historical Society has a gift shop on the ground floor of the Court building. A cafeteria and public telephones are also located on the ground floor.

Frequently used telephone numbers are found in the appendix.

APPENDIX

FREQUENTLY USED TELEPHONE NUMBERS

Area Code 202

Clerk of the Court (Scott Harris)..... 479-3014

Merits Cases Clerk (Denise McNerney) 479-3032;
dmcnerney@supremecourt.gov

Deputy Clerk for Practice & Procedure (Danny Bickell)... 479-3024

Deputy Clerk for Case Management (Laurie Wood)..... 479-3031

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