

## **Webster's Tips for Successful Appellate Oral Advocacy**

1. Study the Record - Most appeals are fact-driven; therefore, a thorough working knowledge of the record is critical
2. Know the Correct Standard of Review - This will dictate both what you argue, and how you present it
3. Think About Your Presentation - If appellant, decide what you will emphasize (generally, you should present your strongest argument first); if appellee, put yourself in shoes of opponent, and try to anticipate what she will argue
4. Outline Your Argument - Obviously, this is easier if you are appellant than if you are appellee, but you should prepare at least a rough outline even if appellee
5. Prepare a Brief Opening and Closing - Prepare and memorize a brief opening and closing (three or four sentences each), but do not attempt to memorize a set speech
6. Anticipate the Hard Questions - And be prepared to address them
7. Check out the Panel - If possible, go and watch some arguments the day before yours; pay particular attention to how the panel interacts with those arguing, and each other
8. Get to the Courthouse Early - Allow for unexpected delays, changes in order of arguments, etc.
9. Dress Professionally - What you wear should not detract from what you have to say
10. Communicate Clearly and Concisely - Your task is twofold, to inform and to persuade; you will not succeed at either unless you follow this tip
11. Do Not Read Your Argument
12. Do Not Make a Jury Argument - Appellate courts are in the business of correcting errors of law
13. Welcome Questions - These will generally reflect the judges' concerns, and a good answer may make the difference between winning and losing
14. Act Professionally - Treat the lower tribunal, your opponent and the judges as you would like to be treated--with respect
15. When You're Finished, Sit Down - Simply because you've been allotted a certain amount of time doesn't mean you must fill it
16. Use Rebuttal Wisely - If appellant, always reserve time for rebuttal (should almost never be more than 3 minutes); use the time to make one or two quick, strong points in response to appellee's argument; if you have nothing good to say, waive it