
TIPS FOR APPELLATE PRACTICE

JUDGE PAUL J. WATFORD
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

JUSTICE F. PHILIP CARBULLIDO
SUPREME COURT OF GUAM

ANNUAL DISTRICT COURT OF GUAM CONFERENCE
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Tips for Appellate Practice-2017 Distric Conference

PANEL DISCUSSION OVERVIEW

- Best Practices for Brief Writing
- Best Practices for Oral Argument
- Practices to Avoid



BEST PRACTICES FOR BRIEF WRITING

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- Focus on brevity, clarity, and organization.
- Try to limit your brief to two or three main issues.
- Order of arguments—lead with strongest/most important issue.

BEST PRACTICES FOR BRIEF WRITING

- Don't be afraid to provide helpful background.
- Generally, it is best to start with an affirmative argument, then explain why the opposing side's arguments are unpersuasive.
- Confront the strongest opposing arguments and cases head on.

BEST PRACTICES FOR BRIEF WRITING

- Try to use short, simple sentences.
- Always be respectful in tone, both toward the lower court and your opponent.
- Importance of credibility—never stretch the holdings of cases or shade the contents of the record.



BEST PRACTICES FOR ORAL ARGUMENT

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- The importance of the written brief.
- Appreciate the importance of oral argument and know your objectives.
- Prepare diligently.
- Decide what parts of your brief you'll cover.

BEST PRACTICES FOR ORAL ARGUMENT

- Be flexible.
- Organize and index the materials you may need.
- Conduct moot court.

BEST PRACTICES FOR ORAL ARGUMENT

- Have your opener down pat.
- If you're the appellant, lead with your strength.
- If you're the appellee, take account of what has preceded, clear the underbrush, and then go to your strength.

BEST PRACTICES FOR ORAL ARGUMENT

- What to do in rebuttal.
- Be conversational, not oratorical.



PRACTICES TO AVOID

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- Never read an argument, never memorize except the opener and perhaps the closer.
- Never postpone an answer.
- Never praise a question.
- Never say “I wasn’t the trial attorney.”

PRACTICES TO AVOID

- Never demean your opponent or the trial court.
- Never invent an answer.
- Never try and be funny.

PRACTICES TO AVOID

- Never speak over a judge.
- Never roll your eyes or shake your head at a judge.
- Never misrepresent or inaccurately cite the record or authority.

QUESTIONS?