

OFFICE OF THE CLERK
U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT
95 SEVENTH STREET, P.O. BOX 193939
SAN FRANCISCO, CALIFORNIA 94119-3939

NOTICE OF CASES SET FOR HEARING

Your case has been set for hearing as indicated on the calendar, but please note that the panel retains discretion pursuant to Fed. R. App. P. 34 to submit the case on the briefs without argument. If you intend to present oral argument, you must, no later than 28 days before the hearing date, file the Acknowledgment of Hearing Notice via the CM/ECF or ACMS system [or by mailed correspondence for those unregistered parties or attorneys who are exempt from using the CM/ECF or ACMS system]. As of January 1, 2024, any attorney or self-represented party who is invited to argue before the court is expected to appear in person unless the court has directed that a specific hearing will be conducted remotely by video. Any attorney or self-represented party for whom an in-person appearance would pose a hardship may file a motion to appear remotely, and, absent exigent circumstances, such a motion must be filed within 7 days of the hearing notice.

If the court determines that argument is necessary, the Clerk's Office will be in touch within two weeks of the scheduled argument date to confirm counsel's appearance and to make arrangements regarding remote appearance if the court has granted express permission to do so.

Below are some things to consider when preparing for argument:

Possibility of Mootness or Settlement - If your case has become moot or a settlement is imminent, immediately advise the Clerk's office by filing a motion to dismiss and/or a motion to vacate the scheduled hearing.

Notification of Related Cases - If you are aware of other related cases pending in this court that should be calendared with your case(s), please notify the court as soon as possible.

Admission for Oral Argument - If you are presenting oral argument on behalf of a party other than yourself, you must be admitted to the bar of this court. **The application form is on the court's website, www.ca9.uscourts.gov, under Forms. If you need to verify your admission, please call the Attorney Admissions Inquiry line at (415) 355-7800 and leave the requested information.**

Submission Without Oral Argument - If you feel that oral argument would not be of assistance to the court, file a "motion to submit case on briefs." For non-exempt counsel, this motion must be filed electronically. The court may, on its own motion, determine that oral argument would not be of assistance. In such cases, all parties will be advised by order pursuant to Fed. R. App. P. 34(a).

Day of Oral Argument - If you are presenting oral argument, register with the courtroom deputy 30 minutes before the start time of the hearing. The Clerk's Office will provide instructions for how to register remotely when permitted. All counsel for all cases must be registered and prepared to begin argument at the time the session is convened.

Hearing Order of Cases - Cases are generally heard in the order in which they appear on the calendar. However, a panel may rearrange the order of cases at the start of a session. Counsel in all cases should be prepared to begin argument immediately after court is convened in the event that the panel rearranges the order of cases.

Time for Oral Argument - Cases scheduled for oral argument will be assigned 10, 15, 20, or occasionally 30 minutes per side. Check the calendar to determine your time allotment. If there will be more than one attorney or party arguing on one side of the case, the attorneys on that side will be required to share the total time allowed for that side. It is inadvisable for more than two lawyers to argue on a side, or for more than one lawyer to argue for a single party. The Court may decline to allow split arguments inconsistent with this advisement. Attorneys sharing time should confer in advance regarding the allotment of time among counsel and, unless notified otherwise at the time of argument, will be required to keep track of their own time while arguing. Be sure to note on your acknowledgment of hearing notice the names of other counsel arguing on your side and the time allotment agreed upon by all counsel for that side. Each counsel appearing for argument must file a separate acknowledgment of hearing notice and must have filed a separate notice of appearance in the case.

Subject of Oral Argument - The judges have studied the briefs and the excerpts of record and will be familiar with the facts and issues of the case. Argument should be devoted to clarifying issues as needed and to responding to questions raised by the judges of the panel.

Presenting Additional Citations - Additional citations of relevant decisions rendered since the filing of the party's last brief - or after oral argument but before decision - may be submitted by letter pursuant to Fed. R. App. P. 28(j) and 9th Cir. R. 28-6. For counsel, this letter must be filed electronically as a FRAP 28(j) Letter. The letter must state the reasons for the citation, referring to either the page of the brief or to a point argued orally. The body of the letter must not exceed 350 words. Any response must be made promptly and similarly limited, and should also be filed as a FRAP 28(j) Letter.

Identity of Panel Members - Not earlier than the week before the court week in which your case will be heard, the names of judges hearing your case will be announced. The judges' names will be posted on the calendar on the court's website at www.ca9.uscourts.gov.

Continuances - After a case has been calendared, continuances are not granted except for a showing of extraordinarily good cause. If oral argument is essential but you find it impossible to appear, you must, immediately after receipt of this hearing notice, file a "motion to continue hearing" and supporting affidavit for continuance. For CM/ECF-registered counsel, this motion must be filed electronically. Filing of the motion does not ensure that the continuance will be granted. The court will not consider a motion for continuance after the identity of the panel members has been divulged.

Audio and Video - Oral arguments are streamed live on the court's website at: www.ca9.uscourts.gov. Links to live streaming audio and video are available on the main page and are listed by date, time, location, and courtroom. Recordings of all oral arguments are available the day after argument at <http://www.ca9.uscourts.gov/media/>.