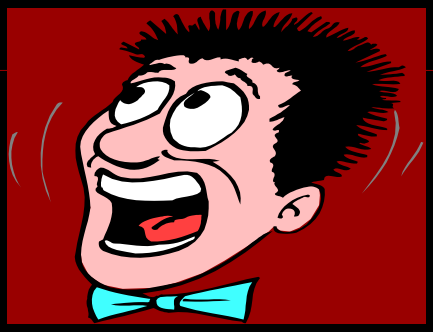


Useful Information

- On RWA Moot Court Web Page
  - RWA Moot Court Information
  - Ten Good Ways to Lose at Oral Arguments
  - Preparing for Oral Argument
  - The Argument on Appeal

Important Dates

- Moot Court demos:
  - March 16, 2006 2:30-4:00
  - March 16, 2006 6:00-7:30
- Practice Rounds
  - Several throughout the week of March 13 – check RWA web page for exact times and locations
- Preliminary Rounds
- Elimination Rounds
  - April 8, 2006 – 6:00-8:00 p.m., April 10, 2006 – 9:00-a.m.-12:00 p.m.
  - Final – April 13 – 6:00 p.m.

RWA Preliminary Rounds

- Argue in teams of two
- Argue twice – on-brief and off-brief
- 20 minutes per team
  - "S&P/Ed. Opp." Appellant – 10 minutes
  - "D.I." Appellant – 8 minutes
  - both Appellees – 10 minutes
  - "D.I." Appellant – 2 minute rebuttal
- Rounds are closed

The Bench

- Preliminary Rounds
  - One RWA Professor
  - Two Moot Court Members
- Elimination Rounds
  - Quarter-finals – outside attorneys
  - Semi-finals – other law faculty
- Final Round
  - Real judges

Scoring

- Oral Argument scores
  - Determine who advances into elimination competition
  - RWA Professor score each week counts twice and each moot court members score counts once
- Oral Argument grade – 10% of RWA grade
  - Only RWA Professors' scores count toward your grade
  - Mean of 81

Elimination Competition

- Top 8 advocates on each element advance into Elimination Competition
- Advance into and through Competition individually
- Always stay on issue although could change sides
- Teams randomly assigned
- Judges decide best advocate per issue
- FINAL Four –April 13, 2006

Overall Objective

- To Persuade Court Your Conclusion is Correct

Other Objectives

Get the Court Interested in Your Argument

- engage the court
- a dull court is not a good thing
- an opportunity to persuade the court and to access court's thinking to clarify any concerns

Two Requirements

- Know the Law
- Know the Record
  - Without a Good Command of Each You Will Have Little Credibility

Preparation

- Analyze Your Arguments
  - Determine core theory and rank and prioritize arguments
  - Determine strengths and weaknesses of each argument
- Determine Strategy and Style
  - Similar in tone to your brief, e.g., matter of fact, emotional, legal

The Key

Focus on the Most Determinative Aspects of Your Case

What to Prepare

- Prepare a bullet point outline of argument
- Use a Folder or Binder
  - Do not take your brief to the podium

Presenting The Argument

- First Appellant –
  - Wait for the Court to tell you to proceed to podium
  - Wait at podium for court to indicate you can begin

First Appellant -- continued

Introduce self and identify who you represent

- "May it Please the Court, I am [name], and along with [introduce co-counsel], I represent the appellant [give client's name]
- Reserve Rebuttal time
- Identify issue your co-counsel will address and then give persuasive statement of your issue

First Appellant -- continued

- First Appellant is charged with presenting facts.
  - Facts should be concise and hit the high points of your argument
  - Do not use all your time on facts
  - Facts should be persuasive

Second Appellant

- Advance to Podium
- Wait for Court to indicate you should begin
- Introduce self

First Appellee

- Advance to Podium
- Introduce self and identify who you represent
  - "May it Please the Court, I am [name], and along with [introduce co-counsel], I represent the appellant [give client's name]
  - Identify issue your co-counsel will address and then give persuasive statement of your issue

Second Appellee

- Advance to Podium
- Wait for Court to indicate you should begin
- Introduce self

Making the Argument

- State Your Persuasive Contention
  - the lower court erred/was correct, _____
  - the Appellant was/was not regarded as disabled within the meaning of the ADA

Road Maps

- Incorporate a Road Map
  - For the following three reasons. First, _____, second, _____, etc.

Making the Argument

- Begin each minor contention with a persuasive statement
- Focus on core facts and policy
- Use case law to support your argument

Using Case Law

- Give full name, court, and year
- Discuss core facts
- Connect case back to your case

Conclusion

- Watch time cards to be ready for conclusion
- Avoid canned conclusions -- but have one just in case
- Rather than just summarizing argument, identify key points that were made within argument and emphasize those
- Ask for the relief you are seeking

Handling Questions from the Court

- Anticipate Questions
- Welcome them
- Stop speaking when Court asks a question

Answer the question directly

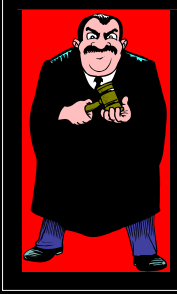
Answering Questions

- Directly answer "Yes, your Honor. . . , No, your Honor, Not exactly, your Honor.
- Don't say "I'll get to that later"
- Support your answer. Do not just say yes or no – explain your answer
- Don't get confrontational

Answering Questions –do's and don't's

- Seek clarification if unsure of Question
  - Ask court to rephrase
  - Rephrase the question yourself and ask if your interpretation is correct
- Don't be afraid to pause and THINK before answering
- Don't begin answering until court finishes question even if you know your answer
- Don't ask if your answer was sufficient

Types of Questions



- Not all question are hostile
- Sometimes the court needs to clarify
- Sometimes the court rephrases your argument
- Don't get too giddy on softballs
- Be open to them –they can throw you

Moving Back to Your Argument

- Goal is to transition back to your argument
- Keep track of where you were in your argument
- Use answer to springboard back to your argument

Appellee

- Dual role of
  - Advancing your argument
  - Addressing the Appellant's argument
- Thus, listen carefully to Appellant's argument and Court's questions

Rebuttal

- Must request up front
- Use short road map – two points
- Points should directly respond to Appellee's argument or questions court raised during Appellee's argument
- Rebuttal is not a chance to argue a point you did not argue in your main argument

Advice

- Be Yourself
- DO NOT READ
- Maintain eye contact
- Get your opening out without looking down – you'll gain confidence
- Be flexible but be an advocate

More Advice

- Counsel should not talk during argument
- Be deferential to the Court
- Even at counsel table pay attention – don't be so caught up in reviewing your argument

Practice

- Moot Court members
- Family members
- Each other
- Mirror
- Videotape

Final Questions??