

# United States Court of Appeals

District of Columbia Circuit  
Washington, D.C. 20001-2866

**PLEASE READ THIS MEMORANDUM IN ITS ENTIRETY**

## **MEMORANDUM TO ALL COUNSEL OF RECORD**

**RE: Important Information Concerning Cases Set for Oral Argument**

### **(1) SCHEDULING ORDER**

A briefing schedule has now been established in your case. Because the briefing is keyed to the date of argument, the Court will be unable to grant requests for waiver of time limits for briefs or transcripts except in truly extraordinary situations. The Court now requires that the last brief be filed a minimum of fifty (50) days prior to the first day of the month in which your case is scheduled for argument. Please review D.C. Cir. Rule 28(f)(3) before filing motions for extensions of time or to exceed page limits for briefs. It is requested that intervenors notify this office, by letter, if they do not intend to participate in a joint intervenors' brief or filing a separate brief. Counsel for appellant(s)/petitioner(s) who do not intend to file a reply brief are encouraged to notify this office by letter before the due date for filing of that brief. Please note that **A BRIEFING REMINDER WILL NOT BE SENT.**

### **(2) FORM 72**

Form 72 will be mailed to counsel approximately two weeks prior to oral argument. It is your responsibility to complete and return Form 72 at least four (4) business days in advance of oral argument. Only counsel for the principal parties, and other counsel who intend to argue, must complete and return the form.

### **(3) TIME FOR ORAL ARGUMENT**

Approximately two (2) weeks before the oral argument date the Court will enter an order setting forth the amount of time to be allowed for argument. See Fed.R.App.Proc. 34 and D.C. Cir. Rule 34 concerning the apportionment of time allotted. Consolidated cases are considered to be one case for purposes of argument time. The order in which the cases are listed on the calendar is not necessarily the order in which they will be argued on the day of argument. **THE ORDER IN WHICH A CASE SHALL BE HEARD WILL BE AVAILABLE APPROXIMATELY FIVE (5) DAYS PRIOR TO ARGUMENT ON THE COURT'S INTERNET SITE: (WWW.CADC.USCOURTS.GOV).** Counsel on each of the scheduled dates must report to the courtroom by 9:15 a.m. for the morning court session and 1:45 p.m. for the afternoon court session, regardless of their position on the calendar. The court rarely sits in afternoon session. Counsel must refer to the scheduling order issued by the Court to determine whether argument will be heard during a morning or an afternoon session. The starting time set out in the scheduling order can only be changed by a superseding order of the Court.

### **(4) PARTICIPATION IN ORAL ARGUMENT**

Ordinarily not more than two counsel may be heard for each side. See D.C. Cir. Rule 34. However, the order allotting time may limit the number of counsel to only one per side. If two counsel intend to present argument for one side, the calendar clerk (202-216-7312) should be notified of the names of the attorneys and the agreed amount of time for each attorney.

### **(5) MEMBERSHIP IN THE BAR**

This Court maintains a bar separate from the United States District Court for the District of Columbia and the District of Columbia Court of Appeals. An attorney intending to present argument should be a member in good standing of the Bar of this Court. A pending application for admission in proper form will satisfy this requirement. An application for admission may be obtained by calling the Clerk's Office at 202-216-7280. Arrangements for admission to the Bar should be made at least seven (7) days before oral argument.

In some instances, an attorney who is not a member of the Bar will be admitted *pro hac vice* for purposes of argument only. To be admitted an attorney must file an appropriate motion at least seven (7) days before oral argument. Counsel who litigate regularly before the Court should not make repeated appearances *pro hac vice*, but should apply for admission. The name of an attorney who is not a member of this Bar or has not argued the case *pro hac vice* will not appear on any opinion issued by the Court.

**(6) SUBMISSIONS IN CASES WHICH ARE SCHEDULED FOR ORAL ARGUMENT OR WHICH HAVE BEEN ARGUED**

All submissions in cases scheduled for oral argument shall contain a statement at the top of the first page thereof, in large type, that the case is scheduled for oral argument on [ insert date ] or that the case has been argued on [ insert date ] or submitted without oral argument. See D.C. Cir. Rules 27(a)(4) and 28(a)(7).

**(7) NOTICE OF SETTLEMENT**

All counsel are strongly encouraged to notify the Court as soon as settlement negotiations begin, when settlement of the case becomes likely, and when settlement is reached. This notice allows for the more efficient allocation of judicial resources. Additionally, counsel should promptly notify the Court if settlement negotiations are terminated. Notice must be given in an appropriate motion or by letter to the Clerk.

**(8) MOTION FOR POSTPONEMENT**

Any motion for postponement should be submitted immediately upon receipt of this notice. Counsel should be aware, however, that the Court looks with disfavor upon such a motion and it will not be routinely granted.

**(9) REMOVAL OF CASE FROM CALENDAR**

In the event the Court determines that argument is not necessary, an order to that effect will be entered. See D.C. Cir. Rule 34(j).

**ALL COUNSEL ARE ENCOURAGED TO BE FAMILIAR WITH THE RULES OF THIS COURT. COPIES OF THE RULES CAN BE OBTAINED BY CALLING THE CLERK'S OFFICE AT (202) 216-7280.**

**MARK LANGER**  
Clerk

FORM 71  
(8/95; Rev. 05/94, 02/98, 09/99)

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