

bottom row from left to right: Mark S. Cady, Marsha K. Ternus—Chief Justice, Michael J. Streit
top row from left to right: Brent R. Appel, David S. Wiggins, Daryl L. Hecht, David L. Baker



a guide to Oral Arguments

WHAT IS AN APPEAL?

Simply put, an appeal is the transfer of a case from a lower court to a higher court for a review of the lower court decision. The higher court is called an appellate court. Iowa has two appellate courts, the Iowa Supreme Court and the Iowa Court of Appeals. An appellate court does not conduct a trial. Instead, it reviews the lower court

record for significant legal errors, if any, in the lower court's decision.

Appellate procedure requires that parties provide the court with written arguments called *briefs*. Briefs describe the facts of the case and lay out the party's legal arguments, including the mention of other court cases that support the party's legal arguments. The appellate court studies the briefs,

examines the lower court record and researches relevant law. Sometimes, as part of its review, the appellant court will hear *oral argument*.

WHAT IS AN ORAL ARGUMENT?

Oral argument is an oral presentation by lawyers to the appellate court. Oral argument is not an opportunity for the lawyers to bring up new facts or raise new legal arguments. Lawyers must limit their presentation to

information in the trial court record and to the legal issues raised on appeal. During oral argument, the appellate court judges or justices may ask the lawyers questions.

ORAL ARGUMENT PROCEEDS AS FOLLOWS:

- 1) The *appellant* (party who filed the appeal) speaks first
- 2) The *appellee* (opposing party) speaks after the appellant
- 3) The appellant may make a brief rebuttal or reply argument

WHAT IS THE PURPOSE OF ORAL ARGUMENT?

Oral argument is an opportunity for the lawyers to emphasize certain legal points and for the justices to ask questions about the case to help clarify the party's arguments.

WHEN DOES THE COURT MAKE ITS DECISION?

Following oral arguments, the court will discuss in private the legal questions raised in the case. Later, one judge or justice, who has the task of writing the collective decision of the court, will begin researching and writing the court's opinion. At the same time, the other members of the court are also writing opinions for other cases. Opinion drafts circulate among the members of the court. During this time, the judges or justices comment on the circulating opinion drafts and debate legal points with each other. This process continues until a majority of judges or justices agree on a final version of an opinion. A judge or justice who disagrees with the majority opinion may write a *dissent* that explains why the justice disagrees.

Ultimately, the appellate court may "affirm"—uphold the decision or order of the lower court; "reverse"—set aside the decision or order; or "remand"—send the case back to the lower court with instructions for further action.

WHEN COURT IS IN SESSION:

Please be quiet and behave in an orderly manner respectful of others. Anyone who behaves in an unruly manner may be removed from the building.

Remain in the public seating area east of the "bar," the railing that divides the courtroom. Only court personnel, lawyers arguing before

the court and authorized media personnel may be on the west side of the bar.

Leave your portable electronic devices, including cell phones, cameras, MP3s and laptop computers at home or in your car.

Leave placards, signs and posters outside the building and do not wear clothing that expresses a political viewpoint or a viewpoint about a case or issue in a case before the court.

Thank you for your cooperation.



Oral arguments are always open to the public. You can find the oral argument schedule of the Iowa Supreme Court and the Iowa Court of Appeals and other information about the Iowa court system at www.iowacourts.gov