

AMENDMENTS TO LOCAL RULE (LOC.APP.R. 21)

Summary of Amendments:

Local Rule 21 governs oral argument procedures. The amendments primarily address a change from oral argument hearing being scheduled in every case to only those where a party to the appeal requests it or the court sua sponte orders the hearing. The amendments also allow for remote oral argument hearings via videoconferencing under certain circumstances.

- Loc.App.R. 21(A) requires parties to request an oral argument hearing if they desire a hearing and sets forth the manner to request a hearing. Former mechanism for conceded error cases is no longer necessary and has been removed from the rule.
- Loc.App.R. 21(A)(1) lists how parties will be notified of a hearing, including reference to the court’s website for viewing the oral argument scheduling.
- Loc.App.R. 21(A)(2) requires that parties be notified of the date on which the case is submitted to a panel for decision when no oral argument hearing will be held.
- Loc.App.R. 21(A)(3) recognizes that the court may, sua sponte, schedule a case for oral argument hearing.
- Loc.App.R. 21(B) clarifies that an appellant’s 15 minutes for oral argument includes the rebuttal time.
- Loc.App.R. 21(E) is a new provision to allow for remote oral argument via videoconferencing or telephonically. It also recognizes that, if timely requested, a pro se litigant who is imprisoned may participate in oral argument via remote technology.
- Effective date: March 1, 2022.

RULE 21. ORAL ARGUMENT

(A) Oral Argument Procedure. A case will not be set for oral argument unless a party requests it. A party may request oral argument by including the words “ORAL ARGUMENT REQUESTED” prominently on the cover page of the appellant’s opening brief or the appellee’s brief. If any party requests oral argument, the case will be scheduled for oral argument for all parties.

- (1) The court shall notify each counsel (or party if not represented by counsel) of the time and place of oral argument through the court’s electronic transmission facilities (or by postcard if the party is not represented by counsel and not utilizing e-filing). Notice of the court’s

oral argument schedule will be published in the *Daily Legal News* and posted on the court's website under Court Calendar at <https://appeals.cuyahogacounty.us/>.

- (2) If no party to an appeal requests oral argument, the court will submit the case to a panel for decision and the parties will be notified of the date on which the case is submitted.
- (3) The court may, sua sponte, schedule a case for oral argument at which all persons otherwise permitted to argue shall appear and present oral argument. The court may limit oral argument to specific issues.

(B) Time Allowed for Argument. Each side will be allowed 15 minutes for oral argument, including appellant's requested rebuttal time (if any), but may move to expand the time for good cause. This request must be filed by separate motion at the time the party's brief is filed. If there is more than one appellant or appellee, they must divide the 15 minutes absent an order granting additional time.

(C) Waiver of Argument. A party's motion to waive oral argument will not automatically result in cancellation of the scheduled argument. Oral argument will take place at the scheduled date and time unless the court grants the motion to waive.

- (1) Motion to Waive Oral Argument. A party may file a motion to waive oral argument no less than ten calendar days before the date scheduled for argument. If an appellee wishes to be heard at argument despite an appellant's motion to waive, within five calendar days after the appellant's motion is filed, appellee may move that the argument go forward as scheduled. Absent such a motion by appellee, an appellant's waiver will be deemed a request to waive oral argument as to all parties.
- (2) Untimely Motions. A motion to waive filed less than ten calendar days before oral argument may only be granted by unanimous consent of the assigned merit panel.

(D) Postponing or Advancing Argument.

- (1) Procedure. Counsel who anticipate being unavailable for oral argument in a pending appeal at any time after briefing is completed but before argument is scheduled must advise the Assignment Commissioner of their unavailability in writing. The notice shall be in letter format, addressed to the Assignment Commissioner, Ohio Court of Appeals, Eighth Appellate District, 1 West Lakeside Avenue, Room 202, Cleveland, Ohio 44113, and shall include the case caption, the appellate case number, and the dates on which counsel anticipates being unavailable for oral argument. The letter may be delivered to the

Assignment Commissioner by U.S. Mail, personal delivery, or via email to assign@8thappeals.com.

- (2) Cases Scheduled for Argument. Once oral argument has been scheduled and notice has been provided, a case will not be advanced or postponed on motion of a party except for good cause shown.

(E) Remote Oral Argument Forum.

- (1) In its discretion, the court reserves the right to hold oral arguments remotely via videoconferencing or telephonically. The procedure for requesting remote oral argument and other requirements are posted on the court's website under <https://appeals.cuyahogacounty.us/more-links/helpful-information/requesting-remote-oral-argument-policy>.
- (2) When a pro se litigant is imprisoned and timely complies with paragraph (E)(1) above, the court will schedule the oral argument to be held by remote technology. A pro se litigant who is imprisoned may move to waive the oral argument in compliance with paragraph (C) of this rule. Failure of the pro se litigant to appear at the scheduled oral argument will result in the matter being submitted on the briefs unless the court orders otherwise.

(F) Precedence of Oral Argument. If counsel of record on an appeal has an assignment, including but not limited to pretrial or trial proceedings, before any municipal court or court of common pleas that conflicts with an oral argument scheduled before the Eighth District Court of Appeals, the oral argument assignment before the Eighth District Court of Appeals takes precedence.