

1 **12-319. Oral argument.**

2 A. **Oral argument.** The appellate court may order oral argument at its discretion. No
3 oral argument shall be heard on cases assigned to the summary calendar.

4 B. **Request for oral argument.** [————

5 ~~———— (1) *Cover page or first page of a submission.*]~~ Any party may request oral
6 argument by including on the cover page or first page of the opening [a-]brief[, ~~petition, motion,~~
7 ~~or application~~] a statement that oral argument is requested. The requesting party may separately
8 set out a concise statement of the reasons why oral argument would be helpful to a resolution of
9 the issues.

10 [~~(2) *Separate request.* Any party may file a separate request for oral argument.~~
11 ~~A request under this subparagraph shall include a concise statement of the reasons why oral~~
12 ~~argument would be helpful to a resolution of the issues.~~]

13 C. **Settings.**

14 (1) **Notice of setting.** Settings for oral argument will be fixed by the appellate
15 court and notice thereof given by the appellate court clerk.

16 (2) **Motion to reset oral argument.** Except for good cause shown, a motion to
17 reset oral argument shall be made within ten (10) days after service of notice of setting.

18 D. **Order and content of argument.** Unless otherwise ordered, the petitioner,
19 movant, or party first filing a notice of appeal shall open and close the argument. If notices are
20 filed on the same day, the plaintiff in the proceeding below shall open and close the argument.
21 Unless the appellate court directs otherwise, a cross-appeal or separate, related appeal shall be
22 argued when the initial appeal is argued. Counsel for the same side should avoid duplicative

1 argument. Counsel must not read at length from briefs, records, or authorities. Counsel should
2 assume that the justices or judges have read the briefs before oral argument.

3 E. **Time for argument.** The time for oral argument shall not exceed twenty (20)
4 minutes on each side for motions, petitions, or applications and thirty (30) minutes on each side as
5 to all other matters unless the time is extended or restricted by the appellate court.

6 F. **Use of physical exhibits; removal.** A party may use physical exhibits at argument
7 only on prior motion and leave of the appellate court. The motion shall concisely state why the use
8 of the exhibits may significantly aid in the appellate court’s decisional process, shall indicate
9 whether opposing counsel has any objection to the use of the exhibits, and shall be filed at least
10 ten (10) days before the scheduled argument date. A party whose motion to use physical exhibits
11 has been granted must make arrangements with the appellate court clerk to have the exhibits placed
12 in the courtroom before court convenes on the date of argument. After argument, counsel shall
13 remove the exhibits from the courtroom unless the appellate court otherwise directs. If counsel
14 seeks to distribute documents or other material to the justices or judges during oral argument,
15 counsel shall provide the necessary copies directly to the appellate court clerk during the argument
16 at the appropriate time, with a copy to opposing counsel, and the appellate court clerk will then
17 distribute the material to each justice or judge.

18 G. **Nonappearance of parties.** If a party fails to appear to present argument, the
19 appellate court may, in its discretion, hear argument on behalf of the opposing party.

20 H. **Joint argument.** Two or more cases involving the same or related questions may
21 be heard together on request of a party or by order of the appellate court.

1 I. **Participating justices or judges.** A justice or judge who did not hear the original
2 argument may participate in the decision of any cause by reviewing a recording or transcript of the
3 original oral argument.

4 [As amended, effective December 1, 1993; May 1, 2003; as amended by Supreme Court Order
5 No. 10-8300-001, effective April 12, 2010; 12-214 recompiled and amended as 12-319 by
6 Supreme Court Order No. 16-8300-011, effective for all cases pending or filed on or after
7 December 31, 2016; as amended by Supreme Court Order No. S-1-RCR-2024-00114, effective
8 for all cases filed on or after November 1, 2024.]

9 **Committee commentary.** — In 2016, the committee renumbered Rule 12-214 NMRA and placed
10 it in the general provisions article as Rule 12-319 NMRA.

11 Paragraph B was revised in 2010, and again in 2016, to adopt a new method of requesting oral
12 argument for all types of appellate proceedings, except appeals assigned to the summary calendar.

13 Oral argument may be requested by a statement on the first page or cover of any brief, petition,
14 motion, or application filed by the party. The request may be supported by a statement of reasons
15 appearing in the brief, petition, motion, or application. This method is similar to that adopted by
16 other courts and eliminates the need for a separately filed request for oral argument.

17 When considering whether to request oral argument, a party should consider whether the
18 dispositive issue or issues have been authoritatively decided, whether the facts and legal arguments
19 are adequately presented in the briefs and record, and whether the appellate court’s decisional
20 process will be significantly aided by oral argument.

21 As a courtesy to the appellate court, counsel should file a notice of non-availability setting forth
22 any dates that counsel is unavailable to attend oral argument. A notice of non-availability should
23 be filed at the earliest practicable time.

1 A party is not required to use all the allotted time for oral argument. Before argument starts, the
2 party that opens oral argument may reserve time for rebuttal. If the party that opens oral argument
3 does not use all of the time allotted for the opening argument, the party may seek leave of court to
4 reserve the unused time for rebuttal. Points of substance may not be reserved for rebuttal.
5 [Adopted by Supreme Court Order No. 10-8300-001, effective April 12, 2010; as amended by
6 Supreme Court Order No. 16-8300-011, effective for all cases pending or filed on or after
7 December 31, 2016.]