

Professional Perspective

Preparing for Your First Pro Bono Oral Argument

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Preparing for Your First Pro Bono Oral Argument

Contributed by [Daniel Wade](#), Fish & Richardson

Preparing for your first oral argument can be terrifying, especially as a first-year associate. It is easy to fixate on all the things that could go wrong. This is especially true when the representation is pro bono and in a matter where the health and safety of your client is at stake. It is natural to be afraid of oral argument when you have never done one before.

I certainly know that I felt that way before my first oral argument! Recently, a more senior colleague of mine, Fish & Richardson litigation associate [Liz Ranks](#), recommended that I lead the oral argument in a pro bono matter we were working on together. In this matter, we partnered with [Northeast Legal Aid](#), a legal aid agency that, among other things, refers pro bono housing matters to Fish's Boston office.

In this matter, I appeared at housing court on behalf of our client who was renting an apartment with a multitude of unacceptable conditions, including insufficient heat and structural issues. Although I was terrified to deliver the oral argument, I am very glad that I did. With that argument now in the rearview mirror, three things stand out to me as the keys to my success.

Get Out of Your Own Head

The first key to my success was putting myself in the position to get the chance to argue. On a Friday morning in November 2021, Liz called me with an invitation: Would I like to handle the upcoming oral argument in the pro bono matter we were working on together? In this case, we had filed a motion to compel our client's landlord to repair problems in the client's apartment. I had worked on the motion, but I fully expected Liz to handle the argument. My gut reaction was to say no, I could not argue the motion—I'd been a lawyer for what seemed like 20 minutes! How could I possibly handle the argument when I was so new to the world of law?

But then I recognized that Liz was showing confidence in me. Instead of listening to my own preoccupations and succumbing to my nerves, I chose to listen to Liz. I trusted that she would not give me something that I couldn't handle. By trusting my more senior and supportive colleague and putting aside my initial fears, I was able to take on this significant opportunity.

Reframe Your Past Experiences

The second key to my success was building on and recontextualizing my past experiences. Until the motion hearing, my only "argument" experience was in moot court in law school. As many readers surely know, there is a world of difference between a mock appellate argument in law school and motion practice in an actual trial court.

Moot court, at least in my experience, was a very formal, structured proceeding. It was designed to be a performance, and the judges were playing a role, grilling you to throw you off your game or to push your performance to the next level. Real trial courts, however, are not nearly as formally structured, and rightly so—trial courts, especially specialized courts like the Massachusetts housing courts, are there to solve real people's problems and disputes. The judges are not there to grill you, and the lawyers are not arguing to score points on a rubric. Instead, the goal is to help resolve an issue that impacts your client, and to arm the judge with the tools to make a positive difference for your client.

With that in mind, part of my preparation required unlearning the unnecessarily high level of structure and formality that moot court required and readying myself to have a conversation with the judge instead of delivering a presentation. Rather than the libraries of documents and structured presentations I had prepared for moot court, I prepped for this argument by pretending to have a conversation with a friend, walking them through the points I planned to make.

Use Every Resource at Your Disposal

The final key to my success was using every resource available to make sure I was ready. I had worked on the written motion that gave rise to the hearing, so I had already dug into the facts, the governing standards, and the procedural posture. After working with Liz, I knew which direction I wanted to take the argument. But I didn't yet have a feel for how the argument would actually progress, nor did I have a sense of the potential counterarguments.

I turned to Liz, who pointed me to a wealth of resources. I reviewed prep materials for similar motions that other attorneys had argued in the past, and saw how they structured their arguments and prepared for the expected questions from the judge. Further, I was able to practice my argument with Liz repeatedly, which helped me address counterarguments and get a feel for the mechanics of argument. Using all of these resources gave me a confidence boost going into the argument. I knew that I was following tried and tested strategies and that I could compare my reasoning with arguments made in prior successful cases.

With all of that in mind, I was able to make an appearance the following Monday morning, win the motion, and make a real difference for my client. Because of the judge's order, our client's heat was fixed in time for the winter, and the structural issues in our client's home are finally being addressed properly. Our client saw an immediate benefit, and it felt so good that I could use my skills as an attorney to make a difference.

Tips for Senior Attorneys

For the more senior attorneys among you, these tips apply to you, too, but from the perspective of a mentor. Encourage junior attorneys to take on new experiences and responsibilities, and find opportunities for them to succeed. Help them understand what to expect in arguments, and illustrate how those arguments may compare and contrast to their past experiences. Finally, guide them to available resources, and make yourself a resource, whether by helping them with mock arguments or by providing examples. This kind of support can make all the difference for junior attorneys who are just beginning their legal careers.