

**STANDING ORDER RE:  
OPPORTUNITIES FOR ORAL ARGUMENTS,  
IN CIVIL CASES, BY NEWER ATTORNEYS**

The United States District Court for the Southern District of Ohio is a teaching court. Each year, scores of law students serve as externs in the chambers of Magistrate Judges and District Judges. Externs are a valuable resource and, through their work at the Court, they begin to learn the basics of federal litigation. Judges of the Court also engage in outside educational activities such as lecturing, teaching and writing. The Court, likewise, seeks to afford newer lawyers (licensed six years or less) with opportunities to be more active in the litigation process.

To that end, Judge Newman encourages less experienced members of legal teams representing clients to argue motions they have helped prepare, and to question witnesses with whom they have worked. Opportunities to train newer attorneys in oral advocacy are rare because of the decline of trials. Instead, less experienced lawyers are often silent participants in oral argument proceedings. Where lawyers newer to the practice are familiar with the matter under consideration, but have little experience arguing before a court, they should be encouraged nonetheless to have a speaking role in court. Their law firms should also encourage their participation. Judge Newman is amenable to permitting a number of lawyers to argue for one party if this helps create opportunities for a lawyer newer to the practice to participate. Nevertheless, the ultimate decision of who speaks on behalf of the client is for the client and the lawyer in charge of the case to decide, not for the Court.

Judge Newman adopts the following procedures relating to oral argument of civil motions:

After a civil motion is fully briefed, any party may alert the Court by a docketed Notice that, if oral argument is granted, the noticing party intends to have a newer attorney (who has graduated from law school within the past six years) argue the motion (or a portion of the motion). Any other party may file a similar Notice addressing counsel's desire to staff the argument with a newer attorney, but the Court will not entertain opposition briefing or lengthy memoranda.

If such a Notice is docketed, the Court will grant the request for oral argument if it is practicable to do so, will schedule it immediately (thereby advancing its expeditious resolution), and will strongly consider allocating more time for oral argument beyond what the Court may otherwise have permitted were a newer attorney not arguing the motion. Moreover, during oral argument, the Court, as appropriate, will permit other, more experienced counsel of record to provide assistance to the newer attorney who is arguing the motion.

If counsel's request for oral argument is granted, opposing counsel is not in any way compelled to send a newer lawyer to argue as well; it remains perfectly acceptable for a seasoned practitioner to argue the opposite side of the motion.

All attorneys, including newer attorneys, will be held to the highest professional standards. All attorneys appearing in court are expected to be adequately prepared, thoroughly familiar with the factual record and the applicable law, and to have a degree of authority commensurate with the proceeding.

The Court recognizes that there may be many different circumstances in which it is inappropriate for a newer attorney to argue a motion. The Court emphasizes that it draws no inference from a party's decision not to have a newer attorney argue a motion. The Court will draw no inference whatsoever about the importance of a particular motion, or the merits of a party's argument regarding a motion, from the party's decision whether or not to have a newer attorney argue the motion.

The participation of newer attorneys in all court proceedings -- including, but not limited to preliminary pretrial conferences, hearings on discovery disputes and motions, dispositive motions, final pretrial conferences, and examination of witnesses at trial -- is strongly encouraged.

In complex cases, the Court will inquire at the preliminary pretrial conference how the parties intend to provide opportunities for newer lawyers to participate actively in the case, especially by, *inter alia*, arguing motions and examining witnesses at trial.

The purpose of this Standing Order is to facilitate one generation's teaching of the next how to argue and try cases, and to maintain and strengthen the Southern District of Ohio's reputation for excellence.

**IT IS SO ORDERED.**

Dated: January 25, 2021

s/Michael J. Newman

Hon. Michael J. Newman

United States District Judge