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5. Pay careful attention to the applicable standard of decision.	11
6. Never overstate your case. Be scrupulously accurate.	13
7. If possible, lead with your strongest argument.	14
8. If you're the first to argue, make your positive case and then preemptively refute in the middle— not at the beginning or end.	15
9. If you're arguing after your opponent, design the order of positive case and refutation to be most effective according to the nature of your opponent's argument.	17
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12. Take pains to select your best arguments. Concentrate your fire.	22
13. Communicate clearly and concisely.	23

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14.	Always start with a statement of the main issue before fully stating the facts.	25
15.	Appeal not just to rules but to justice and common sense.	26
16.	When you must rely on fairness to modify the strict application of the law, identify some jurisprudential maxim that supports you.	30
17.	Understand that reason is paramount with judges and that overt appeal to their emotions is resented.	31
18.	Assume a posture of respectful intellectual equality with the bench.	33
19.	Restrain your emotions. And don't accuse.	34
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21.	Close powerfully—and say explicitly what you think the court should do.	37
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27.	Try to find an explicit statement of your major premise in governing or persuasive cases.	55

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40. Use captioned section headings.	108
41. Use paragraphs intelligently; signpost your arguments.	109
42. To clarify abstract concepts, give examples.	111
43. Make it interesting.	112
44. Banish jargon, hackneyed expressions, and needless Latin.	113
45. Consider using contractions occasionally— or not.	114
46. Avoid acronyms. Use the parties' names.	120
47. Don't overuse italics; don't use bold type except in headings; don't use underlining at all.	122
48. Describe and cite authorities with scrupulous accuracy.	123
49. Cite authorities sparingly.	125
50. Quote authorities more sparingly still.	127
51. Swear off substantive footnotes—or not.	129
52. Consider putting citations in footnotes—or not.	132
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71. On the eve of argument, check your authorities.	160
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72. Arrive at court plenty early with everything you need.	161
73. Make a good first impression. Dress appropriately and bear yourself with dignity.	162
74. Seat only cocounsel at counsel table.	163

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- 75. Bear in mind that even when you're not
on your feet, you're onstage and working. 163
- 76. Approach the lectern unencumbered;
adjust it to your height; stand erect
and make eye contact with the court. 164

Substance of Argument

- 77. Greet the court and, if necessary,
introduce yourself. 166
- 78. Have your opener down pat. 167
- 79. If you're the appellant, reserve rebuttal time. 167
- 80. Decide whether it's worth giving
the facts and history of the case. 168
- 81. If you're the appellant, lead with your strength. 169
- 82. If you're the appellee, take account of what
has preceded, clear the underbrush,
and then go to your strength. 170
- 83. Avoid detailed discussion of precedents. 171
- 84. Focus quickly on crucial text,
and tell the court where to find it. 172
- 85. Don't beat a dead horse.
Don't let a dead horse beat you. 172
- 86. Stop promptly when you're out of time. 173
- 87. When you have time left, but nothing else
useful to say, conclude effectively and gracefully. 173
- 88. Take account of the special considerations
applicable to rebuttal argument. 175

Manner of Argument

- 89. Look the judges in the eye. Connect. 178
- 90. Be conversational but not familiar. 179
- 91. Use correct courtroom terminology. 180

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92.	Never read an argument; never deliver it from memory except the opener and perhaps the closer.	181
93.	Treasure simplicity.	182
94.	Don't chew your fingernails.	183
95.	Present your argument as truth, not as your opinion.	184
96.	Never speak over a judge.	184
97.	Never ask how much time you have left.	185
98.	Never (or almost never) put any other question to the court.	186
99.	Be cautious about humor.	186
100.	Don't use visual aids unintelligently.	187

Handling Questions

101.	Welcome questions.	189
102.	Listen carefully and, if necessary, ask for clarification.	191
103.	Never postpone an answer.	192
104.	If you don't know, say so. And never give a categorical answer you're unsure of.	193
105.	Begin with a "yes" or a "no."	193
106.	Never praise a question.	194
107.	Willingly answer hypotheticals.	194
108.	After answering, transition back into your argument—smoothly, which means not necessarily at the point where you left it.	195
109.	Recognize friendly questions.	196
110.	Learn how to handle a difficult judge.	196
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