

**Procedures Governing Oral Argument
Before the Eighth Circuit
October 18-22, 2021**

Admission to the Warren E. Burger Courthouse

At the current time, the Warren E. Burger Courthouse is open to the public. **Masks are required in all public areas of the Courthouse, regardless of vaccination status.** The United States District Court for the District of Minnesota Administrative Order “In re: Use of Masks or Coverings in U.S. Courthouses in the District of Minnesota” governs the procedures to be followed in public areas of the Burger Courthouse. Please see the District Court’s website for further information. www.mnd.uscourts.gov

Please allow sufficient time to pass through security and reach the court rooms on the Fifth Floor. Lines at the security checkpoint may be longer than usual. The court suggests you arrive at least 45 minutes before your scheduled argument time.

Entrance Requirements for Presenting Oral Argument - Action Required

Lawyers appearing for in-person oral argument must either be fully vaccinated against COVID-19 or present proof of a negative COVID-19 test taken within 72 hours of the date of the argument. To facilitate the effective administration of this requirement, all vaccinated lawyers must submit written proof of vaccination to the Clerk’s office not later than 14 days before the argument date. Counsel relying on the submission of a negative test result must submit written proof of the result to the Clerk’s Office not later than 24 hours before the argument date. Counsel may submit these proofs by submitting a PDF of their CDC COVID-19 Vaccination Record Card or a PDF of their negative test result through the CM-ECF event “COVID-19 Certification for Oral Argument.” Lawyers may also fax either document to 314-244-2780. These documents will be sealed from public view.

Should your condition change at any time prior to the oral argument, please contact the Clerk’s office immediately.

Elevator Service

Currently, the elevators are limited to two persons per car. This may result in delays in reaching the Fifth floor. Again, please allow sufficient time to reach the courtroom for your argument.

Check-in For Oral Argument

Counsel should report directly to their assigned court room for check-in. Do not report to the clerk's office for check-in. A deputy clerk will be stationed outside the court room to complete your check-in for oral argument. Please be prepared to provide the deputy clerk with information regarding dividing time between opening and rebuttal if you are appellant and your desired time for a warning light if you are appellee. Counsel splitting oral argument time should be prepared to provide this information to the deputy clerk. If you are unfamiliar with the court's timing lights or court room procedures, please contact the clerk's office prior to the date of oral argument for additional information and assistance.

All Clerk's office staff have been vaccinated and will be masked.

Courtroom Seating - Limited to Participating Counsel and Court Staff

Only attorneys presenting oral argument and court staff will be admitted to the courtroom. There will be no public seating for parties, interested members of the public, or the press. *Only arguing counsel and no more than one other attendee whose presence is necessary to assist or supervise the arguing counsel are permitted to enter the courtroom for an argument.* Only counsel admitted to the Eighth Circuit bar may sit at counsel table. While awaiting the call of your case, please take a seat in the lawyers' lounges or the seating provided in the lobbies adjacent to the court rooms. You will be called to the court room for your case. Counsel scheduled to present the first case of the day should proceed directly to the court room after check-in, take their seats at counsel table, and await the call of the docket.

Remote Public and Press Access

Parties, interested members of the public, and the press may access a live audio stream of the arguments through a teleconference bridge. Information on accessing the live audio stream is provided on the court's website at www.ca8.uscourts.gov. The court also provides digital audio recordings of all arguments under the "Oral Arguments" tab on its website. These recordings are posted shortly after completion of the day's argument sessions.

Presentation of Oral Argument

In the interests of public health and safety, all counsel, visitors, and staff will be required to wear face masks and socially distance while in the court room. While presenting oral argument, counsel may, with the permission of the presiding judge, remove his or her face mask. Counsel should remain masked while seated at counsel table. When the argument in your case is completed, you must immediately leave the court room. The clerk will clean the court room between arguments and will provide a fresh microphone cover for each attorney presenting argument. The court will not provide water at counsel tables, but you are permitted to bring your own water bottle.

Motions for Permission to Present Oral Argument by Videoconference

The October, 2021 calendar marks a return to in-person oral arguments, and the court's expectation is that cases set for oral argument will be conducted in-person, rather than by videoconference. However, the court recognizes that some videoconference oral arguments may be necessary because of COVID-19 related risks to arguing counsel or members of their households.

Not later than ten days before the scheduled date of the argument in the case, an attorney seeking permission to present oral argument by videoconference must file a Motion for Permission to Appear Remotely at Oral Argument. Counsel are encouraged to file the motion as soon after their receipt of the calendar as is possible. The motion must state good cause related to COVID-19. It must also state whether opposing counsel consents or objects to a videoconference oral argument. If the motion is granted, all counsel in the case will appear by videoconference. The court may also reschedule the case for a later date or direct that the case be submitted on the briefs without oral argument.

Counsel should be aware that a videoconference oral argument, if permitted, may take place at a different time and date than that shown on the printed calendar. Counsel will be advised of the proposed time and date of the videoconference oral argument at the time the order granting the motion is entered. Videoconference oral arguments are conducted using the Microsoft Teams application.

Other Matters

These procedures cannot cover every possible situation which might arise during the court session. Everyone's safety is our highest priority. We ask that you cooperate with any directions you receive from the Court Security Officers or Eighth Circuit staff. If you have any concerns, please feel free to contact the Eighth Circuit Clerk and his staff.

Please note that the procedures outlined in this notice may change as a result of changes in community spread of COVID-19, additional guidance from the CDC, or directives from federal, state, and local governments. We will notify you of any changes regarding the procedures for the October oral arguments.