

## Preface to the Fourth Edition

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Like the earlier editions, this Fourth Edition seeks to build on new insights I have gleaned from my continuing practice as a Supreme Court and appellate litigator. Since the last edition, critical changes have been made to the Supreme Court's manner of handling oral argument. Those changes, in turn, require new approaches by the advocate. This edition discusses those changes and their effects on the dynamics of oral argument. For example, the Court now permits counsel on each side to present to the Court without interruption, which has brought a sharper focus on constructing an opening. In addition, the Chief Justice also calls on justices in order of seniority to ensure that they each get an opportunity to ask questions. This practice has lengthened oral arguments but also guarantees a fuller interrogation of an advocate's arguments.

More generally, this edition seeks to update and refine examples from actual arguments, as well as to explain newer rules that the Supreme Court and U.S. Courts of Appeals have adopted. Throughout, I have added new insights about particular aspects of oral argument, from fashioning openings in different circumstances to handling closing and techniques for managing rebuttal on the fly. The discussion of notes and argument binders also contains updated views about organization in the courtroom to maximize precious time. Although many older examples remain in this edition, new examples are sprinkled in throughout and new insights and experiences are described. Notably, I presented my first appellate argument more than thirty years ago. Since then I have maintained an active practice presenting oral arguments. The examples I've presented will hopefully serve as teaching moments for future advocates. Finally, Justice Ginsburg passed not long after the publication of the Third Edition. For that edition, she enthusiastically had agreed to allow me to continue to use the Foreword she had written many years ago for the first edition. As a continuing

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tribute and thanks to her, I'm grateful Thomson Reuters has agreed to print her original Foreword in this edition as well.

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