

EXERCISE

ORAL ARGUMENTS

Background

You're on a team defending a cosmetics company against a class action suit. The plaintiffs claim that your client's products caused a number of serious injuries, including skin cancer. Plaintiffs have refused to turn over medical records going back more than one year prior to the litigation. Your team filed a motion to compel.

In your team's motion to compel, you make two arguments to support your requests for these records:

- The medical records are necessary to assess the plaintiffs' health from before and after use of the products, which is needed in determining causation of the alleged injuries; and
- Plaintiffs claim to have started using your products up to five years prior to the litigation, and their health throughout the entire period of use is relevant in determining any causation of the alleged injuries.

Part I:

The partner informs you that you'll be doing the oral argument for this motion. You have one week to prepare.

Part II:

A week later, you're at the hearing presenting your argument to the judge. In the middle of your first argument—about assessing the plaintiffs' health from before versus after using the products—the judge interrupts you with several questions. You can tell from her questions that she's not receptive to this argument.

Instructions

Come prepared to discuss these questions:

- (Part I) Besides reviewing the case materials and creating your notes, what other steps should you take to prepare for your oral argument?
- (Part II) How might you handle the situation at the hearing where the judge is interrupting you?