

Analysis **Litigation**

## State Supreme Court Arguments Paused for the Summer. Appellate Attorneys? Not So Much

August 12, 2025 By  **Ellen Bardash**

### What You Need to Know

- For many apex courts, the amount of time they press pause on oral arguments can vary from one summer to the next.
- Despite the annual lull in arguments, justices, court staff and attorneys who practice in state appellate courts aren't getting much of a break.
- Outgoing law clerks commonly use August to complete their work so incoming clerks will have a clean slate, said one chief justice.



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Summer is coming to a close, marking the end of the months in which state supreme courts tend to hear fewer oral arguments than they do in any other season.

This summer, only eight states' supreme courts heard argument in July, and 12 heard at least one oral argument in August.

For many states' highest appellate courts, the amount of time they press pause on oral arguments, and in which months, can vary from one summer to the next. Others block out their argument calendars for the same month or months each year.

This year, supreme courts in four states—Iowa, New Mexico, North Carolina and Texas—didn't schedule any oral arguments in May through August. In that same time frame, Mississippi and Vermont's supreme courts heard at least one argument each month.

Thirteen states took a three-month break from oral arguments, 17 others and Washington, D.C., took two months, and the remaining 14 states took a month off from arguments in either July or August.



Despite the annual lull in arguments, justices, court staff and attorneys who practice in state appellate courts aren't getting much of a break from their work.

On the judicial side, that's in part because some appeals are still being considered on a paper record, and judges are working on decisions on those cases and those that have been argued previously. It can also be a time for law clerk turnover.

"Law clerks typically serve one year terms and turn over in August. Outgoing law clerks use August to complete work assigned to them so the incoming clerks will have a clean slate," Delaware Supreme Court Chief Justice Collins J. Seitz Jr. said of Delaware, which does not hold oral arguments in August each year. "Outgoing law clerks also assist the justices with orientation of the new law clerks."

Cynthia Filipovich, a member of Clark Hill's appellate practice in Detroit, said it's typically only the U.S. Supreme Court and the highest-level state appellate courts that take a break from oral arguments in the summer, but that's not the case for nearly all other state and federal appellate courts.

"These intermediary appellate courts pretty much hear oral argument year-round, and the same is true of issuing opinions," Filipovich said. "So, except for a case before the U.S. Supreme Court or the Michigan Supreme Court, the summer months of appellate law are no different in my practice."

"Attorneys that handle significant state court appellate work do not generally take breaks while these courts are in hiatus," said Chicago-based Vedder Price shareholder Anthony Ashley. "While they may plan brief vacations during this time, most of them are busy working on other cases and matters for the upcoming session or continue to work on trial level matters."

Brian Ginsberg, chair of the appellate practice group at Harris Beach Murtha Cullina, said most of the courts he practices in have enough of a slowdown in arguments in the summer that he has some time to make progress on appellate briefs and other writing projects.

"For days and sometimes weeks leading up to the oral argument, the advocate needs to be 'in the zone' about that particular case," Ginsberg said. "It can be challenging to switch gears from that case, work on a brief in another matter, and then return to oral-argument preparation. In other words, the lead-up to an oral argument is often a difficult time for multitasking. For that reason, I have found courts' summer recesses to be especially conducive to working simultaneously on a variety of different briefs across different matters."

Despite the steady workload, appellate attorneys aren't entirely missing out on summer fun. Whitney Brown, an associate in Stoel Rives' Anchorage office, said though it's generally business as usual in the summer months, she uses any spare time she finds to hike the Alaska backcountry

with her dog Marbury—named after *Marbury v. Madison*—as well as catch up on reading SCOTUS opinions. And Erik Sardiña, a Kaufman Dolowich partner in Hackensack, New Jersey, said although the legal process doesn't stop in the summer, he spends any time he's able to step away with his family or cycling.

"I do welcome any summer lull that may give me some flexibility in my schedule for a weeknight BBQ, round of golf, or weekend getaway with my family," said Peter Zarella, a McCarter & English partner in Hartford, Connecticut. "But, to the extent caseload is not demanding it already, I try to stay close to normal pace, which allows me to maintain a more balanced mix of case work and business development the rest of the year."

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