

**X. BEHIND THE CURTAIN: THE INTERNAL PROCESSES OF APPELLATE COURTS.**

**a. Preliminary Questions For Representatives From The Clerks' Offices Or Judges**

1. What happens in the Clerk's Office when an appeal is perfected?
2. App Div - How is a panel determined and by whom?
3. How and when is a case assigned to a particular panel member?
4. Are cases in the Appellate Division "boxed/grouped" by issue like in the Court of Appeals?
5. How and by whom are cases placed on a particular day calendar?

**b. The Bench Memorandum Or Confidential Report**

6. Do all judges on a panel/court receive either a Clerk's Office bench memo on every case or a memo from your personal Law Clerk(s)?
7. What if any other documents do you receive besides the Record and briefs?
8. Does this change if you are the Presiding Justice; or not the reporting judge?

**c. Chambers Preparation For Oral Argument**

9. What do you and your clerks do in preparation for an appeal?
10. Does this change if you are Presiding or not the reporting judge?
11. How do you use what you receive in relation to the filed material?
12. What does your chambers prepare? Do you ever prepare a draft opinion before oral argument? If so how frequently?
13. Do you communicate with the other panel/court members or receive communications from them about a case before oral argument? If so how – written or verbal communications?
14. Do you send materials to other court members about a case before oral argument?
15. Do you receive materials from other court members?
16. Prior to oral argument do you have a preliminary decision in your mind about how the appeal should be resolved and on what basis?

**d. Does Oral Argument Make A Difference?**

17. How do you prepare for oral argument?
18. Does it change depending on whether you are the Presiding Judge or the Reporting Judge?
19. Is there any order or protocol in your court for questioning by the judges at oral argument?
20. What are your best and worst practices for attorneys during oral argument?
21. Can a lawyer win or lose an appeal at oral argument?
22. How frequently does oral argument change your pre-argument thoughts on resolution of an appeal?

**e. The Decision Conference**

23. When do you hold the first conference/discussion about an appeal after oral argument?
24. Is the appeal voted on at this first conference? If so in what order among the judges?
25. What happens to decide an appeal after this first conference discussion?

**f. Drafting And Voting Upon Opinions And Memorandum Decisions**

26. Please advise your thoughts on deciding when to write a concurrence or a dissent?
27. In the Appellate Division are non-panel members involved in any discussions about the decision in an appeal?
28. In the Appellate Division how do you ensure consistency between panels?
29. How is the determination made to issue an Memorandum Order, Per Curiam or a signed Opinion?
30. What thoughts go into affirming or reversing on the Opinion or dissent below or for “reasons stated therein”? Is this used as frequently as it was 20-30 years ago? If not why not?

**g. Editorial Review And Release To The Parties And Public**

31. What internal steps are there prior to release of determination to the public?