



26 May 2016

Honorable Ed Carnes  
US Courts of Appeals  
Eleventh Circuit  
56 Forsyth Street, N.W.  
Atlanta, GA 30303

Dear Mr. Carnes,

As the Executive Director of Free Law Project, a non-profit dedicated to providing free access to primary legal materials, I write to encourage the court to join the majority of circuit courts and the Supreme Court in providing free access to oral argument recordings. At present, according to the Fee Schedule provided by the court,<sup>1</sup> these recordings are priced at \$30 each. As I'm sure you are aware, this price hampers access to this information, keeping the public removed from the workings of the court, and preventing study of court proceedings by legal practitioners, students, and legal researchers.

At Free Law Project, we collect oral argument audio from the circuit courts that provide it, and we make it available on our website so that people can easily search for recordings, download them in bulk, or listen to them as podcasts or on our website. We currently have more than 500,000 minutes of audio from more than 14,000 oral arguments going back to 1969.<sup>2</sup> Another provider of oral argument audio, the Oyez Project, attracts around five million users annually.<sup>3</sup> There is great demand for this information, and Free Law Project is eager to fulfill that demand, if the court provides a way.

I see four possible ways that the court could make oral argument audio available:

1. **On Your Website.** Nine of the other circuit courts and the Supreme Court have made recordings of their oral argument audio freely available on their website. This is the best way to make the content available, and the one we hope the court will adopt.
2. **Via a Rule Change.** A rule change could be adopted by the court, making reproductions of oral argument audio free to the public, upon request, nullifying the \$30/recording fee.

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1 <http://www.uscourts.gov/services-forms/fees/revised-court-appeals-miscellaneous-fee-schedule>

2 <https://www.courtlistener.com/?q=&type=oa>

3 <http://blogs.wsj.com/law/2016/02/01/future-of-oyez-supreme-court-archive-hangs-in-the-balance/>



3. **Via a New Rule Interpretation.** If the court did not have the resources to place oral argument audio on its website, and wished to avoid making a rule change, it could adopt a liberal reading of the Fee Schedule, the relevant part of which reads:

“For reproducing recordings of proceedings, regardless of the medium, \$30, including the cost of materials.”

The rule refers to “*recordings*,” plural, costing \$30. So, one solution is for the court to interpret this rule to mean that any number of recordings can be acquired for that price, not just one. At Free Law Project, we seek expedient solutions and I propose this one in that vein, not knowing the court’s internal capacity for such interpretations.

4. **Via a Fee Waiver.** Finally, if the above are not possible or desirable, we ask that the court consider furnishing Free Law Project with a fee waiver, allowing us to acquire the historical and future oral argument recordings of the court. We would be delighted to serve as a repository for this data so that others may acquire it without the court needing to upgrade its rules or internal systems.

At Free Law Project, we attempt to serve both the judiciary and the public, and our initiative to provide oral argument recordings is special because it often does both. The public benefits by being able to study and understand the workings of numerous courts. The judiciary benefits when this study results in practitioners with deeper understandings of the law and of the court itself. Of course, everybody benefits from more transparency.

Oral argument recordings are a product of the courts that have seen incredible demand. I hope that as Chief Justice you will choose to meet that demand, joining the nine other Circuit Courts and the Supreme Court that provide this data for free on their website. If that is not possible, I hope that you will consider providing these oral argument recordings to Free Law Project via a change to the rules, a liberal interpretation of them, or a fee waiver for our organization.

If you wish to discuss this further, I would be happy to do so at your convenience.

Thank you for your consideration,

Michael Lissner  
Executive Director