



Court 101

Erin O'Toole-Tomczik
Sherburne County Attorney's
Office

September 20, 2011

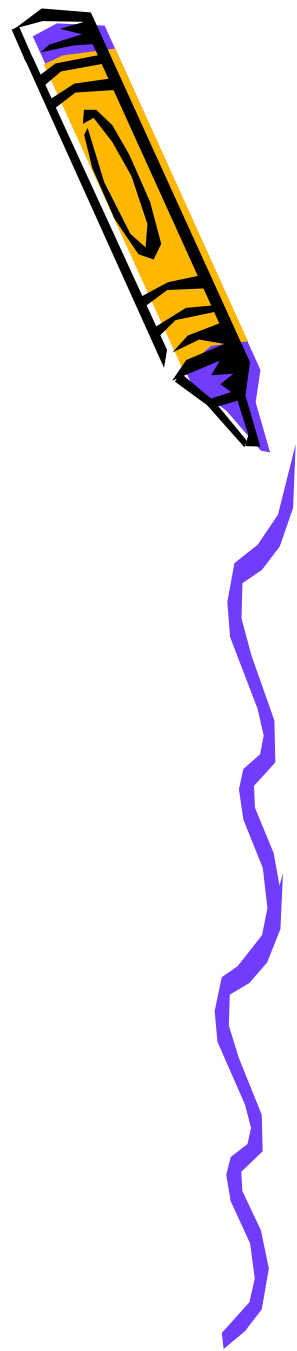


BASICS




- THIS IS 101!
- NOT UPPER-LEVEL COURSE
- IF THERE IS A CHANCE YOU WILL BE BORED - LEAVE NOW
- If you were going to be bored wherever, feel free to stay but don't complain!



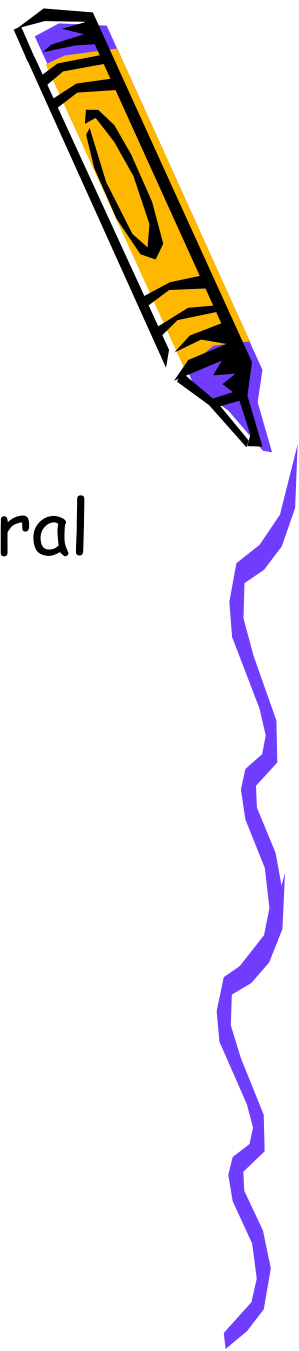


- ...for those of you who choose to stay, I brought candy.





Who am I and why do you care?

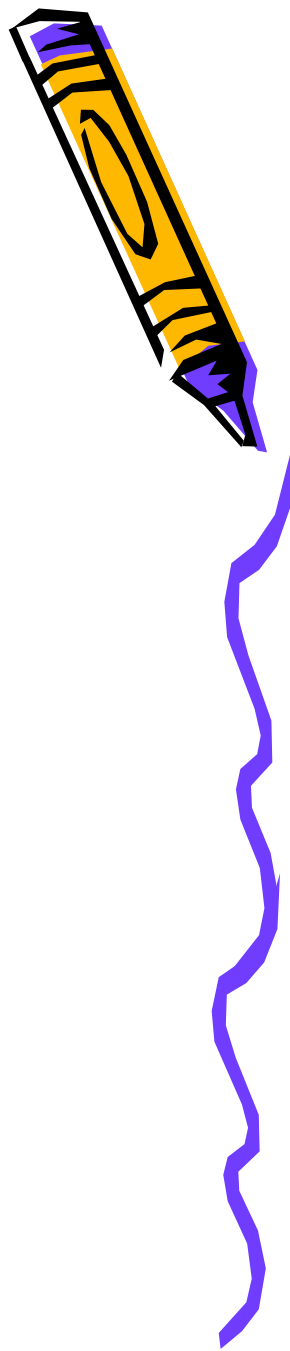


- Practiced in 10 counties around state
- DISCLAIMER - moderate to small central Minnesota
- On both sides of the issues
- I have made most of the mistakes I am warning you against (and probably have more to make)
- I am not perfect



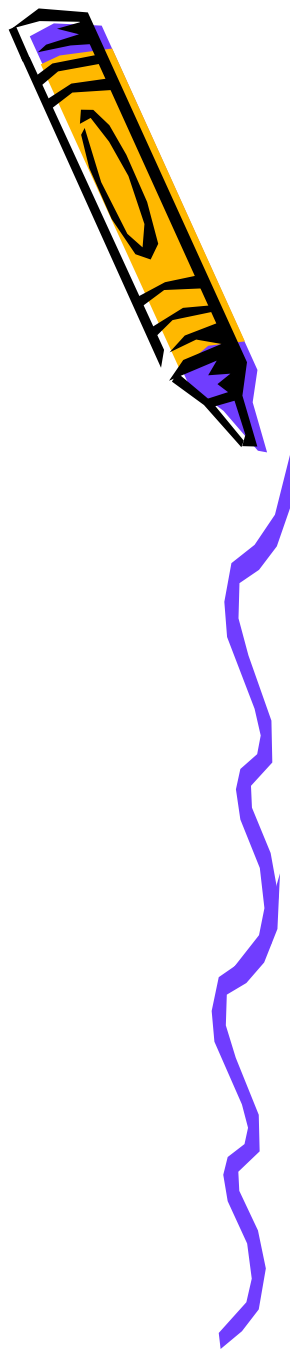
Types of Hearings

- Recovery
- Child support
- Contempt
- Paternities
- Expro
- Appeals



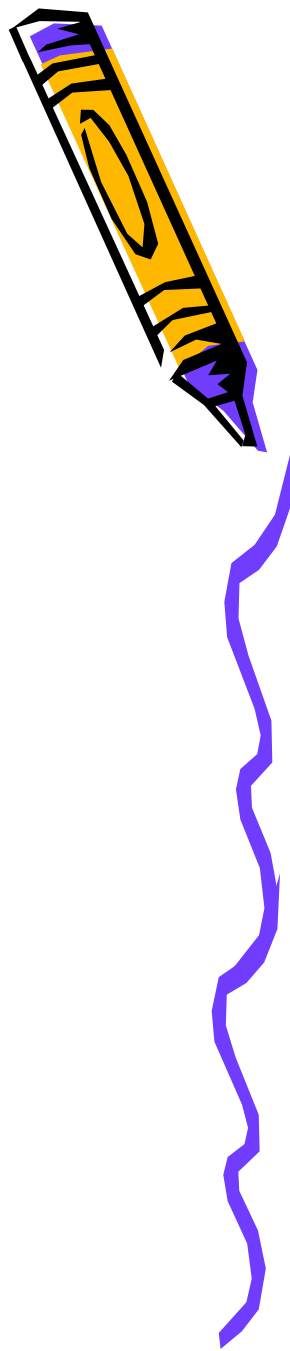
Types of Hearing Rooms

- Courtroom
- Conference room
- Office
- Wherever you can find a space

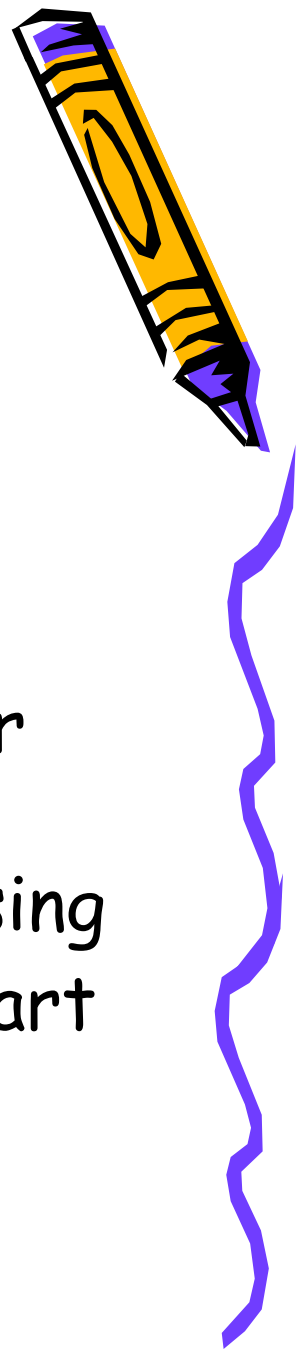


Prior to hearing

- Some basics
- Reminders
- Time considerations



What is your file?

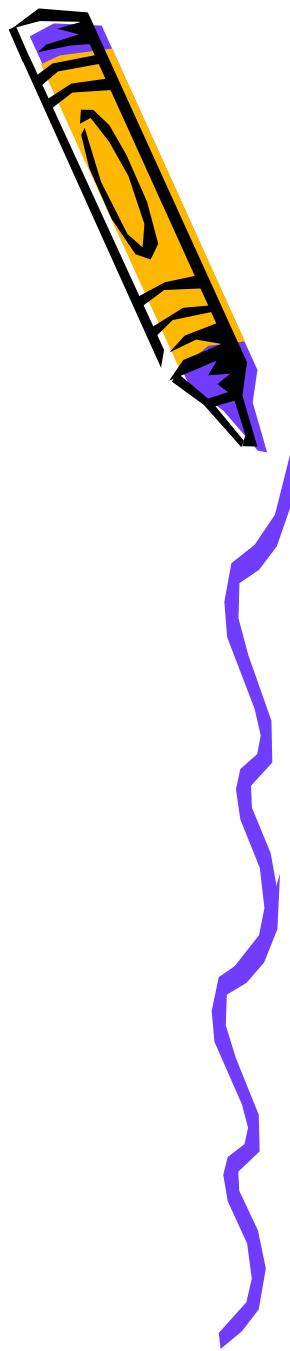


- Physical file
- E mails
- Faxes, word documents
- Computer software info specific to your area
- Computer storage on your word processing
- Correspondence on PDA, texts, etc is part of the file...

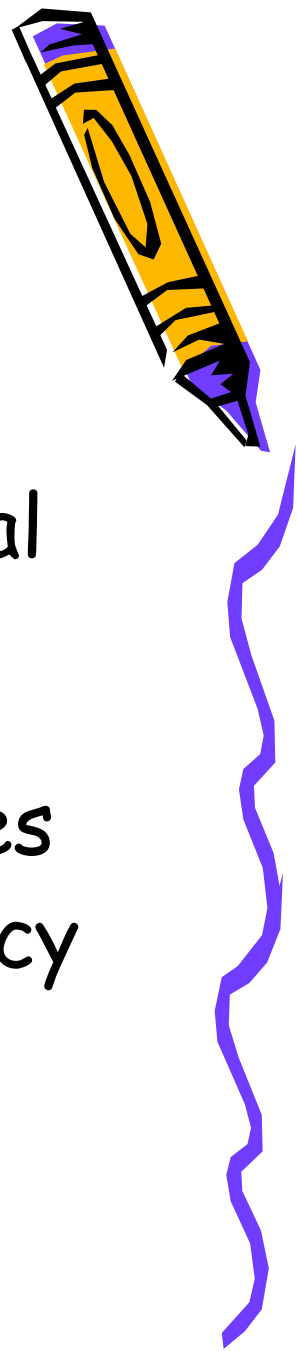


Considerations

- Think before you write
- Data practices
- Discovery



Identify Parties

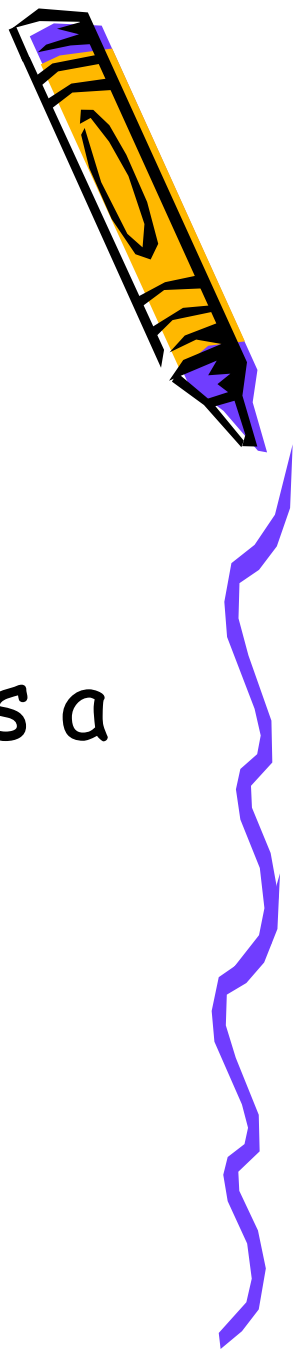


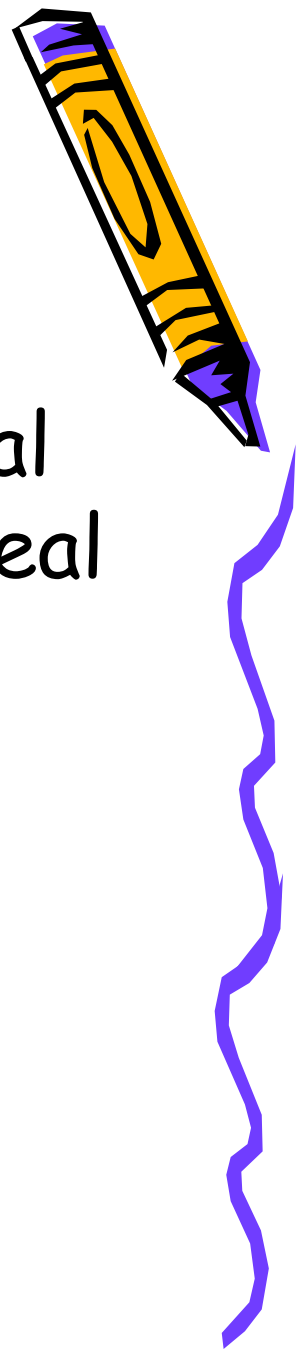
- Identify who are the workers involved in the case (each is critical and we need all of their files)
- Identify if there are other appeals/investigations-timing issues
- Are there people outside the agency involved? (subpoenas required?)



Trial Preparation

Please let your counsel know as soon as you are aware there is a hearing (or you suspect there will be)

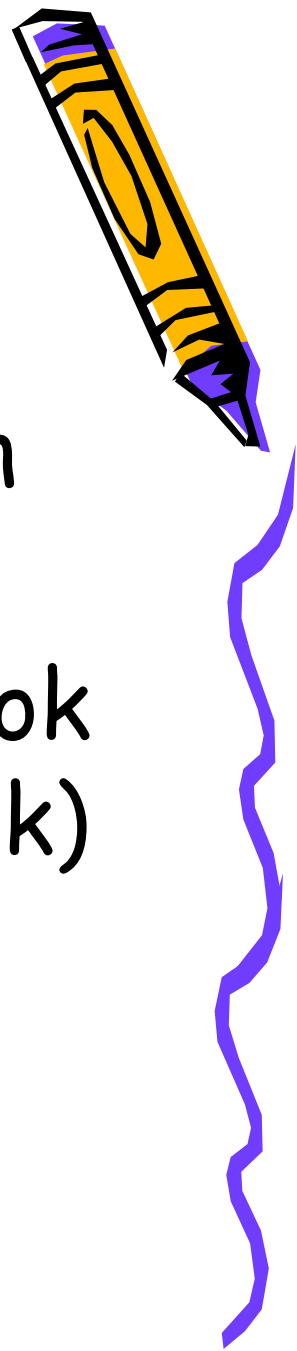




Define the issues and scope of appeal
before any submittals to the appeal
judge

Review the file. Make a copy of the
entire file and send ASAP to Co.
Atty.





- Have as current of information as possible
(that does mean you have to look through your "to be filed" stack)

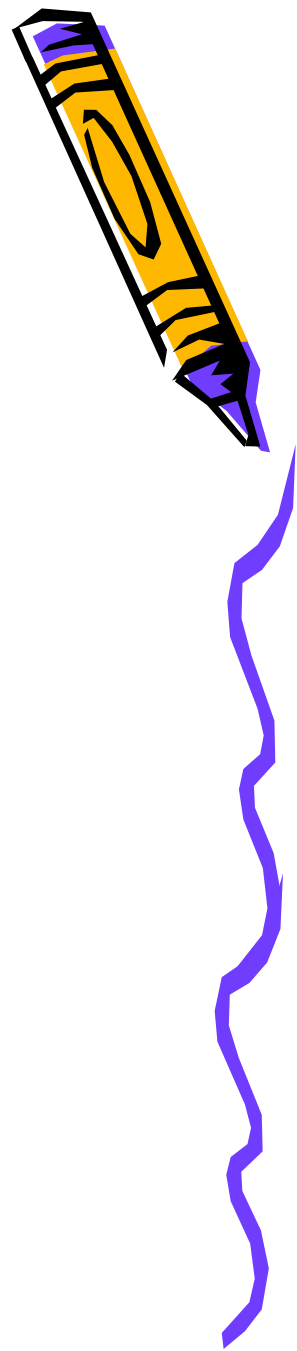




1. Review case record and other notes

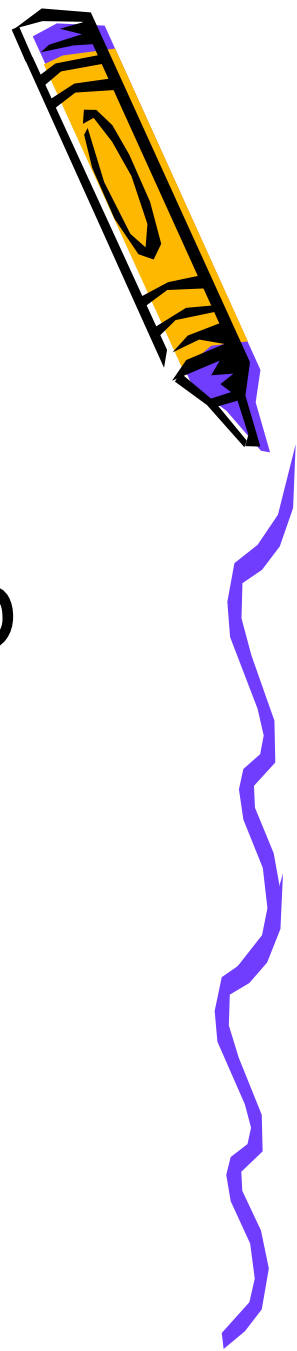
All contact with people, including
the important facts, dates, and
people need to be documented and
provided.





- FACTS NOT OPINIONS
- Be careful of showing bias
- Standard (right or wrong) we as government are held to





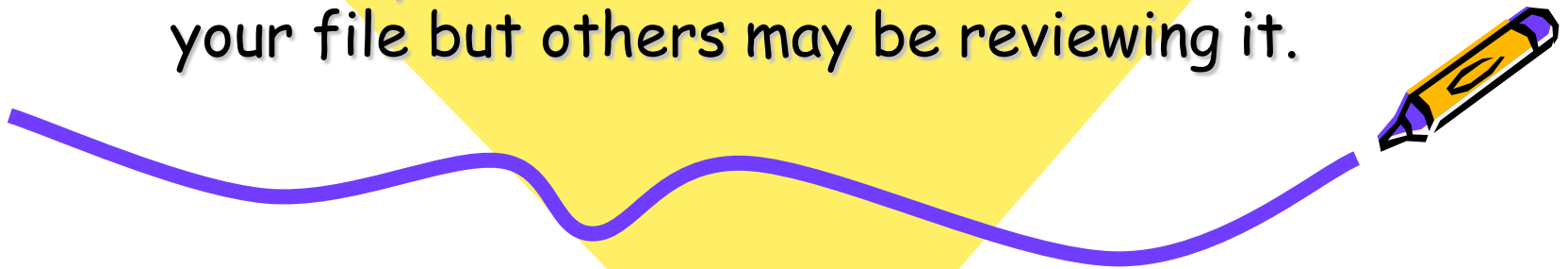
- Did I mention going through your stack of "to be filed?"



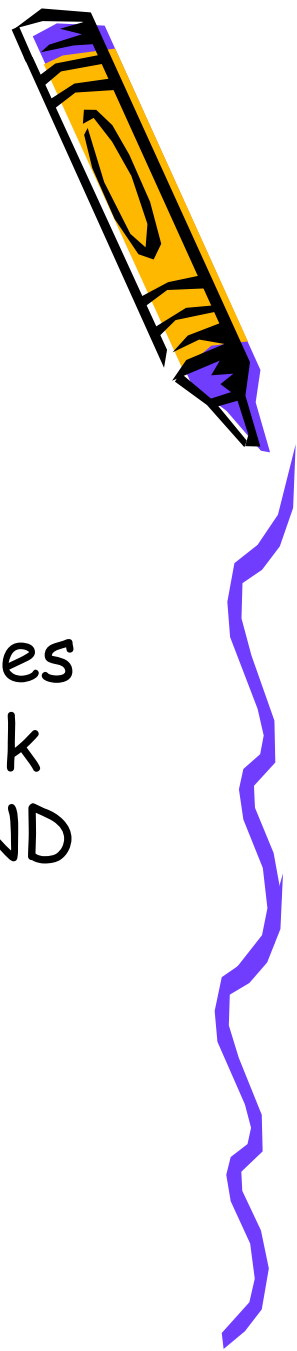


2. Gather, Organize, and Copy Exhibits

It helps the both of us because it is
your file but others may be reviewing it.



Document Organization



- Groupings and chronological
 - Please do not write your personal notes on originals in the file. It doesn't look professional when we make copies AND it may show bias.



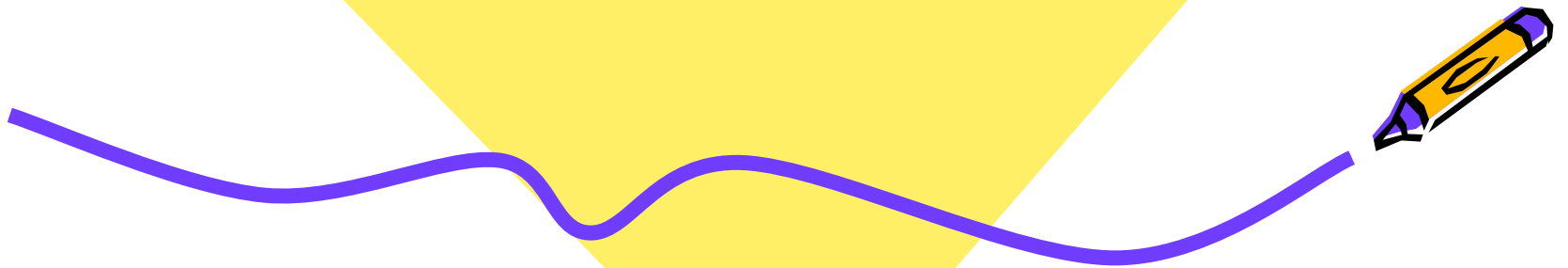
File organization cont.

- Helps when you get unexpected question in court or hearing.
- Helps if attorney needs quick answer in court or hearing.
- Gives you more credibility





3. Create an Outline



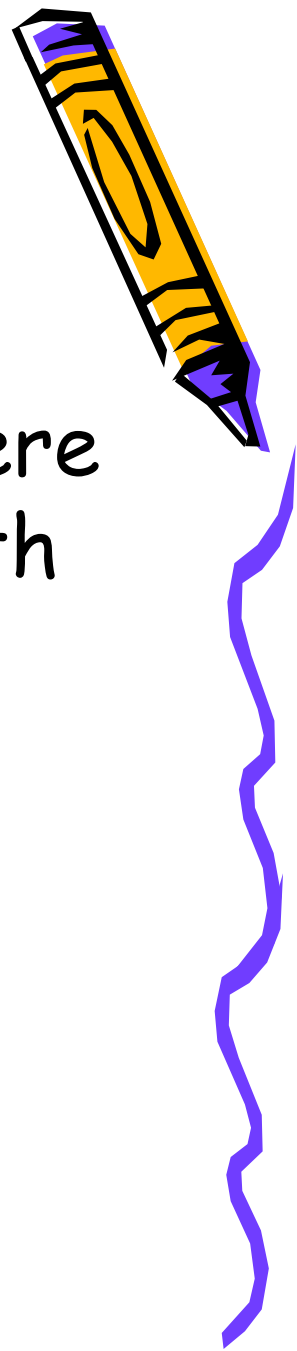


Chronological outline

- This will help you remember all of the information that you will be testifying about, but it will also assist attorney in gathering important information to highlight during court/hearing.

Less likely to be tripped up by other side.



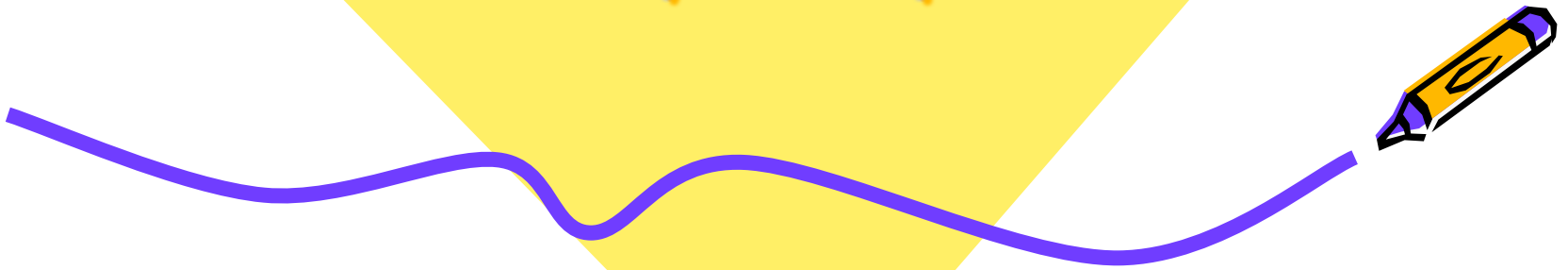


- This is where we often realize where the other side failed to comply with something!





4. Schedule a meeting
with Assistant County
Attorney/ Supervisor



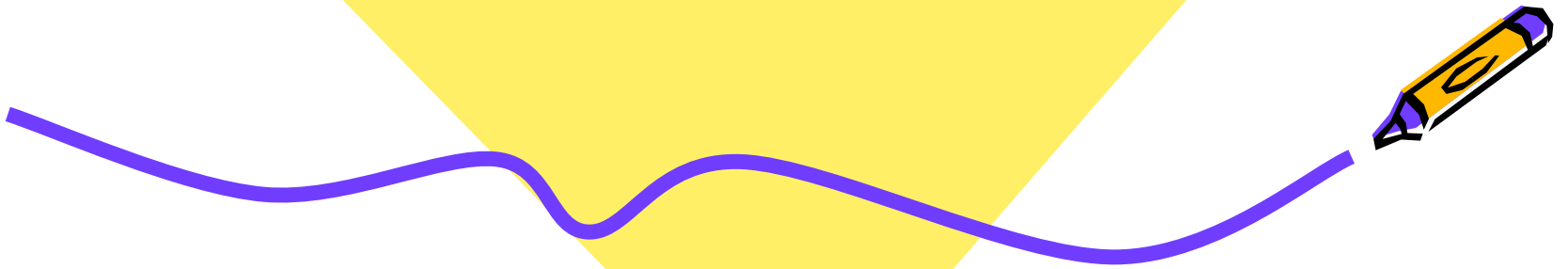
Prep with attorney

- Theme and theory of case
- What are the issues and scope of case/appeal-needs to be defined before any submittals to the appeal judge
- Strategy
 - Including thinking through weak areas
- Testimony questions



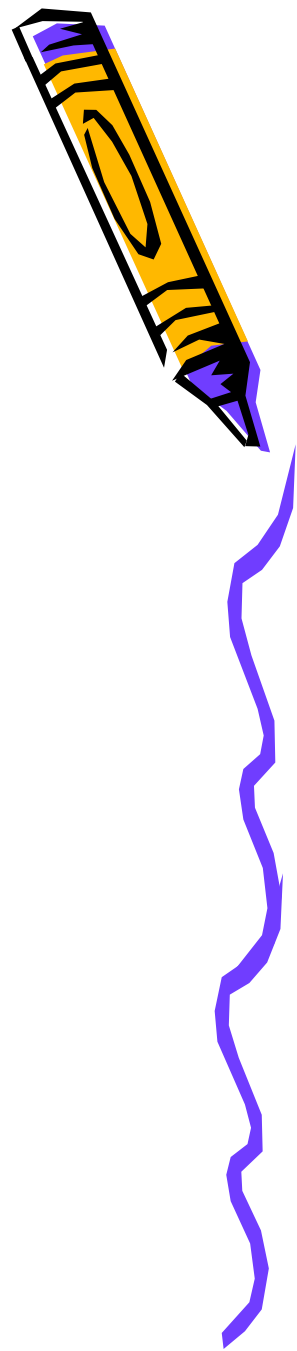


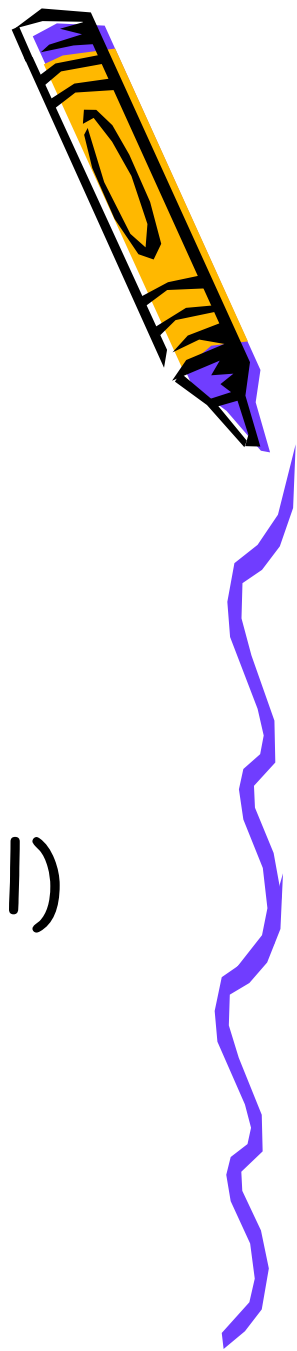
5. Prepare to Testify



Be aware of strengths and weaknesses

- File
 - Organization
 - Presentation
 - Exhibits





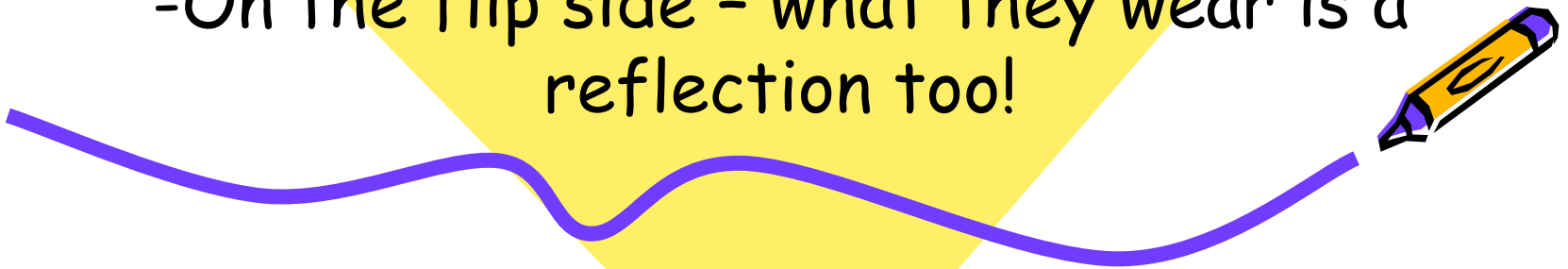
- Personalities
 - Yours
 - Your attorney
 - Other side (and their counsel)
 - Hearing officer/ Judge





Attire

What we wear can be a reflection of
how serious the court takes us
-On the flip side - what they wear is a
reflection too!



USA TODAY Snapshots®

What is inappropriate in the workplace?

Percentage who say:

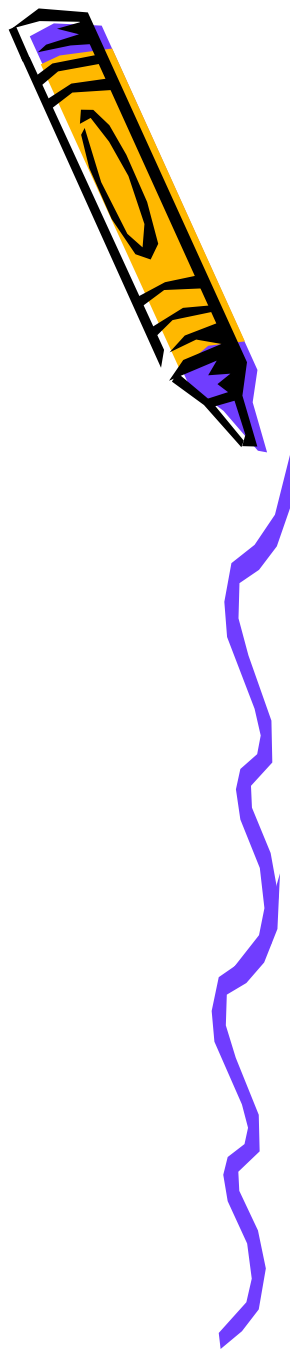


Source: Claritas Research Corp., 10/19/00.
Staffing survey of 1,000 adults.

By Anne R. Enay and Malinda Gonzalez, USA TODAY

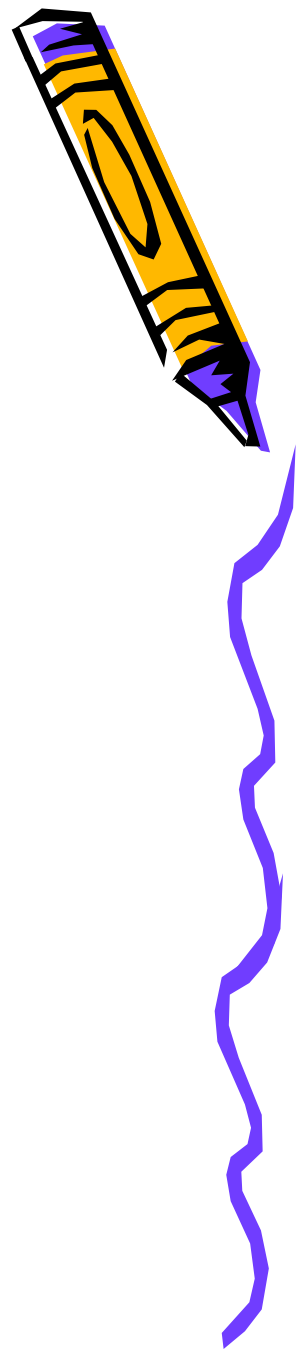
Courtroom

- Who are the players
 - Judge
 - Court reporter
 - Scheduling clerk
 - Judge's clerk
 - Bailiff/Court Security
 - Opposing attorney
 - Opposing party



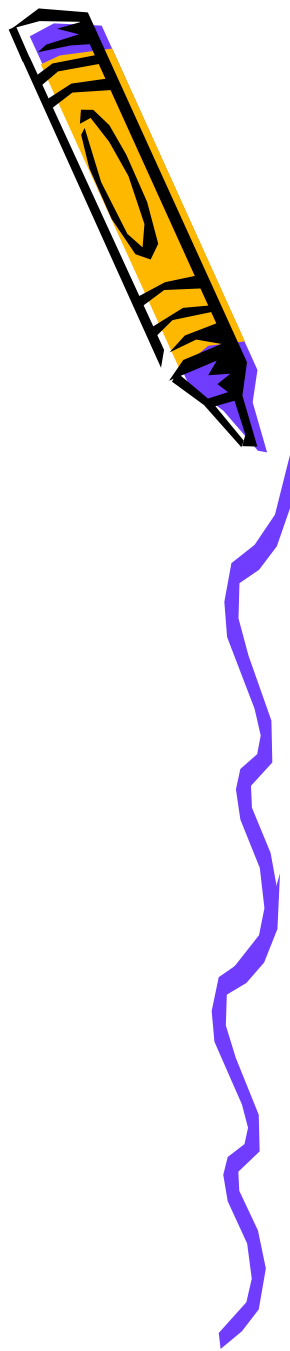
Hearing Room

- Hearing officer/ALJ/Magistrate
- Court clerk...or tape recorder
- Opposing party
- Security?



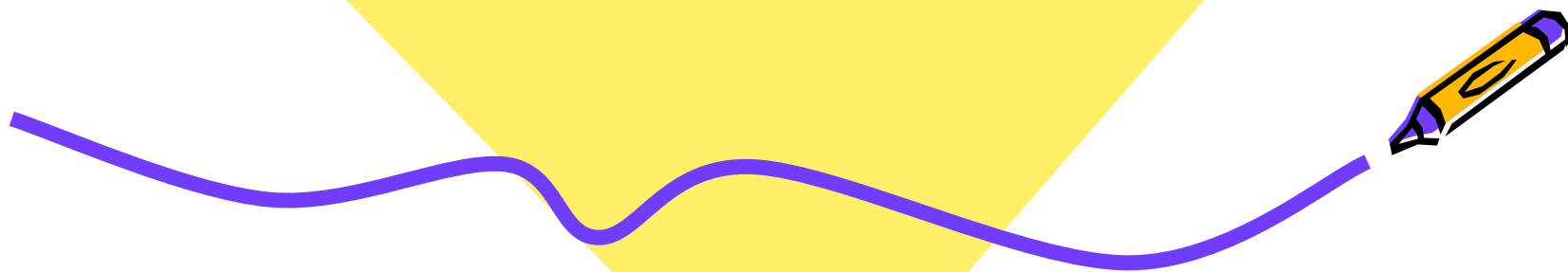
I-TV

- T.V.
- ...and any combination of people



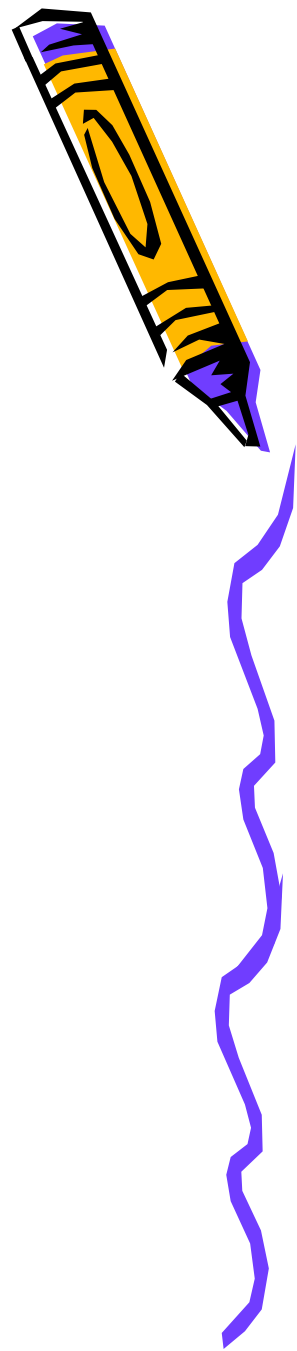


Security



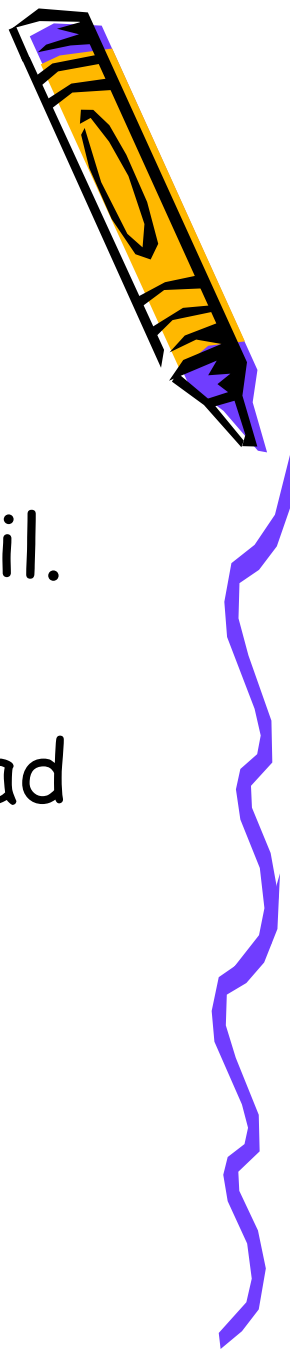
Trust your judgment

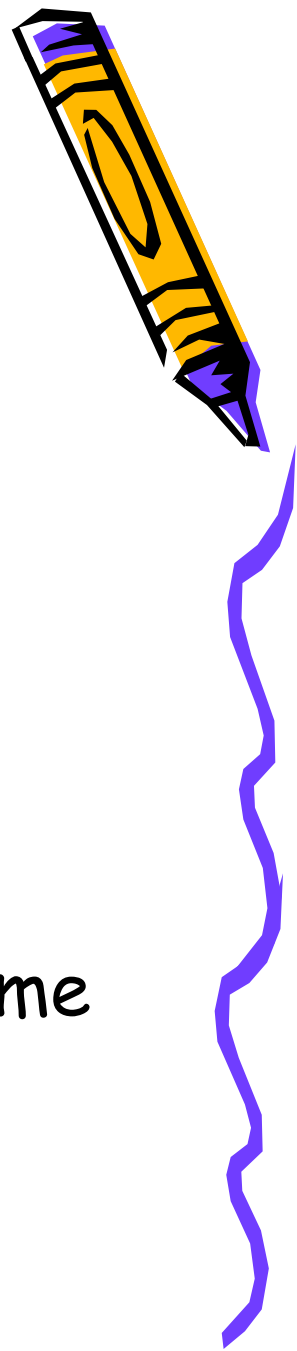
- Be aware of the situation
- Let co-worker or supervisor know your concerns
- Let the court/courthouse security know your concerns



Unpredictable

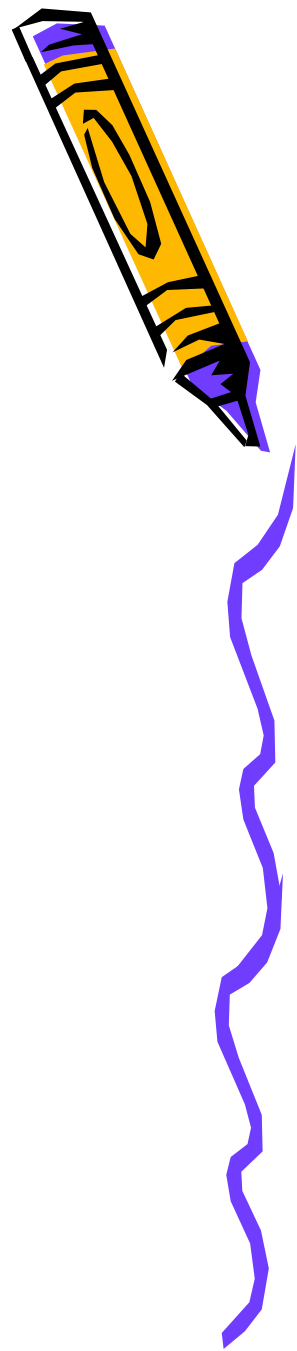
- Money sometimes seems to make people more angry than going to jail.
- No matter that you are just doing your job you are painted as "the bad guy"





- Threats
 - Try not to stress but take seriously
 - Let supervisor know
 - Let law enforcement know
 - Document
 - Take precautions - at work and at home

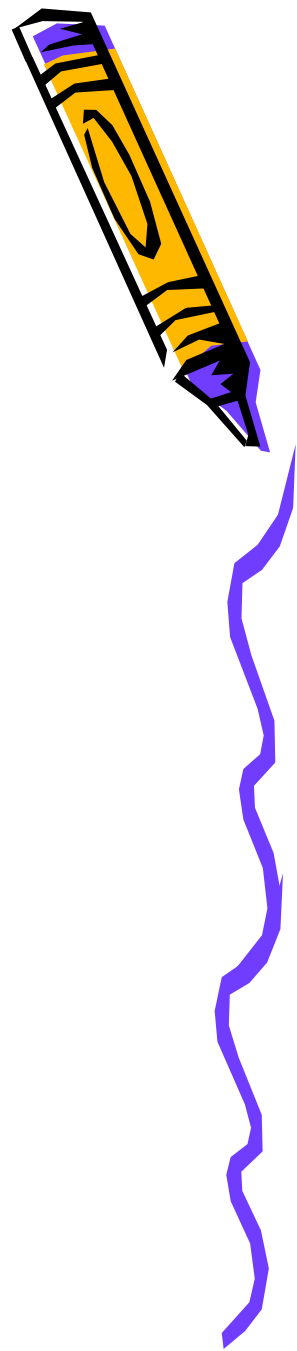




- Position yourself in a safe location
- Be aware of
 - Hands
 - Tone
 - Demeanor
 - Posture
 - Escalation
 - Eyes

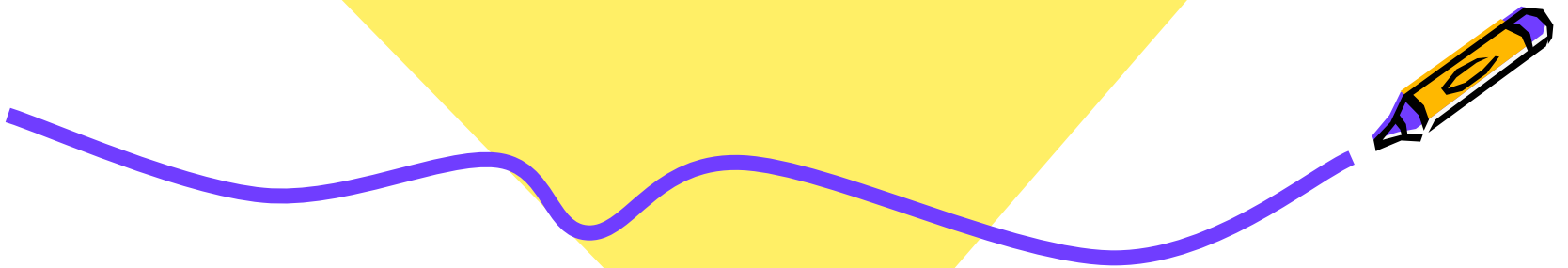


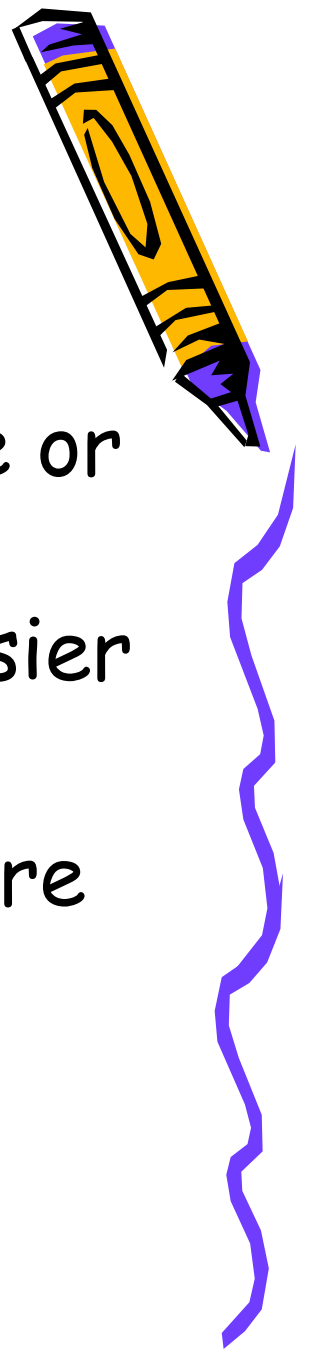
- Examples





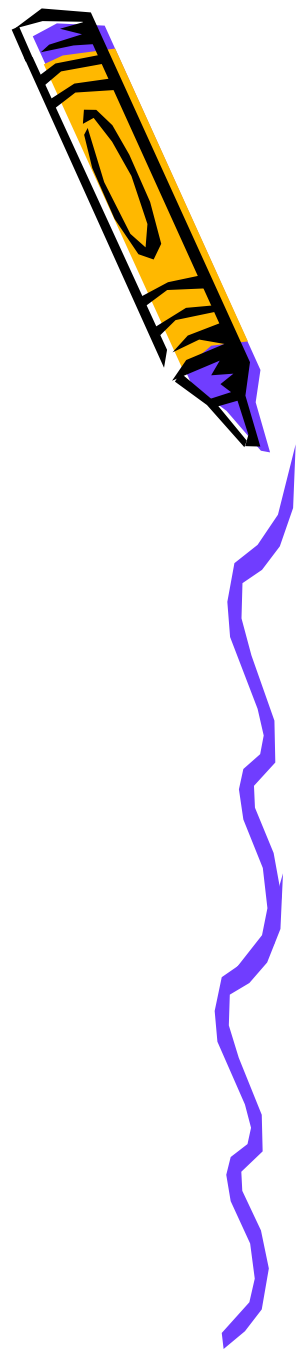
Sample Trial Questions





- If you have never testified before or are concerned PLEASE let the attorney know - we can make it easier for you.
- If you have testified before and are concerned let us know too.



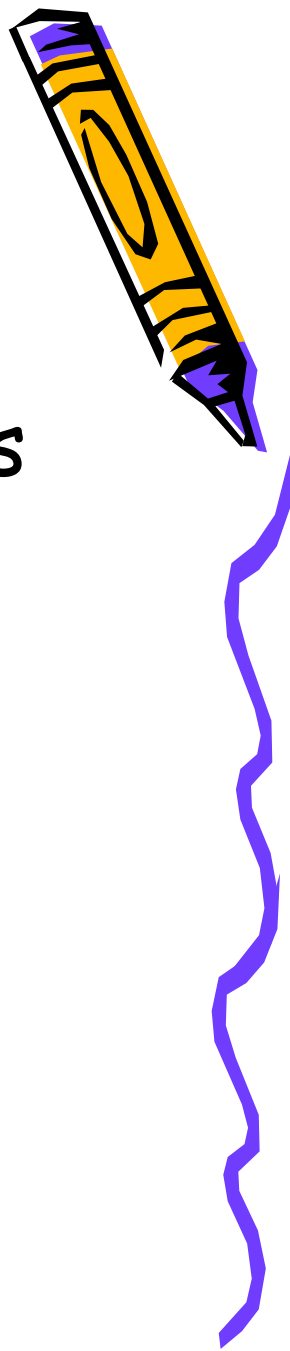


- If we can help in any way - we will
- Remember, it does get easier.



Starting Out

- Generally we try to throw softballs to get you comfortable.
- LIKE...



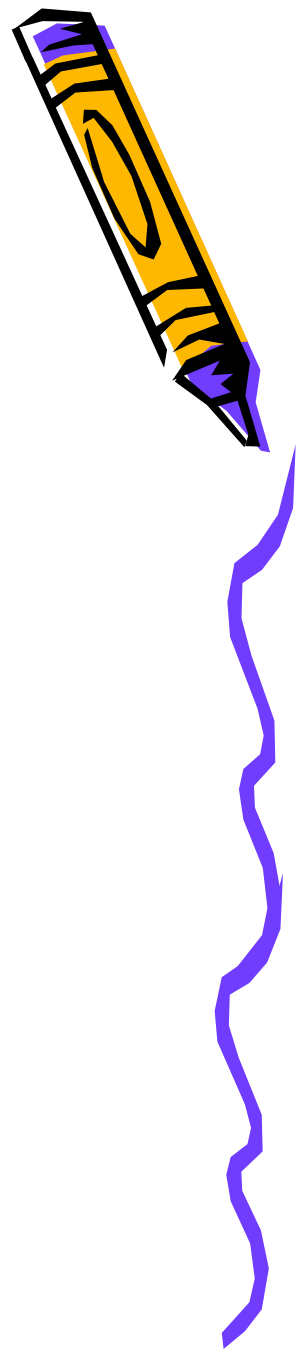
Background

- Education
 - Degree
- Training - depending on type of hearing (including conferences)
- Current employment
 - How long
 - What position
 - Duties and responsibilities

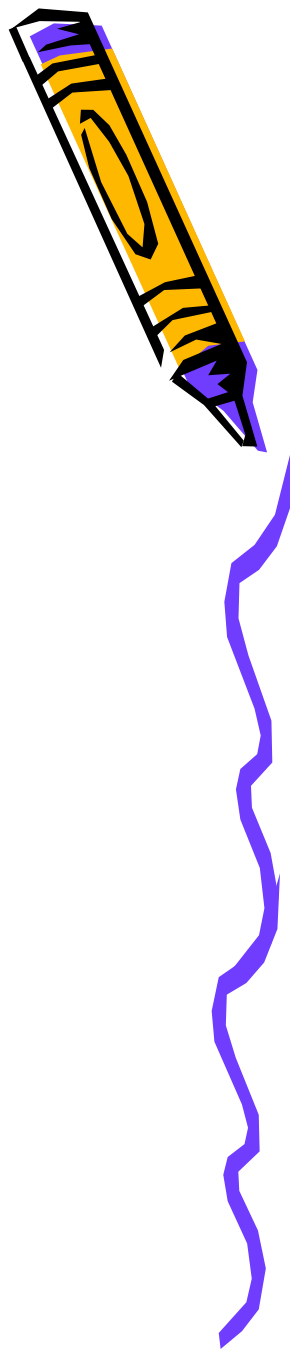


Case Management

- Primary concerns to be addressed
- Actions taken after receiving file
 - Contacts
 - Correspondence sent and received
 - Appointments
 - Services implemented
 - Policy Interpretations

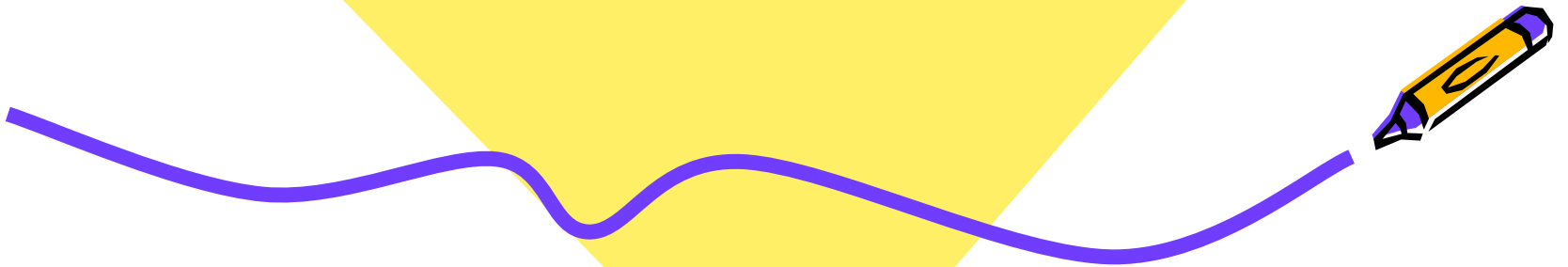


- Enforcement letters
- CAAD notes





Helpful Hints for Testifying



Telephone Appeals

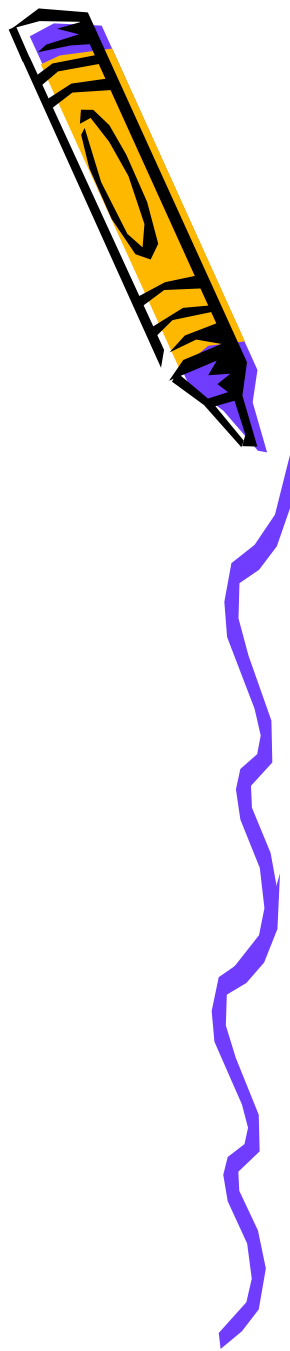


- Different dynamics-inability to read body language or make an impression
- Inability of judge to control
- Clarity and language critical-issues get lost and the record is muddled
- Makes organization/issue identification up front more important



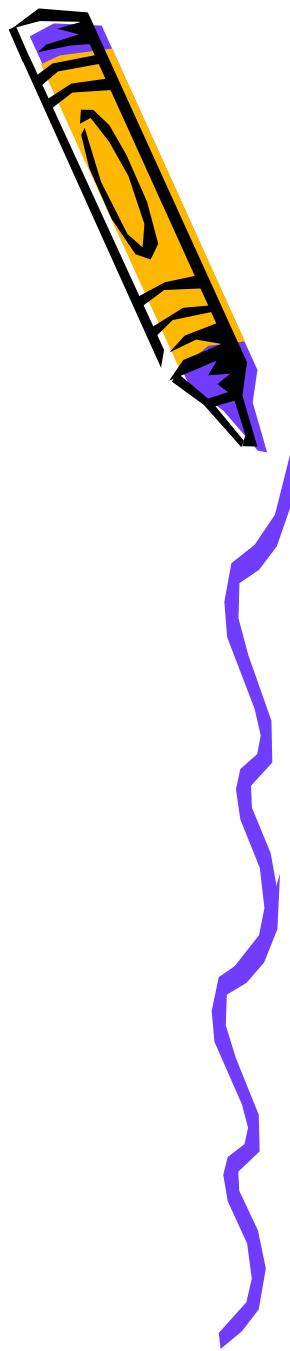
In Person

- Technology
- Safety
- Layout



I-TV

- Hybrid
- All of the previous concerns



Review case file and all notes

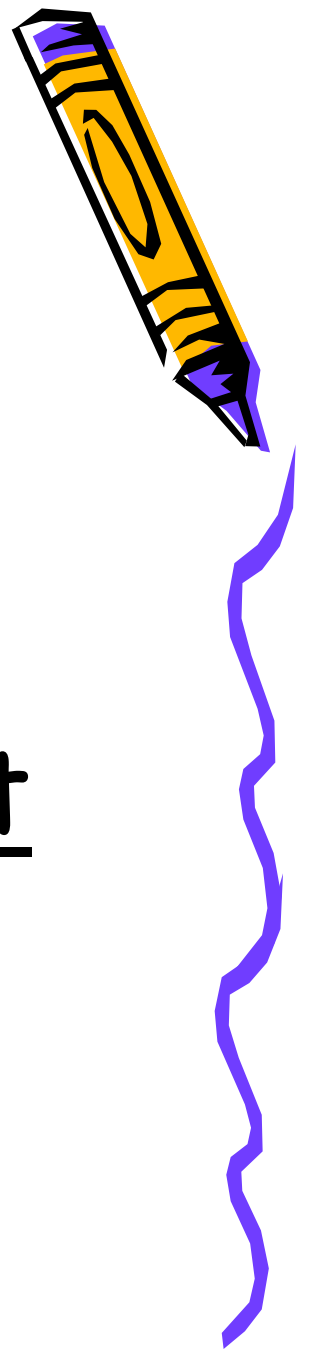
- Review all notes and documents related to the case.





- The more comfortable you are with the facts, as you know them, the better a witness you will be.



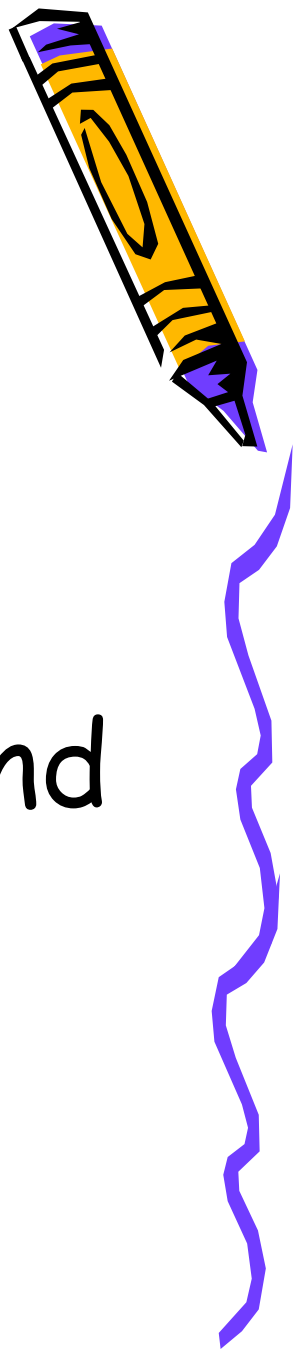


- Preparation, review, and knowledge of the facts concerning the case are the single most important thing a witness can do to prepare for trial.



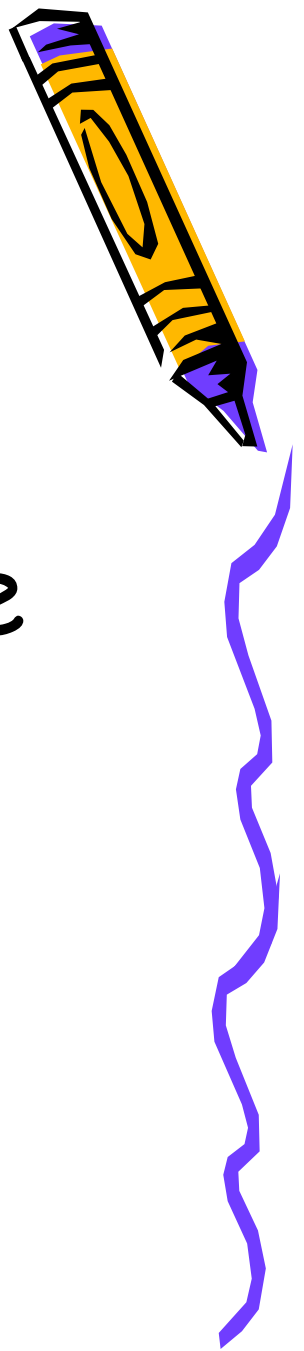
Use of notes at trial

- When you testify, you should bring all notes and documents relevant to the case with you.



Answering Questions

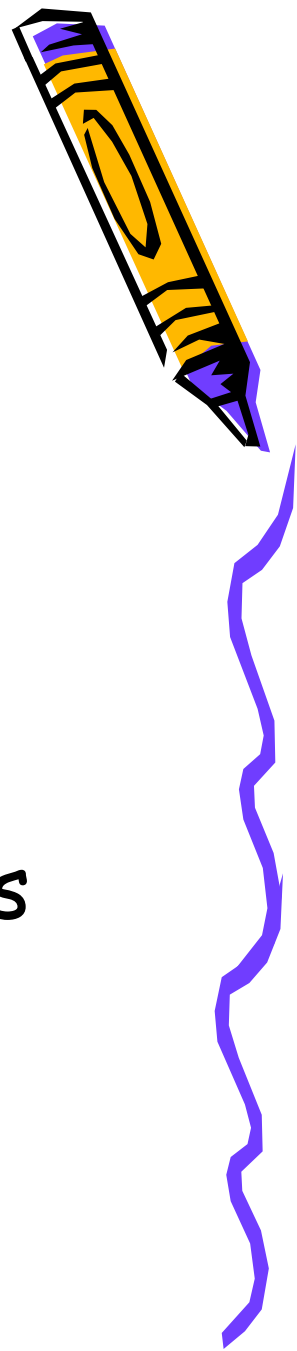
- Take your time and give every question enough thought.





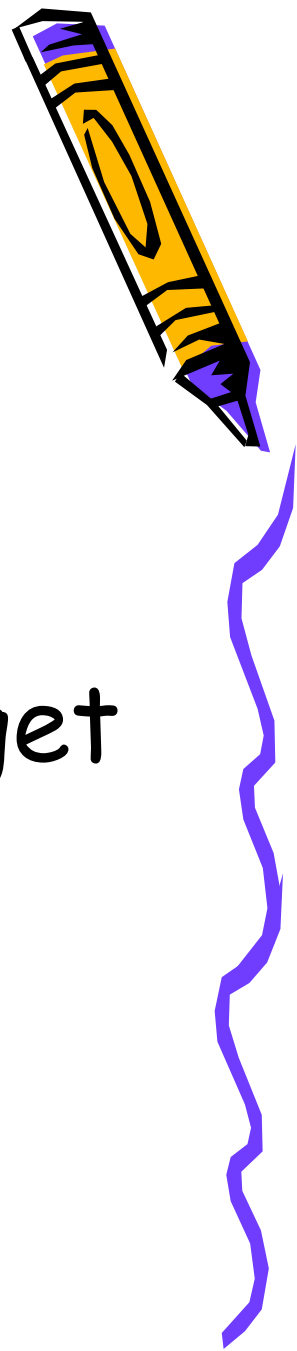
- Be sure you understand the question before you answer.
 - If you don't understand a question, ask for it to be repeated or rephrased.





- Think through compound questions or ask to rephrase.
 - attorneys get ahead of themselves (don't tell anyone I said so)

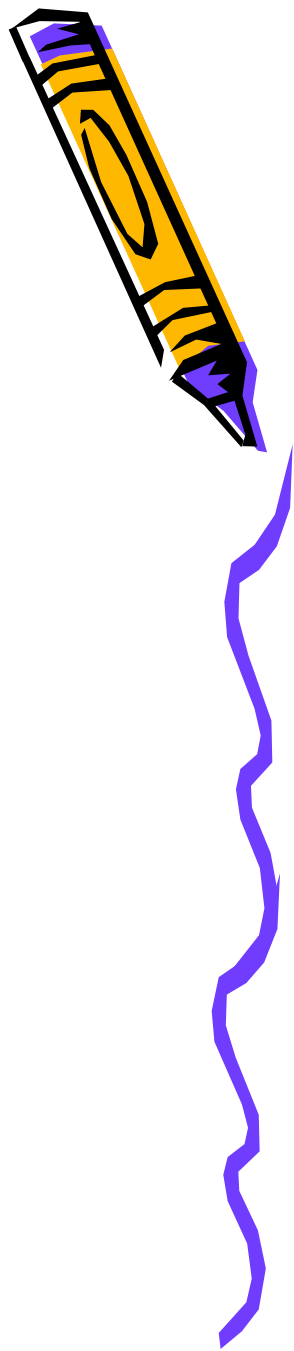


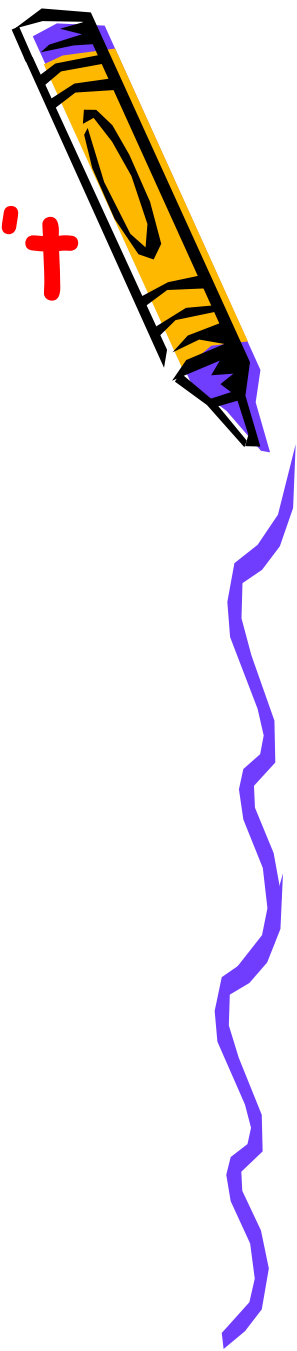


- Answer only the question asked--don't volunteer information.
- The attorney with you will get to redirect (i.e. Let you say what you need to for clarification)



- Always tell the truth
- Testify as accurately as you can about the facts
- Credibility is critical



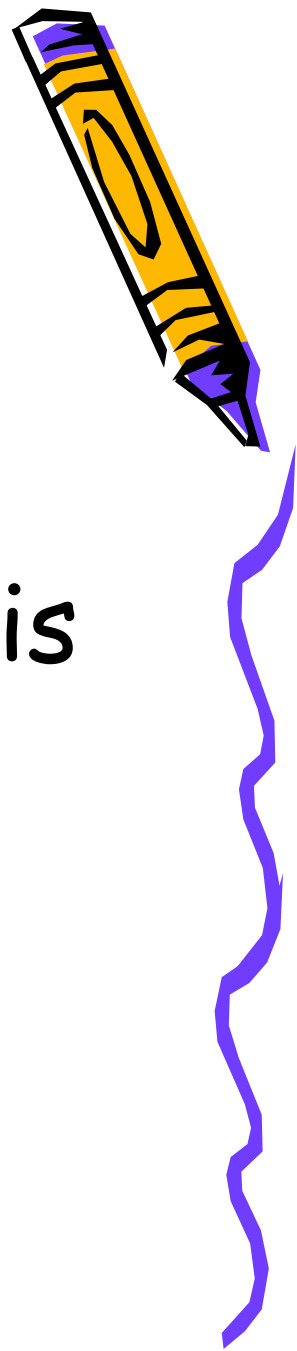


- Never guess; if you don't know, say so.

- Don't exaggerate

- Don't minimize



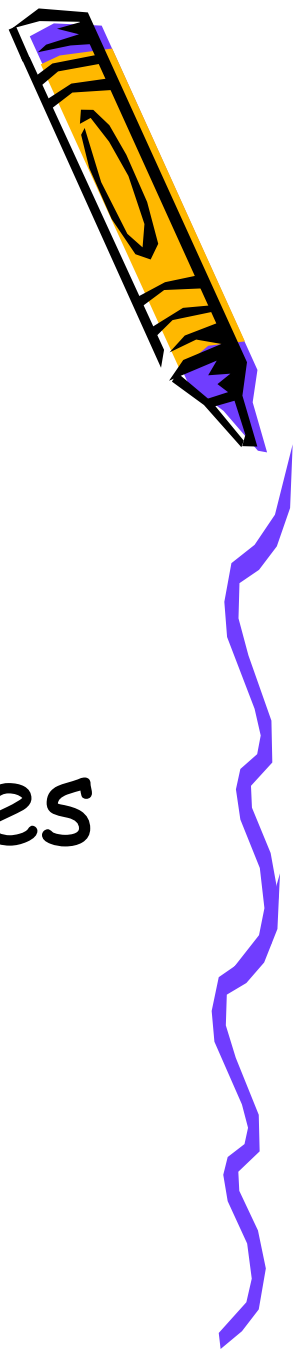


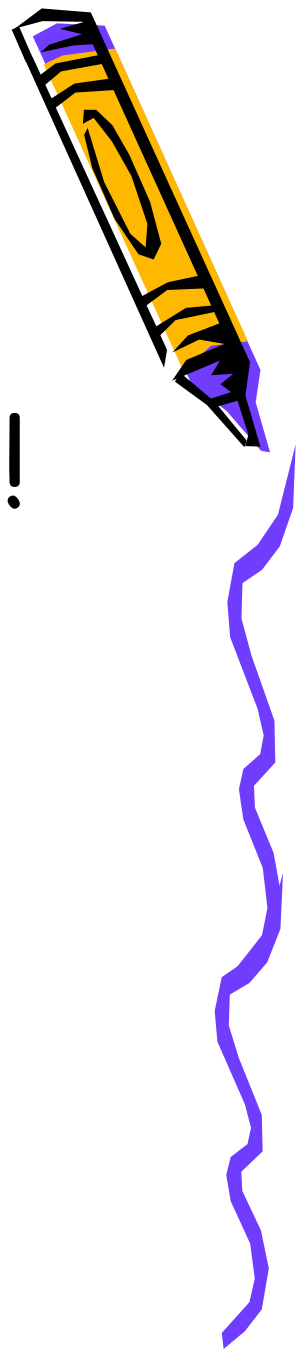
- Don't be snotty!
 - We all are in danger of this at times



Personalities and Testimony

- Landmines
 - Personal attacks
 - Narcissistic Personalities
 - Outright Lies from the other side



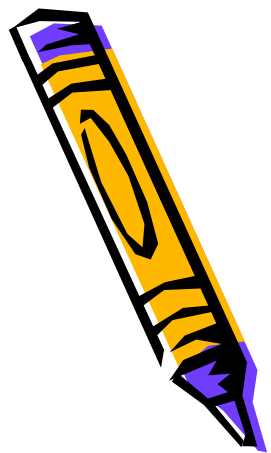


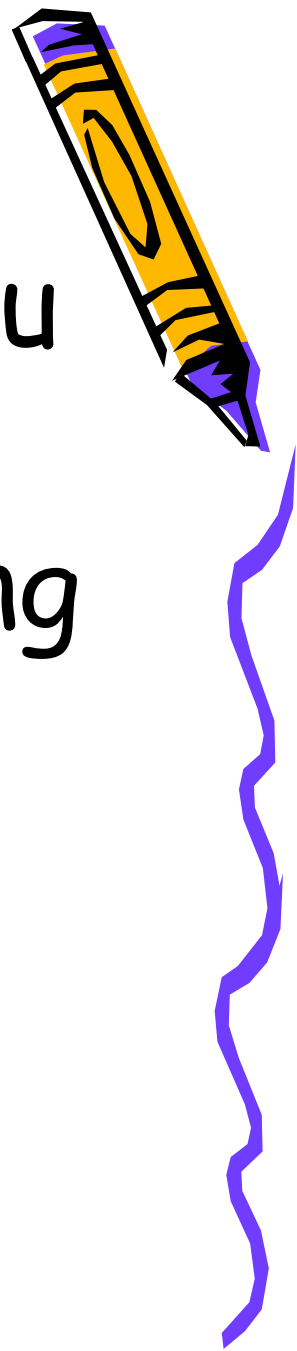
- Composure...is everything!
- Remember you are doing your job.



Objections

- If an objection is made, do not answer the question until the judge has ruled on the objection.





- If the other side cuts you off from answering a question thoroughly during cross examination, the attorney will ask you to finish your answer on re-direct.



Demeanor



- Never lose your temper or argue.
 - It may appear at times that the opposing lawyer is trying to pin you down.
 - Pro se litigants may cast aspersions-do not bite



Be Clear

- Talk loudly enough so that everyone will hear you.
- Do not nod your head; say yes or no (likewise, do not say "uh huh").
- Listen to yourself-"like-um-er-ah"

Transcripts of self...ugh!

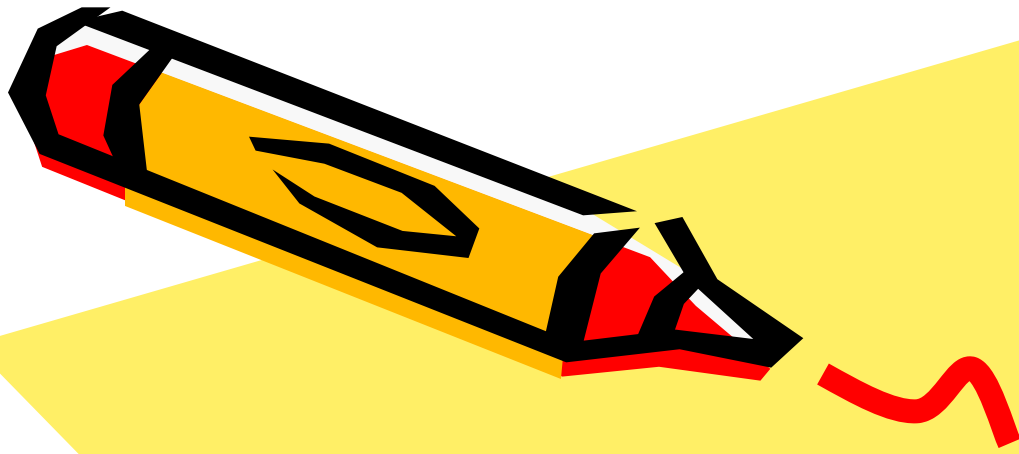


Decorum



- Do not chew gum or have anything in your mouth while in court or on the phone
- Be appropriately dressed for in person appeals/ITV.





Questions?

