



Oral Argument

ALLYSON NEWTON HO & CHAD BARUCH



Introduction: The Most Important Point

- ▶ You.
- ▶ Do.
- ▶ You.
- ▶ Because trying to be someone else doesn't work.

Be Your Authentic Self Part 1



Be Your Authentic Self Part 2



Preparing for Oral Argument

- ▶ Master next-level research.



Preparing for Oral Argument

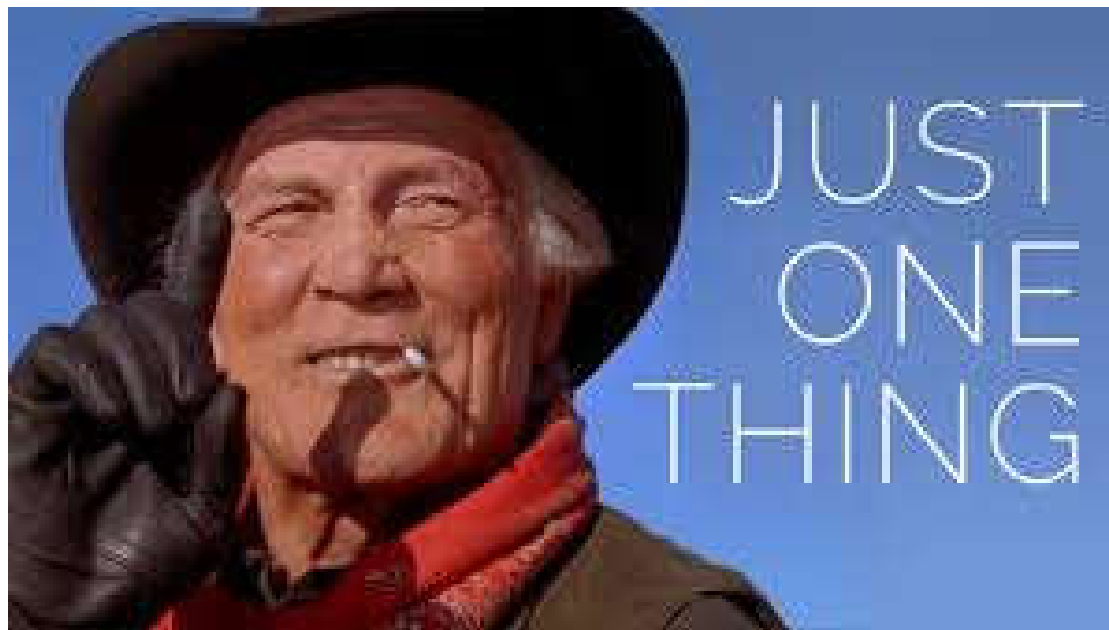
- ▶ Comparison of process (when, how, what work product you generate).
- ▶ Deployment of firm associates.
- ▶ Don't trip on the "easy" stuff: Always start with standard of review, preservation of error, harm, and form of mandate.
- ▶ Consider a case list.
- ▶ Reread the record. You must be the expert in the room when it comes to the record.
- ▶ Note key portions of the record to cite in oral argument.

Preparing for Oral Argument

- ▶ Moot if you can.
- ▶ Wisconsin Bell, Inc. v. United States *ex rel.* Heath
- ▶ Breakfast moot if you can't.
- ▶ Update research as close to oral argument as possible.
- ▶ Plot your first 30 seconds and last 10 seconds carefully.
- ▶ Be selective!
- ▶ If you are the appellant, plot the rebuttal (more on this to come).

Preparing for Oral Argument

- ▶ Be Curly the Cowboy!



But Remember Ross Geller Too!!!



Presenting the Argument: Start Well

- ▶ Decide what goes to the podium.
- ▶ All good speeches have introductions.
- ▶ If the order of presentation matters, use the good ol' debate roadmap.

Presenting the Argument: The Meat

- ▶ Be selective in what you wish to argue and use your time on what matters (and don't be afraid to tell them what you won't cover)
- ▶ Read body language and facial expressions; don't just give up if it matters.

Presenting the Argument: Questions



Presenting the Argument: Questions



You Can Say “I Don’t Know”



How Do You Handle Being Hijacked?



How Do You Handle A Cold Bench?



Appellant's Rebuttal

- ▶ Discipline, discipline, discipline!
- ▶ Only home runs!
- ▶ Stick to two or three points.
- ▶ Don't rush.

Presenting the Argument: Finish Well

- ▶ Stop at the earlier of (1) being done or (2) running out of time.
- ▶ When the bench is freezing, give back time.
- ▶ All good speeches have conclusions.
- ▶ Have a couple of conclusions ready to go.
- ▶ Sometimes you can use pace and tone to finish strong.