

On The Topic of Opening *Statements*

Telling the Client's Story to Win

April 25, 2025

By:

Peter Mazzone

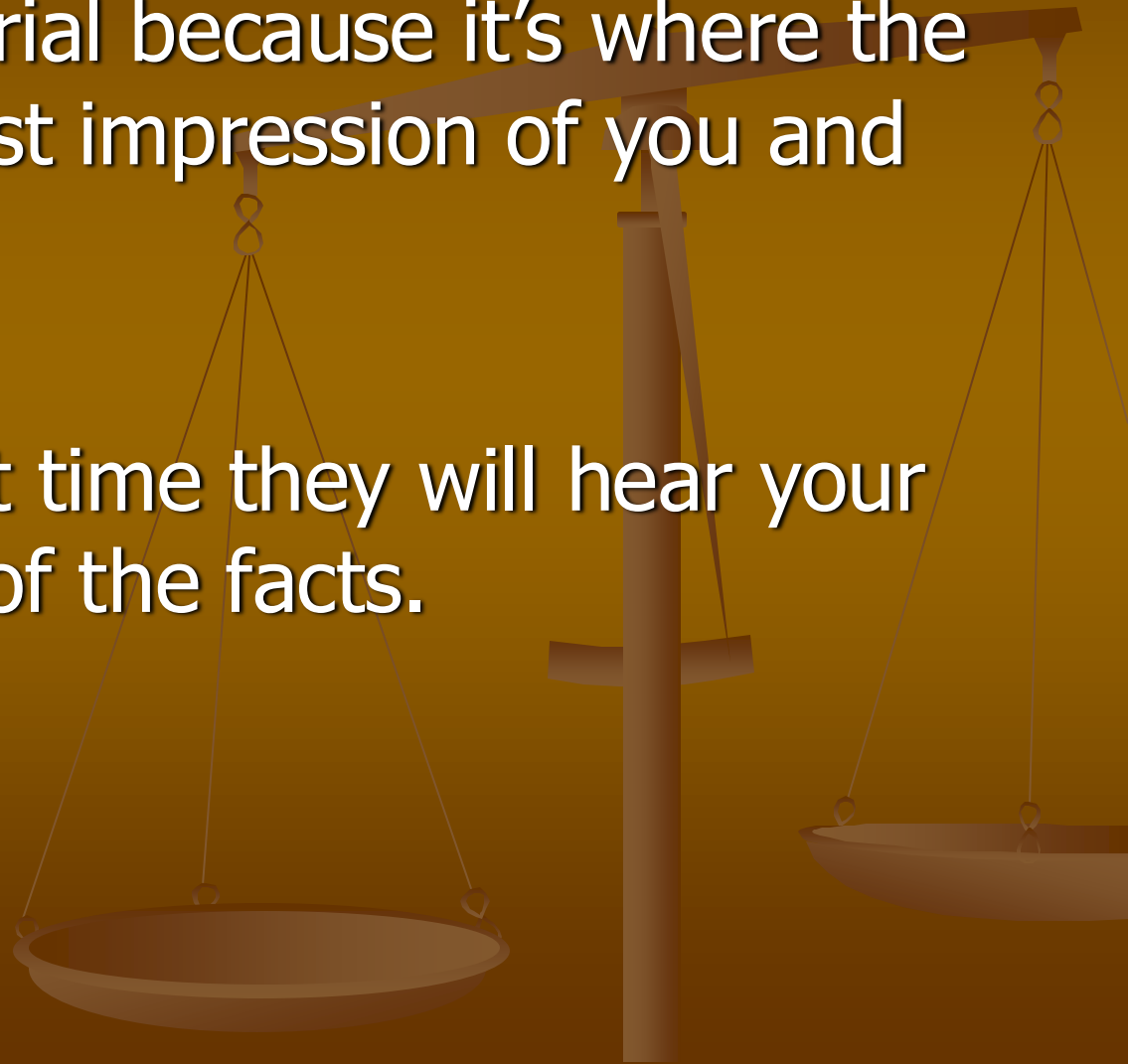
Mazzone Law Firm, PLLC
3002 Colby Ave, Ste 302
Everett, WA 98201

Mary Kay High

Pierce County Department of
Assigned Counsel
949 Market St Ste 334
Tacoma, WA 98402

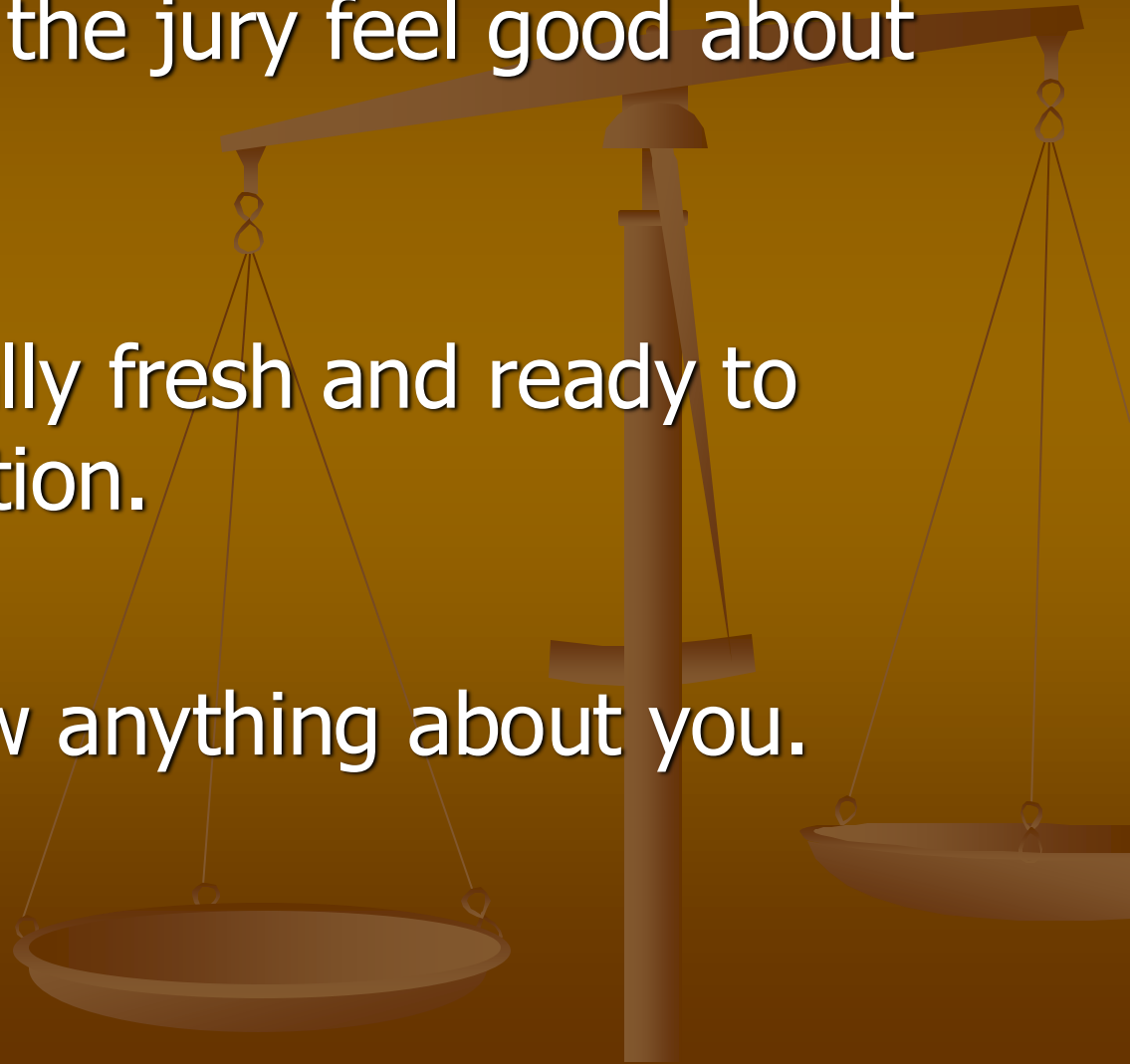
OPENING STATEMENTS

- Critical part of trial because it's where the jury gets the first impression of you and your case.
- It's also the first time they will hear your client's version of the facts.

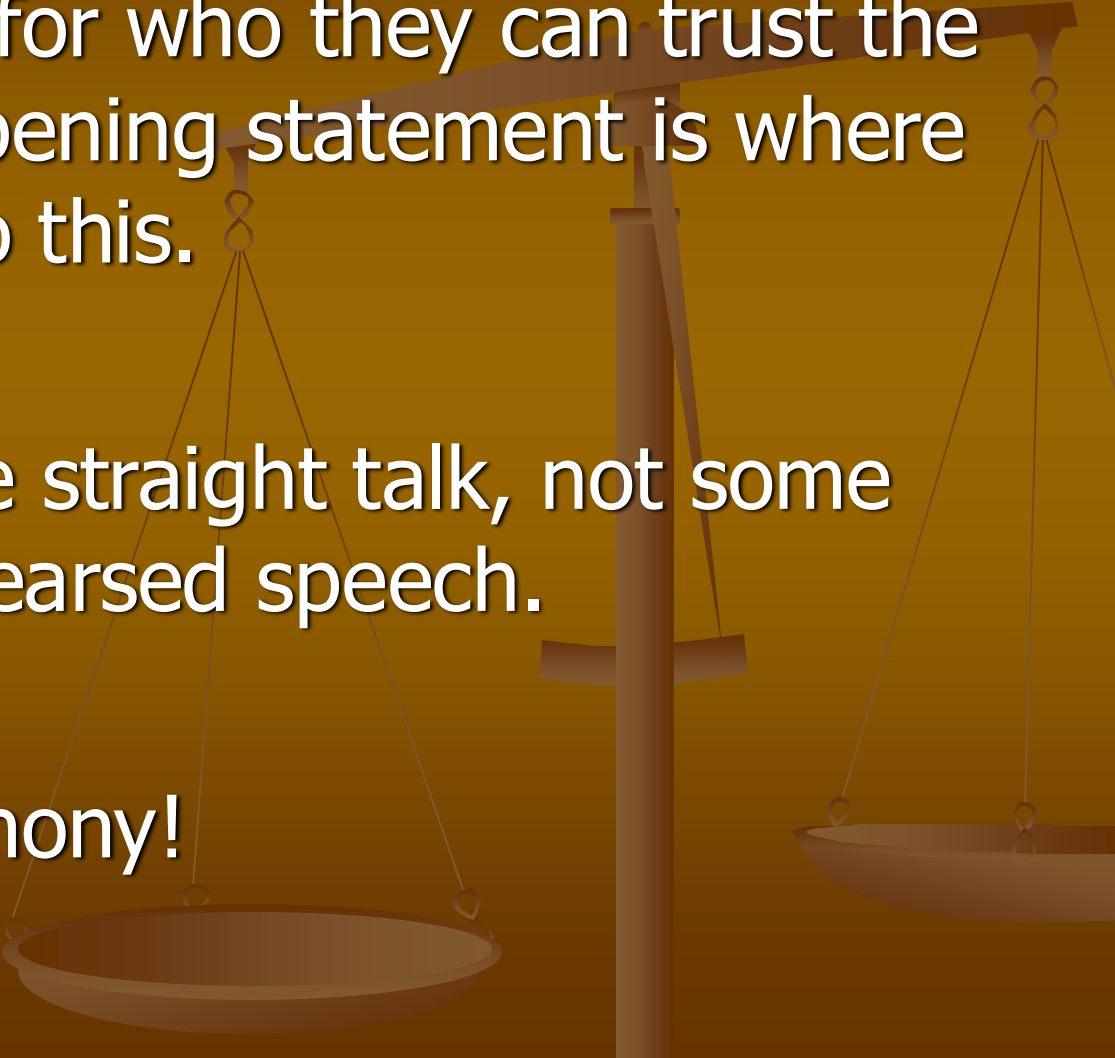


OPENING STATEMENTS

- Most people on the jury feel good about being selected.
- They are mentally fresh and ready to receive information.
- They don't know anything about you.

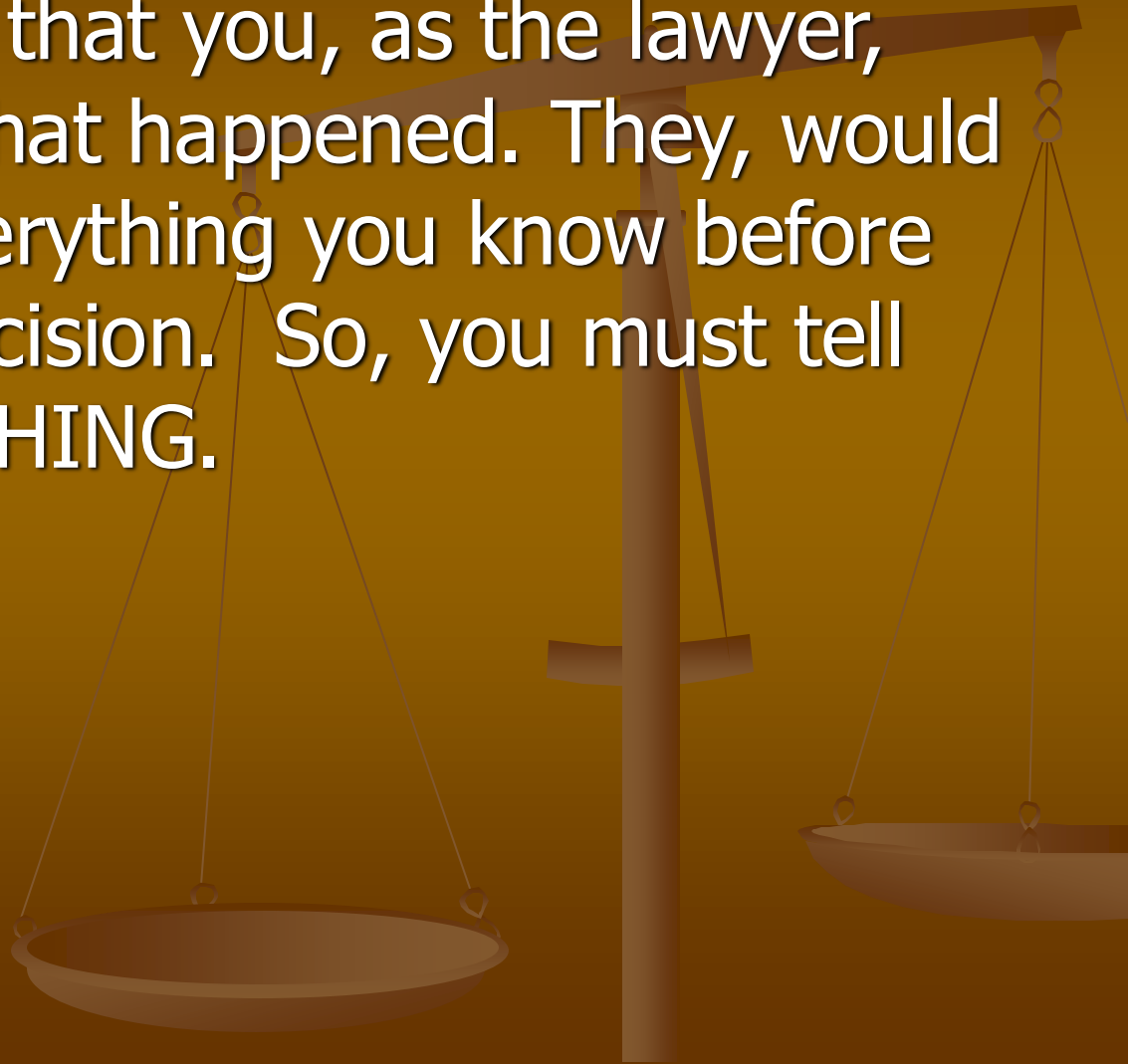


OPENING STATEMENTS

- They're looking for who they can trust the most and the opening statement is where they begin to do this.
 - They want some straight talk, not some canned and rehearsed speech.
 - So, do not be phony!
- 

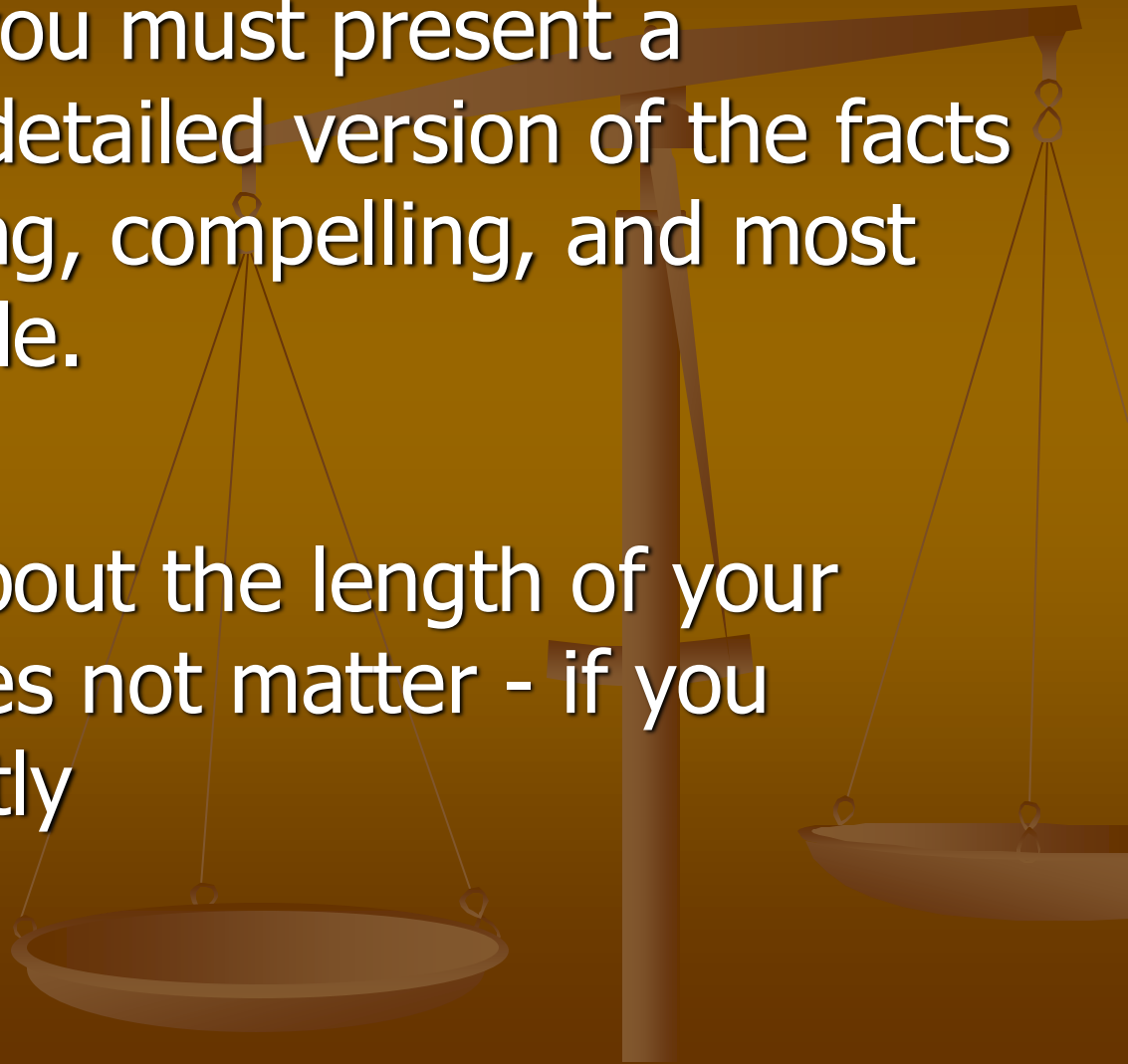
OPENING STATEMENTS

- The jury knows that you, as the lawyer, know exactly what happened. They, would like to know everything you know before they make a decision. So, you must tell them – EVERYTHING.



OPENING STATEMENTS

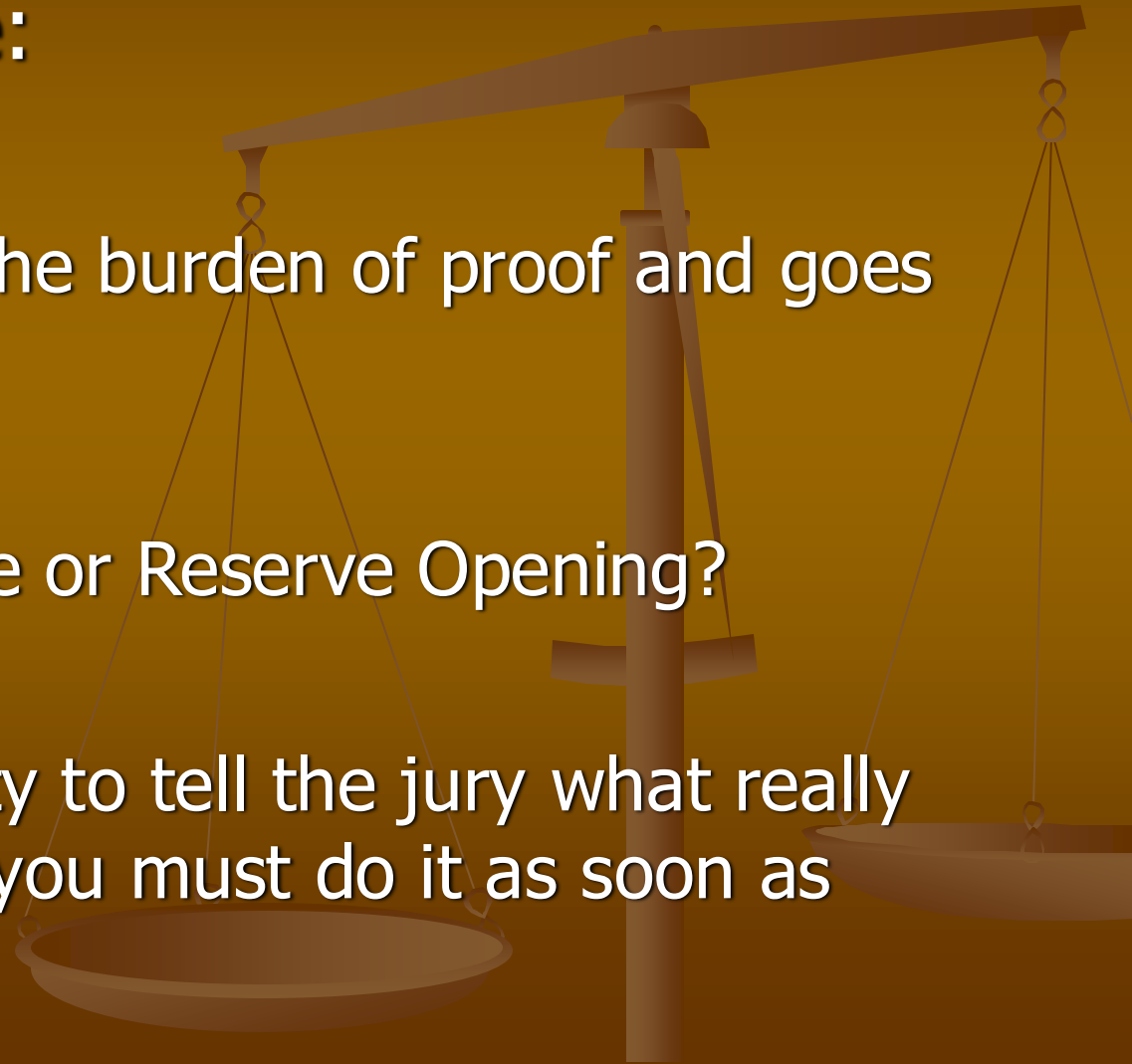
- So, that's why you must present a coherent, very detailed version of the facts that is interesting, compelling, and most of all, memorable.
- Do not worry about the length of your opening – it does not matter - if you deliver it correctly



OPENING STATEMENTS

■ Basic Procedure:

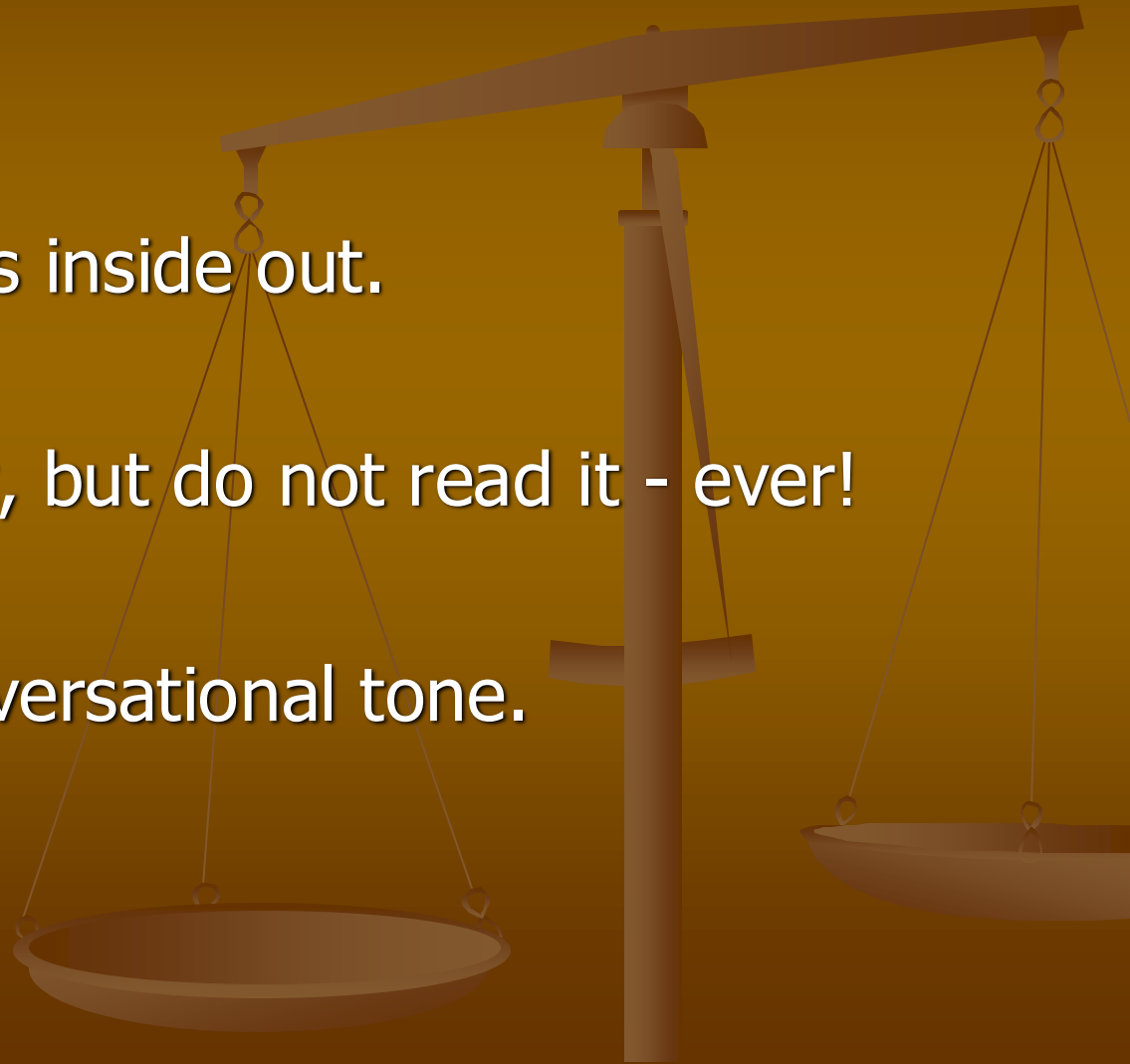
- The State has the burden of proof and goes first.
- Should you Give or Reserve Opening?
- Your opportunity to tell the jury what really happened. So, you must do it as soon as possible.



OPENING STATEMENTS

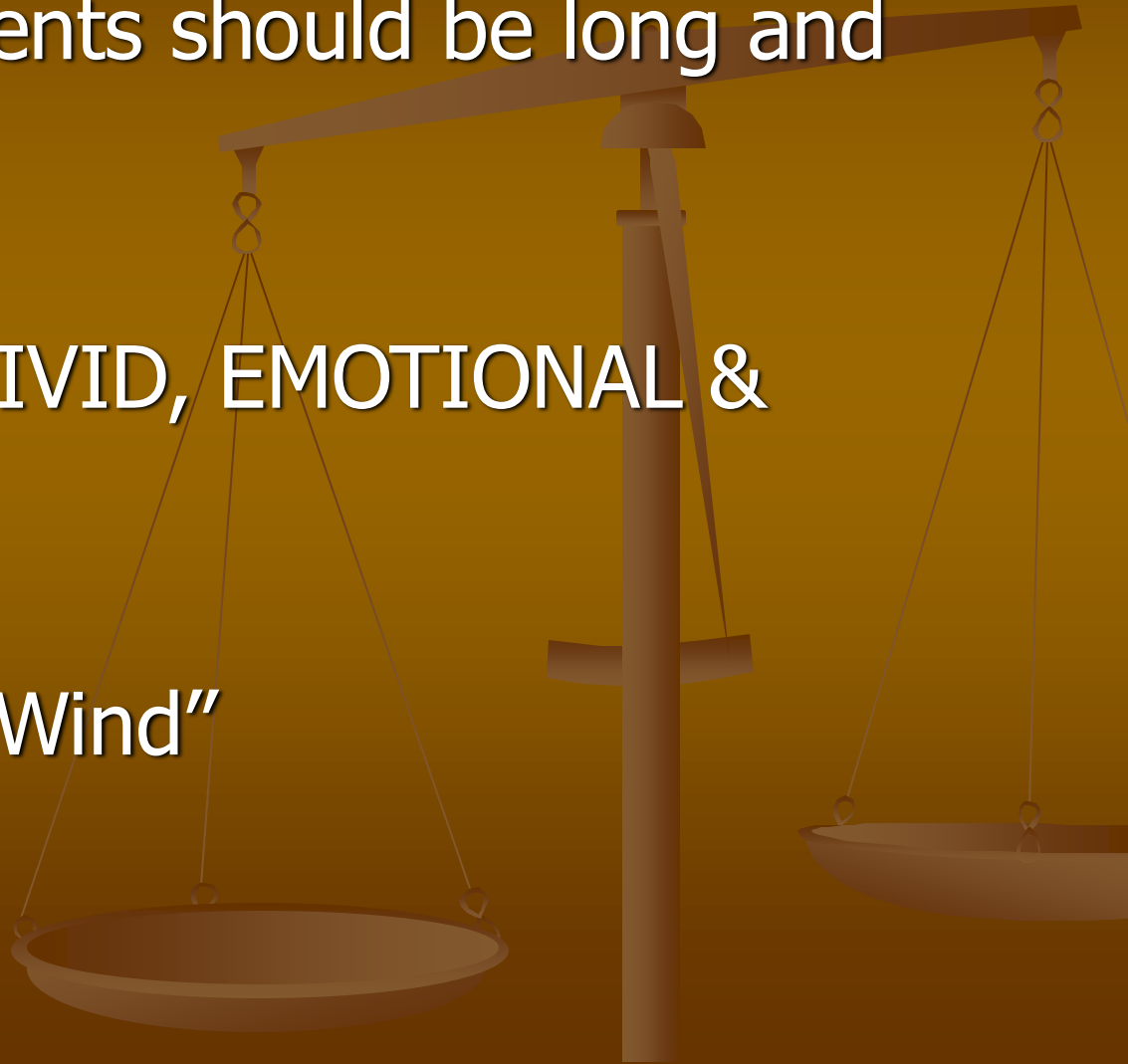
- Mechanics:

- Must know facts inside out.
- Can write it out, but do not read it - ever!
- Use simple conversational tone.



OPENING STATEMENTS

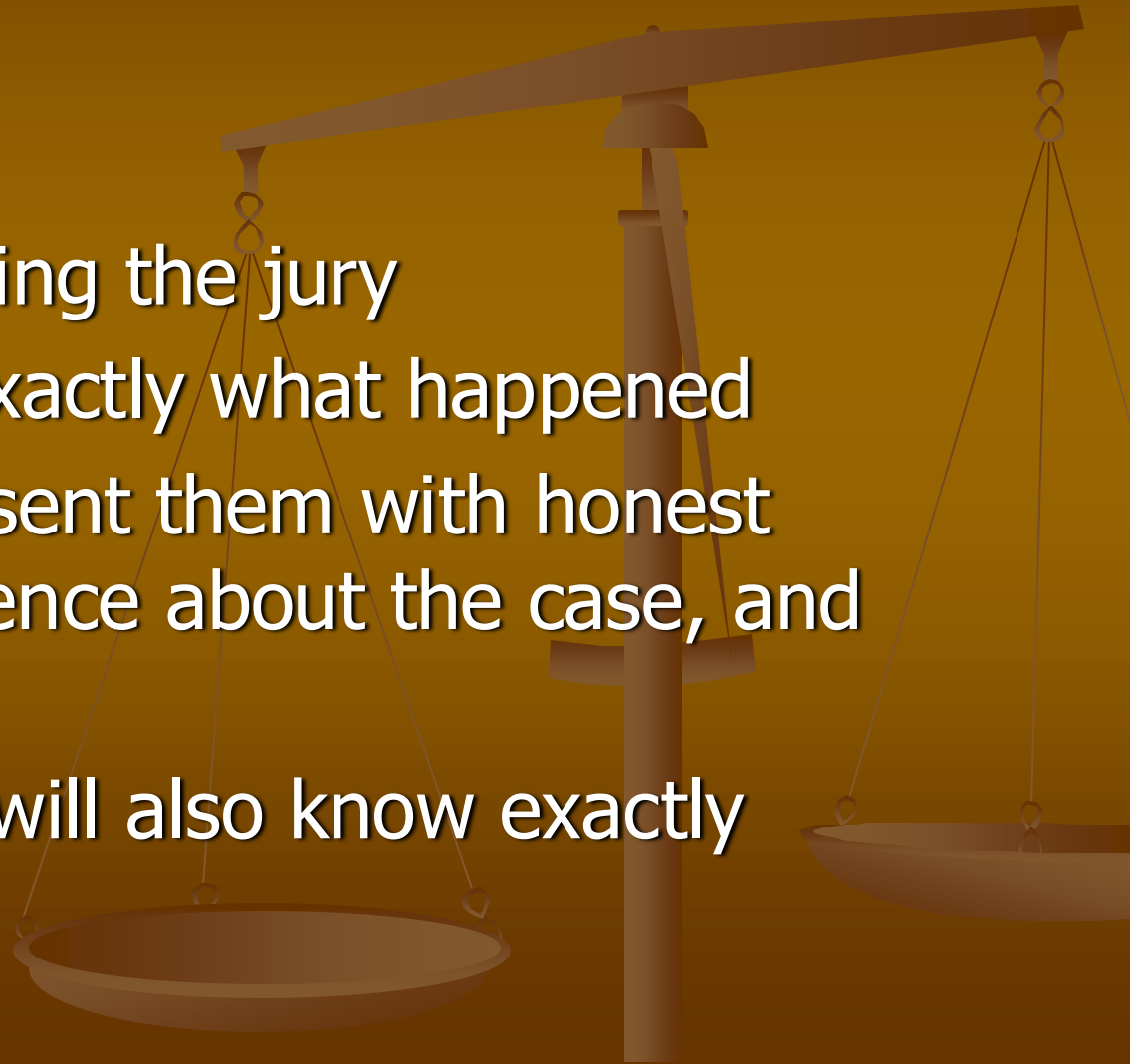
- Opening arguments should be long and detailed.
- They must be VIVID, EMOTIONAL & DRAMATIC
- “Gone with the Wind”



OPENING STATEMENTS

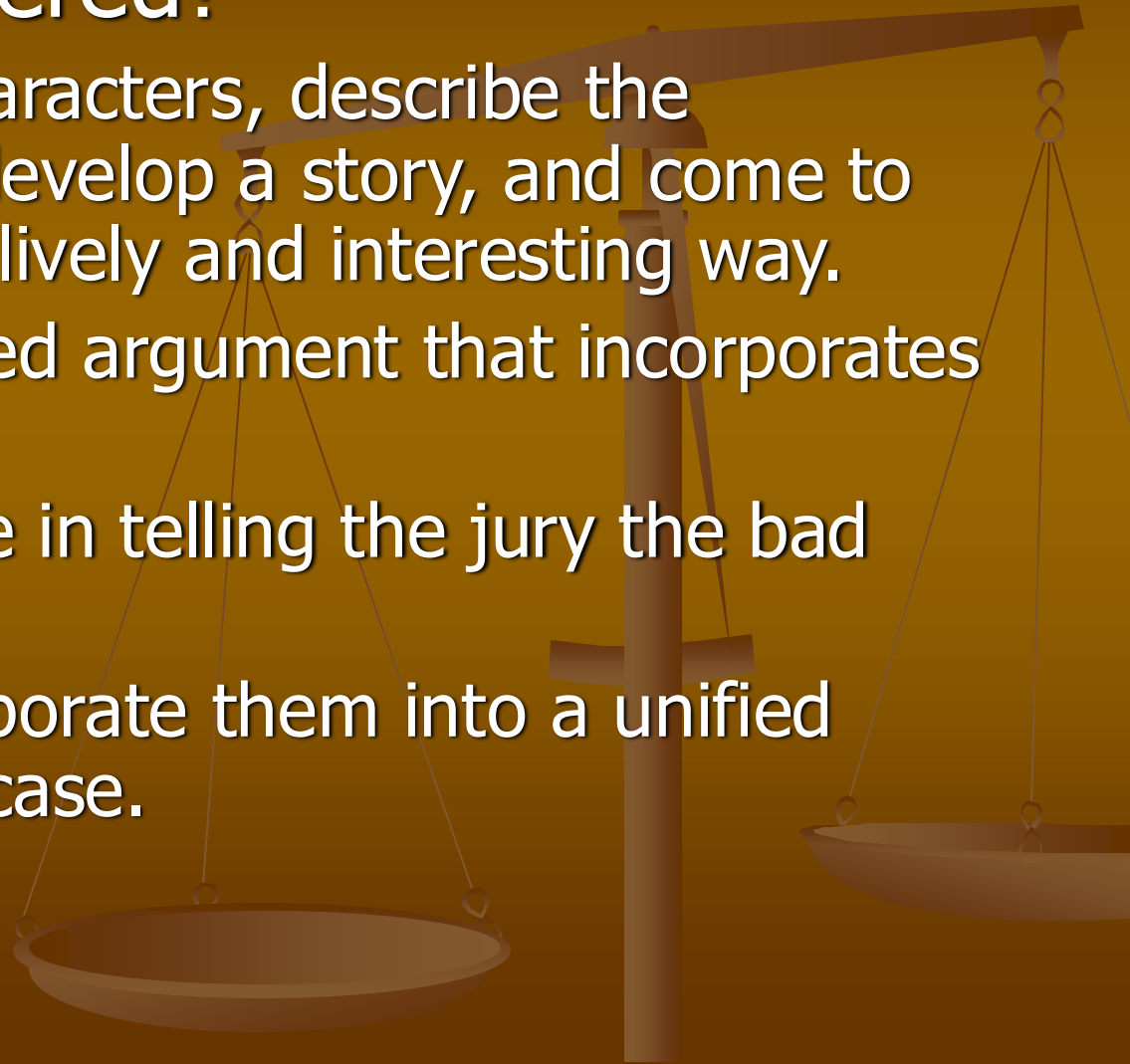
■ What is it?

- An argument
- Aimed at convincing the jury
- That you know exactly what happened
- That you will present them with honest and truthful evidence about the case, and that,
- In the end, they will also know exactly what happened



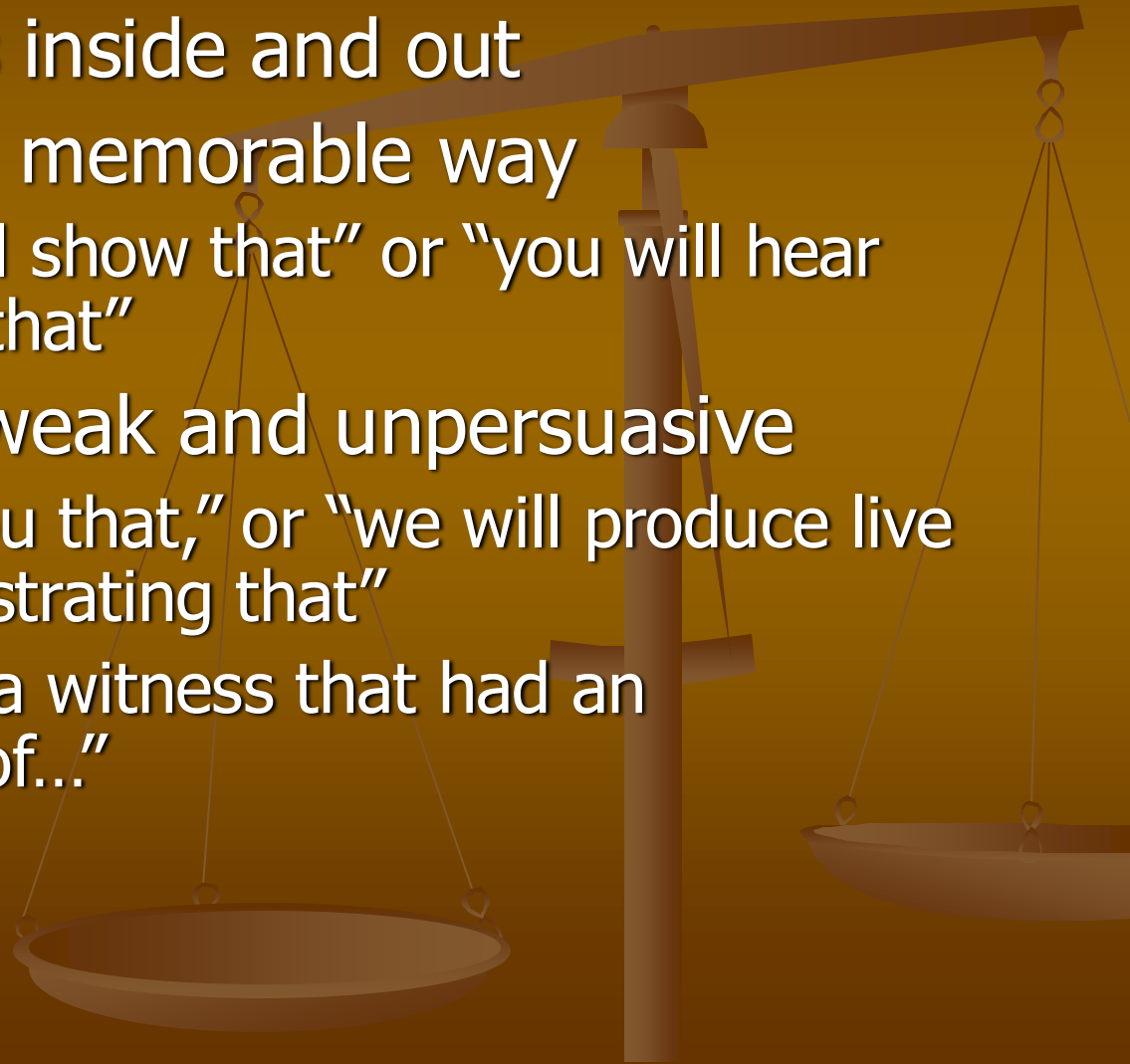
OPENING STATEMENTS

- How is it delivered?
 - Develop the characters, describe the surroundings, develop a story, and come to conclusion in a lively and interesting way.
 - Deliver a detailed argument that incorporates all the facts.
 - Do not hesitate in telling the jury the bad facts.
 - You must incorporate them into a unified theory of your case.



OPENING STATEMENTS

- Know all the facts inside and out
- Present them in a memorable way
 - “The evidence will show that” or “you will hear from John Smith that”
- This approach is weak and unpersuasive
 - “I will prove to you that,” or “we will produce live testimony demonstrating that”
 - “We will produce a witness that had an undisputed view of...”



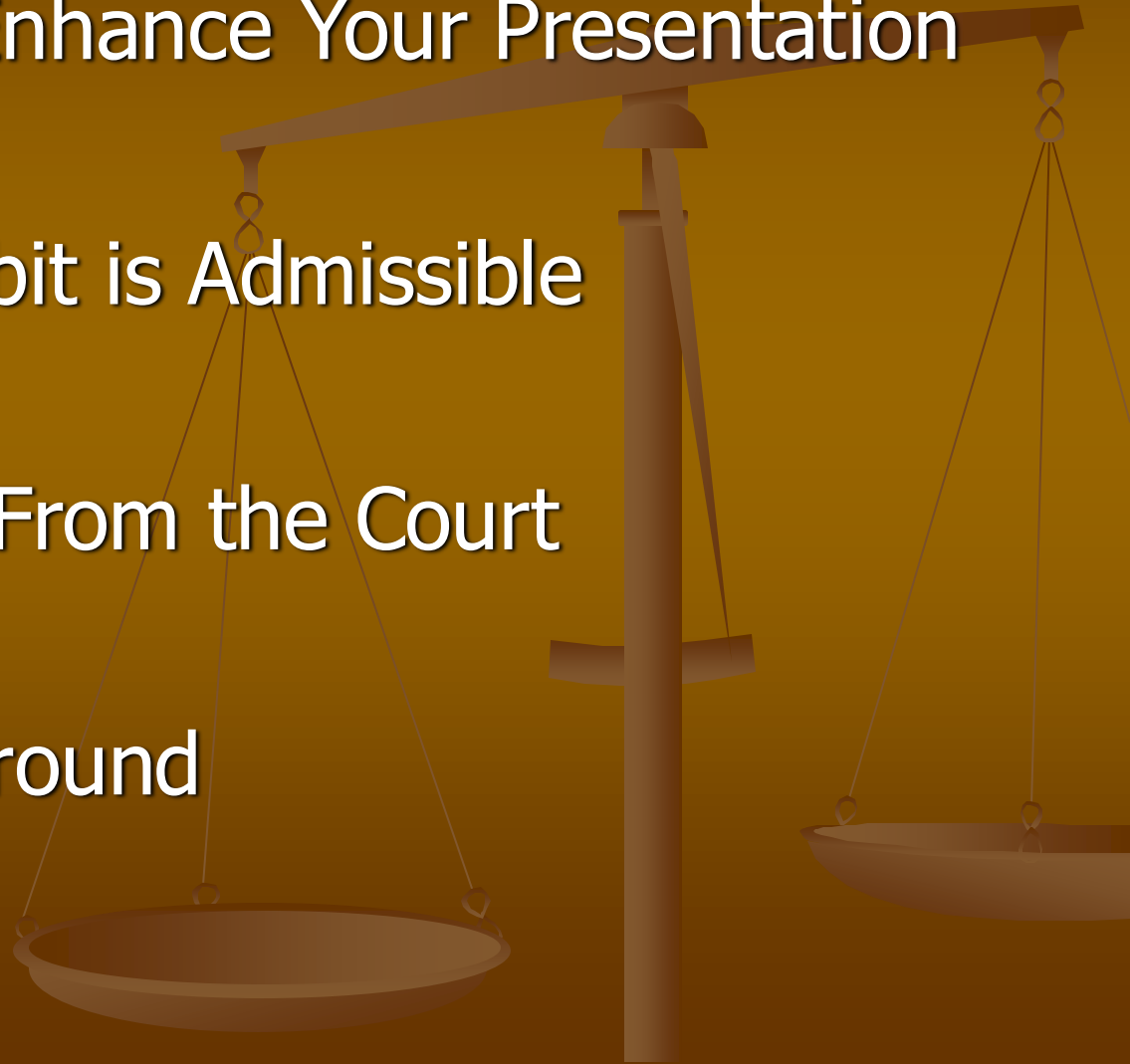
OPENING STATEMENTS

- The best way to argue a detailed opening is to use diagrams and outlines throughout the presentation.
- Spontaneously sketch them or write them out in front of the jury.
- Allow the jury to actually follow along while you are presenting the facts.
- Moments of silence will add to the intensity of your presentation.
- Eventually everyone will begin referring to “*your* diagram” as “*the* diagram”

OPENING STATEMENTS

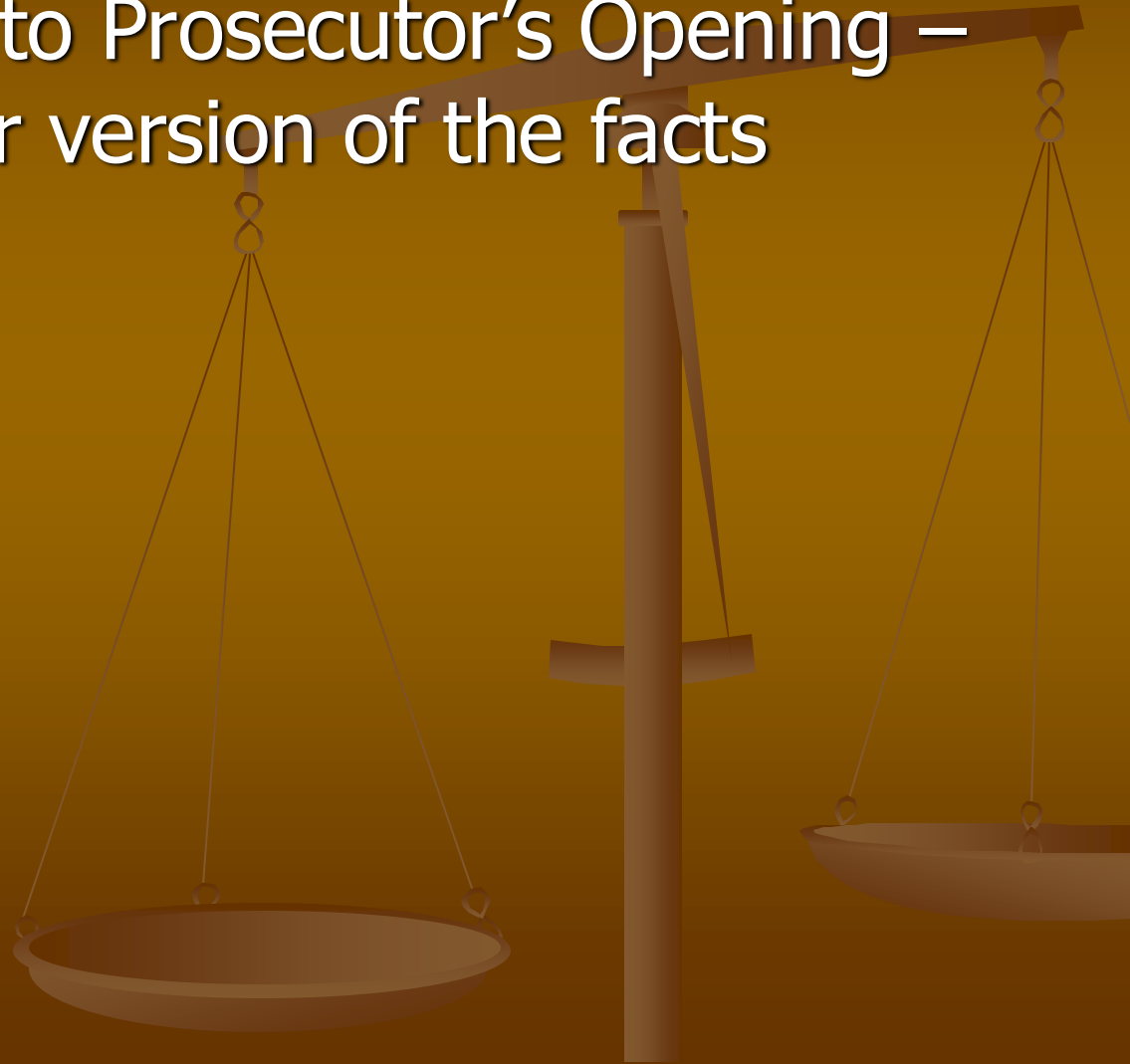
Using Visuals to Enhance Your Presentation

- Make Sure Exhibit is Admissible
- Get Permission From the Court
- Don't Fumble Around



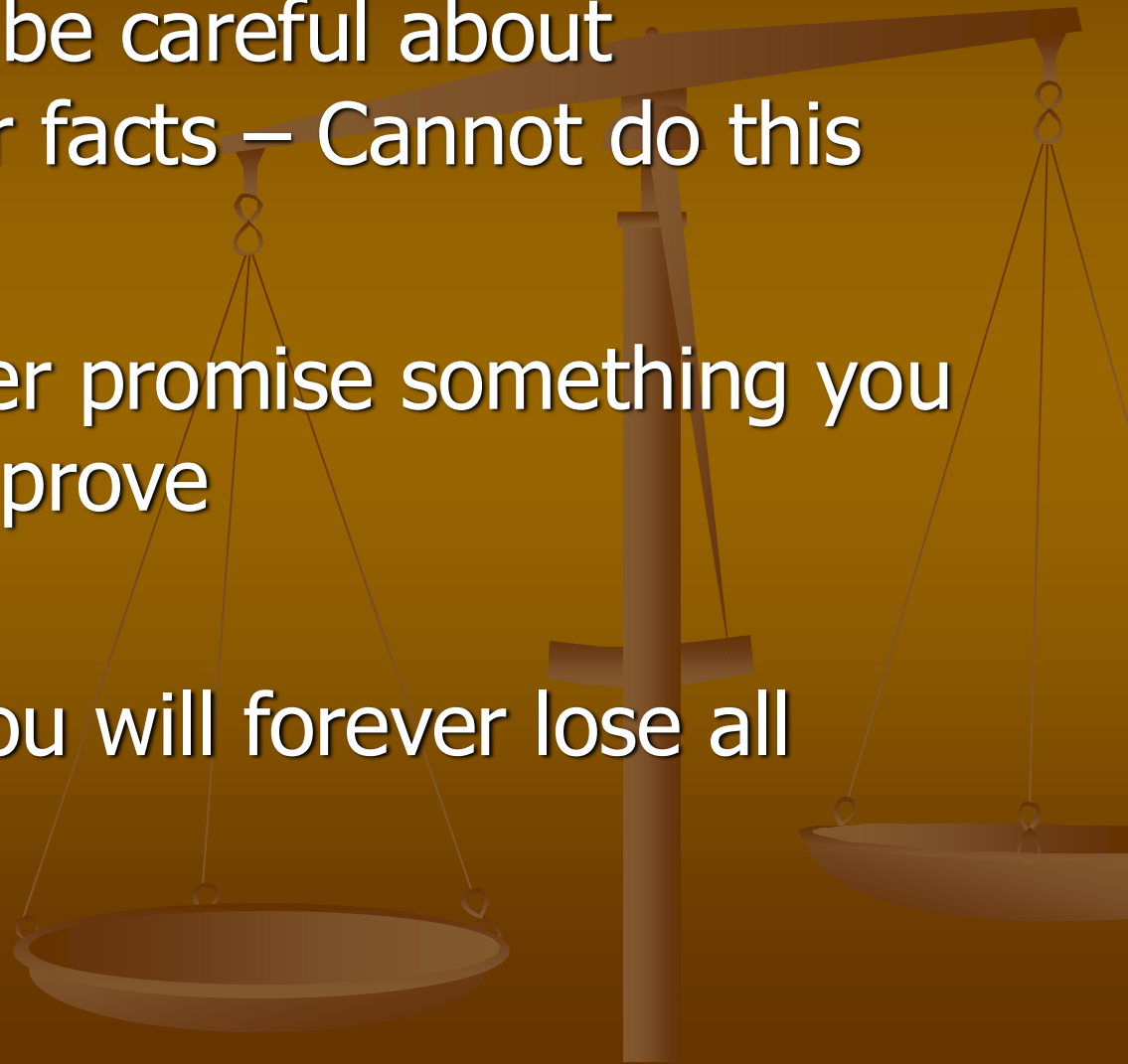
OPENING STATEMENTS

- Never Respond to Prosecutor's Opening –
Just deliver your version of the facts



OPENING STATEMENTS

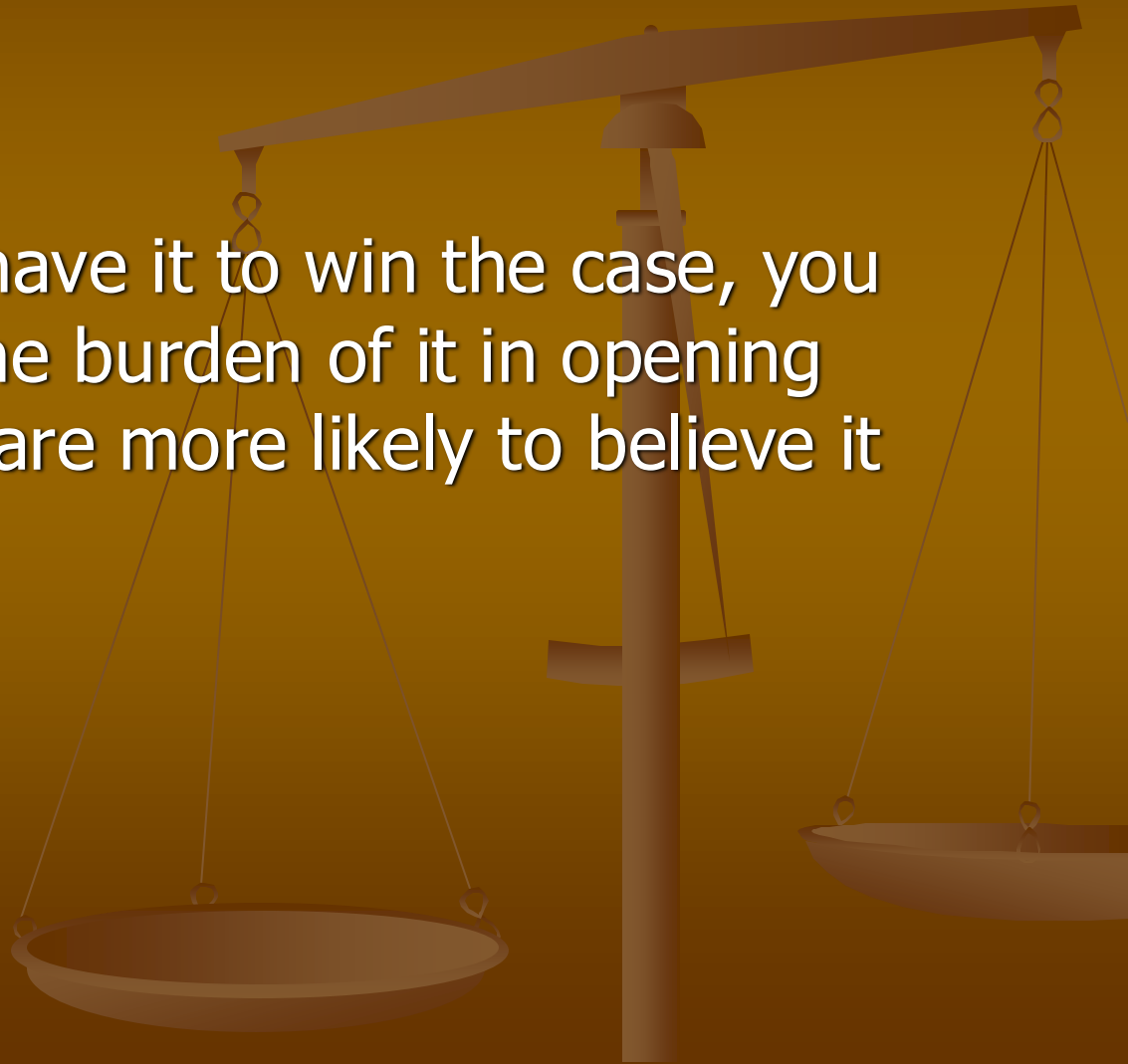
- You do need to be careful about overstating your facts – Cannot do this
- You should never promise something you know you can't prove
- If you do this you will forever lose all credibility



OPENING STATEMENTS

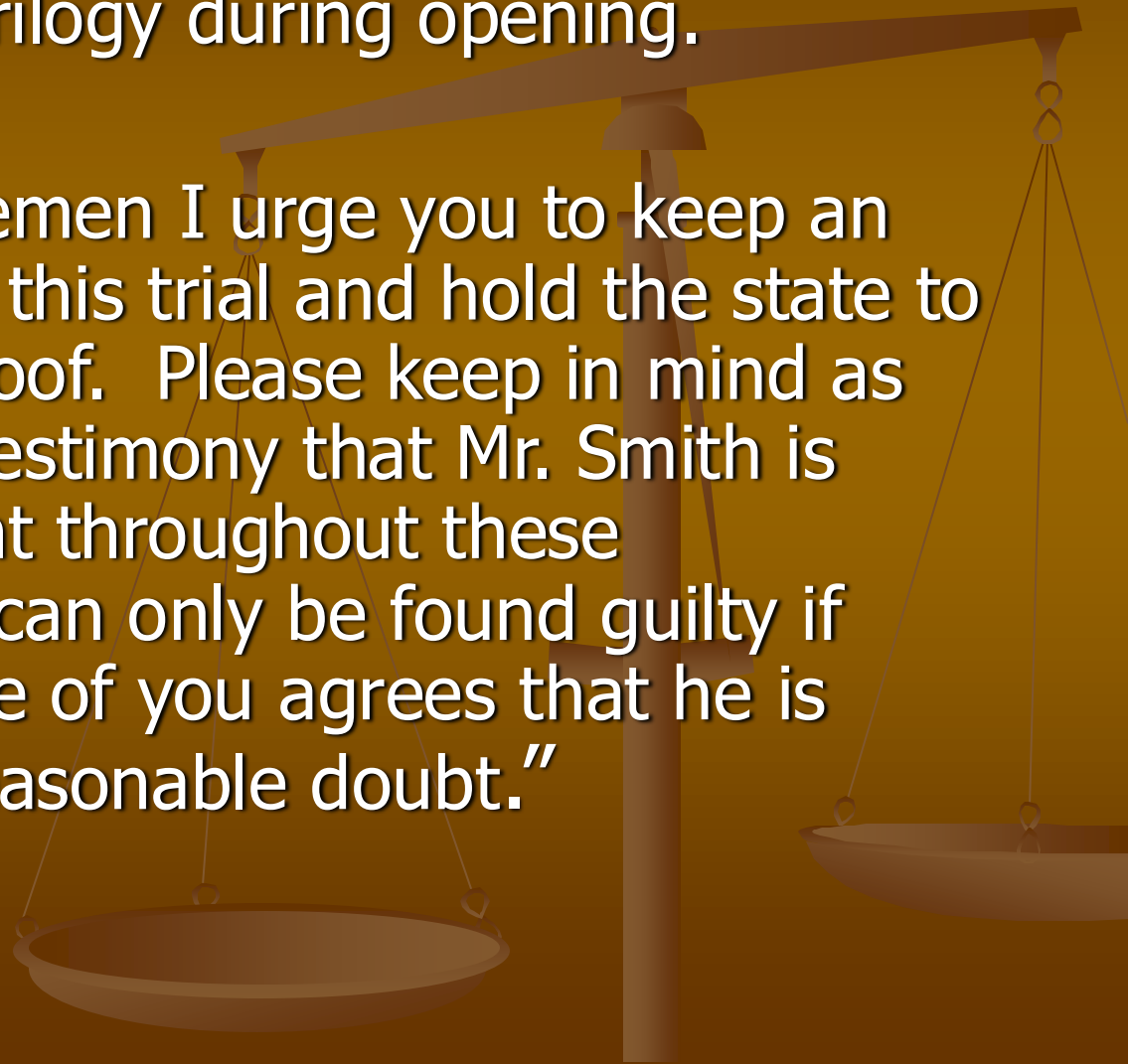
- But:

- If you have to have it to win the case, you must assume the burden of it in opening because jurors are more likely to believe it



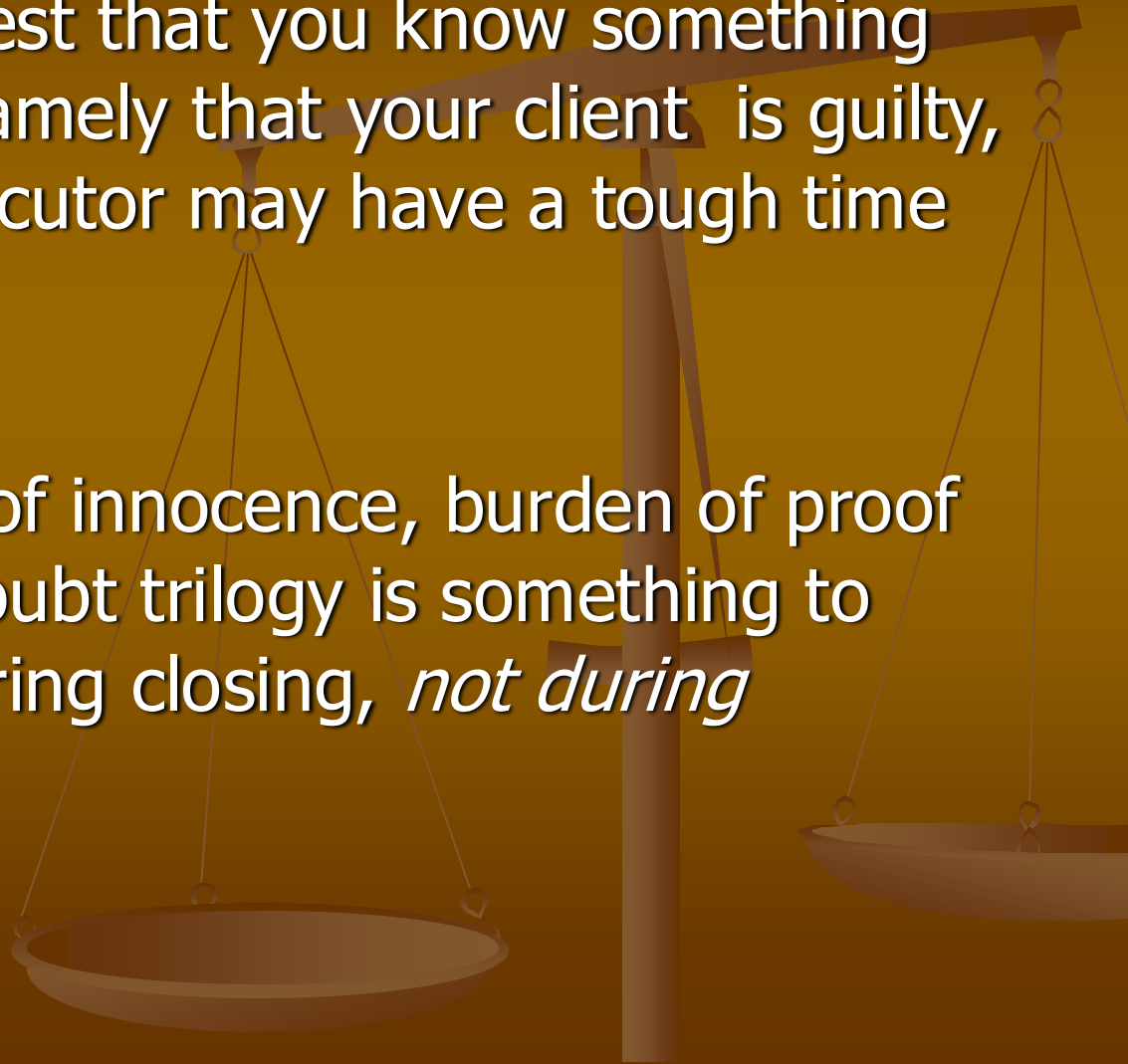
OPENING STATEMENTS

- Never argue the trilogy during opening.
- “Ladies and gentlemen I urge you to keep an open mind during this trial and hold the state to their burden of proof. Please keep in mind as you listen to the testimony that Mr. Smith is presumed innocent throughout these proceedings, and can only be found guilty if each and everyone of you agrees that he is guilty beyond a reasonable doubt.”



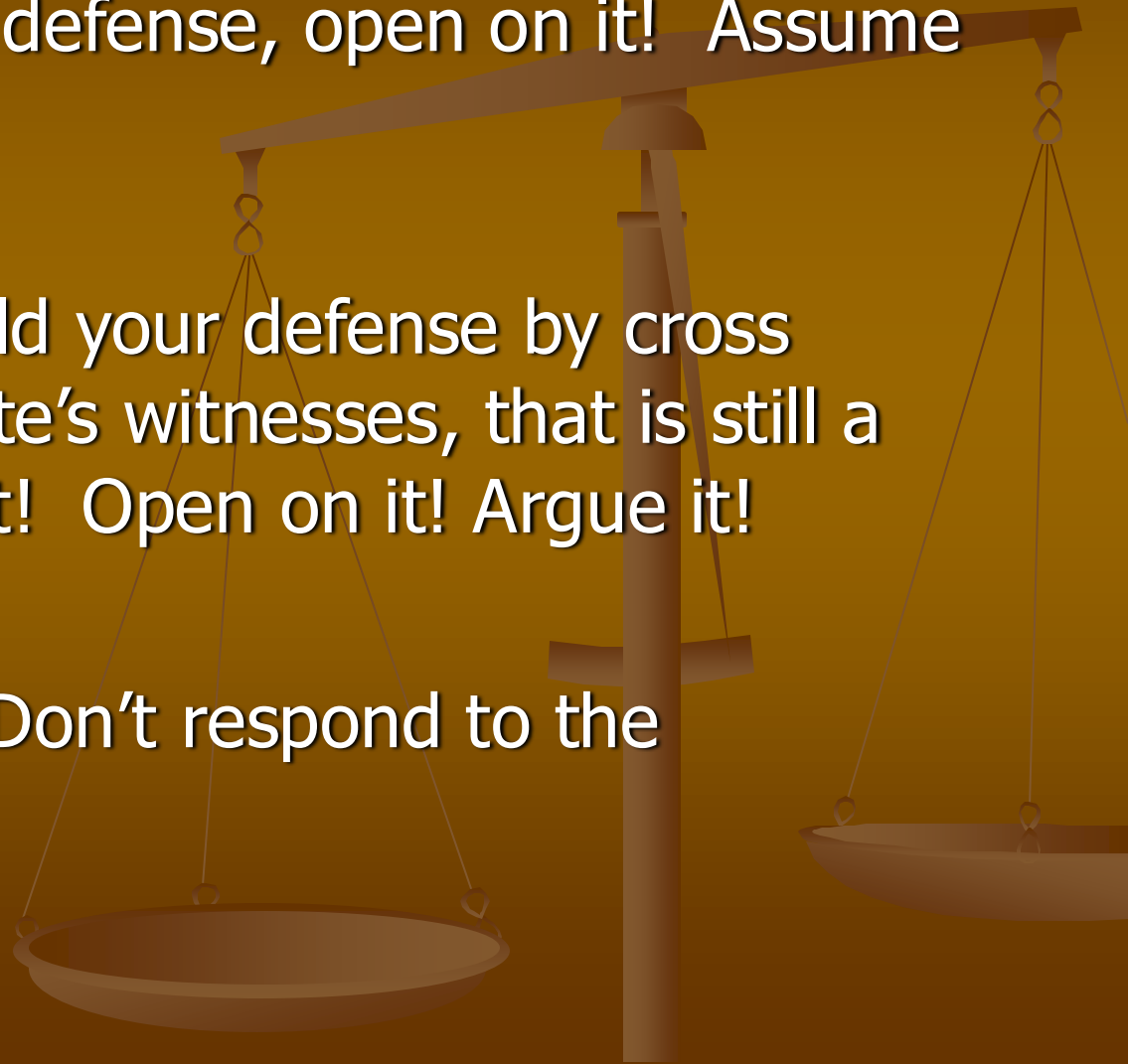
OPENING STATEMENTS

- All it does is suggest that you know something the jurors don't namely that your client is guilty, but that the prosecutor may have a tough time proving it.
- The presumption of innocence, burden of proof and reasonable doubt trilogy is something to strongly argue during closing, *not during opening*.



OPENING STATEMENTS

- If he acted in self defense, open on it! Assume the burden!
- If you need to build your defense by cross examining the state's witnesses, that is still a defense! So say it! Open on it! Argue it!
- Argue your case! Don't respond to the prosecutor's case!



**BE CALM
BE CONFIDENT
BE BOLD
BE YOU**

