

HOW TO SUCCEED IN LITIGATION WITHOUT REALLY TRYING*



Hon. Caryl E. Delano
U.S. Bankruptcy Judge
Middle District of Florida

EFFECTIVE MOTION PRACTICE



DO'S



DON'TS

Your audience includes:

- A busy judge
- Opposing counsel
- The parties

DO KNOW YOUR AUDIENCE



DO FOLLOW THE 3-3-3 RULE*

"I've yet to put down a brief and say,
'I wish that
were longer.'"

Chief Justice John Roberts

*Also follow the 10-10-10 Rule

- Routine motions should be no more than **3** pages.
- Do not cite more than **3** cases.
- Limit your argument to **3** minutes.

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

In re:

ATIF, INC.,

Debtor.

CASE NO. 17-bk-01712-FMD

ATIF transferred the property to ORNTIC who is a subsidiary of ORNTHC (ATIF's partner under the JVA, Amended JVA, and under the ATFS operating agreement) and thus ORNTIC is an insider;

ADVERSARY COMPLAINT

The plaintiff, Daniel J. Stermer as Creditor Trustee (the "plaintiff"), commences this adversary complaint against the defendants, Old Republic National Title Insurance Company ("ORNTIC") and Old Republic National Title Holding Company ("ORNTHC"). In support of this adversary complaint, the plaintiff alleges the following:

JURISDICTION

1. This is a civil proceeding arising under Title 11 of the United States Code, or arising in a case under Title 11 of the United States Code, and the District Court for this federal district has jurisdiction of this proceeding under 28 USC 1334(b).

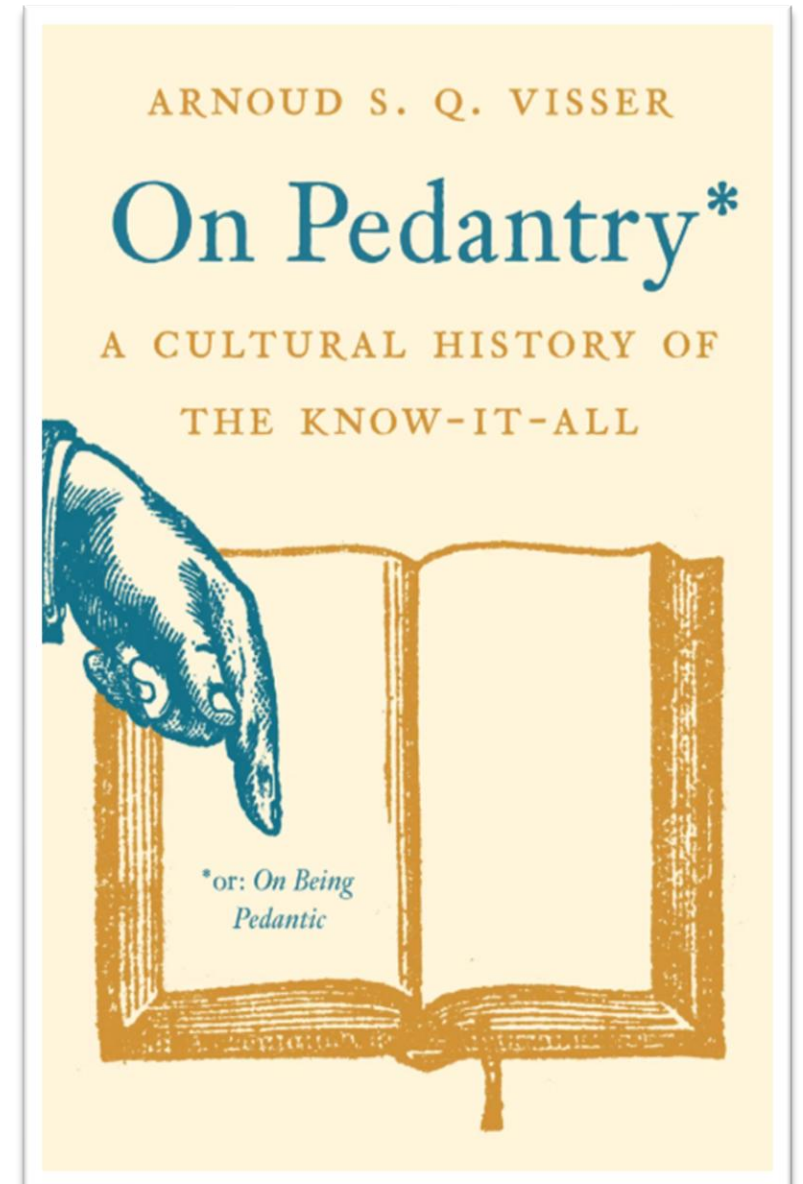
LAW OFFICES
BECKER & POLIAKOFF, P.A.
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DON'T USE COMPLICATED ACRONYMS



DIFFERENCE BETWEEN ACRONYM AND INITIALISM

- Acronyms can be spoken as a single word:
 - NATO
 - SCUBA
 - SCOTUS
- Initialisms are spoken letter by letter:
 - IRS
 - FBI
 - DOJ



DO USE PLAIN ENGLISH



- Eliminate unnecessary passive voice.
- Use strong, precise verbs.
- Keep subjects and verbs close together.
- Avoid nominalizations.
- Shorten multiword phrases.
- Mix short sentences with longer ones, targeting an average of 15 to 20 words.

ELIMINATE UNNECESSARY PASSIVE VOICE

Before	After
The automatic stay <i>was violated</i> by the creditor.	The creditor <i>violated</i> the automatic stay.
Adequate protection <i>payments were not made</i> under the cash collateral order.	The debtor <i>failed to pay</i> adequate protection.

USE STRONG, PRECISE VERBS

Before	After
The debtor's former officers <i>transferred money from</i> the company's accounts....	The debtor's former officers <i>looted</i> money from the company....
The creditor <i>aggressively pursued collection efforts</i> against the debtor.	The creditor <i>hounded the debtor</i> for payment.

KEEP SUBJECTS AND VERBS CLOSE

Before	After
<p><i>The trustee</i>, after a thorough investigation of the debtor's prepetition financial records, bank statements, and tax returns spanning three years, <i>concluded</i> that the transfers were avoidable.</p>	<p>After reviewing three years of the debtor's financial records, bank statements, and tax returns, <i>the trustee concluded</i> that the transfers were avoidable.</p>

SHORTEN MULTI-WORD PHRASES

Before	After
<i>In the event that</i> the debtor fails to make a plan payment...	<i>If</i> the debtor misses a plan payment...
<i>Due to the fact that</i> the debtor lacks sufficient cash flow...	<i>Because</i> the debtor lacks sufficient cash flow...
<i>At such time as</i> the plan becomes effective...	<i>When</i> the plan takes effect...

AVOID NOMINALIZATIONS

Before	After
The court <i>made a determination</i> that the plan is not feasible.	The court <i>determined</i> that the plan is not feasible.
The order <i>provided authorization for</i> the debtor to use cash collateral.	The order <i>authorized</i> the debtor to use cash collateral.

DO USE EFFECTIVE INTRODUCTIONS

A good introduction provides two things in the opening paragraph:

- a summary of the relief requested; and
- the basis for the relief sought.

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION
www.flmb.uscourts.gov

In re:

Case No. 8:24-bk-99999-CED
Chapter 7

Daniel Debtor,

Debtor.

TAMPA BAY REAL ESTATE INVESTMENT HOLDINGS'
MOTION FOR PROSPECTIVE STAY RELIEF

Creditor, Tampa Bay Holdings,

Creditor, Tampa Bay Holdings, seeks prospective relief from the automatic stay because this is the Debtor's fourth bankruptcy case in the last year, each filed on the eve of a foreclosure sale:

Here, on September 1, 2024, Tampa Bay Holdings obtained a foreclosure judgment foreclosing its mortgage on real property the Debtor owns. Since then, the Debtor has filed four bankruptcy cases to prevent Tampa Bay Holdings from completing a foreclosure sale. The Debtor's three previous cases, each filed on the eve of a foreclosure sale, were dismissed for filing deficiencies. Therefore, the Court should grant Tampa Bay Holdings prospective stay relief.

DO USE FOOTNOTES EFFECTIVELY

- Use footnotes for citations.
- Putting citations in footnotes de-clutters your argument.

1. Historically, courts have determined that a stay violation is willful if the party who violated the stay (1) knew the automatic stay was invoked; and (2) intended the actions that violated the stay.¹ However, in *Taggart v. Lorenzen*, which involved a discharge injunction violation, the Supreme Court concluded that a creditor may be held in civil contempt only when “there is not a ‘fair ground of doubt’ as to whether the creditor’s conduct might be lawful under the discharge order.”² Since *Taggart*, numerous “courts have assumed without deciding that ‘willfulness’ under § 362(k)(1) changed to include *Taggart*’s ‘fair ground of doubt’ standard.”³ This Court should also apply *Taggart*’s “fair ground of doubt” standard.

¹ *In re Lyubarsky*, 615 B.R. 924, 929 (Bankr. S.D. Fla. 2020) (citing *Jove Eng’g v. IRS (In re Jove Eng’g, Inc.)*, 92 F.3d 1539, 1555 (11th Cir. 1996)); see also *In re Sanders*, 2020 WL 6020347, at *2 (Bankr. M.D. Fla. Sept. 15, 2020) (“It is almost universally held that ‘[a] violation of the automatic stay is willful if the party knew the automatic stay was invoked and intended the actions which violated the stay.’”) (quoting *In re Lyubarsky*, 615 B.R. at 929).

² 587 U.S. 554, 565 (2019).

³ *In re Abril*, 2021 WL 3162637, at *4 (Bankr. M.D. Fla. June 24, 2021) (citing *Suh v. Anderson (In re Moo Jeong)*, 2020 WL 1277575, at *4 & n.3 (B.A.P. 9th Cir. Mar. 16, 2020)).

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

2. Debtor has failed to meet his burden of proving TBREIH's alleged stay violation was willful because there is a fair ground of doubt whether TBREIH's alleged conduct violated the automatic stay.¹

¹Historically, courts have determined that a stay violation is willful if the party who violated the stay (1) knew the automatic stay was invoked; and (2) intended the actions that violated the stay. *In re Lyubarsky*, 615 B.R. 924, 929 (Bankr. S.D. Fla. 2020) (citing *Jove Eng'g v. IRS (In re Jove Eng'g, Inc.)*, 92 F.3d 1539, 1555 (11th Cir. 1996)); see also *In re Sanders*, 2020 WL 6020347, at *2 (Bankr. M.D. Fla. Sept. 15, 2020) ("It is almost universally held that '[a] violation of the automatic stay is willful if the party knew the automatic stay was invoked and intended the actions which violated the stay.'") (quoting *In re Lyubarsky*, 615 B.R. at 929). However, in *Taggart v. Lorenzen*, 587 U.S. —, 139 S. Ct. 1795, 204 L.Ed.2d 129 (2019), which involved a discharge injunction violation, the Supreme Court concluded that a creditor may be held in civil contempt only when "there is not a 'fair ground of doubt' as to whether the creditor's conduct might be lawful under the discharge order." *Id.* at 1804. Since *Taggart*, numerous "courts have assumed without deciding that 'willfulness' under § 362(k)(1) changed to include *Taggart*'s 'fair ground of doubt' standard." *In re Abril*, 2021 WL 3162637, at *4 (Bankr. M.D. Fla. June 24, 2021) (citing *Suh v. Anderson (In re Moo Jeong)*, 2020 WL 1277575, at *4 & n.3 (B.A.P. 9th Cir. Mar. 16, 2020)). This Court should also apply *Taggart*'s "fair ground of doubt" standard.

...that a creditor may be
...only when "there is not a 'fair ground of doubt' as to whether the creditor's
conduct might be lawful under the discharge order." *Id.* at 1804. Since *Taggart*, numerous "courts

DON'T BURY ARGUMENTS IN FOOTNOTES



12. This Court should follow the “fair ground of doubt standard” from *Taggart v. Lorenzen*, 587 U.S. 554, 557 (2019). In *Taggart*, the Supreme Court observed:

In cases outside the bankruptcy context, we have said that civil contempt “should not be resorted to where there is [a] fair ground of doubt as to the wrongfulness of the defendant’s conduct.” **1802 *California Artificial Stone Paving Co. v. Molitor*, 113 U.S. 609, 618, 5 S.Ct. 618, 28 L.Ed. 1106 (1885) (emphasis added). This standard reflects the fact that civil contempt is a “severe remedy,” *ibid.*, and that principles of “basic fairness requir[e] that those enjoined receive explicit notice” of “what conduct is outlawed” before being held in civil contempt. *Schmidt v. Lessard*, 414 U.S. 473, 476, 94 S.Ct. 713, 38 L.Ed.2d 661 (1974) (per curiam). See *Longshoremen, supra*, at 76, 88 S.Ct. 201 (noting that civil contempt usually is not appropriate unless “those who must obey” an order “will know what the court intends to require and what it means to forbid”); 11A C. Wright, A. Miller, & M. Kane, *Federal Practice and Procedure* § 2960, pp. 430–431 (2013) (suggesting that civil contempt may be improper if a party’s attempt at compliance was “reasonable”).

13. The Supreme Court also noted that:

This standard is generally an objective one. We have explained before that a party’s subjective belief that she was complying with an order ordinarily will not insulate her from civil contempt if that belief was objectively unreasonable. As we said in *McComb v. Jacksonville Paper Co.*, 336 U.S. 187, 69 S.Ct. 497, 93 L.Ed. 599 (1949), “[t]he absence of willfulness does not relieve from civil contempt.” *Id.*, at 191, 69 S.Ct. 497.

14. The Supreme Court further explained that:

We have not held, however, that subjective intent is always irrelevant. Our cases suggest, for example, that civil *562 contempt sanctions may be warranted when a party acts in bad faith. See *Chambers v. NASCO, Inc.*, 501 U.S. 32, 50, 111 S.Ct. 2123, 115 L.Ed.2d 27 (1991). Thus, in *McComb*, we explained that a party’s “record of continuing and persistent violations” and “persistent contumacy” justified placing “the burden of any uncertainty in the decree ... on [the] shoulders” of the party who violated the court order. 336 U.S. at 192–193, 69 S.Ct. 497. On the flip side of the coin, a party’s good faith, even where it does not bar civil contempt, may help to determine an appropriate sanction. Cf. *Young v. United States ex rel. Vuitton et Fils S. A.*, 481 U.S. 787, 801, 107 S.Ct. 2124, 95 L.Ed.2d 740 (1987) (“[O]nly the least possible power adequate to

DON'T RELY ON BLOCK QUOTES

- Block quotes *should not* be used to *make* the point.
- Readers skip block quotes!

DO INTRODUCE BLOCK QUOTES

- Make your point with the introductory sentence.
- Use the block quote to *support* your point.

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION
www.flmb.uscourts.gov

In Re:

Case No. 8:24-bk-99999-CED
Chapter 7

Daniel Debtor,

Debtor.

CREDITOR TAMPA BAY REAL ESTATE
RESPONDENT

2. In *Taggart*, the Supreme Court explained that outside the bankruptcy context, it has limited civil contempt to cases where there is no fair ground of doubt as to the wrongfulness of the conduct at issue:

In cases outside the bankruptcy context, we have said that civil contempt “should not be resorted to where there is [a] fair ground of doubt as to the wrongfulness of the defendant’s conduct.” This standard reflects the fact that civil contempt is a “severe remedy,” and that principles of “basic fairness requir[e] that those enjoined receive explicit notice” of “what conduct is outlawed” before being held in civil contempt.⁴

⁴ 587 U.S. 554, 565 (2019).

DO USE EXCERPTS

excerpt noun

ex-cerpt | \ˈek-sərpt ①, eg-zərpt ②\

Definition of excerpt (Entry 1 of 2)

: a passage (as from a book or musical composition) taken

EXCERPT

excerpt

ex-cerpt | \ˈek-sərpt ①, eg-zərpt ②\

excerpted; excerpting; excerpter

Definition of excerpt

transitive verb

1. to

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION
www.flmb.uscourts.gov

IN RE:

3. On September 1, 2024, Tampa Bay Holdings sent Debtor a monthly account statement. The account statement contained a “Bankruptcy Message” that acknowledged that the Debtor was in bankruptcy and notified the Debtor that the statement was for informational purposes only:

Bankruptcy Message

Our records show you are a debtor in bankruptcy. We are sending this statement to you for informational and compliance purposes only. It is not an attempt to collect a debt against you.

If your bankruptcy plan requires you to send your regular monthly mortgage payments to the Trustee, you should pay the Trustee instead of us. Please contact your attorney or the Trustee if you have questions.

If you want to stop receiving statements, write to us at:
Freedom Mortgage
P.O. Box 50485
Indianapolis, IN 46250-0485

...provided that a creditor may be
...contempt only when “there is not a ‘fair ground of doubt’ as to whether the creditor’s
conduct might be lawful under the discharge order.” *Id.* at 1804. Since *Taggart*, numerous “courts

DO USE CHARTS

Data visualization uses charts to make complex data simple to understand.

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION
www.fmb.uscourts.gov

IN RE:
DANIEL DEBTOR,
DEBTOR.

Case No. 8:24-bk-99999-CED
Chapter 7

2. Including this case, the Debtor has filed four bankruptcy cases — each on the eve of a foreclosure sale — since January 31, 2024:

Filing #	Date of Foreclosure Sale	Date of Bankruptcy Filing	Case No.	Date of Dismissal	Reason for Dismissal
1	2/2/2024	1/31/2024	24-bk-00001	2/28/2024	Filing Deficiencies
2	5/27/2024	5/24/2024	24-bk-11111	6/24/2024	Filing Deficiencies
3	10/10/2024	10/8/2024	24-bk-77777	11/1/2024	Filing Deficiencies
4	1/3/2025	12/31/2024	24-bk-99999	N/A	N/A

Chapter 13 petition on May 24, 2024
before this Court under Case No. 24-bk-01111-CED (the "Second Bankruptcy Case"). On April

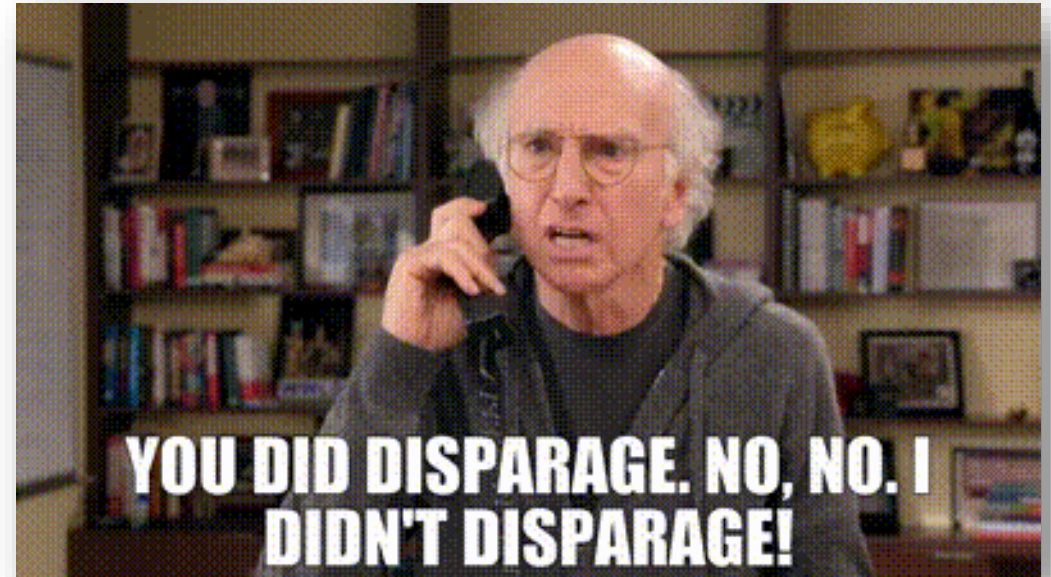
DO INTRODUCE YOUR CLIENTS



- Bring your clients to court.
- And introduce your clients to the court.

- Judges don't like incivility.
- No one likes a disparager.
- The judge may decide that the argument you describe as "ridiculous" is correct.

DON'T DISPARAGE



DISPOSITIVE MOTIONS

MOTIONS TO DISMISS

- Governed by Rule 12.
- Movant must demonstrate claims are not “plausible.”
- Some defenses may be waived if not raised.

SUMMARY JUDGMENT MOTIONS

- Governed by Rule 56.
- Movant must demonstrate “no genuine issue of material fact.”

DO SEEK SUMMARY JUDGMENT



- To limit the issues at trial.
- To force a party to show their hand.
- On pure issues of law (e.g., Rooker-Feldman, issue preclusion, statutes of limitation, etc.).

DO NOT SEEK SUMMARY JUDGMENT



- When intent or credibility is at issue.
- When it would be easier for everyone to just try the case.

Word of the Week

Discovery

noun

The compelled process of exchanging and obtaining relevant information after a lawsuit is filed but before trial, primarily in the form of documents and written and oral testimony.

IMORSE

**DISCOVERY
TIPS &
TRICKS**

RULE 2004



- Examination may relate to Debtor's:
 - acts, conduct, or property;
 - liabilities and financial condition;
 - right to a discharge.
- May also relate to any matter affecting administration of Debtor's estate.
- Scope of examination is very broad and can be in nature of a fishing expedition.

- Prohibits use of Rule 2004 when a contested matter or adversary is pending.
- Court may not permit party to delay filing adversary proceeding or contested matter to avoid “pending proceeding rule.”

PENDING PROCEEDING RULE



OBJECTIONS



“Vague, overbroad, ambiguous, and irrelevant” is:

- ❑ The name of a Rock Band
- ❑ My standard discovery response
- ❑ Unethical and inappropriate

Rule 34 was amended in 2015 to require objections to Rule 34 requests be stated with specificity and to “eliminat[e] any doubt that less specific objections might be suitable under Rule 34.”

DISCOVERY **DO'S**

- Discovery must be proportional to the needs of the case.
- Narrowly tailor discovery requests to claims and defenses.
- Before filing a motion to compel, meet and confer with opposing counsel to resolve objections.

Under Local Rule 7026-1(C), the bankruptcy court will not entertain discovery motions until the parties have conferred (or made reasonable efforts to confer) in a ***sincere effort*** to resolve their discovery dispute.

DISCOVERY **DON'TS**

- “Blow off” discovery because cases rarely go to trial.
- Serve overbroad discovery requests.
- Assert boilerplate objections.
- Object and then respond “subject to” and “without waiver of” the objection.

Rule 34 was amended in 2015 to require an objecting party to state whether the party is withholding discovery based on an objection. The amendment was intended to end confusion caused by a party objecting to a discovery request but still providing responsive documents.



YOU GET A FREE TRIAL!

TRIAL PREPARATION

- Litigation deadlines are important!
- Blown discovery deadlines may result in sanctions.
- Blown trial deadlines may result in evidence being excluded!

SAY IT LOUDER!



PROOF MATRIX



A “proof matrix” shows:

- What a party must prove at trial;
- The evidence it must present to prevail; and
- How the party will overcome evidentiary objections.

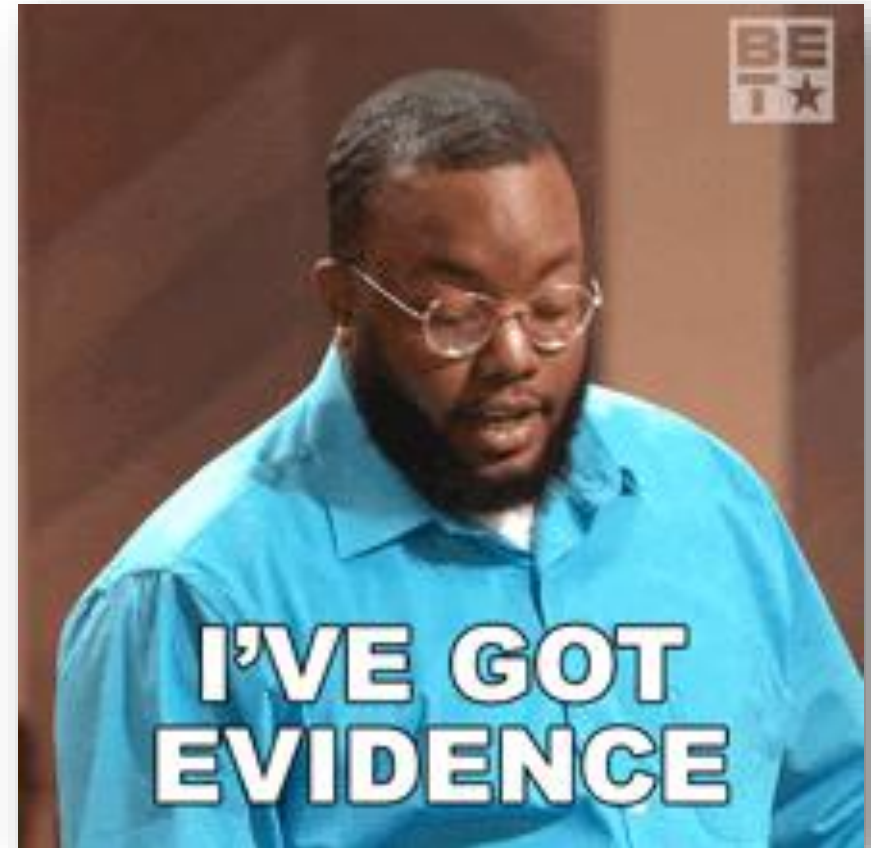
Elements of Claim or Defense	Document That Will Establish the Element	Witness Who Will Establish the Element and Introduce the Document into Evidence	Anticipated Evidentiary Objection and Solution	Stipulations and Admissions

PROOF MATRIX

“Simplicity is the ultimate sophistication.” –*Leonardo da Vinci*–

TYPES OF EVIDENCE

- Proffer
- Stipulation
- Testimony
- Exhibits
- Demonstrative Aids



RELEVANCE - RULE 401



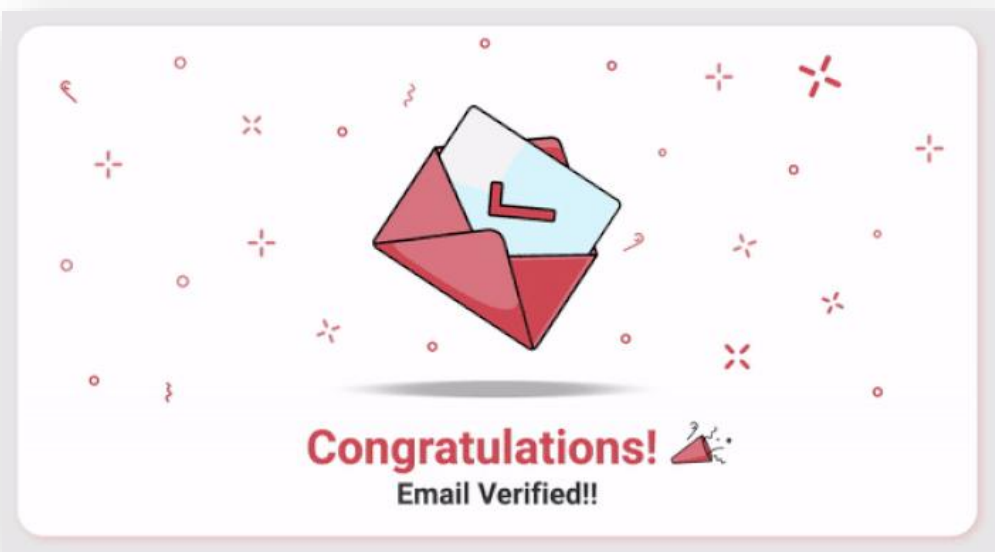
Evidence is relevant if it has any tendency to make a fact of consequence more or less likely than it would be without the evidence.

AUTHENTICATION – RULE 901



- Proponent need only show a rational basis for claim that the evidence is what it is asserted to be.
- The burden is a “low bar.”
- Burden can be met with circumstantial evidence.

AUTHENTICATING EMAILS & TEXTS



- A witness can authenticate an e-mail *he or she sent*;
- A witness can authenticate an e-mail *he or she received*.

It is harder to prove the identity of the author of an e-mail or text message.

HEARSAY – RULE 801



A statement that:

- The declarant makes other than while testifying at the current trial;
- Is offered to prove the truth of the statement; and
- Is not subject to an exclusion or exception.

Under Evidence Rule 802(d)(2), a statement by the opposing party is not hearsay!

RECORDS OF REGULARLY CONDUCTED BUSINESS ACTIVITY - RULE 806(B)

- Must be a *record* of an event;
- Must have been *made by* (or from information by) a *person with knowledge*;
- Must have been *made at or near the time* of the event;
- Must be *kept in the course of regularly conducted business activity*; and
- Must be the *regular practice to make* the record.

The "Business Records" Exception

SELF- AUTHENTICATION – RULE 902(11) & (12)

“Business Records” do not require extrinsic evidence of authenticity if:

- A custodian certifies the records satisfy Rule 803(b)(6);
- The proponent gives the opposing party notice of intent to offer the records; and
- The proponent makes the records and certification available for inspection.



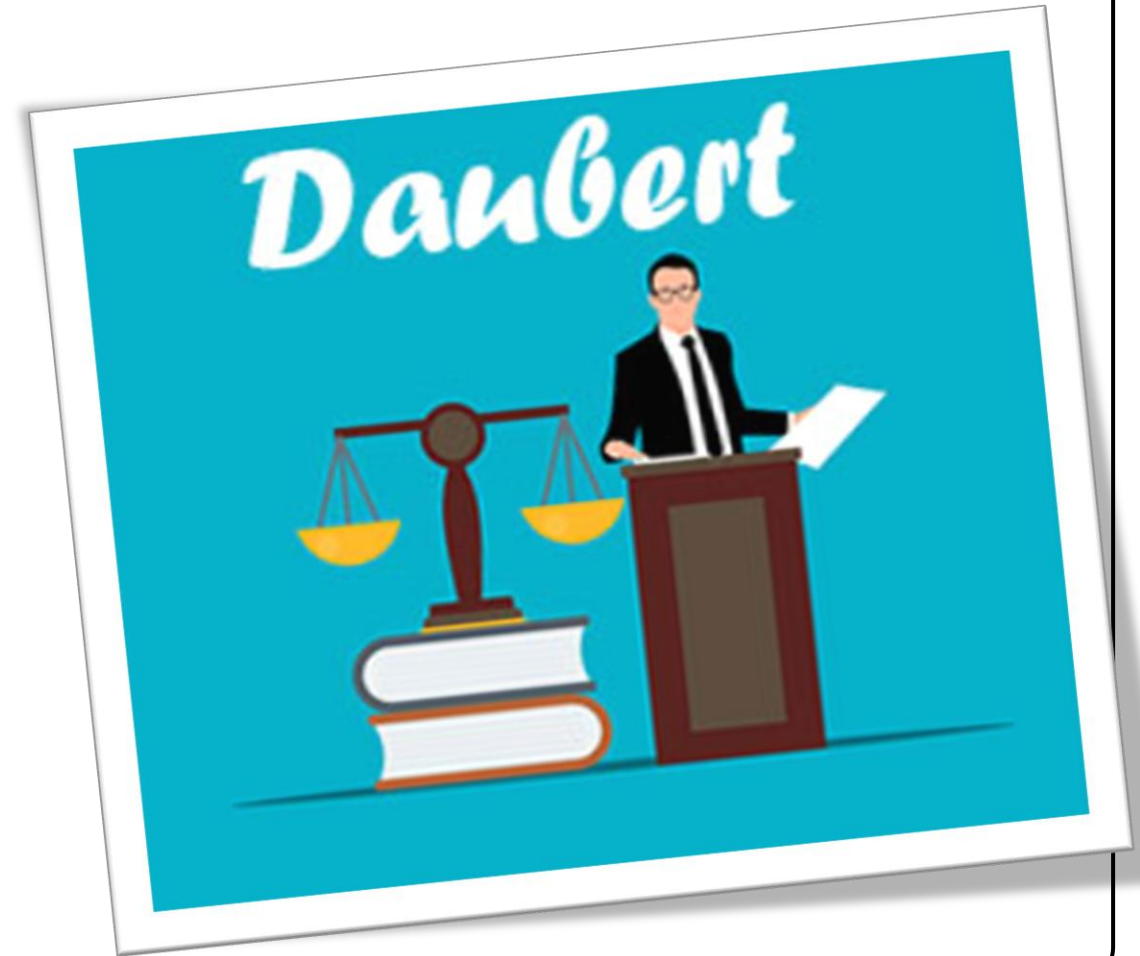
EXPERT TESTIMONY - RULE 702



- Under *Daubert*, courts must act as gatekeepers to ensure expert testimony is relevant and reliable.
- There is “less need” for the “gatekeeping” in bench trials.
- Trial courts are given broad discretion.

- Scientific, technical, or other specialized knowledge must be useful to the finder of fact;
- The proposed witness must be qualified; and
- The evidence must be reliable or trustworthy.

DAUBERT



GIVE NOTICE



Make sure client and friendly witnesses know:

- When the trial will be; and
- That you will need time to prepare them.

PREPARE YOUR WITNESS



- Your client should know your case and how their testimony bolsters it.
- Instruct your client to:
 - Listen to questions carefully
 - Pause before answering
 - Not speculate or guess
 - Not answer questions he or she does not understand.

TELL YOUR CLIENT



- What to Wear
- How to Act
 - No grimacing
 - No making faces

A black and white photograph of Vince Lombardi, wearing glasses and a dark jacket, smiling slightly. He is standing next to a football player who is wearing a helmet with a face mask. The image is tilted slightly to the right.

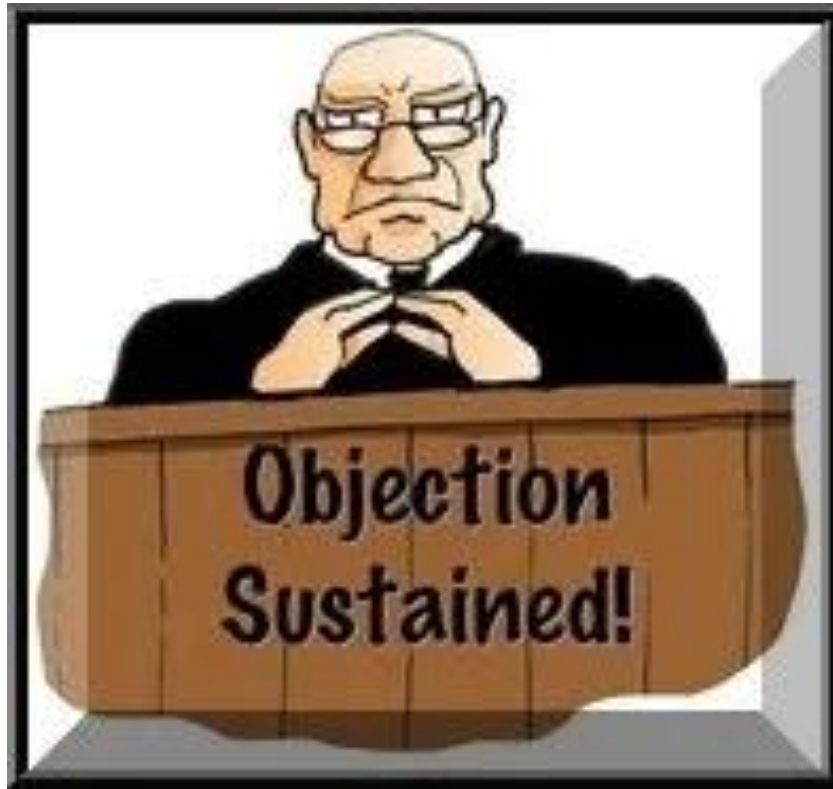
**“PRACTICE DOES NOT MAKE PERFECT. ONLY
PERFECT PRACTICE MAKES PERFECT.”**

VINCE LOMBARDI

© Lifehack Quotes

Practice Your Direct
Examination with Your Witness!

DON'T LEAD YOUR OWN WITNESS



Ask question that begin with the 5 W's

- *Who?*
- *What?*
- *When?*
- *Where?*
- *Why?*

DO REFRESH A WITNESS' RECOLLECTION



- The witness's recollection must be exhausted.
- The writing or object must actually refresh the witness's memory.

FYI: Under Evidence Rule 612, the adverse party has the right to inspect the writing or object and to cross-examine the witness about it.

DO LEAD ADVERSE PARTIES



- On cross-examination;
- When the adverse party is the witness;
- To call the witness's attention to a particular topic;
- When the testimony relates to undisputed matters;
- To clarify the witness's testimony; and
- On introductory matters.

RULES OF EVIDENCE



Practical Evidence Manual
by
Judge Michael G. Williamson
Practical Evidence Manual v46 ©2021

* * *

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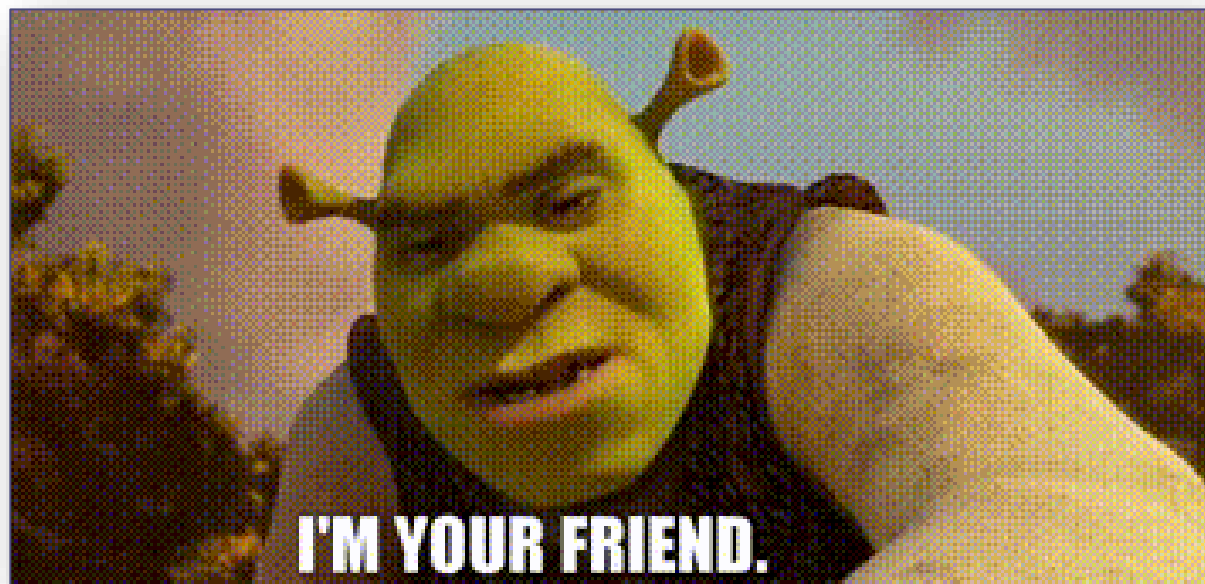
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Practical Evidence Manual v46
Updated: September 14, 2021

https://www.flmb.uscourts.gov/judges/tampa/williamson/practical_evidence.pdf?id=3

EVIDENCE RULE 1006 IS YOUR FRIEND



Federal Rule of
Evidence 1006
authorizes parties
to use summaries
to prove the
content of exhibits.

RULE 1006 REQUIREMENTS

- The writings, recordings, or photographs being summarized must be too voluminous to conveniently examine in court.
- The proponents must make the underlying documents available.

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

In re:

Date	Transaction	Amount
8/15/2023	Wire Transfer to Account Ending in -1234	\$3,500.00
8/15/2023	ATM Withdrawal	\$500.00
8/17/2023	Check Made Payable to Expensive Private School	\$2,000.00
8/19/2023	Wire Transfer to Account Ending in -1234	\$2,000.00
8/21/2023	ATM Withdrawal	\$300.00
8/21/2023	Wire Transfer to Account Ending in -1234	\$1,500.00
8/21/2023	Check Made Payable to Brother-in-Law	\$5,000.00
8/24/2023	ATM Withdrawal	\$500.00
8/27/2023	Check Made Payable to Auto Loan	\$1,100.00
8/27/2023	Wire Transfer to Account Ending in -1234	\$4,000.00
8/28/2023	ATM Withdrawal	\$500.00
9/1/2023	Check Made Payable to ABC Mortgage	\$4,500.00
9/1/2023	ATM Withdrawal	\$500.00
9/3/2023	Wire Transfer to Account Ending in -1234	\$2,500.00

\$4,500.00

\$500.00

7/2023 Wire Transfer to Account Ending in -1234

\$2,500.00



Schedule training with the Courtroom Deputy to ensure your technology works!

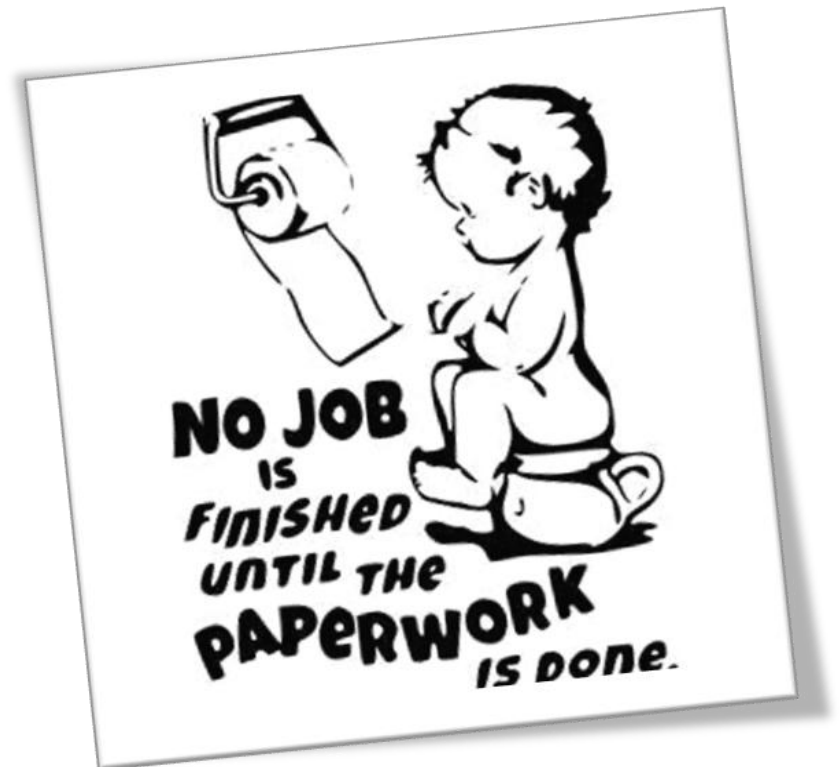
KNOW YOUR JUDGE

Know your Judge's
preferences for
presenting
evidence.



Do include all relief to which you are entitled in your order or final judgment.

PREPARING THE FINAL JUDGMENT



RULE 9023 REQUIREMENTS



- Reconsideration motions are limited to:
 - Correcting manifest errors of law or fact; or
 - Presenting newly discovered evidence
- They are not an opportunity to raise new arguments or rehash old ones

RECONSIDERATION

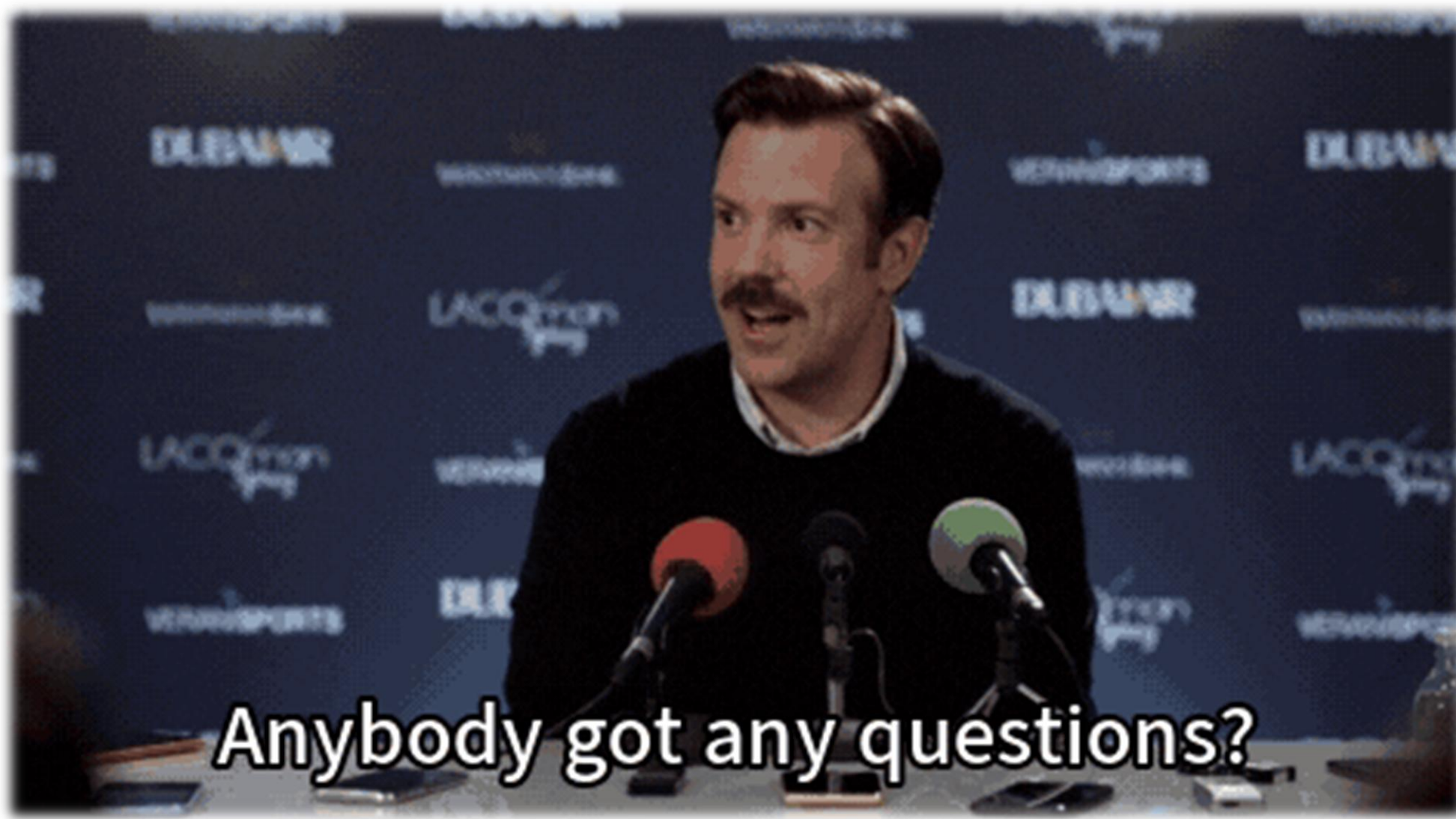


Downside:
Reconsideration Motion
may allow court to shore
up flaws in its analysis.

SHOULD YOU APPEAL?



- Is an appeal worth the time and expense?
- What is the deadline for filing an appeal?
- Do you need a stay pending appeal?



Anybody got any questions?