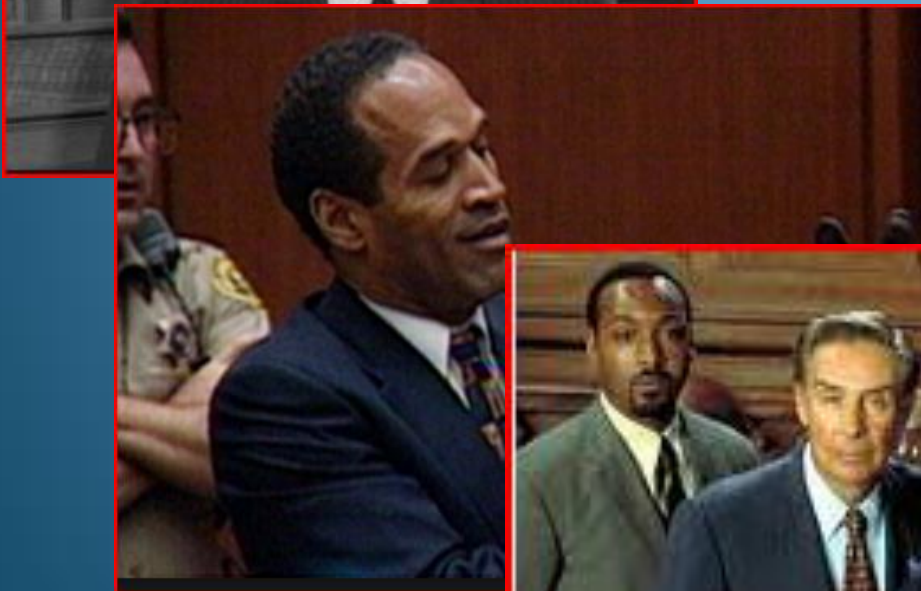


Utilizing the Tactical Skills of Trial Advocacy to Convince Customers of Network Value

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Trial Advocacy



Legal



History of Legal System



Is Trial Advocacy a Science?

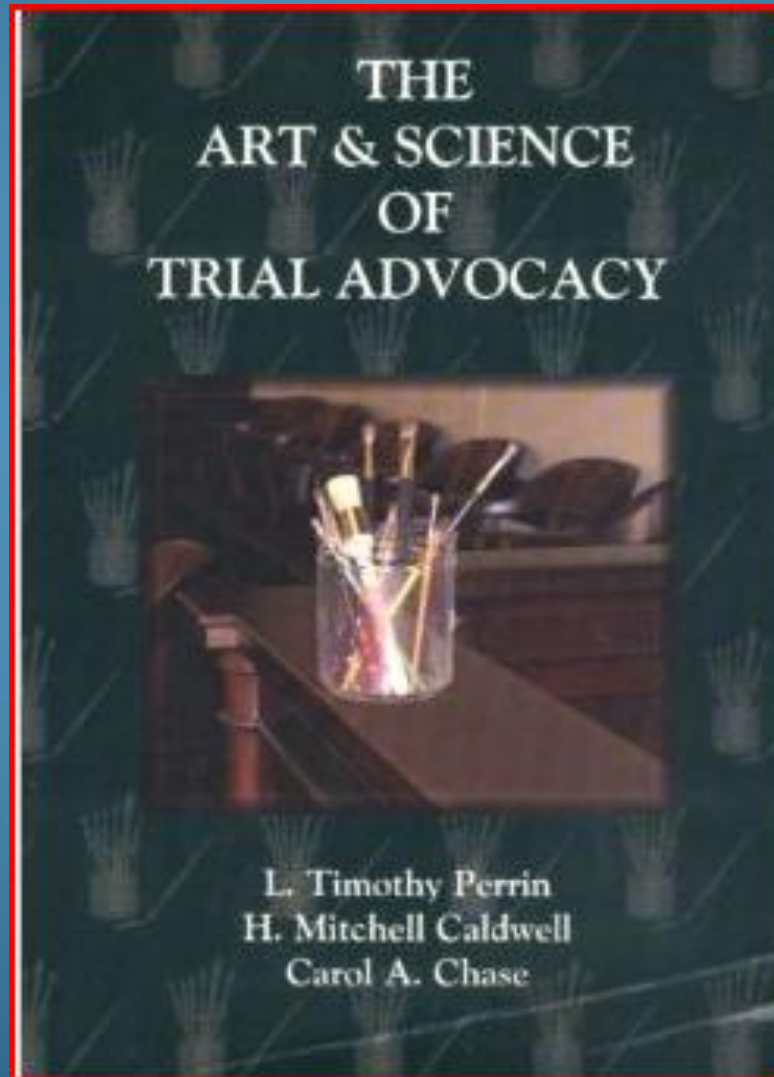




Table 1: Litigation Tasks

Case Initiation

Conduct client intake; initial fact investigation; legal research; draft complaint/answer, cross-claim, counterclaim or third-party claim; motion to dismiss on procedural grounds; defenses to procedural motions; meet and confer regarding case scheduling and discovery.

Discovery

Draft and file mandatory disclosures; draft/answer interrogatories; respond to requests for production of documents; identify and consult with experts; review expert reports; identify and interview non-expert witnesses; depose opponent's witnesses; prepare for and attend opponent's depositions; resolve electronically stored information issues; review discovery/case assessment; resolve discovery disputes.

Settlement

Attend mandatory ADR; settlement negotiations; settlement conferences; draft settlement agreement; draft and file motion to dismiss.

Pretrial Motions

Legal research; draft motions *in limine*; draft motions for summary judgment; answer opponent's motions; prepare for motion hearings; argue motions.

Trial

Legal research; prepare witnesses and experts; meet with co-counsel (trial team); prepare for voir dire; motion to sequester; prepare opening and closing statements; prepare for direct (and cross) examination; prepare jury instructions; propose findings of fact and conclusions of law; propose orders; conduct trial.

Post-Disposition

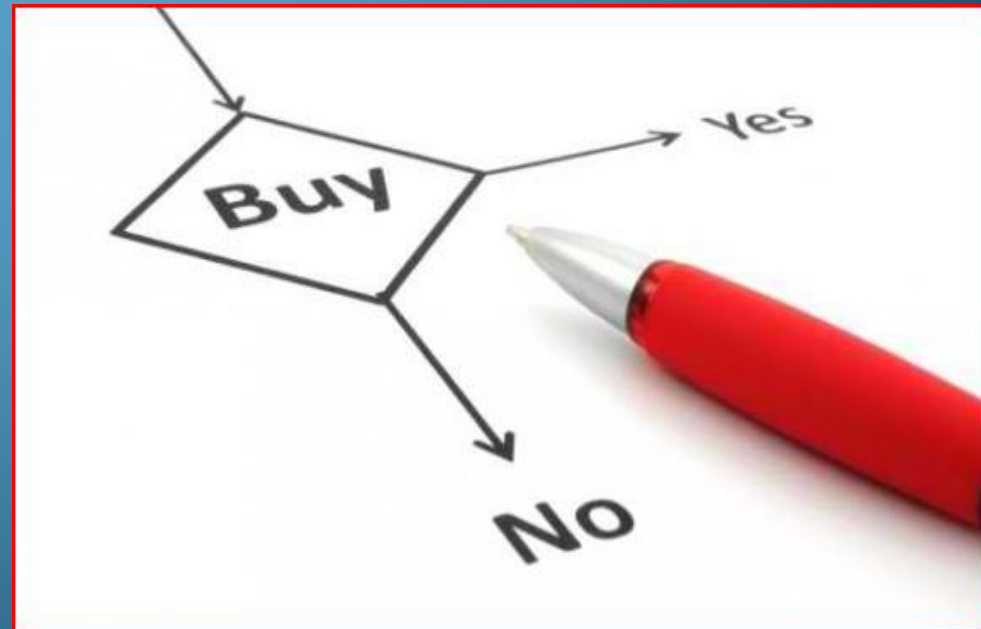
Conduct post-disposition settlement negotiations; draft motions for rehearing, JNOV, additur, remittitur, enforce judgment; any appeal activity.

Table 3: Hours Expended by Attorneys, Paralegals and Expert Witnesses to Complete Litigation Tasks in Automobile Tort Cases*

Percentile	Senior Attorney			Junior Attorney			Paralegal		
	25 th	50 th	75 th	25 th	50 th	75 th	25 th	50 th	75 th
Case Initiation	2.0	4.5	10.0	2.0	5.0	10.0	1.0	3.0	10.0
Discovery	5.0	12.0	25.0	6.8	20.0	30.0	5.0	10.0	20.0
Settlement	5.0	8.0	10.0	2.0	5.0	10.0	0.5	2.0	5.0
Pre-trial	3.0	6.0	15.0	4.0	10.0	20.0	2.0	4.0	10.0
Trial	25.0	40.0	65.0	15.0	30.0	50.0	10.0	20.0	38.8
Post-disposition	2.8	5.0	10.0	3.5	8.0	15.5	1.0	3.5	6.5
Subtotal of Time	42.8	75.5	135.0	33.3	78.0	135.5	19.5	42.5	90.3

Identifying Potential Legal Theories

- Legal Theory – what is it?
 - How is it relevant?
- Factual Theory – what is it?
 - How is it relevant?



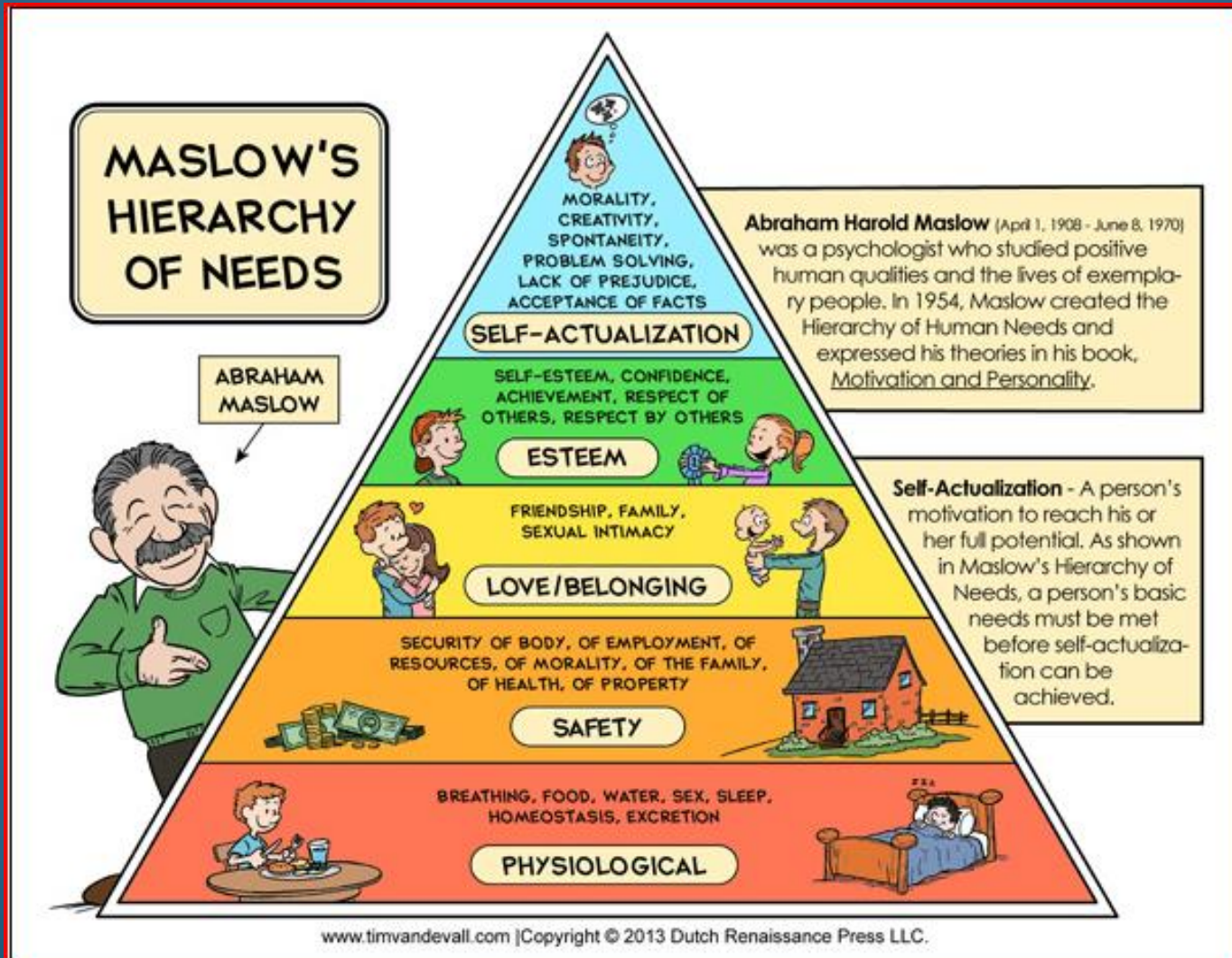
Factually Persuasive

- Recipe
 - Story with a plot that is factually sufficient to support your legal theory.
 - How do you persuade the possible customer to decide in your favor?
 - Pay attention to six key essentials:
 - » Human values
 - » Human needs
 - » Human story
 - » Believable and Understandable Story
 - » Quantity of Evidence
 - » Quality of Evidence

Human Values



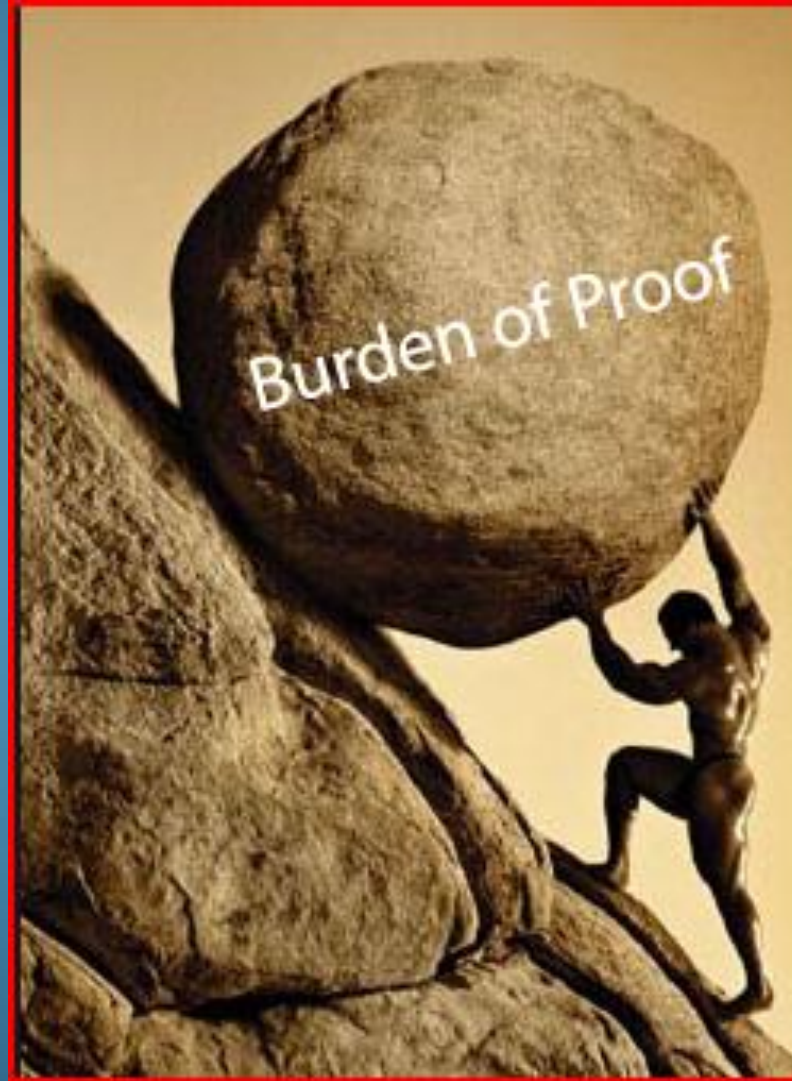
Human Needs, Human Story



Believable and Understandable Story



Quantity of Evidence



Quality of Evidence



How to Communicate Effectively

- Persuasion
 - Characteristics of the Messenger
 - Credibility
 - Look and Act Like an Expert
 - Demonstrate Fairness and Objectivity

How to Communicate Effectively

- Qualities of the Message
 - Keep Your Promises
 - Disclose Weaknesses
 - Make Appropriate Concessions
 - Avoid Weak Arguments
 - Use Plain English

How to Communicate Effectively

Maya Angelou

I've learned that
people will forget what you said,
people will forget what you did,
but people will never forget
how you made them feel.

Persuasion Tools

- Trial Advocacy Communication Tools To:
 - Maximize Retention
 - Increase Interest
 - Primacy
 - Recency
 - Pathos
 - Simplicity
 - Imagery
 - Frequency
 - Logical Coherence

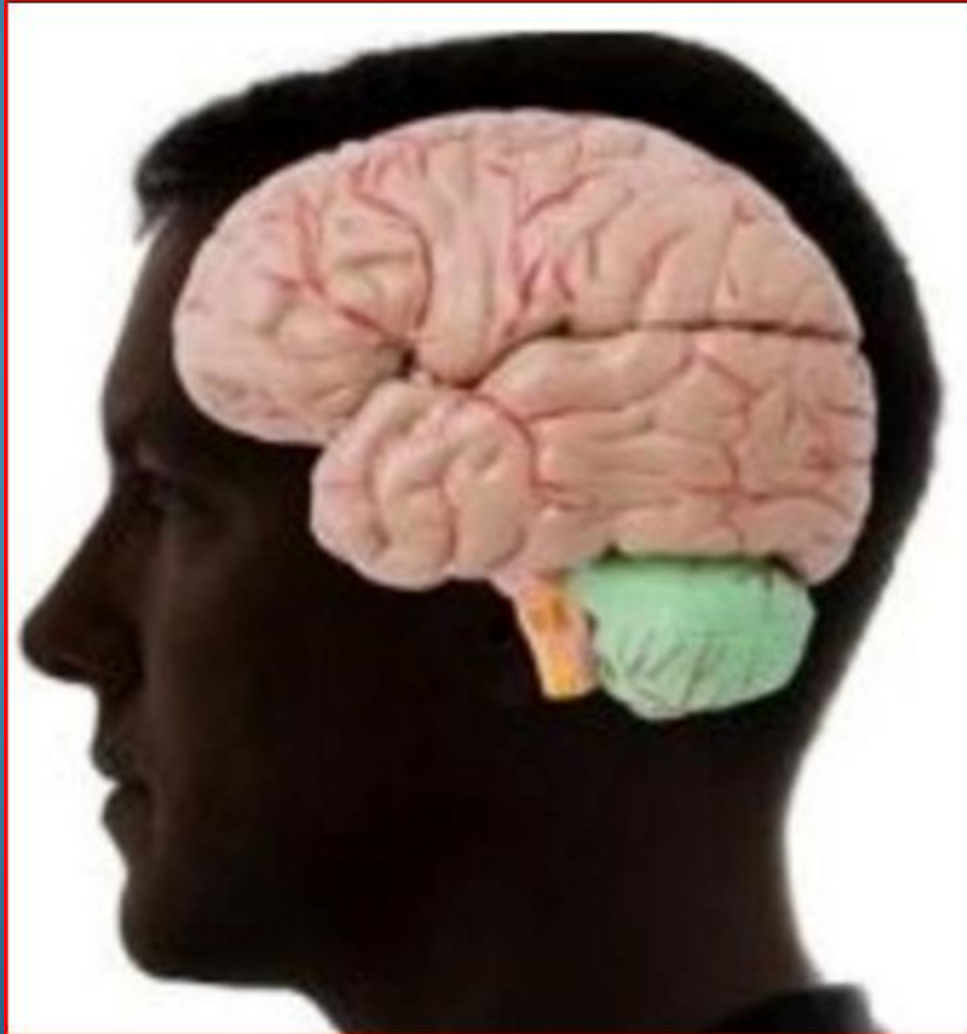
Persuasion Tools

Primacy



Persuasion Tools

Recency



Persuasion Tools

Pathos



Persuasion Tools

Simplicity

Keep Your Messages Clear, Straightforward and Understandable

Pay Close Attention to Three Areas:

Word Choices;

Content Choices; and

Presentation Choices.

Persuasion Tools

Imagery



Persuasion Tools

Frequency

REPETITION

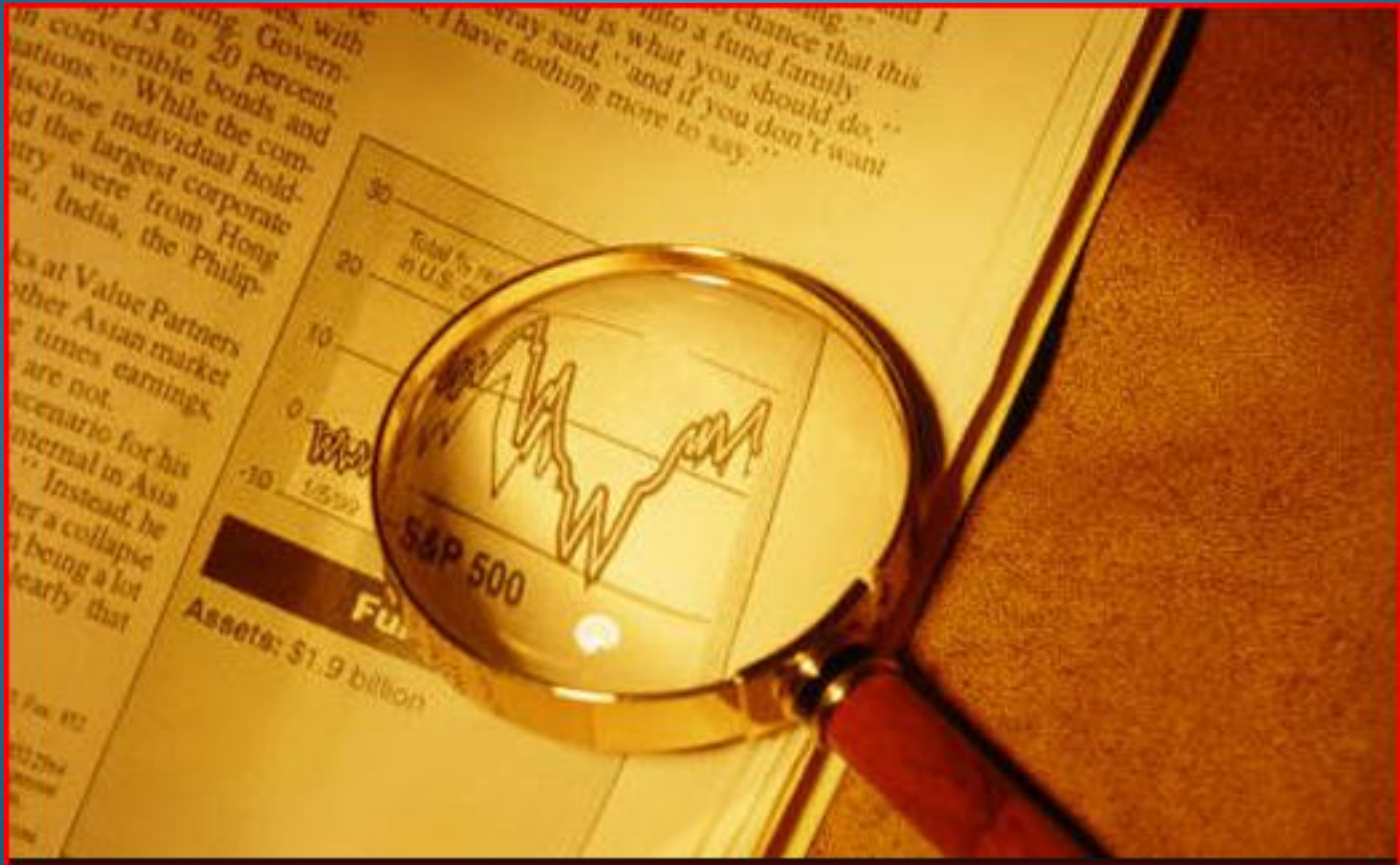
**Repetition can write any idea
in my mind with eternally indelible ink. No
other programming tool has as much power to
imprint positive thoughts into my mind.**

Persuasion Tools

Logical Coherence



Discovery



LEGAL ADVOCACY: PART II

THE SECRET SAUCE



What to Look For

- Body movement
- Body posture
- Body orientation
- Inadvertent emblems
- Shrugs
- Eye contact
- Facial expressions

Body Movement



Body posture



Body Orientation



Inadvertent Emblems



Shrugs



Eye Contact



Facial Expressions



How to Handle Defeat

- On trial green tab

Questions?

