

Opening Night

Creating Your Best Opening Statement

August 12, 2017





What Makes this speech compelling?

Consider:
Non-Verbals
Content
Tone



—The Shawshank Redemption

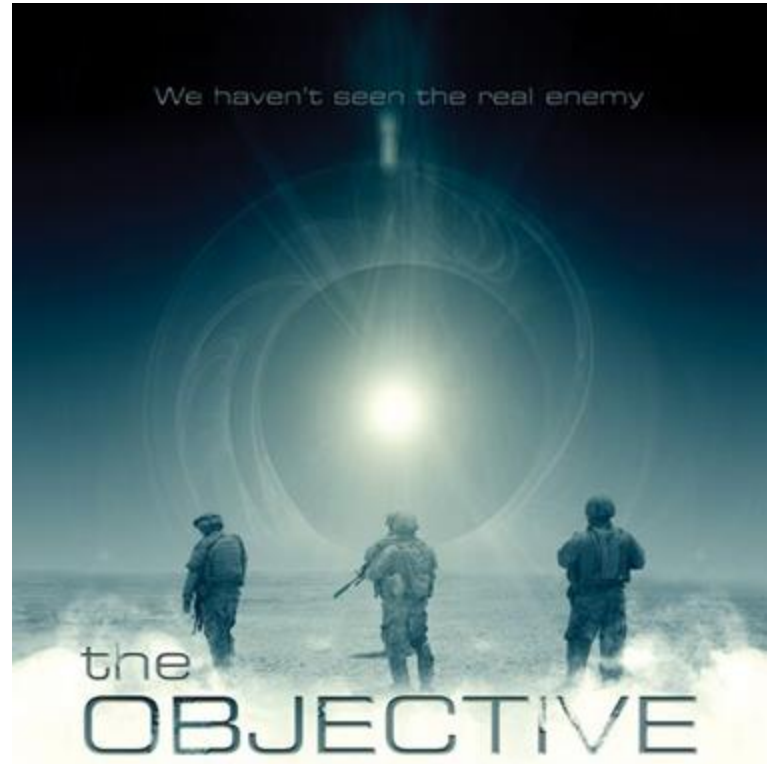
The Opening Statement is:

- 1) Greeting
- 2) Presentation
- 3) Sales Pitch



Main Objectives:

- 1) First Impressions
- 2) Content
 - a) Required
 - b) Important
 - c) Unnecessary
- 3) Non-Verbal
 - a) Pros
 - b) Cons



Content in the Opening Statement:

- 1) Greeting
- 2) Buy In
- 3) Required Content
- 4) Important Content
- 5) Getting Started



Greetings

Greetings:

Comfortable Chair
Window and Space

Privacy

Ice Breaker

Facilities

Introduce Names and Roles

Disclosure !



Rule 10.340 Conflicts of Interest- Disclosure

(b) Burden of Disclosure. The burden of disclosure of any potential conflict of interest rests on the mediator. Disclosure shall be made as soon as practical after the mediator becomes aware of the interest or relationship giving rise to the potential conflict of interest.

(c) Effect of Disclosure. After appropriate disclosure, the mediator may serve if all parties agree. However, if a conflict of interest clearly impairs a mediator's impartiality, the mediator shall withdraw regardless of the express agreement of the parties.

Disclosure Continued...

Rule 10.330 Impartiality

(a) Generally. A mediator shall maintain impartiality throughout the mediation process. Impartiality means freedom from favoritism or bias in word, action, or appearance, and includes a commitment to assist all parties, as opposed to any one individual.

Buy In

Buy In

- 1) Buy in to the Mediation Process
- 2) Buy in to the Mediator



How did they get here?

- Court Order
- Agreement



How much do they know already?

- Attended Mediation before
- Lawyers prepared them
- Never been



**How to get parties to buy in
to the Mediator?**

What We Say to Get Buy In to Mediator:



Mediator Credentials
Respect
Control
Professionalism
Positive Attitude

**How to get parties to buy in
to the Mediation Process?**

What We Say to Get Buy In to the Mediation

Process
Money, Time, Health Savings
Empower the Parties
Collaborative Process
Opportunity to be Heard
Creative Bargaining
Positive Attitude



Required Content

Rule 10.420

Conduct of Mediation:

Upon commencement of the mediation session, a mediator shall describe:

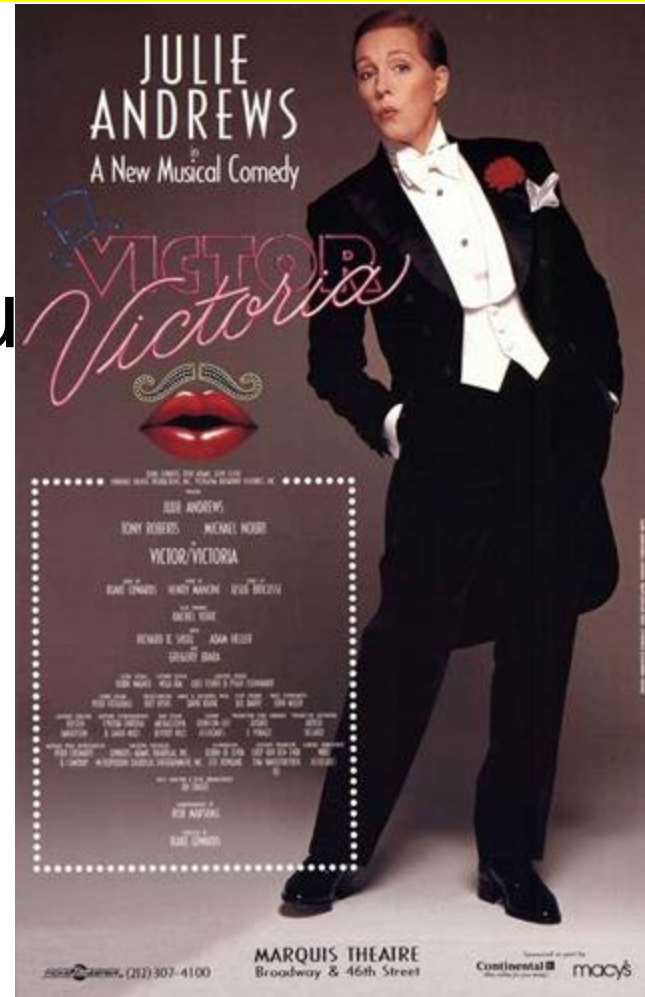
the mediation process and the role of the mediator, and shall inform the mediation participants that:

- 1) Mediation is consensual
- 2) The Mediator is impartial
- 3) Communications are confidential



Remember:

V - Voluntary/Consensual
I – Impartial
C - Confidential



Confidentiality

Compare This

Our discussion today is held strictly confidential.

However, there are exceptions to confidentiality where permitted or required by law. For example, I would not be able to hold confidential a report of child abuse.

In mediation what we talk about is confidential, it's a secret that stays between us in this room. There are some exceptions to this secrecy. For example, if you resolve this case and sign an agreement today the judge or even your family members may see the agreement.

Trading Words:



Impartial =

Facilitator =

Consensual =

Caucus =

Trading Words:



Impartial =
Not taking sides

Facilitator =
Helping you talk

Consensual =
Voluntary

Caucus =
Talk Privately

Important Content

Important Content



Explanation of Caucus
Mediator ≠ legal advisor
Expectations of Time
Call to Compromise
Destroying Notes
Creating Agreement

Getting Started



Getting Started:

Ground Rules
Note Taking
Respect
Speaking Order

Consider the Content of this Opening Statement

Remember the Elements:

Greeting,
Buy In,
Required Content,
Important Content,
Getting Started



Did the Mediators cover:

- Greeting
 - Disclosure
- Buy In
- Required Content
 - Voluntary
 - Impartial
 - Confidential
 - Role and Process
- Important Content
- Getting Started



Consider the Content of this Opening Statement

Remember the Elements:

Greeting,
Buy In,
Required Content,
Important Content,
Getting Started



Did the Mediator cover:

- Greeting
 - Disclosure
- Buy In
- Required Content
 - Voluntary
 - Impartial
 - Confidential
 - Role and Process
- Important Content
- Getting Started



The Non-Verbal Element

Note the Non-Verbal actions of the Realtor



The Break-Up

What the Realtor did well:

- Used silence
- Calming voice
- Eye Contact
- Sitting Forward/Leaning in
- Dressed Professionally
- Maintained Composure



The Break-Up

Full Review

Content AND Non-verbal Elements of This Opening Statement

Remember the Elements:

Greeting,
Buy In,
Required Content,
Important Content,
Getting Started



Review of Main Objectives:

- 1) Stuck w/ First Impressions
- 2) Presentation
 - a) Keep it Relevant
 - b) Use simple words
- 3) Required Content
 - i) Disclosure
 - ii) Buy In
 - iii) VIC
 - iv) Role and Process
- 4) Non-Verbal
 - a) Eye Contact
 - b) Calming Tone
 - c) Positive Attitude



A Great Opening to a Win-Win Process



Baby Driver



**New Movie
Recommendation**

