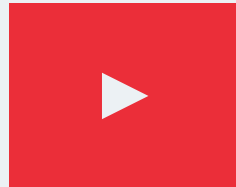




Oral advocacy skills for tribunal hearings

Provincial Advocates
Training Conference 2021



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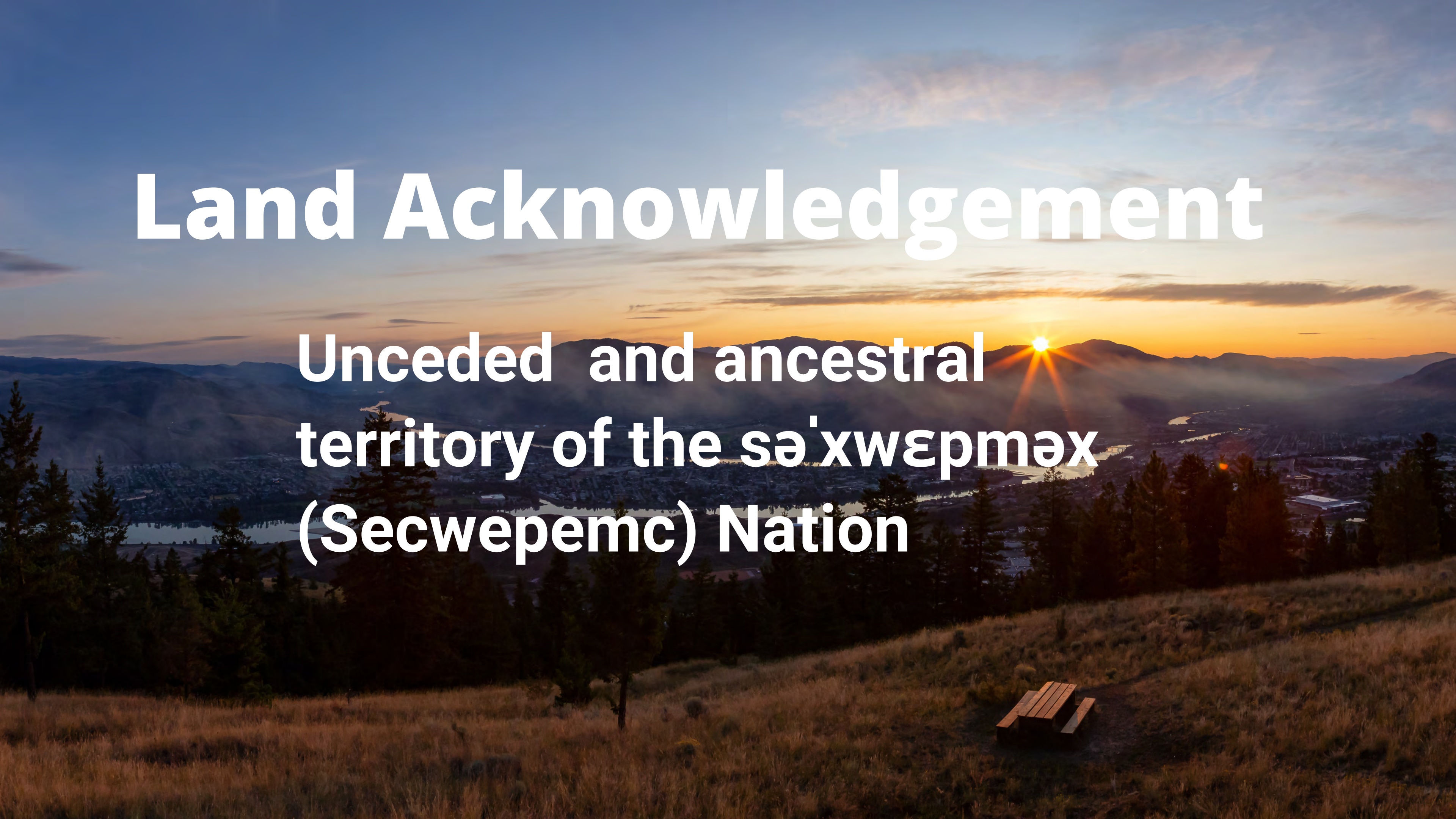


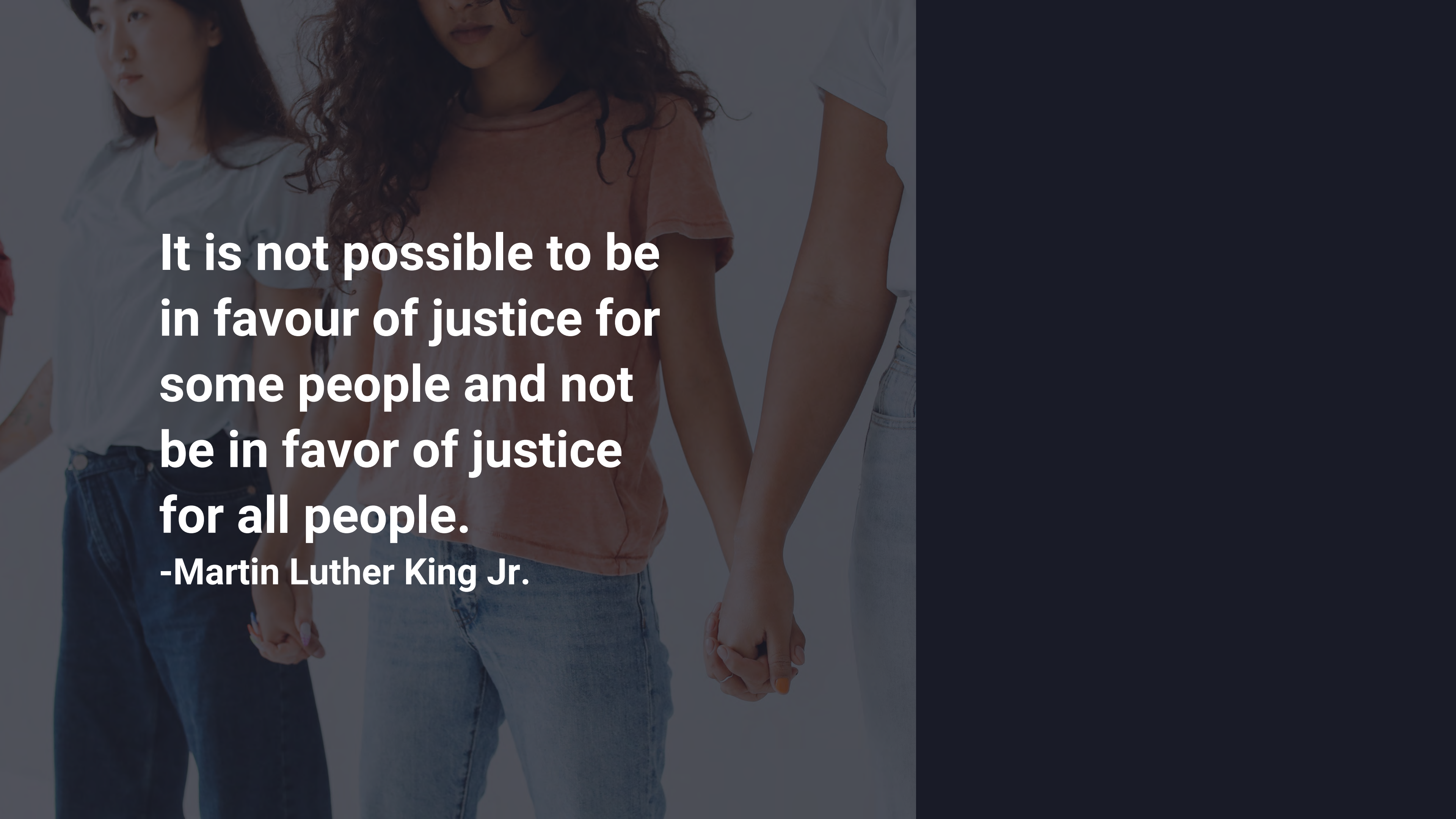
Oral Advocacy

BY: ODETTE DEMPSEY-CAPUTO
ELIZABETH FRY LEGAL CLINIC

Land Acknowledgement

Unceded and ancestral
territory of the sə'xwεpməx
(Secwepemc) Nation



A photograph of a group of people holding hands in a solidarity gesture. The image is dimmed and serves as a background for the text. The people are wearing casual clothing like t-shirts and jeans. The text is overlaid on the left side of the image.

**It is not possible to be
in favour of justice for
some people and not
be in favor of justice
for all people.**

-Martin Luther King Jr.



THE NUMBER 1 RULE

PREPARE

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Ask these questions:



1. What does **the client** want to **achieve**?
2. What are **you** hoping to **achieve** at the hearing?
3. What are the **key issues**?
4. What is the **law** that applies?
5. What are your key **legal principles** or legal arguments?
6. What key points do you need **to prove**?
7. Do you have the **evidence** to prove each of these points?
8. What is the **theory** of your case?

Boe Peep has a dog named Buzz that likes to bark. Her downstairs neighbour Toi Story has complained about Buzz barking to Isabelle's landlord Andy. Boe Peep was just handed a one month eviction notice. Boe Peep wants to have use of the whole backyard. She use to have the whole backyard but Andy spilt it in half when Toi Story moved in.





**What does the client
want to achieve?**

**What are you hoping
to achieve at the
hearing?**

Boe Peep has a dog named Buzz that likes to bark. Her downstairs neighbour Toi Story has complained about Buzz barking to Isabelle's landlord Andy. Boe Peep was just handed a one month eviction notice. Boe Peep wants to have use of the whole backyard. She use to have the whole backyard but Andy split it in half when Toi Story moved in.



A red pushpin is pinned to a piece of white graph paper. The word "PRIORITIZE" is written in bold, black, uppercase letters on the graph paper. The paper is placed on a wooden surface.

PRIORITIZE

What are the Key issues?

- **weakest**
- **strongest**

Boe Peep was just handed a one month eviction notice. Boe Peep wants to have use of the whole backyard. She use to have the whole backyard but Andy split it in half when Toi Story moved in. Boe Peep yells at Toi Story whenever she is in the backyard. Boe Peep has also taken videos of Toi Story in the backyard.

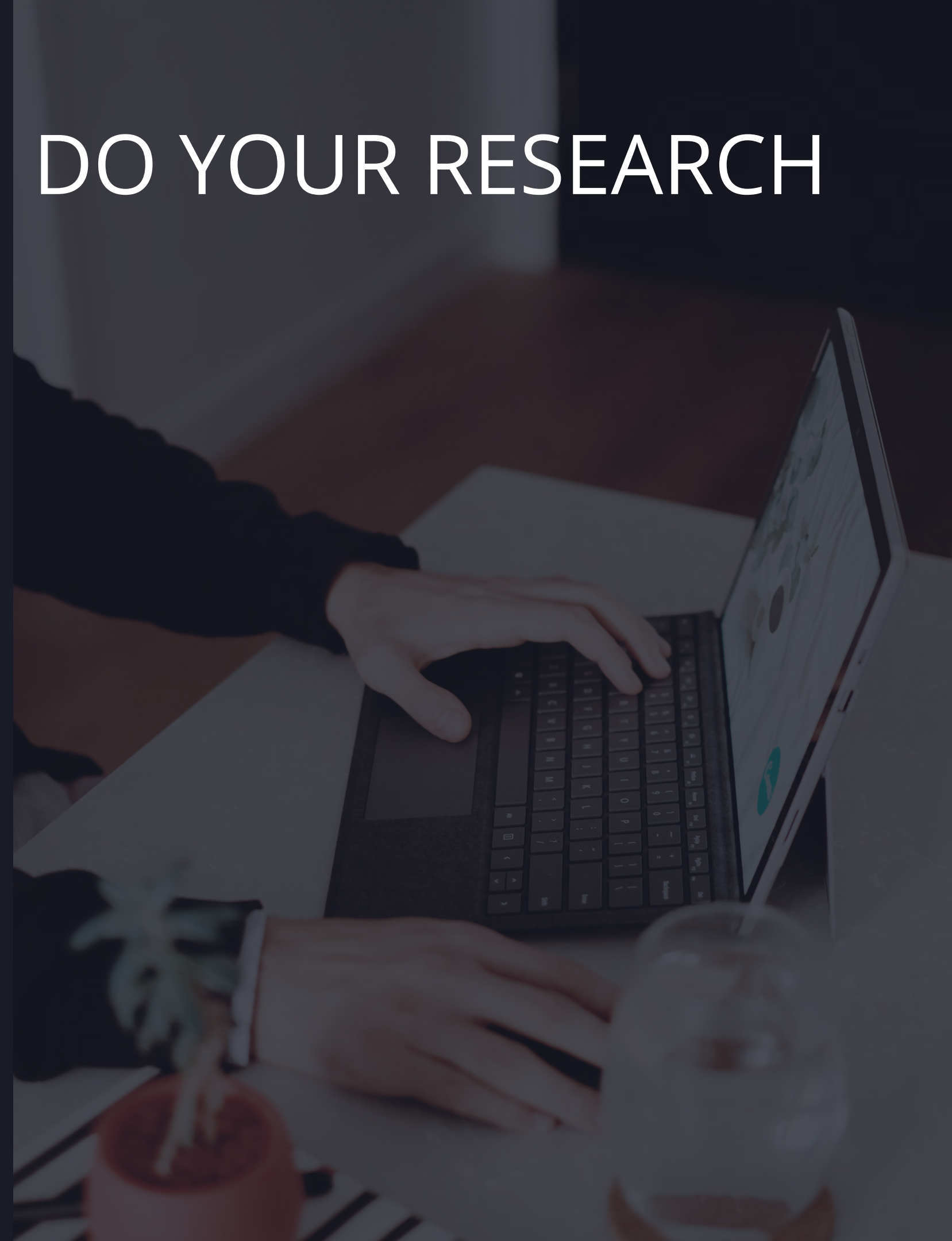


What is the law that applies?

- Statutes
- Case Law/Tribunal Decisions

What are your key legal principles or legal arguments?

DO YOUR RESEARCH





What **key points** do you need to prove?

- Write in a chart put evidence next to each point.

Do you have the **evidence** to prove each of these points?

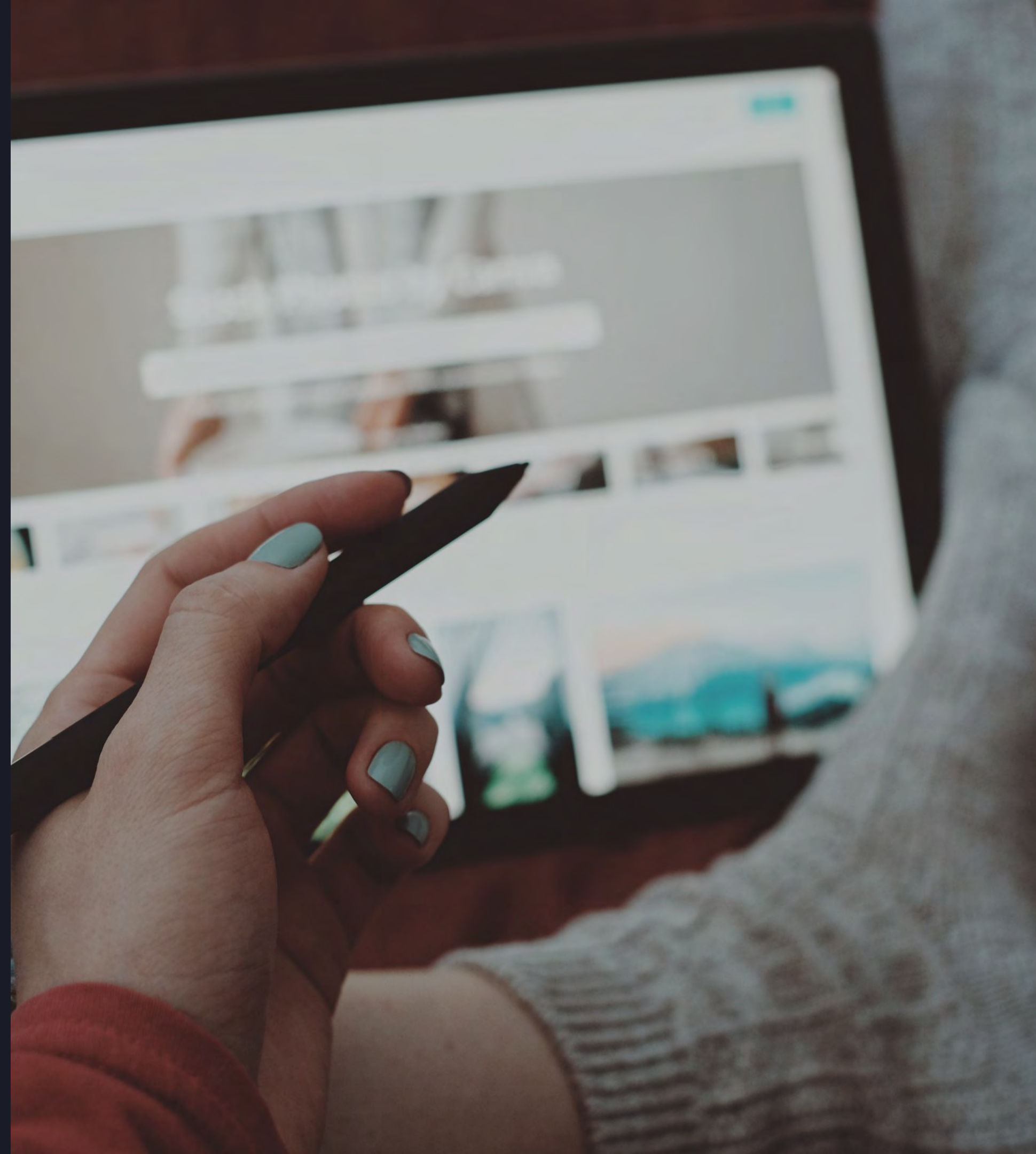
- Evidence comes in all kinds of different forms: photos, videos, letters/emails, text messages et c.
- Check how to upload it, serve it et c.

What is the **theory** of your case?

Detailed and accurate story of what occurred

It is how you tell the story of your side of the matter

Should be a single paragraph that sets out specific facts and the legal principles in a way as to justify the outcome you want



A good case theory:

must be:

- logical
- simple
- plausible
- understandable

accord with
common
sense.

framework for
the facts

address the legal
elements of the
claim



Boe Peep was just handed a one month eviction notice. Boe Peep wants to have use of the whole backyard. She use to have the whole backyard but Andy split it in half when Toi Story moved in. Boe Peep yells at Toi Story whenever she is in the backyard. Boe Peep has also taken videos of Toi Story in the backyard.



Theme

- moral of the story,
- motivates the the decision maker to action
- shows why the desired result deserved and necessary
- sets the tone for your client's case

Organize Your documents :

- in a helpful way
- list your documents
- number your pages
- make it easy for the decision maker (Keep it simple)



Prepare your case

Tips:

- Organize in Binders
- Practice with client
- Prepare all of your witnesses
 - place
 - how attend
 - exclusion
 - duty to tell truth
 - what to call decision maker
 - ask cross examination questions too



01

QUESTIONS FOR YOUR
WITNESSES/CLIENT



02

CROSS EXAMINATION
QUESTIONS FOR THE OTHER
SIDES WITNESSES



03

YOUR ARGUMENT



Tell client and witnesses

Answer what is asked

Slow down

DO NOT get angry

Tell the truth

You can say I don't know

Write out your argument:

- Use headings
- Use numbered paragraphs and pages
- Use spaces
- Simple is best
- Summarize at the beginning
- Start Strong, End Strong
- Personalize your client depersonalize the other side
- State a point and then elaborate
- Refer to your evidence
- Hole punch on right side of page





SIX BE'S

Be Slow

Be Polite

Be Flexible

Be Positive

Be Concise

Be Yourself

TIPS FOR YOU:

1. **KNOW YOUR CASE** INSIDE AND OUT
2. **GIVE TIME** TO THE DECISION MAKER
3. DO NOT INTERRUPT
4. **WATCH** THE DECISION MAKER
5. DO NOT RESPOND TO PERSONAL ATTACKS
6. **ANSWER** QUESTIONS ASKED



A woman with long brown hair, wearing a light blue top, is shown in profile, holding a small purple flower to her nose and inhaling. She is surrounded by a dense field of similar purple flowers. The image has a dark, moody overlay.

BREATHE!

ALWAYS REMEMBER THIS

SCENARIO 1

Rex works as a nurse at Pix Sell Hospital. He is a perfectionist and is often very anxious. Rex's doctor diagnosed Rex with high functioning anxiety and advise him he should take time off work. Rex did not want to take time off work. One day Rex yelled at a patient. When Rex was called into a meeting with management he told them that he has high functioning anxiety and his doctor told him to take time off. They then reduced his workload and eventually let him go.

SCENARIO 2

Rita book rents a unit in an apartment building. She struggles to walk as she has severe arthritis. Her daughter Ann Teak often gets Rita her groceries and drops them off. Ann Teak has a temper and has yelled at the other tenants many times. The other tenants are scared of Ann Teak and have complained to the Landlord. The Landlord issued a one month notice to end tenancy. Rita Book is devastated she will never be able to find a place with as cheap of rent. She had no idea the other tenants were scared of Ann Teak.

SCENARIO 3

Rolly Pipe smokes medical marijuana for her arthritis and severe anxiety. She has lived in the basement suite for 6 years and has smoked marijuana throughout her time there and no one ever complained about her smoking. Recently the landlord, Peter Owt decided he does not want Polly smoking anymore as he has had enough of her second hand smoke. The landlord, Peter Owt has given the Polly Pipe several warnings to stop smoking but the Polly refuses since it does not say in her tenancy agreement that she cannot smoke. Peter Owt recently gave her a one month notice of eviction for smoking in the basement suite.

A silhouette of a person jumping with their arms raised in a 'V' shape, set against a dark, cloudy sky at sunset or sunrise. The person is positioned in the center of the frame, with their arms reaching towards the top corners. The background shows a horizon line with some distant land or hills and a few wispy clouds. The overall mood is one of triumph and achievement.

Remember:

Nothing you do can guarantee you
a win, but
you will have done your best to
advocate for your client

A hand holding a pen, with a blurred background of other people's hands.

Thank you!

Any questions please feel free to contact me at:
odette@kamloopsefry.com or 250-374-2119

Preparing Your Case Plan:

- What does the client want to achieve?
- What are you hoping to achieve at the hearing?
- What are the key issues?
- What is the law that applies?
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Scenario 1

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Scenario 2

Rita Book rents a unit in an apartment building. She struggles to walk as she has severe arthritis. Her daughter Ann Teak often gets Rita her groceries and drops them off. Ann Teak has a temper and has yelled at the other tenants many times. The other tenants are scared of Ann Teak and have complained to the Landlord. The Landlord issued a one month notice to end tenancy. Rita Book is devastated she will never be able to find a place with as cheap of rent. She had no idea the other tenants were scared of Ann Teak.

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