

PRACTICE MAKES PERFECT MOCK HEARINGS AND TRIALS

NMLZO Annual Meeting

Carlsbad, NM

September 12, 2024

GLOSSOPHOBIA

73%

TOP TEN TIPS

- 1. Know your topic**
- 2. Get organized**
- 3. Practice, and then practice some more**
- 4. Challenge specific worries**
- 5. Visualize your success**

TOP TEN TIPS

- 6. Do some deep breathing**
- 7. Focus on your material**
- 8. Don't fear a moment of silence**
- 9. Recognize your success**
- 10. Get support**

SPEAKING IN FRONT OF P&Z OFFICIALS

Do...

- **BE PREPARED**
 - Planning boards & commissions typically have strict time limits, so it is essential that you know your material inside and out.
 - This means arriving before your case comes up on the agenda, writing down your speech, and practicing it out loud to stay within the time limitations.

SPEAKING IN FRONT OF P&Z OFFICIALS

Do...

- **MAKE YOUR PRESENTATION STAND OUT**
 - First impressions matter, so make sure your presentation is visually appealing and easy to follow.
 - Use clear and concise language and avoid jargon.

SPEAKING IN FRONT OF P&Z OFFICIALS

Do...

- **BE RESPECTFUL**
 - Remember that you are addressing a group of appointed/elected officials who are responsible for making important decisions.
 - Be respectful of their time and expertise, and avoid making personal attacks or using inflammatory language.
 - Look the part.

SPEAKING IN FRONT OF P&Z OFFICIALS

Don't...

- **THINK YOU CAN WING IT**
 - Don't think you can show up and speak off the cuff.
 - Make sure you have your points prepared beforehand and that you can deliver them within the allotted time.

SPEAKING IN FRONT OF P&Z OFFICIALS

Don't...

- GO OVER YOUR ALLOTTED TIME**
 - This is a surefire way to annoy the board or commission and jeopardize your chances of success.
 - Practice your speech beforehand to make sure you can deliver it by referencing all of the pertinent details.

SPEAKING IN FRONT OF P&Z OFFICIALS

Don't...

- **BE UNPROFESSIONAL**
 - Leave the room quickly and quietly after the presentation and avoid getting into arguments with other attendees.
 - Remember, you are a professional, and you should act accordingly.

PRESENTING YOUR P&Z PROPOSAL

At-home considerations:

- How it “works” for you and your community is completely up to you and your community
- Overall goal is to be predictable and consistent
 - Same way every time

PRESENTING YOUR P&Z PROPOSAL

At-home considerations:

- Staff report?**
- Visual aids or GIS images?**
- Recommending body or final decision authority?**
- Available options or associated processes?**
- Follow-up or updates?**



SPEAKING IN FRONT OF A METRO* COURT JUDGE

Do's...

- **BE PREPARED**
- **MAKE YOUR
PRESENTATION
STAND OUT**
- **BE RESPECTFUL**

Don't...

- **WING IT**
- **GO OVER YOUR
ALLOTTED TIME**
- **BE
UNPROFESSIONAL**

PURPOSE AND CONTENTS

What is a criminal complaint?

- A formal document filed with the court that requests a specific remedy against a property owner (defendant) and sets out the facts and legal reasons that you, the filing party (plaintiff), believe are sufficient to support your claim of an ordinance violation.

PURPOSE AND CONTENTS

What is a criminal complaint?

It's the end of the line after receiving complaints, conducting site inspections, taking photos, performing research, sending violation notices, calling, emailing, discussing, consulting with your supervisor, explaining what you've already done, explaining what you're going to do next, trying to be patient, playing "good cop", playing "bad cop", acting as a psychiatrist, feeling like an underpaid social worker, and begging, pleading and warning a property owner to take care of their ordinance violation...

COURT - HOUSE

PURPOSE AND CONTENTS

Statutory Authority

The New Mexico judicial system has three levels of authority:

- 1) Courts of limited jurisdiction**
- 2) Courts of general jurisdiction**
- 3) Appellate courts**

PURPOSE AND CONTENTS

Statutory Authority

The New Mexico judicial system has three levels of jurisdiction:

1) Courts of limited jurisdiction

- Trial courts whose jurisdiction has been established by either the NM constitution or legislature
- These courts can only do the things the law gives them the authority to do (**fines/jailtime NOT injunctive relief**)
- Includes municipal, metropolitan, magistrate and probate courts

PURPOSE AND CONTENTS

Statutory Authority

The New Mexico judicial system has three levels of jurisdiction:

2) Courts of general jurisdiction

- Also classified as trial courts
- District courts
- Wide range of authority to hear various types of cases
 - Criminal
 - Civil
 - Probate
 - Family
 - Juvenile

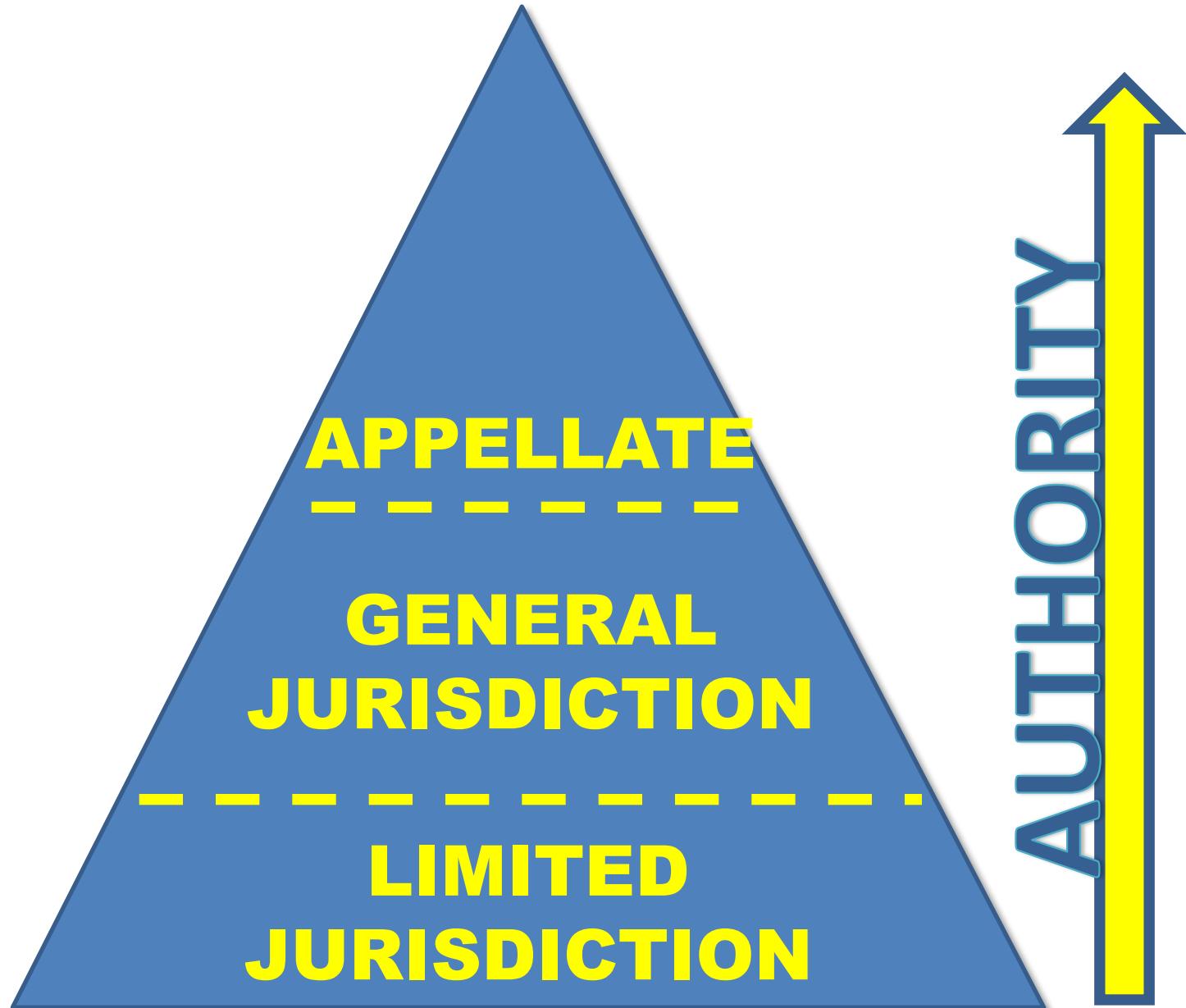
PURPOSE AND CONTENTS

Statutory Authority

The New Mexico judicial system has three levels of jurisdiction:

3) Appellate courts

- Do not preside over trials; hear appeals of decisions from the courts below them**
- They review of the lower court proceedings to ensure the law was properly followed**
- No testimony from witnesses/no new information can be presented**
- Court of Appeals and NM Supreme Court**



PURPOSE AND CONTENTS

RULES OF CRIMINAL PROCEDURES FOR THE METROPOLITAN* COURTS

- A. Scope.** These rules shall govern the procedure in all metropolitan courts.
- B. Construction.** These rules shall be liberally construed to secure the just, speedy and inexpensive determination of every metropolitan court action. They shall not be construed to extend or limit the jurisdiction of any court, or to abridge, enlarge or modify the substantive rights of any litigant.
- C. Title.** These rules shall be known as the Rules of Criminal Procedure for the Metropolitan Courts.
- D. Citation form.** These rules shall be cited by set and rule numbers, as in NMRA, Rule 7 - ____.

PURPOSE AND CONTENTS

KEY COMPONENTS TO CRIMINAL COMPLAINT

- Misdemeanor/ordinance offenses
- The term “criminal” does not cast aspersions or unjustly designate a property owner as a felonious individual or as automatically guilty of the allegations against them
 - It’s simply the name of the process
 - Similar to an officer issuing a speeding ticket
 - “You are accused of violating the law”

PURPOSE AND CONTENTS

KEY COMPONENTS TO A CRIMINAL COMPLAINT

- Different than a **citation****
 - May be a method of service for an ordinance violation in your community; maybe not**
 - A **citation** involves immediate delivery**
 - A criminal complaint is mailed out by court**

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
CITY OF ALBUQUERQUE

CITATION FOR ORDINANCE VIOLATION

CZ 22802

VS.

LAST

FIRST

M.I.

, Defendant

PRESENT HOME ADDRESS			PHONE					
PLACE OF EMPLOYMENT			PHONE					
SEX	RACE	D.O.B.	AGE	HEIGHT	WEIGHT	SSN #	DL #	
<input type="checkbox"/> 7-5-3		Illegal display and / or sales of motor vehicles				<input type="checkbox"/> 9-8-5	Owner to maintain property free of weeds over 4 inches	
<input type="checkbox"/> 13-3-1-3		Vending / solicitation without the required permits or business registration				<input type="checkbox"/> 9-8-8	Merchant to maintain sidewalk and parking lot free of litter	
<input type="checkbox"/> 13-3-1-7		Vending / solicitation at a prohibited location, including public right of way				<input type="checkbox"/> 9-8-11	Truck loads causing litter prohibited	
<input type="checkbox"/> 14-16-2-16(A)		Outside activity and / or vending prohibited in a C-1 zone				<input type="checkbox"/> 9-8-20	Posting notice prohibited in / on public right of way	
<input type="checkbox"/> 14-16-2-6(A)(2)(g)6		Outside storage prohibited				<input type="checkbox"/> 9-8-21	Litter on occupied private property prohibited	
<input type="checkbox"/> 14-16-3-10(D)(3)		Landscaping required to be maintained				<input type="checkbox"/> 9-8-22	Owner to maintain property free of litter	
<input type="checkbox"/> 14-16-3-5(A)(1)		Sign permit required				<input type="checkbox"/> 9-8-23	Litter on vacant lots prohibited	
<input type="checkbox"/> 14-16-1-3		Auto repair in a residential zone prohibited				<input type="checkbox"/> Other:		
<input type="checkbox"/> 14-16-2-25(B)(6)		Outdoor sales/activity in the Historic Zone (H-1) prohibited				<input type="checkbox"/> Other:		

ESSENTIAL FACTS:

On the _____ day of _____, 20____, the above named person did unlawfully violate the Code of Ordinances for the City of Albuquerque, specified above, at the following location within the City of Albuquerque:

ADDRESS OF VIOLATION

NOTICE TO APPEAR

I agree to appear in Metropolitan Court, 401 Lomas Blvd NW, Albuquerque, NM during office hours within five (5) days of the date of issuance (Phone 841-8151).

X

SIGNATURE OF PERSON RECEIVING CITATION

THE UNDERSIGNED COMPLAINANT HAS REASONABLE GROUNDS TO BELIEVE THAT THE PERSON NAMED ABOVE HAS COMMITTED THE OFFENSE(S) INDICATED:

X
OFFICER'S NAME SIGNED

PRINTED

MAN NUMBER

DATE AND TIME ISSUED

COURT - VIOLATION

PURPOSE AND CONTENTS

KEY COMPONENTS TO A CRIMINAL COMPLAINT

- A criminal complaint is the official document of the action and serves to initiate the associated criminal proceedings**
- Its overall purpose is to notify the defendant of the charges leveled against them and to advise them of the methods available to respond to the charges**

PURPOSE AND CONTENTS

KEY COMPONENTS TO A CRIMINAL COMPLAINT

- The complaint must contain sufficient information to alert the defendant that you are accusing them of being in violation of a criminal ordinance of your municipality (state statute has requirements for local governments to establish criminal ordinances)**
- Because of these standards, the complaint must contain a recitation of the facts of the given controversy and a reference to the specific ordinance the defendant is alleged to have violated**

PURPOSE AND CONTENTS

MAKING THE SAUSAGE

The complaint must meet the following requirements:

- **Be submitted on a form approved by the NM S-Court**
- **Be signed by the accuser**
- **List the common name of the offense charged**



9-201. Criminal complaint.

[For use with District Court Rule 5-201 NMRA,
Magistrate Court Rule 6-201 NMRA,
Metropolitan Court Rule 7-201 NMRA and
Municipal Court Rule 8-201 NMRA]

STATE OF NEW MEXICO
[COUNTY OF _____]
[CITY OF _____]
_____ COURT

[STATE OF NEW MEXICO]
[COUNTY OF _____]
[CITY OF _____]

v. No. _____

_____, Defendant.

CRIMINAL COMPLAINT

CRIME: _____
(common name of offense or offenses)

The undersigned, under penalty of perjury, complains and says that on or about the
_____ day of _____, _____, in the County of
_____, State of New Mexico, the above-named defendant(s) did:

(here state the essential facts)
contrary to Sections(s) _____

_____[NMSA 1978] (set forth
applicable section number of New Mexico statute, municipal code, or ordinance, and date of
adoption).

**I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FACTS SET
FORTH ABOVE ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I
UNDERSTAND THAT IT IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF
IMPRISONMENT TO MAKE A FALSE STATEMENT IN A CRIMINAL COMPLAINT.**

Complainant

STATE OF NEW MEXICO
- VS -

ARTICLE 2
INITIATION OF PROCEEDINGS
**STATE OF NEW MEXICO
COUNTY OF BERNALILLO
THE METROPOLITAN COURT**

Name: _____

Arrest Date: _____

Address: _____

Driver Lic. #: _____

DOB:

Arrest #: _____

S.S.N.:

Docket #: _____

Charge: _____

Dated Filed: _____

Complainant or Officer: _____ Man #: _____
(Print Name)

CRIMINAL COMPLAINT

The undersigned, under penalty of perjury, complains and says that on or about the _____ day of _____
20_____, in the County of Bernalillo, State of New Mexico, the above-named defendant(s) did (here state the essential facts):

contrary to Section(s) _____ NMSA 1978

I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FACTS SET FORTH ABOVE ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I UNDERSTAND THAT IT IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT IN A CRIMINAL COMPLAINT.

Approved _____

Complainant _____

**DISTRICT ATTORNEY OR LAW ENFORCEMENT
OFFICER**

Title (if any)

Agency _____

This complaint may not be filed without the prior payment of a filing fee, unless approved by the District Attorney or a law enforcement officer authorized to serve an Arrest or Search Warrant. Approval of the District Attorney or a law enforcement officer is not otherwise required.

PURPOSE AND CONTENTS

MAKING THE SAUSAGE

- **Should** include the name of the individual accused of violating the code/ordinance
 - **Property owner, tenant, specific individual 'caught in the act', etc.**
 - **However, if the defendant's name if not known, they may be described by any name or description by which such defendant can be identified with reasonable certainty**



PURPOSE AND CONTENTS

MAKING THE SAUSAGE

Must also meet the following standards:

- A separate complaint is required for EACH PERSON charged with an offense; Rule 7-107.C.(1) allows a husband and wife to be treated as one defendant*
- Actions associated with enforcement of any ordinance of a municipality are to be brought in the name of the municipality as the plaintiff and filed in the municipal court of jurisdiction
- Complaints must show probable cause with sufficient facts (reasonable belief that based on the facts presented the accused committed an offense)

PURPOSE AND CONTENTS

MAKING THE SAUSAGE

Other factors

- Multiple offenses may be charged in the same criminal complaint
- A criminal complaint shall not be deemed invalid as a result of defects, errors or imperfections
 - Date, location, time of the offense, section numbers, etc.
 - The Court may amend a criminal complaint, and may do so at any time prior to entering a verdict
 - The Court CANNOT amend a complaint to add charges or charge a different offense

PURPOSE AND CONTENTS

MAKING THE SAUSAGE

Contents of a citation

- Must be on an approved form and must contain
 - Name of person cited
 - Address of cited person
 - Specific offense charged
 - Specific section of the ordinance violated
 - Time and place for person cited to appear
(*usually* 3 days after issuance)



WHO CAN FILE?

RULE 7-108. NON-ATTORNEY PROSECUTIONS

- Certified law enforcement officers
- Governmental entity (a.k.a., employee of the governmental entity authorized to do so)
 - Zoning officials
 - Game wardens/animal welfare officers
 - Floodplain administrators
 - Building officials
 - Public health officials
- The case is brought in the name of the municipality with the specific individual listed as the complainant (signed)

KNOW YOUR AUDIENCE

FEDERAL STANDARDS

Plain Writing Act of 2010

- Seeks to enhance citizen access to government information and services
- Not “dumbing it down” but tailoring the message to the intended audience

1. Write for your audience
2. Focus on what users want to know
3. Guide them through the information

KNOW YOUR AUDIENCE

PLAIN WRITING ACT OF 2010

1. Write for your audience

- Use language your audience understands / feels comfortable with
- Take your audience's current level of knowledge into account
- Know the expertise and interest of your average reader and write to that person

KNOW YOUR AUDIENCE

PLAIN WRITING ACT OF 2010

2. Focus on what users want to know

- People typically want to know only what applies to them
 - Hold someone's attention
 - Put yourself in their shoes
- Tell your audience why the material is important to them

KNOW YOUR AUDIENCE

PLAIN WRITING ACT OF 2010

3. Guide them through the information

- What do they need to know?
- What questions can I anticipate they will have?
- What's my desired outcome for this situation?
What do I need to write to get this outcome?

KNOW YOUR AUDIENCE

JUDGE AND CLERK

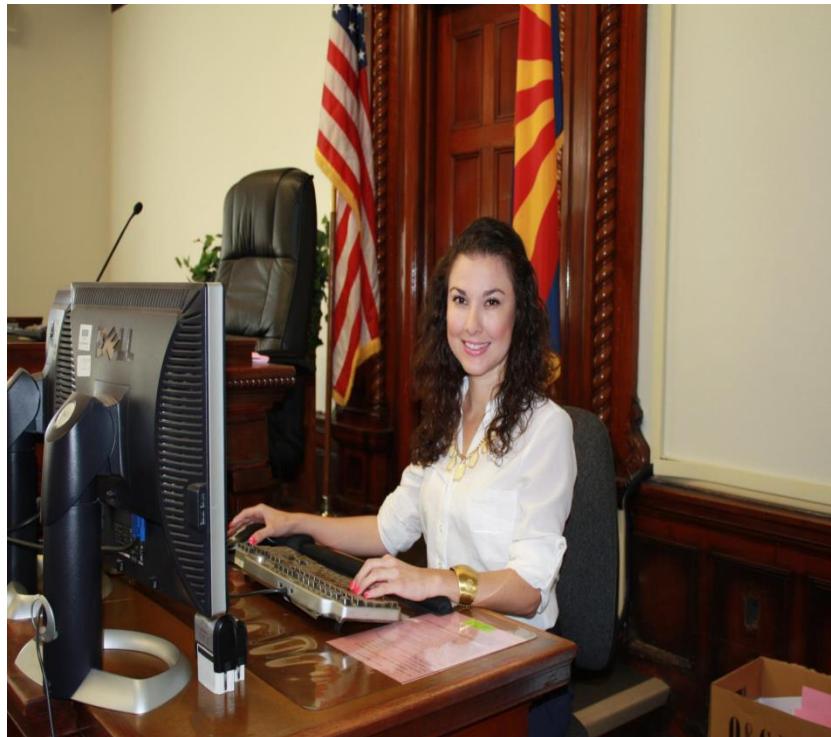
Judge

- Elected official (4-year term)**
- Must be registered to vote within the jurisdiction**
- Reside within the jurisdiction for at least 30 days prior to election**
- US citizen**
- At least 18 years of age**
- DO NOT HAVE TO BE AN ATTORNEY**



KNOW YOUR AUDIENCE

JUDGE AND CLERK



Clerk

- Qualifications are determined by the court or municipality's personnel rules (honest, reliable, and motivated)**
- Responsible for the administrative and clerical functions of the court, including the supervision of the processing of all paperwork in the court and the establishment of office procedures**

KNOW YOUR AUDIENCE

HOW DO YOU
APPROPRIATELY
WRITE YOUR
COMPLAINT?



KNOW YOUR AUDIENCE

HOW DO YOU APPROPRIATELY WRITE YOUR COMPLAINT?

- **Educate the judge by using descriptive language of the violations you noted**
- **Give enough details for a reasonable person to determine if the facts you've presented are found to be true, the defendant may be found guilty (probable cause)**
- **Avoid conclusory statements or assertions without evidence**
 - **“I’ve worked for the city for 6 years and when I saw this dump of a property, I knew it was in violation of the ordinance.”**



I observed a red 2-door Toyota MR2 parked in the NW corner of the property. The front windshield of the car was smashed and the other windows were missing. There were various automobile parts inside the vehicle, including a black oil pan, 2 brake pads, and what appeared to be an engine block on the rear seat. Additionally, there were 3 tire rims on the ground next to the right rear tire.







During my inspection, I observed 2 black leather recliners – one of which was missing the backrest cushion – a beige, 3-cushion couch with large pillows, and various pieces of wood shelving and sections of trim in the driveway of the property.

KNOW YOUR AUDIENCE

YOUR TURN....





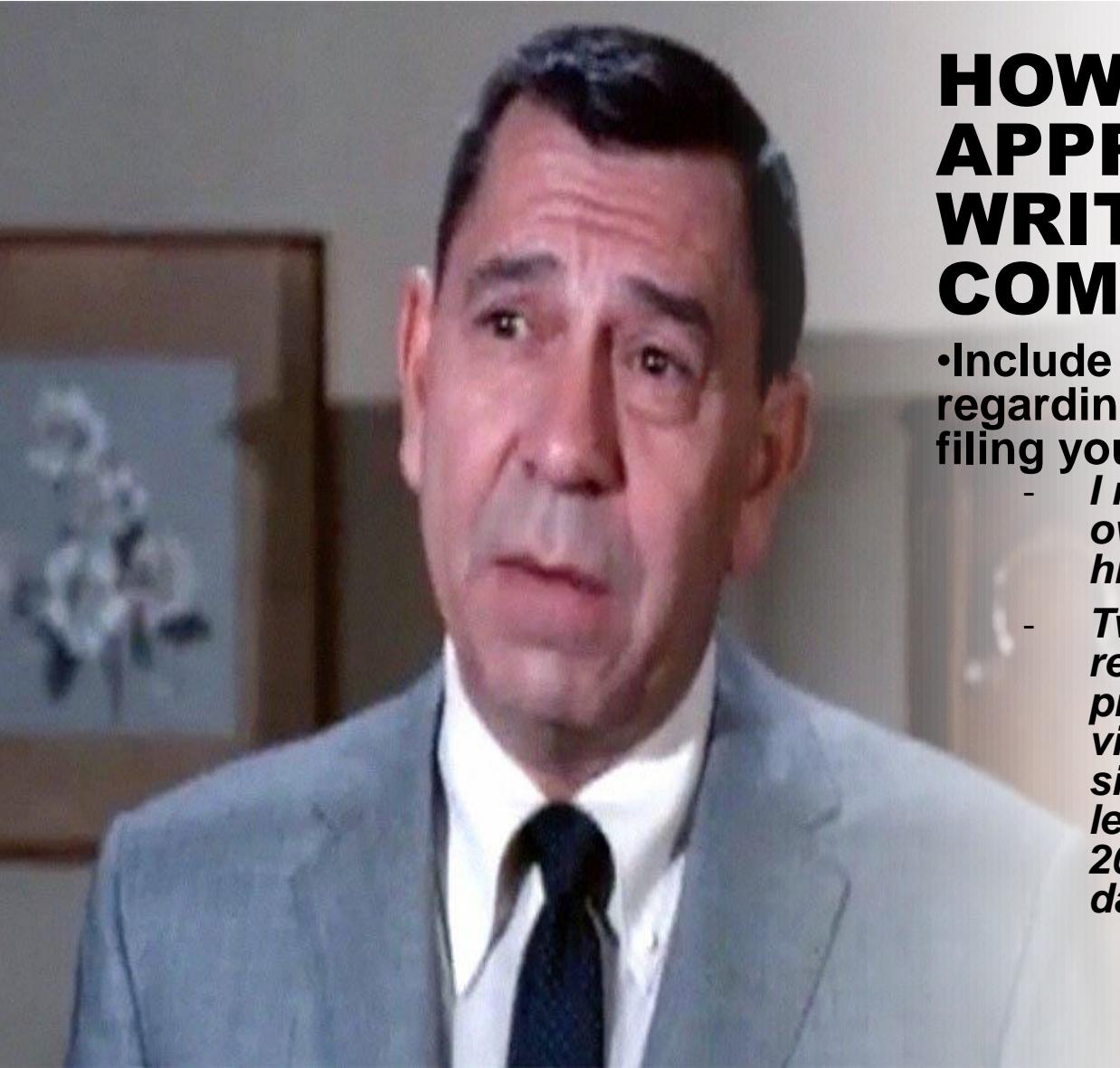


KNOW YOUR AUDIENCE

HOW DO YOU APPROPRIATELY WRITE YOUR COMPLAINT?

- Don't exaggerate, lie, stretch the truth or fib
 - You are providing a sworn statement to the court

KNOW YOUR AUDIENCE



HOW DO YOU APPROPRIATELY WRITE YOUR COMPLAINT?

- Include pertinent details regarding your efforts prior to filing your criminal complaint
 - *I met with the property owner on March 26, 2022, at his home.*
 - *Two letters were sent to the registered owner of the property outlining the violations I noted during my site inspections. The first letter was dated June 6, 2022, and the second was dated July 22, 2022.*

KNOW YOUR AUDIENCE

HOW DO YOU APPROPRIATELY WRITE YOUR COMPLAINT?

- Have someone proofread your complaint before submitting it to court**
- Find someone who does it better than you**
 - Copy their formatting and/or phrasing**
- Use the tech tools provided (Word, etc.) and/or utilize a dictionary/thesaurus**
- Wait a day or two after writing up the complaint and review/re-read it with a fresh set of eyes**

KNOW YOUR AUDIENCE

HOW DO YOU APPROPRIATELY WRITE YOUR COMPLAINT?

- If a criminal complaint is poorly written and doesn't provide sufficient details and facts to establish probable cause, the complaint will be dismissed. The Rules allow the judge this discretion.**



GETTING THE BALL ROLLING

CRIMINAL ACTIONS

- A court proceeding involving a person charged with committing a crime**
- Petty misdemeanors, including:**
 - Traffic offenses**
 - DWI offenses**
 - Code enforcement violations**
 - Animal-related violations, or**
 - Violations of a municipal ordinance that provide for criminal punishment**



GETTING THE BALL ROLLING

CRIMINAL ACTIONS

- The municipality brings a criminal action against the person charged with committing a crime
- A petty misdemeanor may be prosecuted in municipal court if it is punishable by:
 1. Imprisonment in jail for 90 days or less, and/or
 2. Payment of a fine up to \$500

**NO INJUNCTIVE RELIEF
OPTIONS AVAILABLE**

GETTING THE BALL ROLLING

FILING THE COMPLAINT

- Must be a signed statement charging a person with violating a municipal ordinance**
- Contains the facts of the violation, the common name of the offense that is charged, and the specific section number of the ordinance that was violated**

GETTING THE BALL ROLLING

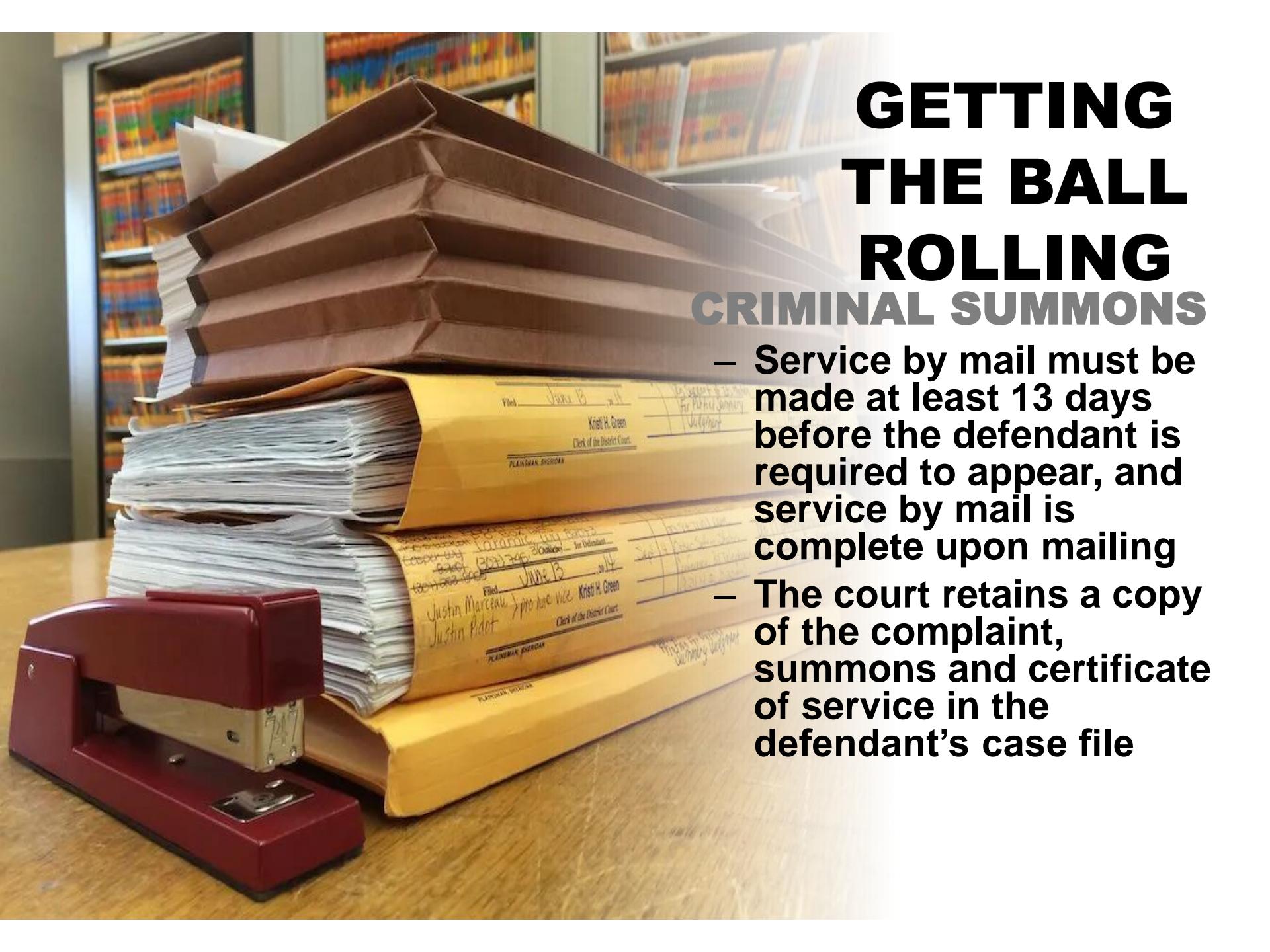
CASE FILE / RECEIPT OF THE COMPLAINT

- The zoning official submits the criminal complaint to the court
- The clerk creates a case file for the document
- It is common practice for courts to file stamp (stamp the date and possibly time) on the complaint and other documents filed with the court in reference to the case.
- Each complaint will receive a distinct docket number

GETTING THE BALL ROLLING

CRIMINAL SUMMONS

- Court clerk prepares a criminal summons for the alleged criminal actions and orders the defendant to appear before the judge at a stated time and place**
- Service is made by mail (unless the court directs by local rule that personal service be made) and the summons and complaint are served together**



GETTING THE BALL ROLLING CRIMINAL SUMMONS

- Service by mail must be made at least 13 days before the defendant is required to appear, and service by mail is complete upon mailing
- The court retains a copy of the complaint, summons and certificate of service in the defendant's case file

GETTING THE BALL ROLLING

ARRAIGNMENT

- The arraignment is the proceeding at which the defendant is brought before the judge for the first time in response to a criminal summons
 - An arraignment may be waived if the defendant files a written plea of not guilty
- At the arraignment, the judge must inform the defendant of all the following:
 - The offense(s) charged
 - The maximum penalty provided by law
 - The right to see, hear, question and cross-examine the witnesses who testify against the defendant at the trial

GETTING THE BALL ROLLING

ARRAIGNMENT

- At the arraignment, the judge must inform the defendant of all the following:
 - The right to call witnesses to testify for the defense
 - The right to the assistance of counsel at every stage of the proceedings
 - The right to representation by an attorney at the court's expense, if the defendant qualifies
 - The right to remain silent and that their statements made may be used against them
 - The right to testify at trial
 - If this right is exercised, the defendant is subject to cross-examination

GETTING THE BALL ROLLING

ARRAIGNMENT

Entry of Plea

- The defendant is required to plead to the complaint after receiving the explanation of rights and an opportunity to consult with counsel
 - If the defendant refuses to plead or stands mute, the judge enters a plea of not guilty for the defendant
- Their plea must be one of the following:
 1. Not guilty
 2. Not guilty by reason of insanity
 3. *Nolo contendere* (no contest)
 4. Guilty

GETTING THE BALL ROLLING

ARRAIGNMENT

Entry of Plea

Not Guilty

- Case is set for trial as soon as possible
- At any point in the proceedings, the defendant may request to withdraw a not guilty plea and enter a guilty plea or a *nolo contendere* plea

Not Guilty by reason of insanity/incompetency

- Judge must transfer the defendant/case to district court





GETTING THE BALL ROLLING ARRAIGNMENT

Entry of Plea

Nolo contendere (no contest)

- Same effect as a guilty plea; judge ensures the defendant understands the associated consequences (fines/jail time possible)
- Defendant admits there is a factual basis for the guilty plea

Guilty

- Defendant admits they are culpable of the allegations against them
- Judge confirms that this admission is of the defendant's own free will, with a full understanding of all rights and possible consequences

GETTING THE BALL ROLLING

SCHEDULING OF TRIAL – NOT GUILTY PLEA

- Court clerk schedules the trial date
- Includes pertinent information:
 - Date
 - Time
 - Type of hearing
 - Docket number
 - Names of plaintiff and defendant
- The most common form of calendaring cases is a “trailing docket”
 - All cases are set for trial at the same time
 - Court determines the order in which they are heard

GETTING THE BALL ROLLING

SCEDULING OF TRIAL – NOT GUILTY PLEA

- Court clerk sends notice of trial to all parties involved (mail, fax, email)
- Trials are required to be scheduled as soon as possible
 - “Six-month rule”
 - Cases pending for more than 6 months from the date of filing of complaint must be dismissed with prejudice
 - Delays caused by the defendant pause the clock
- Clerk must also send copies of all notices/orders issued by the court, or any action taken by the court, to all parties involved

A close-up photograph of a man with grey hair, wearing a dark suit and white shirt. He is resting his head on his right hand, with his fingers partially hidden in his pocket. He has a weary, stressed, or thoughtful expression. The background is dark and out of focus.

**WHAT HAPPENS
IF A PLEA OF
GUILTY OR *NOLO
CONTENDERE* IS
ENTERED?**

**WHAT
HAPPENS TO
YOUR
COMPLAINT?**

GETTING THE BALL ROLLING

DISMISSAL TYPES

- With prejudice**
 - The dismissed offense may not be charged again in any court**
- Without prejudice**
 - Dismissal of the offense does not prevent the prosecution from charging the defendant again with the same offense**
 - Prosecution is free to bring another action in the future**

GETTING THE BALL ROLLING

DISMISSAL TYPES

- **Voluntary**
 - Prosecution may file a notice of dismissal at any time before trial
 - Dismissal is without prejudice unless otherwise stated
 - Judge must sign the notice of dismissal
 - The original is filed with the court; the prosecution is responsible for serving the notice of dismissal to the defendant
 - A specific count or charge in the complaint may be dismissed without dismissing the entire complaint

GETTING THE BALL ROLLING

DISMISSAL TYPES

- Failure to prosecute**
 - Violation of the “6-month rule”**
 - Judge must dismiss a compliant if:**
 - The complaint has been pending for more than 6 months after filing**
 - The defendant is not responsible for the delays**
 - Charges are dismissed with prejudice**

DISCOVERING DISCOVERY

DISCOVERY

- The process where the parties exchange information that will be used at trial
- Purpose is to provide full disclosure; no surprises at trial

DISCOVERING DISCOVERY

DISCOVERY

- Prosecution and defense must disclose and make available for inspection and copying any records, papers, documents or other tangible evidence (including witness lists) in its possession, custody and control that is intended for use at trial
- Failure to comply with the discovery rule, the court may take any of the following actions:
 - Order the party to disclose the information
 - Grant a continuance
 - Prohibit the party from calling an undisclosed witness or introducing undisclosed evidence at the trial
 - Hold the offending party in contempt of court

