

WHAT PROBATE
JUDGES NEED, WANT,
AND



Judge
Mary
Thornton
House,
Ret.





OBJECTIVES

- Give Insight into How Judges Think
- Give Guidance in Meeting the Needs and Wants of Judges
- Provide Guidance for Enhancing Attorney & Fiduciary Communications
- Ask/Answer Questions Throughout, Please!





TRUTH IN
FICTION

“EVERY CHARACTER DEFECT A
PERSON HAS IS INTENSIFIED
ONCE THEY BECOME A JUDGE.”

Scott Turow, The Laws of Our Fathers

Over-arching
Duty of a
Judge:
Decide and
Record

Lawyers present
evidence, advocate
and argue law/facts

Judges make rulings
and decisions plus
maintain a proper
record.

A TYPICAL JUDGE

- INTROVERTED
- REALISTIC AND PRACTICAL
- PREFERS LOGICAL THINKING AND OBJECTIVITY
- DESIRES CONTROL AND AN ORDERED LIFE



“SCIENTIFIC BASIS”

- MYERS-BRIGGS PERSONALITY TYPE INDICATOR
- “MBTI”
- OVER 2500 JUDGES TESTED NATIONWIDE





THE MBTI

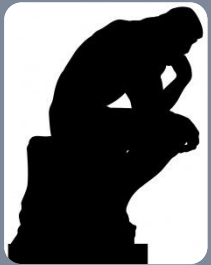
- **INTROVERSION (I)**
- **EXTROVERSION (E)**
- **SENSING (S)**
- **INTUITION (N)**
- **THINKING (T)**
- **FEELING (F)**
- **JUDGING (J)**
- **PERCEIVING (P)**

How Do
Judges Score?

- 80% OF JUDICIAL OFFICERS
ARE

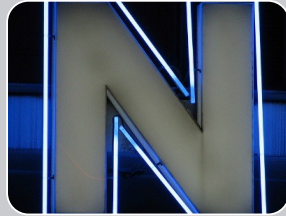
I S T J

INTROVERT



- Tends to focus more on their inner world
- Energized by what goes on in their inner world, and this is where they direct their energy
- Loves quiet; hates interruptions
- Written over oral communication is preferred
- Needs to understand the world before experiencing it
- Needs time to reflect before action

So, the
Introvert
Judge.....



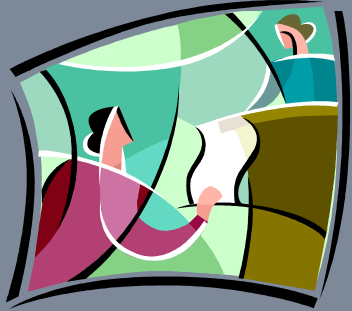
Rules
Followed



No
Surprises;
Cell
Phones
Off!!!!



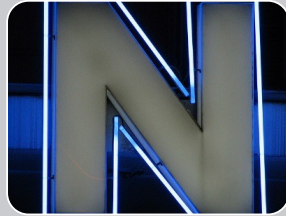
Cogent,
Well-
Written
Briefs



SENSING

- Focuses on the realities of a situation
- Good at remembering and working with a great number of facts
- Prefers to use proven procedures and applying what already learned
- Likes an established way of doing things
- Careful with detail
- Usually reaches conclusion step by step
- Not often inspired, and distrusts inspiration when inspired
- Careful with the facts, good at precise work

So, the
Sensing
Judge.....



Needs
Statutory and
Case Law for
Support



Logical
Reasons &
Factual
Distinctions if
Straying from
Precedent or
Common
Sense



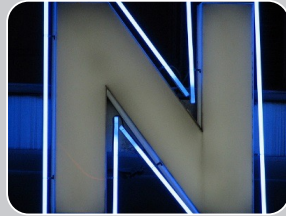
Charts,
Diagrams,
Timelines,
Visual Tools
that Lay out
Facts



THINKING

- Objective decision maker through analyzing and weighing the evidence
- **Focuses on the logical analysis and consequences of a decision**
- Seeks an objective standard of truth
- **Good at figuring out the problem**
- Tends to be firm and tough-minded
- **Uncomfortable around emotional situations**
- Hurts other people's feelings without realizing it
- **Most comfortable when following the rules**

So, the
Thinking
Judge.....



Avoid
Emotional
Incivility,
Crosstalk,
Making
Arguments
Personal

Burdens of
Proof,
Burdens of
Persuasions,
Presumptions
ALL BRIEFED

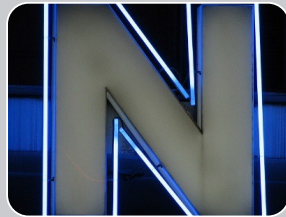
Stipulations
to Admission
of Evidence
or to its
Authenticity



JUDGING

- Likes to live in a planned, orderly way
- Wants to control life and change it
- Comfortable making decisions and having closure, and putting decisions behind them
- Likes to know what is coming ahead of time, without surprises
- Usually on time
- Likes plans and schedules and lists, and follow them without interruption
- May decide things too quickly before all the evidence is in

So, the
Judging
Judge.....



Attorneys
and litigants
to be on
Time!

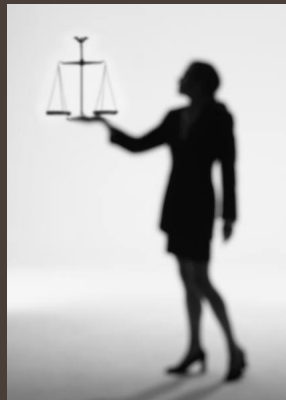


A Game-Plan
that is
Logical;
Witness and
Exhibit Lists
that are
Decipherable



Pithy,
Cogent, and
Brief
Opening
Statements
–Even IF a
Court Trial

THE REST
MAY BE.....



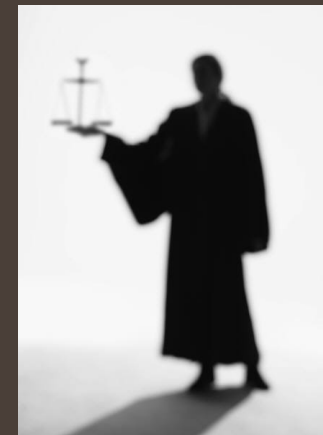
COMBINATIONS

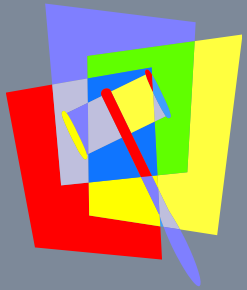
Extrovert

Intuitive

Feeling

Perceiving





THE "E" AND "I" QUALITIES

Extrovert: Prefers Oral over Written, Likes Action and Variety, Needs to Experience Something to Understand It, Needs Others Around Them to Get their own Energy, and Tends to Think Out Loud

Intuition: Focuses on Meanings, Relationships, and All Possibilities, Looks for Patterns, Enjoys Newness, Big Picture Persons

THE "F" AND "P"



Feeling: Makes Decisions on own Personal Value System, Considers Impact on All, Sensitive to Other People's Feelings, Needs Praise, Has Tact, Prefers to Settle Rather than Label a Loser/Winner

Perceiving: Likes Spontaneity, Goes with the Flow, Keeps Options Open, Seeks to Understand Life Rather than Control It, Keeps Cases Under Submission Longer than perhaps, Should, Has Trouble Meeting Deadlines

WHY IS ALL THIS IMPORTANT FOR YOU TO KNOW AS A PROBATE COURT PARTICIPANT?

- You prepare the accountings and pleadings that the judge and probate attorneys prepare!
- You prepare the reports that the judge reviews.
- You need to engender with the judge who needs to have trust in your integrity, expertise, and work ethic – judges hate to be misled or let down.
- You stand not only for yourself, but your industry!

Meeting the Needs of All Personality Types....



- Do Your Homework, i.e. Prepare!
- Follow the Applicable Rules, Make all deadlines, Be on Time
- Narrow the Decisions Required of the Judicial Officer
- Never Make an Argument without Support by Facts, Case Law, or Statutes or all three...



Judge's Observations



Attorneys are NOT
Prepared in Court

Attorneys do NOT
Know the Evidence
Code

Attorneys FAIL to file
Succinct, On-Point
Pleadings.....

BIGGEST FRUSTRATION



Attorneys and
the Parties are
Not Civil with
each other and
the Court

COURTROOM PREPARATION

THINK **FACE**



FACTS – Know them.

APPEARANCE – Respectful, Dignified

CITATIONS – If cite a case, know it.

EYES OPEN – Observe.



A Word About Decisional Fatigue



At the End of
the Day.....



Honey, I'm home.
What's for dinner?

Look, I don't care; you decide.



Well, what do you want?



You know, *sweetheart*, this really gets me. You make decisions all day long and you can't decide what you want for dinner?



Exactly, *sweetheart*, it's *because* I make decisions all day long that I don't want to make them at home!

Wow, he finally gets it! He does love me.

Wow, maybe I should take her car shopping tonight for my new wheels! She'll agree to *anything*!



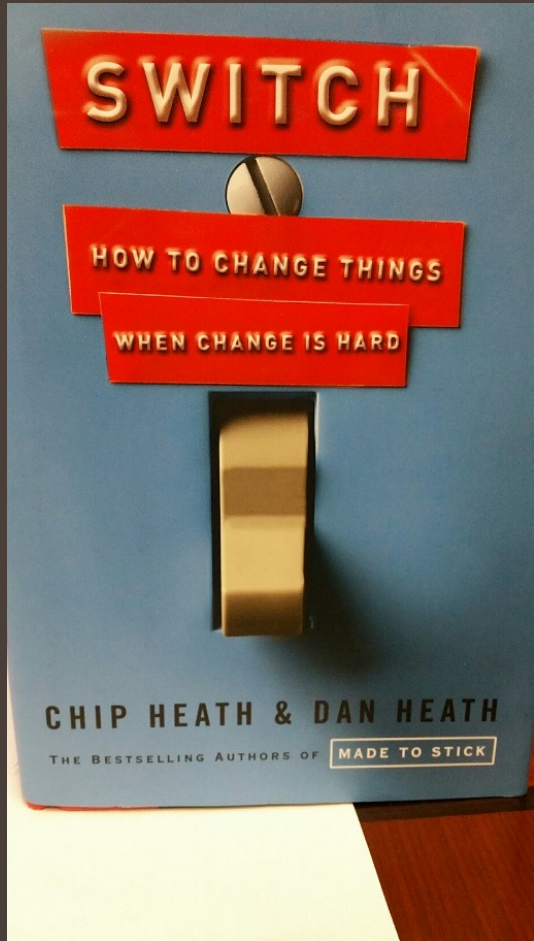
SWITCH

HOW TO CHANGE THINGS

WHEN CHANGE IS HARD

CHIP HEATH & DAN HEATH

THE BESTSELLING AUTHORS OF **MADE TO STICK**



Proof of an Important Concept

- College students participated in a study and they were told it was a “food perception” study
- They were told to arrive at the lab hungry, not having eaten three hours beforehand.
- The lab contained both the smell and presence of freshly baked chocolate chip cookies in addition to other chocolates and a tray of radishes.
- The group was divided in half: the chocolate and radish group.
- The chocolate group was told to partake at will.
- The radish group was told to eat only the radishes.



- The researchers left the room for about an hour.
- With willpower at work, the radish eaters did not sneak a cookie or a chocolate.
- After this time had passed, the researchers asked the students to participate in a study to show that college students were better at problem solving than high school students.
- This established a competitive spirit.
- Both groups were asked to solve a geometric tracing problem without retracing any lines.
- They were given as many opportunities and papers to reach a solution, even though the problem was unsolvable.



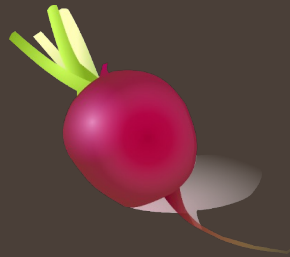
How do you think each group performed?

The radish group gave up after only 8 minutes and they managed only 19 attempts.



The chocolate group persisted for 19 minutes before giving up and made 34 well-intentioned attempts to solve the problem.

Amazing Results!!



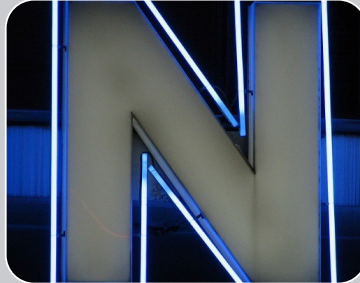
WHY?



The Answer

- They ran out of self-control.
- Self-control \neq to willpower.
- Self-control = self supervision.
- Judicial officers are the ultimate self-supervisors.
- Self-control is an exhaustible resource.

When a
Judge's
decisional
fatigue kicks
in.....



Understanding
about this issue



Acknowledge
that the
decision is
going to be
difficult; direct
the focus



Suggest a
Break or that
the matter be
taken under
submission



Questions, Comments? Thank you!

