Supreme Court Advocacy

Point One:

The merits of a case *always* matter; advocacy influences on the margins.
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Advocacy is *asymmetrical*:
Excellent advocacy can rarely overcome a bad case on the merits.
Poor advocacy is frequently fatal.
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Do not follow the “dead mouse” theory of advocacy!
“Dead Mouse” Advocacy in Action
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Point Two:
Always observe basic advocacy hygiene.

Don’t distract the Court: always honor the core values of advocacy – candor, credibility, honesty.
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Use your *Strunk & White*!

Poofread your text!

Proofread your text!
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Use a road map to guide the Court through your argument!
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Less is more.

- Ludwig Mies van der Rohe
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Advocacy is not a therapy session! Your therapeutic "rants" should end up in the wastebasket.
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Point Three:

The Supreme Court is not an error correcting court – it manages the *fabric* of the law.

*Jurisprudential significance is what matters in the Michigan Supreme Court!*
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Know the obstacles that you must overcome to succeed: focus on why your case has jurisprudential significance.
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Understand the broader area of law that your case represents.
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Know available relief other than a grant:
sometimes half a loaf is better than none.
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Point Four:

When you get to the Supreme Court, rethink everything!

Know the Court!
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Be over-prepared!
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An oral argument is a conversation, not a recital.
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Stay on point!
Conclusion
I now welcome your questions.