

Opening Statements and Closing Arguments



Teacher Traffic Safety Academy 2022



Opening Statements and Closing Arguments Lesson Plan

Learning Objective: Students will...

1. Explore the elements of effective Opening Statements and Closing Arguments in Mock Trials.
2. Understand the difference between Opening Statements and Closing Arguments.
3. Synthesize a Mock Trial Case analysis into effective Opening Statements and Closing Arguments.

TEKS:

- §130.332: Principles of Law, Public Safety, Corrections, and Security: 3B, 8B-C, 10A-D
- §130.336: Law Enforcement I: 6D-E, 8D
- §130.337: Law Enforcement II: 2A, 4A-F,
- §130.338: Criminal Investigation: 8B & 8H, 17A & C
- §130.340: Court Systems and Practices: 2C-I, 3A-D, 4A-C, 5B-C & E-G, 6A-G

Materials Needed: Opening Statement and Closing Argument Slides Presentation and Student Handouts

Vocabulary: bench trial, counsel, co-counsel, defense, evidence, preponderance of the evidence, prosecution, reasonable doubt, testimony, trier of fact, verdict, witness

Estimated Time: 40-50 minutes

Engaging Focus:

Ask students to brainstorm all of the reasons why first impressions are so important. Ask students to discuss first impressions versus lasting impressions and getting a full picture. Consider some of the following questions to help guide the discussion:


- Do first impressions in court differ from first impressions in other places, like a grocery store? How so? Why?
- What happens when you're trying to follow/understand a story but you are missing a critical piece of information? (For example: The story of the American Revolution but no one mentions that the 13 Colonies were British colonies!)
- What does it take to turn a strong first impression (i.e. brief introduction) into a lasting and indelible impression?

Teaching Strategy:

Slides 1-3: Introduction to opening statements and closing arguments. Stress the importance of telling the story of what happened in the case and your side's theory of events. Without this narrative "story-line" and "big picture" understanding, the jury will be confused when witnesses discuss specific details.

Slides 4-6: Discuss how the opening statement is like "painting a picture." Use the analogy to help students understand that the case includes the outline of events, but each side needs to paint in the details to provide context and rich details.





Slide 8: These 5 “steps” need to be included in any Opening Statement. They do not necessarily need to be in this exact order and they CAN be woven together. These steps correlate to the student handout as well.

Slide 9: Slides 9, 14, and 20 discuss the option to include a catch phrase or repetitive theme to your Opening and Closing Arguments. See the slides for more detail.

Slides 10-14: These slides will walk students through the elements they need to consider in crafting their opening statements, using the analogy of putting puzzle pieces together for the jury.

Slide 15: Revisit the importance of word-choice and language in persuasive writing. Simple and subtle techniques help frame certain witnesses (or the Defendant) for the jury so that they have impressions about their testimony before they have even taken the stand.

Slides 16-22: Slides 16-22 discuss the difference between an opening statement and a closing “argument.” The closing is where the jury needs to be moved to action. It must be compelling and significantly stir their emotions in order to bring about the desired verdict. Slide 22 helps students to understand that in some cases, if a Defendant has waived his or her right to a jury, then the trial may be a “bench trial.”

Optional Extension Ideas:

- Show the opening statements in this law school mock trial competition. Remind students that this is a law school example and that the example is simply to give them an idea of what a good opening statement looks and sounds like...they are not expected to have this level of expertise. Opening statements run from approximately 16:00-32:00 (timestamp):
 - https://youtu.be/K90qlvGk_08 2013 National Trial Competition Championship Round
- Have students record their opening statements and closing arguments on video and play them back with their mock trial team to debrief for constructive criticism.
- Consult a trial attorney or judge in your area for feedback on the effective elements of opening and closing statements.

Opening Statements and Closing Arguments Slide Presentation

Opening Statements & Closing Arguments

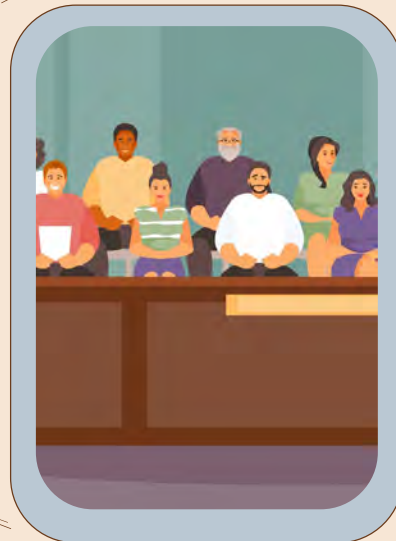
Preparing for a Winning Mock Trial



First & Last Impressions

Opening Statements and Closing Arguments are one of the most important elements of a successful mock trial.

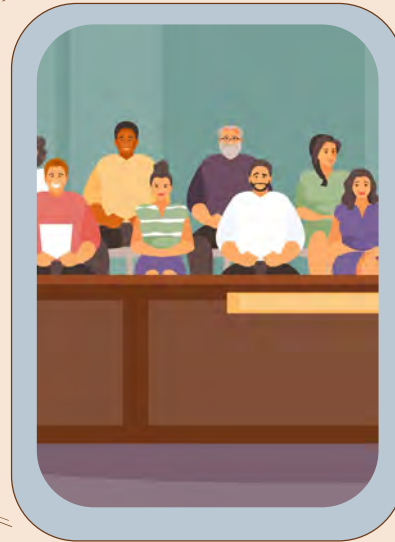
The first and last thing that the jury hears about your case will leave the biggest impression on them. This is likely what they will remember most as they begin their deliberations.



Rule #1: Tell the Best Story

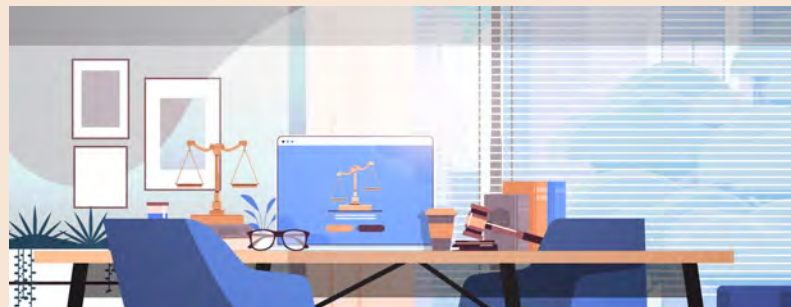
Telling the best story can help win your case! Remember, the jury should have no previous knowledge of the case.

- Introduce the cast of characters
- Lay the foundation of events
- Be clear and easy to follow
- Be confident in your theory
- Don't confuse the jury! Tell them the story.



Opening Statements

How to Set the Stage for a Winning Mock Trial



This is the opportunity to give the jury the FULL PICTURE.



Prosecution

Paints the picture to provide evidence of guilt, the context for motive, and details about the elements of the crime



Defense

Paints the picture to provide exculpatory evidence, alternative theories, raise doubt, or discuss mitigating factors

This is the opportunity to give the jury the FULL PICTURE.



Prosecution

“Gruesome”
“Premeditated”
“Negligent”
“Reckless”
“Shocking”
“Desperate”



Defense

“Unfortunate”
“Accidental”
“Unlucky”
“Stressful”
“Regrettable”
“Troubled”

Building a Narrative

Witnesses

Testimony that will support your theory

Damage Control

What you expect the other side to present & how the jury should interpret it



Events: What Happened?

Your theory of the events

Evidence

Evidence that will be introduced to prove your theory

Verdict Desired

How should the jury rule in this case?

Tip:

Choose a theme or catch phrase and repeat it often for dramatic effect. Examples:

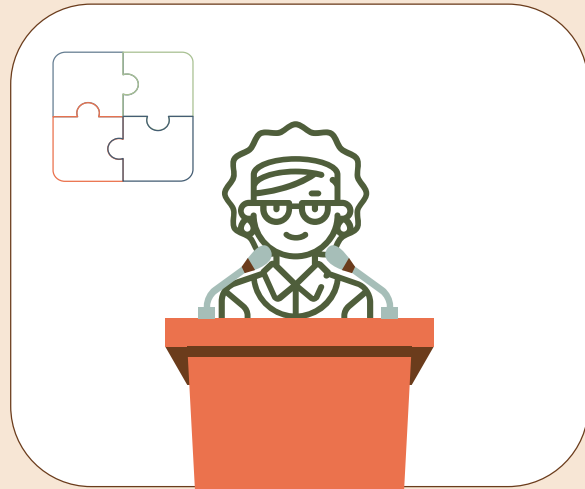
- "It could've happened to anyone."
- "He was at the wrong place at the wrong time."
- "If it doesn't fit, you must acquit."
- "Until death do us part."
- "One beer never hurt anyone, he said..."



The Case

Each witness and key piece of evidence are important pieces of a larger puzzle:

- Step 1 in your narrative is to give the jury a preview of the big picture, your theory of the events...
- Then explain how the pieces fit together with the witnesses and evidence



The Case

Each witness and key piece of evidence are important pieces of a larger puzzle:

- Steps 2 & 3 are kind of like “paint-by-number”
- Fill in the details with the witnesses and evidence that you will be presenting as part of your case
- Remember: You only have the mock trial materials to work with. Don’t embellish something that would alter a material fact of the case!



The Case

Each witness and key piece of evidence are important pieces of a larger puzzle:

- Step 4 is to discuss witnesses and evidence that the opposing side will bring up.
- You don't need to address everything; consider what information you'd rather tell the jury yourself (so you can "get ahead of it")
- By addressing detrimental facts first, you can potentially sway how the jury interprets that information



The Case

Each witness and key piece of evidence are important pieces of a larger puzzle:

- Step 5: Be clear and confident in telling the jury what verdict you want/expect and which verdict is the "right choice" for them to make at the end of the trial.



Other Tips

Refer back to the theme or catch phrase to tie your case together.

- “One beer never hurt anyone, he said...”



Other Tips

Starting in your Opening Statement (and throughout the trial), remember to use simple language to avoid confusing the jury.

For example, Prosecutors will refer to “the Defendant,” whereas the Defense Attorney will call him/her “Casey” or Ms. Bryant.

By painting a portrait of each opposing witness with your own brush strokes, you may affect how the jury views that witness’s testimony when they take the stand.



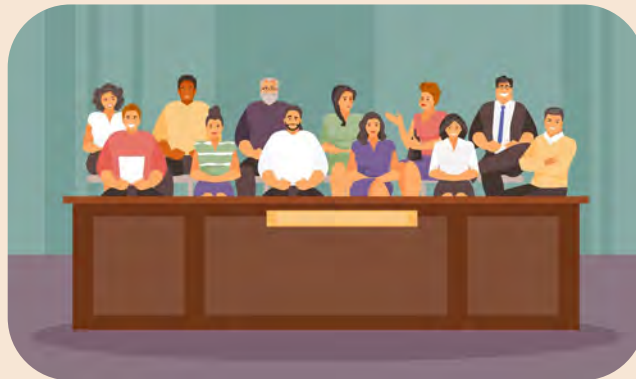
And Don't Forget

Rule #1:
Tell the Best Story



**Opening Statements & Closing Arguments are
two of your best opportunities to address the jury!**

Don't treat them as formalities that sit at the
start and end of your mock trial.



Closing Arguments



A winning Closing Argument is not just a mirror image of your Opening Statement.

Its purpose is persuasive; it should be convincing and emotionally charged.

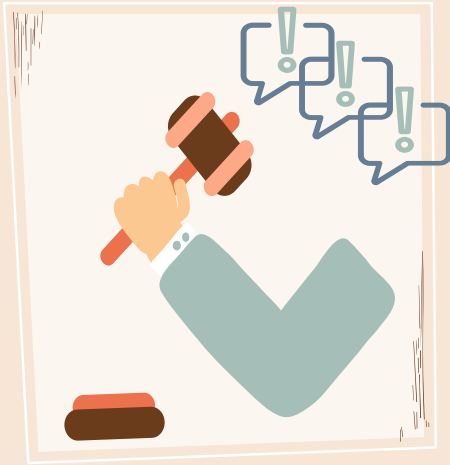
Closing Arguments



Remember your theme or catch phrase & refer back to it often for dramatic effect. Examples:

- "It could've happened to anyone."
- "He was at the wrong place at the wrong time."
- "If it doesn't fit, you must acquit."
- "Until death do us part."
- "One beer never hurt anyone, he said..."

Closing Arguments

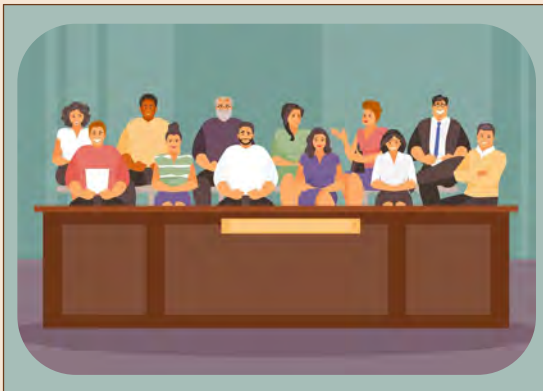


And Don't Forget

Rule #1:

Tell the Best Story

The Jury is the Trier of Fact



Lastly, at the end of the day, the jury is the trier of fact. This means that they will determine the facts in a case and what is relevant to deciding the outcome (or verdict). This is one reason why connecting with the jury during your Opening and Closing is so important.

NOTE: In a “bench trial,” the judge would be the trier of fact and no jury would be present.

Opening Statement Handouts

Opening Statement Outline: *Building a Narrative*

The MOST important thing in crafting an opening statement is to **tell the story** of what happened and how all of the puzzle pieces fit together. The jury has no prior knowledge of your case, so you have to paint them a complete picture of your theory of the events or else they will spend the whole trial confused. NOTE: You don't have to follow this order, *exactly*. Feel free to weave the pieces of the story together. However, you will typically end with the desired verdict.

- I. **Step 1: The Events.** What Happened? Present your theory of the case and HOW things happened.
 - A. *"Your Honor, Opposing Counsel, Ladies and Gentlemen of the Jury, my name is _____ and I am joined today by my co-counsel, _____, in representing _____ [The People of Texas or Defendant's Name] in this matter..."*
 - B. Begin introduction of case facts summary or start with Catch Phrase first.

- II. **Step 2: The Witnesses.** What Testimony will support your theory?
 - A. *"Today you will hear testimony from...[he/she] will tell you that...proving that..."*
 - B. Discuss each of your witnesses and what their testimony will show that helps your case.

- III. **Step 3: The Evidence.** What Evidence will support your theory?
 - A. *"Today, you will be presented with evidence, such as..."*
 - B. Discuss the evidence that will be presented during the trial and how it supports your case.

- IV. **Step 4: The Opposition (Prosecution/Plaintiff or Defense).** What will the other side try to say or prove and how should the jury interpret that information when they hear it?
 - A. *"The other side will call _____ to the stand to testify that...but keep in mind that..."*
 - B. Discuss the opposing counsel's witnesses and/or evidence and try to preemptively control any damage they might do.

- V. **Step 5: The Verdict Desired.** How should the jury decide in this case? What verdict is the only "just" outcome (the one you are asking the jury to render at the end of this case)? BE CLEAR.
 - A. *"We believe that after you have heard all of the testimony and evidence in this case, ladies and gentlemen of the jury, that you will find you can come to only ONE conclusion...and we ask you to find the defendant GUILTY / NOT GUILTY!"*

Closing Argument Checklist:

Convincing the Jury to Render a Just Verdict

The closing argument is an attorney's last opportunity to address the jury before they begin their deliberations in a trial. It is crucial that the jury leaves the courtroom feeling moved by the evidence and testimony that supports your case in order to win. If the jury feels nothing, then you have probably failed to make a compelling argument!

Unlike opening statements, closing arguments need to “connect all of the dots” from your **theory** of the case to the **testimony and evidence presented**, and furthermore, to the **legal standard (or law)** that is being addressed.

In a criminal trial, the Prosecution has the burden of proof and must prove guilt “beyond a reasonable doubt.” This means that the jury is firmly convinced that the defendant is guilty.

In a civil trial, the Plaintiff has the burden of proof and it is often decided “by a preponderance of the evidence.” This is sometimes described as weighing which side presented the more credible and convincing evidence.

Closing Argument Checklist:

- Summarizes testimony that is favorable to your case
- Reviews and emphasizes most-favorable evidence
- Confirms and reiterates the theory of your case
- Rebutts (disproves/discredits) the other side's most damaging witness testimony
- Rebutts (disproves/discredits) the other side's most damaging evidence
- Covers the law at issue
- Makes legal argument that the elements of the law are (or are not) met in this case
- Clearly states the desired verdict
- Moving, dramatic, or emotionally charged in some way
- Repeats Catch-Phrase (if you used one -- optional)
- Does not “assume facts not in evidence;” does not refer to information outside the evidence and witnesses presented at trial
- Flows logically when read aloud; sentences and order of information flows naturally and will not confuse the jury

