

OPENING STATEMENT

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1. Introduction
 - a. Most important part of the trial.
 - b. Jury interested and attentive.
 - c. First impressions are lasting and powerful.
 - i. Competence
 - ii. Preparedness
 - iii. Knowledge
 - iv. Personality
 - v. Confidence
 - d. You're a "story teller."
 - i. Tell a good "story."
 - ii. Well delivered, gets the facts out, sets the tone.
 - iii. Set up the rest of the trial to give the jury a reason to feel good about finding a defendant guilty.
 - e. If you're confused, the jury will be confused which equals reasonable doubt.
 - f. Be yourself and have fun!
2. The Importance of the Opening Statement
 - a. Jurors have to process large amounts of information quickly and will make immediate decisions based upon their widely held beliefs and preconceived notions based on past experiences.

- i. For example:
 - (1) TV show
 - (2) Movie
 - (3) Books
- ii. Remote controls were made for a reason.
- b. Jurors make up their minds early as to the guilt or innocence of the defendant.
 - i. 80% of jurors form opinions following opening statements and do not change those opinions even after hearing all the evidence.
 - (1) Riley, "The Opening Statement: Winning at the Outset," American Journal of Advocacy 225 (1979)
- c. Daniel Goleman, "Study Finds Jurors Often Hear Evidence With Closed Minds," The New York Times, November 29, 1994 (Goleman)
 - i. Jurors decide on a version of events based on a preliminary story they find convincing, often at the time of the opening statements, which then colors their interpretation of the evidence so much that they seize on whatever fits their verdict and discount the rest.
 - ii. Such jurors tend to make up their minds far earlier than others, and by the time they enter the jury room for deliberation they cannot be budged.
 - iii. A trial boils down to two versions of a story -- the prosecution's and the defense's -- and the significance of their efforts to win over the jury. The most dramatically compelling story is more likely to appeal to the poor decision-makers among a jury.
 - iv. "These jurors are satisfied with the most seductive scenario, the one that at first glance seems to fit the evidence," said Dr. Deanna Kuhn, a psychologist at Teachers College at Columbia University. "Once they've decided, any further evidence is reshaped in their minds to somehow fit the story they've chosen -- or is ignored."
 - v. Jerry Spence, a lawyer in Jackson, Wyo., who defended Imelda Marcos and sued the Kerr-McGee Corporation on behalf of Karen Silkwood's

family. "My experience is that jurors want to hear a complete story about what happened," said Mr. Spence. "When I make an opening statement, I always do it as a story. At that point, about 85 percent of jurors will come to a conclusion in that case. But you had better be able to prove your story, because if jurors who believed you find out you haven't told the whole story, then they turn against you."

d. Dr. Donald E. Vinson, How To Persuade Jurors, Vinson & Company (Vinson)

- i. In pretrial group analysis, trial simulations and post-trial interviews, 80-90% of all jurors come to a decision during or immediately after the opening statements. "If you haven't hooked them by then, it's going to be an uphill battle. Witnesses, evidence and closing arguments still matter, of course. The fact that people come to quick decisions doesn't mean those decisions are immutable. People do change their minds. But they usually would rather not, and if you haven't hooked your jurors early, it may be hard to get them later.
- ii. Why do jurors make up their minds so early? Because, we have found, they seek support for what they have concluded. Contrary to what many suppose, jurors do not come into the courtroom with their minds an empty slate. They are brimming over with attitudes, beliefs and values based on experience, and they are anxious to use this background immediately to resolve their own inner conflicts about the trial and have a comfortable orientation from which to view it. Jurors do not listen to all the details of a case as neutral information processors who will register all the facts carefully and then compute a verdict.
- iii. In other words, jury's verdicts were consistent with their initial impressions after the opening statement. Therefore, jurors form their first, strongest, and lasting impression of your case after listening to your opening statement.

e. Repetition Breeds Retention

- i. Four opportunities to drive home your case.
 - (1) Opening
 - (2) Direct Examination
 - (3) Cross Examination

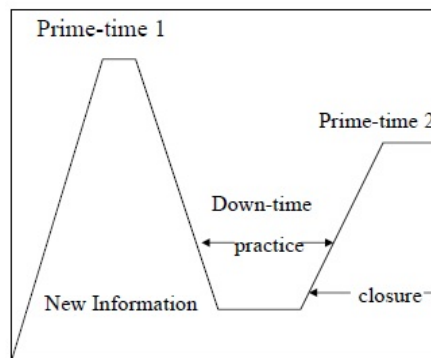
(4) Closing Argument

f. Primacy and Recency

i. David A. Sousa, “How the Brain Learns,” (2nd Ed.) (Sousa)

(1) During a “learning episode,” we remember best that which comes first, second best that which comes last, and least that which come just past the middle.

(2) Each learning episode can be characterized by:



(3) Keep your opening statement/learning episode from going too long or else run the risk of increasing down time/non-learning time.

Prime	Times		Down	Times
Episode Time	Total # of Min	% of Total Time	Total # of Min	% of Total Time
20 min	18	90	2	10
40 min	30	75	10	25
80 min	50	62	30	38

ii. Most people in a social setting develop a first impression within four minutes of speaking or listening to someone.

iii. First scene in a movie, or the first minutes of a television show, or the first chapter of a book.

- iv. The jury will remember what you promised to deliver so make good on those promises.
- 3. What should (not) be in your opening statement.
 - a. Your professional responsibility.
 - i. The Utah Rules of Professional Conduct 3.4 (e) states that a lawyer shall not:
 - (1) in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by the admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the *guilty or innocence of the accused* (emphasis added.)
 - b. Facts of your Case, Overview, Outline
 - i. When considering a particular statement or comment for opening, ask yourself whether a witness will testify as to what you are saying. If a witness will testify to what you are saying, the statement is legally proper.
 - ii. Conversely, if a witness will not testify to it and no exhibit supports it, chances are the statement is in the nature of argument, opinion, or some other improper comment.
 - iii. You do not get to create a work of fiction at trial!
 - c. Elements of the offense.
 - i. Tie them to your facts and how those facts prove your elements.
 - d. Synopsis of expert testimony.
 - i. Keep it relevant and simple.
 - e. Case language regarding opening statement (and some closing argument case law as well).
 - i. “An Opening Statement has a narrow purpose and scope. It is to state what

evidence will be presented, to make it easier for the jurors to understand what is to follow, and to relate parts of the evidence and testimony to the whole; ***it is not an occasion for argument*** (emphasis added). To make statements which will not or cannot be supported by proof is, if it relates to significant elements of the case, professional misconduct. Moreover, it is fundamentally unfair to an opposing party to allow an attorney, with the standing and prestige inherent in being an officer of the court, to present to the jury statements not susceptible of proof but intended to influence the jury in reaching a verdict.” (Concurring opinion of Chief Justice Burger Affirming trial court’s ruling of defense impropriety.) *State v. Dinitz*, 424 U.S. 600 (1976).

- ii. The purpose of an opening statement is to apprise the jury of what counsel intends to prove in his [or her] own case in chief by way of providing the jury an overview of, and general familiarity with, the facts the party intends to prove. It is generally accepted that an opening statement should not be argumentative.” *State v. Williams*, 656 P.2d 450, 452 (Utah 1982).
- iii. “An opening statement has a narrow purpose and scope. It is to state what evidence will be presented, to make it easier for the jurors to understand what is to follow, and to relate parts of the evidence and testimony to the whole; it is not an occasion for argument.” *United State v. Dinitz*, 424 U.S. 600, 612 (1976) (Burger, C.J., concurring)
- iv. “Purpose of an opening is to give broad outlines of case to enable jury to comprehend it; it is not to poison jury’s mind against defendant, and it is not to recite items of highly questionable evidence.” *Gov. of Virgin Islands v. Turner*, 409 F.2d 102, (3rd Cir. 1968).
 - (1) Free to outline what in good faith expect the evidence to be, even if some of it is not later admitted. *Frazier v. Cupp*, 394 U.S. 731, 736-37 (1969).
 - (2) When prosecutor stated, “I think our evidence is strong and . . . you will be convinced and I will ask you to convict,” after previewing the elements of a crime, the Court held it was not “obviously erroneous.” *State v. Larsen*, 2005 Utah App 201, ¶ 11, 113 P.3d 998.
 - (3) You may not bolster a witness’ credibility. *State v. Perez*, 946 P.2 724, 730-32 (Utah App. 1997).
 - (4) It is proper to refer to extraneous bad acts if the Court already ruled

they are admissible in a pretrial hearing. *Cristini v. McKee*, 526 F.3d 888, 900 (6th Cir 2008).

- (5) You cannot publish exhibits which have not been admitted into evidence. *Bell v. State*, 172 P.3d 622, 627 (Okla. Crim. App. 207).
- v. You can't misstate the law, including the burden of proof. *State v. Hovater*, 914 P.2d 37, 44-45 (Utah 1996); *State v. Todd*, 2007 UT App 349, ¶ 28, 173 P.3d 170; *State v. Longshaw*, 961 P.2d 925, 929 (Utah Ct.App.1998).
- vi. You cannot call the jury's attention to matters the jury would not be justified in considering. *State v. Span*, 819 P.2d 329, 335 (Utah 1991).
- (1) Alluding to outside, unadmitted evidence or reference inadmissible evidence. *State v. Larsen*, 2005 Utah App 201, ¶ 13, 113P.3d 998.
 - (a) Prosecutor implied he had outside knowledge when he said, "I know it's the truth." *United States v. Lamerson*, 457 F.2d 371, 372 (5th Cir. 1972)
 - (b) Prosecutor violated courts instruction when used evidence admitted only against a codefendant to infer that the defendant possessed a gun. *U.S. v. Scheetz*. 293 F.3d 175, 186 (4th Cir. 2002).
 - (c) Prosecutor argued the defendant would kill again if he wasn't convicted. *U.S. v. Baptiste*, 264 F.3d 578, 591-92 (5th Cir. 2001).
 - (d) Prosecutor commented on an extraneous knife fight. *DePew v. Anderson*, 311 F.3d 742, 747 (6th Cir. 2002).
 - (e) Prosecutor stated that defendant had raped a thirteen-year-old girl when no evidence of it had been introduced at trial. *U.S. v. White*, 222 F.3d 363, 370-71 (7th Cir. 2000).
 - (f) Prosecutor referenced part of a witness excluded testimony. *U.S. Fletcher*, 322 F.3e 508, 516 (8th Cir. 2003).
 - (g) No evidence supported the prosecutor's reference to dealings between defendant and victim and that defendant had murdered before. *Le v. Mullin*, 311 F.3d 1002, 1019-21

(10th Cir. 2002).

- (h) No evidence supported prosecutor's assertion of eye contact between co-defendants. *U.S. v. Teffera*, 985 F.2d 1082, 1089 n.6 (D.C. Cir. 1993).
- (2) Referring to the defendant's alias and to his being a federal witness. *State v. Troy*, 688 P.2d 483, 485-86 (Utah 1984).
- (3) Referencing a defendant's sexual orientation. *State v. Blomquist*, 178 P.3d 42, 50 (Kan. App. 2008).
- (4) Persistently alluding to defendant's net worth and his "Park Avenue" offices. *U.S. v. Sstahl*, 616 F.2d 30, 31-33 (C.A.N.Y. 1980).
- (5) Commenting about a defendant's national origin or citizenship. *Abiodun v. Maurer*, 257 Fed. Appx. 111, 115-16 (10th Cir. 2007).
- (6) Referencing a court's denial of defendant's motion to suppress. *U.S. v. Washington*, 462 F.3d 1124, 1136 (9th Cir. 2006).
- (7) "Throwing mud" at defendant rather than focusing on the evidence. *Brewer v. State*, 2006 OK CR 16, ¶ 10, 133 P.3d 892.
 - (a) Prosecutor called the defendant a liar. *State v. Graves*, 668 N.W.2d 860, 876 (Iowa 2003).
 - (b) Prosecutor said the defendant's alibi was a lie. *Allen v. State*, 2005 WL 974189, at *4 (Iowa Ct. App. Apr. 28, 2005).
 - (c) Prosecutor asked defendant whether a witness had lied. *State v. Carey*, WL 291540, at 4* (Iowa Ct. App. Feb. 9, 2005).
- (8) You cannot inflame the passions of the jury.
 - (a) Prosecutor contrasted the juror's sense of safety in the community with an armed robbery. *U.S. v. Mooney*, 315 F.3d 54, 59 (1st Cir. 2002).
 - (b) Prosecutor said the defendant's argument was an insult to the victim. *U.S. v. Elias*, 285 F.3d 183, 190-192 (2d Cir.

2002).

- (c) During the penalty phase, the prosecutor talked about the victim's love for her family. *Marshall v. Hendricks*, 307 F.3d 36, 66 (3d Cir. 2002).
- (d) Prosecutor used an empty chair to represent the victim and referenced the victim's character. *Frazier v. Huffman*, 343 F.3d 780, 792-93 (6th Cir. 2003).
- (e) Prosecutor argued that the jury would depreciate the seriousness of a murder if they didn't sentence the defendant to death. *Hough v. Anderson*, 272 F.3d 878, 902-04 (7th Cir. 2001).
- (f) Prosecutor compared defendant to violent drug gangs. *Copeland v. Washington*, 232 F.3d 969, 975 (8th Cir. 2000).
- (g) Prosecutor delivered a soliloquy in the persona of the dead victim. *Drayden v. White*, 232 F.3d 704, 712-13 (9th Cir. 2000).
- (h) Prosecutor contrasted the victim's good character with the defendant. *Spears v. Mullin*, 343 F.3d 1215, 1246 (10th Cir. 2003).
- (i) Prosecutor referenced the plight of "crack-addicted babies" when no evidence was presented about "crack-addicted babies." *U.S. v. McLean*, 138 F.3d 1398, 1405 (11th Cir. 1998).
- (j) Prosecutor suggested the jury should convict defendant to protect others from drugs. *U.S. v. Johnson*, 231 F.3d 43, 46-49 (D.C. Cir. 2000).
- (k) Statement that "had [defendant been a better shot, an accurate shot, there might have been a big difference in the charging situation" was improper. *U.S. v. Foreman*, 199 Fed Appx. 515, 518 (6th Cir. 2006).
- (l) "The prosecutor began his closing at the penalty phase by referring to a television news report ... about gangs in Los Angeles' and stating that 'members of the street gangs were

murdering each other’ in a violent fight for turf. The prosecutor then went on to state that the gang shootings made his blood boil,’ and that this case made him want to ‘weep and cry’ because it was ‘the same thing, right here in our backyards.’ After a biblical reference to the killings as the ‘modern equivalent of thirty pieces of silver,’ the prosecutor summed up his closing by giving his opinion that ‘there has never, ever been a more complete and utter disregard for the sanctity of human life as this case ... [t]he state of Missouri claims from you the ultimate sentence of this case of death. Stand firm.’” *Copeland v. Washington*, 232 F.3d 969, 972 (8th Cir 2000).

- (m) “[Here is a man that should never, ever be permitted to walk among free people again. ... He has forfeited his right to live as a human being because he chooses to live as an animal-to engage in savage animalistic conduct.
 - (n) “[T]o believe his testimony, ladies and gentlemen, to believe anything that he told you from this witness stand is to allow yourself to engage in an academic exercise to go into a realm of reality where the Easter bunny is real and the tooth fairy is alive and well.
 - (o) “[T]his man has to be removed from society. You owe it to yourself, your family, you children, your grandchildren, your neighbor, everybody else you know, and those unknown to you. You owe them that responsibility. He should never see the light of day again.” *State v. Gann*, 251 S.W.3d 446, 461-62 (Tenn. Crim App. 2007).
- (9) But the following arguments were proper:
- (a) Prosecutor repeatedly referenced graphic murders because the murders were part of the government’s case. *U.S. v. Martinez-Medina*, 279 F.3d 105, 118 (1st Cir. 2002).
 - (b) Prosecutor’s statement, that the jury was “deciding guilt for the single most destructive act of terrorism ever committed here in the United States” was based on the evidence. *U.S. v. Salameh*, 152 F.3d 88, 134 (2d Cir. 1998).
 - (c) Comparison between defendant’s life and victim’s life was

grounded in the evidence. *Humphries v. Ozmint*, 397 F.3d 206, 219-23 (4th Cir. 2005) (en banc).

- (d) Prosecutor told jury to act as the conscience of the community. *U.S. v. Duffaut*, 314 F.3d 203, 211 (5th Cir. 2002).
 - (e) Prosecutor statements that crime as “cold and calculating” and stated defendant robbed victim “while blood spurted out her neck and celebrated the next morning” were grounded in the evidence. *Smith v. Mitchell*, 348 F.3d 177, 212 (6th Cir. 2003).
 - (f) Prosecutor told jury to render a verdict it could be proud of, the correct verdict under the law and the evidence. *U.S. v. Allen*, 269 F.3d 842, 847 (7th Cir. 2001).
 - (g) Prosecutor attacked witness’ testimony with inference grounded in the evidence. *U.S. v. Machua-Barrera*, 261 F.3d 425, 436 (5th Cir. 2001).
 - (h) Prosecutor referenced defendant’s tax returns after defense counsel referenced them in closing arguments. *U.S. v. Mabrook*, 301 F.3d 503, 509-10 (7th Cir. 2002).
- (10) You can’t vouch for a witness’ credibility. *State v. Brinklow*, 179 P.3d 1163 (Kan. App. 2008); *Lemus v. State*, 2007 WY 111, ¶ 41, 162 P.3d 497.

4. How to Make a Great Opening Statement

a. Theme

i. What is it?

- (1) A theme is a short, colorful synopsis describing what the case is about.
 - (a) How would you describe your case to a young child, spouse, neighbor?
- (2) A single sentence that captures the moral force of your case.

- (3) The goal is to get the jury's attention, to make them want to know more.
 - (4) It gives the jurors something to hold onto throughout the trial.
 - (5) Be sure to weave the theme throughout your case and return to it closing.
- ii. Frame your theme as fact as opposed to opinion or characterization.
- iii. Sample Themes
 - (1) "Excuse me while I lock your door. - The Art of Frottage. Or, Don't Mind Me, I'm Just Asleep."
 - (2) Schoolyard bully.
 - (3) It's all About Me.
 - (4) Party on Wheels
 - (5) Choices and Consequences
 - (6) Rule of Law
 - (7) Good v. Evil
 - (8) Quality of Life
 - (9) Improved Safety
 - (10) Race to Judgment
- iv. Be careful of themes that can work against you.
 - (1) Puzzle
 - (a) Are too many of the pieces missing?
 - (2) Roadmap
 - (a) Outdated, doesn't contain all the current information.

- (3) The math doesn't add up
 - (a) But can the problem be solved algebraically?
 - (4) Can't connect the dots
 - b. "Story Tellers"
 - i. You're one whether you like it or not.
 - (1) What makes a good "story?"
 - (a) Interesting story
 - (b) Pictures
 - (c) Good presentation
 - (i) As Bill Cosby once said; It's all about the presentation. You can put what otherwise would be a fantastic meal on a garbage can lid, it's just not going to taste quite as good.
 - (2) A good story (opening statement) can make the complex simple, the boring interesting, and the dull exciting.
 - ii. A beginning, middle and end.
 - (1) Beginning
 - (a) Grabbing their attention with your theme.
 - (2) Middle
 - (a) Provide the facts, theory and elements of your case.
 - (b) With your theme woven throughout.
 - (3) End
 - (a) Dramatic, powerful and connected to your opening.
 - (b) End with a call to action.

- (i) Short, simple and direct.
 - (ii) “At the end of the trial, I will have the opportunity to talk to you once again. At that time I will ask you to find the defendant guilty of fill in the blank. Thank you.”
 - iii. Tell your “story” in a way that will make the jury WANT TO CONVICT, and then deliver on the promises you make.
 - iv. Be clear, succinct and persuasive.
- c. Engage the Jury
 - i. Eye contact.
 - (1) Don’t stare but make eye contact with every juror so they feel included.
 - (a) 3-4 seconds
 - ii. Use the “well” - if your judge allows.
 - (1) Don’t be afraid to walk closer to the jury but don’t linger.
 - (2) Don’t turn your back to the jury.
 - (3) Don’t pace, rock back and forth.
- d. Get the defendant in the picture early (especially if identification - “who dunnit” is the only issue).
 - i. Don’t create any doubt as to who he/she is and what he/she did.
 - (1) He drove the car.
 - (2) She broke into the house.
 - (3) He was in actual control of the vehicle.
 - (4) She shot the victim.
 - ii. Difference of opinion on whether or not to refer to the defendant by name

v. “defendant.”

e. Charts, Diagrams and Demonstrative Aids

- i. They’re interesting.
- ii. They immediately connect a jury to the evidence that will be presented.
- iii. It helps them remember.
- iv. Don’t have to be elaborate.

(1) Draw on white board, butcher paper, etc.

(a) Danger of leaving it up:

(i) Defense counsel may come up, write on it and use it against you.

(ii) Erase it, take it down or admit as an exhibit.

v. Be prepared for objection.

(1) Visual aid not in evidence.

(2) Prejudicial

vi. Get them pre-admitted or stipulated to.

f. Be organized and prepared.

- i. Logical presentation of the facts.
- ii. Chronological v. topical
 - (1) Depends on the facts of your case.
- iii. Clear statement that clarifies, not confuses.
- iv. PREPARE, PREPARE, PREPARE
 - (1) Mastery of your facts.

- (2) You should know your case better than anyone else.
 - (a) NEVER EVER EVER EVER state something in your opening statement that you will not be able to prove.
 - (i) Jurors and defense counsel will remember what you said you were going to prove in your opening statement.
 - (b) Make sure you introduce all the facts you say you're going to.
 - (i) Jurors and defense counsel will remember what you said you were going to prove in your opening statement.
- (3) Interview your witnesses early on.
 - (a) Know what they will testify to.
 - (i) You don't want to be surprised at trial.
- (4) Know the names of your witnesses.
 - (a) Kami and Kevin Rose
 - (b) Kurt and Kalli Jackson
- (5) Be completely familiar with your visuals to be used in opening and how to use them.
- (6) You should have your opening memorized since you know all the facts at this point in time.
 - (a) If you have to use notes, keep it limited.
 - (b) Do NOT read your opening statement!

g. Language, Mood and Tone

- i. Plain language.
- ii. Clear language.

- iii. Talk to the jury like a real person.
 - (1) Engage them in a conversation.
 - (2) Real people don't:
 - (a) Exit the vehicle.
 - (3) Real people:
 - (a) Get out of the car.
 - (4) Real people don't:
 - (a) [Surveil] the house.
 - (5) Real people:
 - (a) Watch the house.
- iv. State facts, not conclusions.
 - (1) Not:
 - (a) “We believe the evidence will show that the defendant tried to avoid detection.”
 - (i) Wrong on so many levels: opinion, lawyer-ese, etc.
 - (2) Instead:
 - (a) “Officer Krupke found the defendant hiding in the attic.”
 - (3) Not:
 - (a) “The officer will explain that the defendant had a bad driving pattern.”
 - (4) Instead:
 - (a) “The defendant was speeding weaving all over his lane, crossed over the fog line, hit the curb and drove up over the sidewalk.”

- v. Tailor/adapt your mood and tone to fit the facts and circumstances of the charges
 - (1) Murder v. retail theft; first time offender v. career criminal, etc.
 - (2) Type of victim: “innocent” victim v. scumbag
 - (3) First time offender housewife accused of driving under the influence of her prescription drugs is NOT capital felony case so don’t treat her as such.
- vi. Some things to avoid in terms of language.
 - (1) “The evidence will show.”
 - (i) Not effective.
 - (ii) Archaic language.
 - (2) “Whatever I say here is not evidence.”
 - (a) The effect is to tell the jury that all you’re telling them is something that might have happened.
 - (b) Be declarative!
 - (c) You’re telling the jury exactly what happened.
 - (3) Using Filler language.
 - (a) Um
 - (b) Okay
 - (c) You know.
 - (4) Be careful of giving too many details.
 - (a) Emphasize the evidence that is crucial to your case.
 - (i) Pique the juror’s interest.

- (ii) Tell them that Officer Krupke is going to give them a lot more details so be sure to listen to his testimony.

5. Don't:

- a. Patronize, pander to or try to ingratiate yourself to the jury.
- b. Argument
- c. "In my opinion..."
- d. Instructions on the law.
- e. Testifying yourself.
- f. Use aggressive body language.
 - i. Finger pointing.
 - ii. Crossed or folded arms.
- g. Annoying habits.
 - i. Tapping pen.
 - ii. Fidgeting
 - iii. Change in pockets.
- h. Getting caught up in extended metaphors:
 - (1) Bird's eye view;
 - (2) Puzzle;
 - (3) Road maps;
 - (4) Give a lecture on the American judicial system;
 - (5) Jurors civic duties;
 - (6) etc.

- i. Waive your opening statement.
- 6. Credibility
 - a. Be:
 - i. Sincere
 - ii. Credible
 - iii. Convincing
 - b. Don't:
 - i. Exaggerate
 - ii. Overstate/puff up your case.
 - c. Admit mistakes or weaknesses.
 - i. Don't hide facts.
- 7. Objections During Opening
 - a. Two schools of thought.
 - i. If you object, are you perceived as trying to hide something.
 - ii. If legally improper, then make your objection.
 - b. Or, wait and bring the issues out in your case in chief and closing argument.
- 8. BE YOURSELF!
 - a. Hands in your pocket v. speaking with your hands.
 - b. Standing at the podium or moving around.
 - c. Some are gifted story tellers, others are not.
 - d. Don't try to be someone you're not!
- 9. Have FUN!!!!