

CLOSING ARGUMENT

Understanding the End-Game

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Why closing first?

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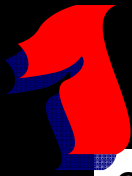
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Closing is a Product of Trial

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Our witness, Mr. Jones, on direct, said that . . .

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Closing is a Product of Trial

1

Our witness, Mr. Jones, on direct, said that . . .

2

Exhibit 7 in evidence is

and Exhibit 14 in evidence says . . .

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Our witness, Mr. Jones, on direct, said that . . .

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Exhibit 7 in evidence is

and Exhibit 14 in evidence says . . .

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Their witness, Ms. Smith, said that . . .

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What do you want to say in closing?

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The second element is that the defendant had the
INTENT TO STEAL

Throughout trial, you had the opportunity to learn exactly the defendant intent here:

1.Mr. Jones told you . . .

2.You saw exhibits that you will have – Ex. 7 is . . and Ex14 says . .

3.Even their witness, Ms. Smith, when I asked questions, admitted that . . .

Produce Parts of Trial = Closing

What do you
want to say in
closing?



1

What does I need to get from
Mr. Jones, on direct
examination?



2

Which exhibits?
Through which witness(es)?
Used how during trial?
Used how during closing?



3

What are my cross objectives
and blocks of questions for
Ms. Smith?

OPENING STATEMENT

VS.

CLOSING ARGUMENT

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Opening Statement v. Closing Argument

Opening

- ✓ Intro theory, theme & story of your case
- ✓ Preview your evidence, witnesses & law
- ✓ Undersell how the trial will go

Opening Statement v. Closing Argument

Closing

- ✓ Revisit theory, theme & story of your case
- ✓ Review of your evidence, witnesses & law
- ✓ Explain & Argue how the trial went

	Opening	Closing
Theory, Theme & Story	Introduce	Revisit
Evidence, Witnesses & Law	Preview	Review
Trial	Undersell what is to come	Explain & Argue what happened

Closing Argument in NOT . . .

- ✓ **Canned speech about the case**
- ✓ **Past tense version of opening**
- ✓ **Unorganized, unedited trial recap**

In Closing, You Can't . . .

- ✓ **Voice Personal beliefs**
- ✓ **Referring to evidence outside the record**
- ✓ **Vouch for witnesses**
- ✓ **Golden Rule: jury in place of victim/party**
- ✓ **Penalty phase in a criminal case**

BEFORE Closing Argument: You Know . . .

THE LAW:

- ✓ jury instructions are set (maybe read)

THE EVIDENCE:

- ✓ all exhibits are in evidence (or not)
- ✓ witness testimony (and credibility)

TRIAL:

- ✓ what has happened at the trial
 - ✓ good v. bad facts (your version v. theirs)

Goals in Closing Argument

✓ My organized reminder

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✓ Argue, argue, argue!

- facts > reas. infer > argument

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My organized reminder

✓ Argue, argue, argue!

- facts > reas. infer > argument

✓ Tell the jury what it all *means*

- why they should view the case your way –
and what they should do with it

Goals in Closing Argument

My organized reminder (see TA reader, at 25-28)

1. Re-hook (1st 3-4 sentences & 30 sec.)
2. Re-orient to my theory, theme & story
3. Argue (by elements, chronology, trial)
4. React to opposition's evidence & argument
5. Explain relief & what the jury must do

Goals in Closing Argument

1. Re-hook (1st 3-4 sentences & 30 sec.)

Your jury is tired, bored & opinionated by the end of the trial:

- ✓ Re-hook them,
- ✓ Re-earn their attention &
- ✓ Re-repeat your theory & theme

Goals in Closing Argument

My organized reminder (see TA reader, at 25-28)

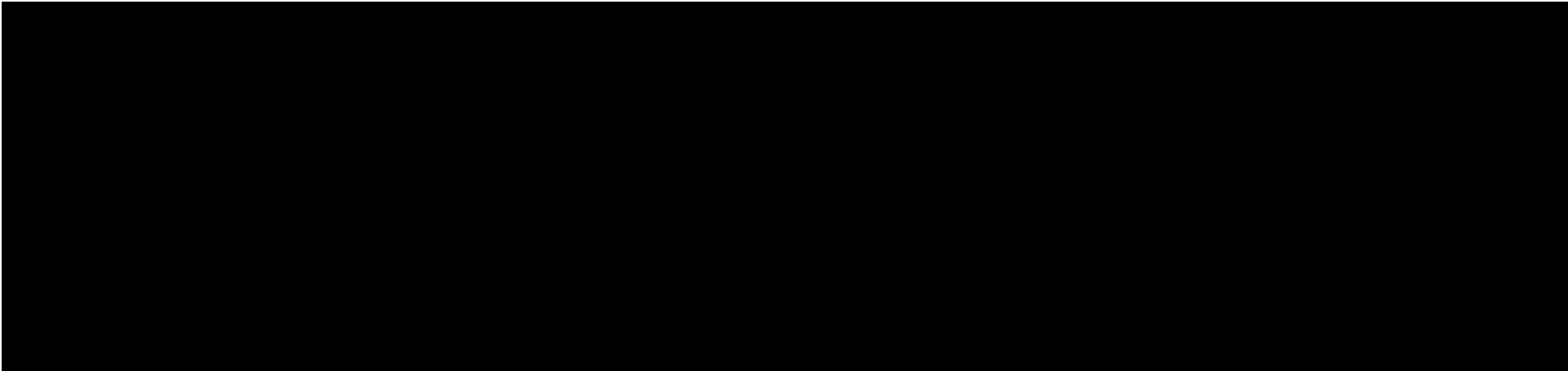
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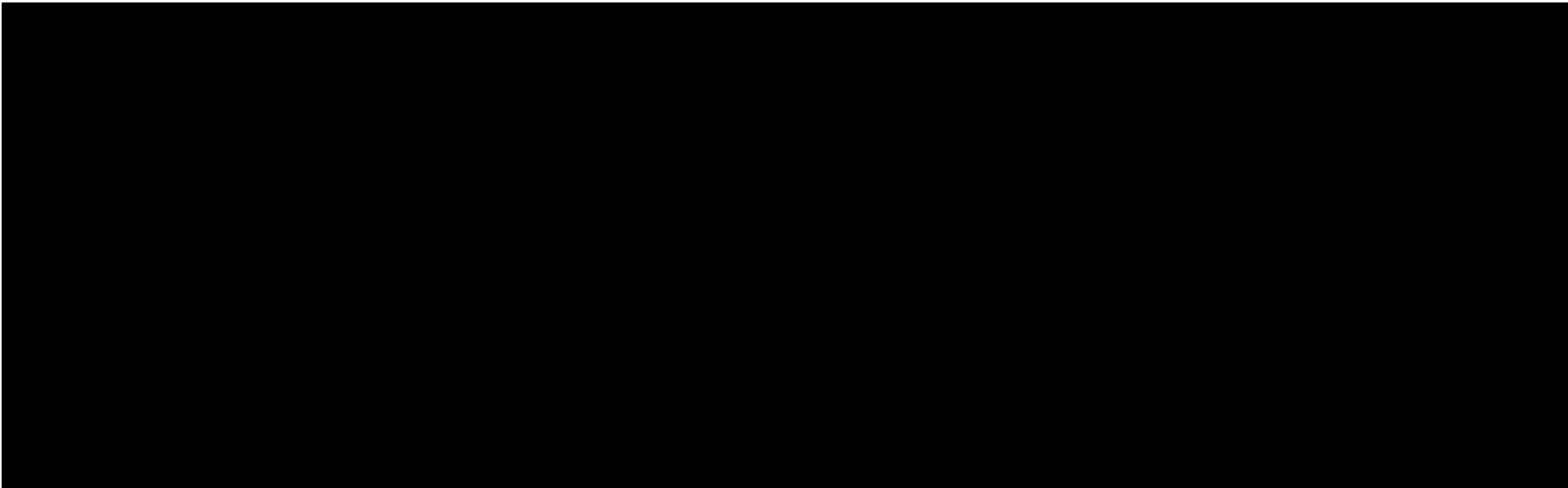
3. Argue (by elements, chronology, trial)

Argue what actually happened at trial:

- ✓ Emphasize your case's strengths
- ✓ Deal frankly with your case's weaknesses
- ✓ Force your opponent to react to your case



You are instructed that the term “negligence” means failure to use ordinary care, that is, failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.



Jury Instructions:

“person of ordinary prudence”



EXHIBIT 8

