

OPENING STATEMENTS

DOs and DON'Ts for Opening Statement

DO... in the **HOOK**:

- Say “May it please the court, opposing counsel, members of the jury...”
- Use a hook to grab attention (a catchy 3-4 sentences)
- Announce the theme of your case (think TV Guide write-up)

DO... in the **INTRODUCTION**:

- Introduce yourself/partner and your client after the hook (use proper name instead of “my client”)

DO... in the **STORY**:

- Set scene, introduce players, and tell the story of the case
- Present the story based on the facts that will come out at trial
- Give the jury a clear, chronological, and persuasive account of *your case*
- Use “cliff hangers” (i.e. “Wait until you hear about the cover up...”)
- Preview your case presentation by using witness testimony and evidence
- Preview the general nature of witness testimony, rather than exact quotes

DO... in the **RESOLUTION**:

- Offer a succinct ending
- Include prayer for relief

DO... when **PRESENTING**:

- Make eye contact and command the jury’s attention before speaking
- Speak slowly, clearly, and firmly
- Use a conversational tone (as if speaking to friends in your living room)
- Present for a junior high school audience (simple concepts and vocabulary)
- Assume the jury knows nothing (forget voir dire or opponent’s address)
- Repeat and return to phrases you want the jury to remember
- Consider using (clearly admissible) exhibits or demonstrative exhibits

DO NOT...

- Get too close to the jury or move too much about while speaking
- Refer to any evidence or testimony that may not be admitted
- Argue (you will tell them, in closing, what to do and why)
- Vouch for, or offer an opinion about, witnesses or a witness’ credibility
- Play on the jury’s sympathy (you *cannot* put them in the shoes of the victim)
- Use personal references (“I think...” or “We believe...”)
- Oversell your case or over-promise (DO under-promise then over-deliver at trial)
- Say “This is a simple/easy case...” or that “The jury has a simple/easy job...”
- Concede elements or issues; rather, focus the jury on the contested parts
- Say “We will prove...” if your side does not have the burden
- Read from notes or present in a way that appears memorized
- Use slang or offensive language to describe opposing party or conduct

Suggested Opening Statement Format

I. HOOK/SNAPSHOT

- Should be a 3-5 sentence introduction of theme, theory, players, and important facts.
 - o *A cover-up, a crime, and a clue. That's what today's case is about. On June 24th, 2009, Pat Siewart was the victim of what appeared to be an isolated crime, a burglary at his home. That night someone entered into his home uninvited. The burglar walked through Pat's unlocked two front doors, past his two Labrador dogs, and took what seemed to be several unrelated items. But as you will see, these items were not unrelated and the crime was not isolated. Rather, the crime was a part of something bigger. It was a part of a cover-up.*

II. INTRODUCE

- One sentence introduction of who you are and who you represent.
 - o *My name is John Smith, and together with my co-counsel Jane Jones, we represent the People in its case against the Defendant, Ms. Connie Cutter.*

III. STORY

- Deliver a clear, persuasive, and (typically) chronological organization of YOUR facts
- Introduce the case and YOUR facts to the jury as an interesting **story**.
- Remain understated – DON'T over-promise (instead under-promise and over-deliver)
 - o *"On June 24th, 2009, a couple of hours before the burglary at the victim's house, another burglary occurred about 15 miles away. This time involving the Lake Kennedy Federation, which is a nonprofit organization that both Pat Stewart and the Defendant work at. In that burglary, the Federation's common hard drive and two laptop computers would be taken from the Federation's office, and the words "Screw the Lake" would be written with a crimson colored marker on one of the office walls. At first glance, the burglary looked to be the work of vandals opposed to the Federation. But as the evidence will show, like the burglary at the victim's house, this burglary was also a part of something bigger...A couple of days after the burglaries..."*

IV. IMPACT

- One paragraph summation of theme and theory of case.
 - o *After you've seen and heard from all the witnesses, you will see how this seemingly isolated crime at the victim's house, where seemingly unrelated items were taken,*

points to only one person, the defendant. You will see how this crime is a part of something bigger, a cover-up. And you will see how the victim's collectible stuffed animal is the clue that unravels it all."

V. RESOLUTION

- At the end, make it clear to the jury what verdict you want them to come to.
 - o *"At the end of this trial, my co-counsel will have an opportunity to speak with you as I am now. At that time she will go over the instructions you will receive from the judge and explain how those instructions and the law applies to the facts in this case. It will be at that time that she will show why the facts and law will require you to find the Defendant guilty for the burglary of Pat Siewart's home and the possession of Pat Siewart's stolen collectible stuffed animal."*