

## **OPENING STATEMENTS**

The opening statement should introduce the attorney and his/her client and tell the jury what the case is all about. It is the attorney's first opportunity to present the jury with a clear and concise description of the case from his or her client's perspective. But the opening statement is not an argument. The attorney may not infer from or plead the facts of the case that he/she expects to prove during the trial. The purpose of the opening statement is to tell the jury what the case is about and what you expect your evidence will be.

A test of a good opening statement is this: If the jurors heard the opening statement and nothing else, would they understand what the case is all about and would they want to decide in your favor?

An opening statement on behalf of the prosecution should include:

\* An introduction of yourself and your client: "May it please the court, ladies and gentlemen of the jury, my name is \_\_\_\_\_, counsel for \_\_\_\_\_, the plaintiff/prosecution in this action."

\* A cohesive summary or outline of what your evidence will be, presented in chronological order or any other orderly sequence of events. Phrasing includes: "The evidence will indicate that...", "The facts will show...", "Witness X will be brought to testify that...", "Witness Y will be called to tell you that..."

\* An acknowledgement that the burden of proof rests with you and the degree of that burden.

\* A conclusion, which includes a respectful statement to the jury: "Ladies and gentlemen of the jury, it is your responsibility to listen attentively to the statements of the witnesses and to determine the facts in this action."

The plaintiff/prosecution's opening statement should not include any references to evidence whose admissibility is doubtful or to anticipated defenses or defense evidence.

The opening statement on behalf of the defendant should include:

\* An introduction of yourself and your client.

\* A reminder that opening statements are not evidence.

\* A cohesive (but non-argumentative) reference to anticipated deficiencies in your opponent's evidence, plus a summary of what your evidence will be.

\* A reminder that the burden of proof rests with your opponent, and a conclusion, which indicates that at the close, you will return and request the jury to find in favor of the defendant.

Again, the defendant's opening statement should not include references to evidence whose admissibility is doubtful.