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Opening and Closing Statements: Eight Tips for Effective Delivery

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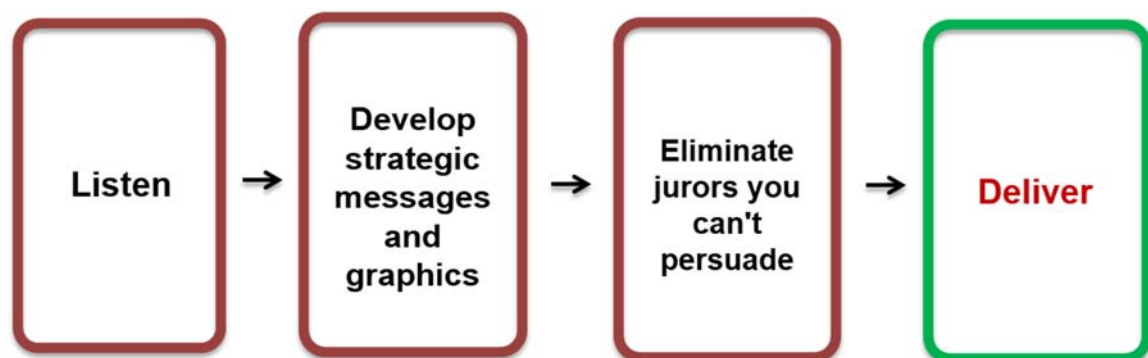
Introduction

“Tell jurors a persuasive story they can accept.” We’ve all heard it, and it’s true. Over twenty years of jury research tells us that effective storytelling is a hallmark of effective jury persuasion. It is a must to organize your case around a compelling story that jurors will accept.

But a compelling story isn’t enough to persuade a jury. You must also communicate that story to jurors within a limited amount of time and get them to understand your position, adopt your story as their own, and use that story to advocate for your client in deliberations. **You must deliver.** Think of it this way – stories don’t persuade; people do.

The Role of Delivery in Jury Persuasion

As shown below, delivery is a vital component of the jury persuasion process. The process begins by listening to jurors (jury research can accomplish this) and crafting strategic messages and graphics that jurors will accept. During jury selection you eliminate jurors you can’t persuade (or at least as many as possible). Finally, you deliver your story to the jury – first in your opening statement and then again in your closing statement.



You must be successful in communicating your story to the jury, or else all the work you’ve put into crafting that story isn’t going to matter. That is, a compelling story “on paper” can fail if it is not delivered effectively.

Effective Delivery. Defined

What does it mean to deliver a story “effectively?” At its core, **effective delivery is clear and respectful communication of your story to the jury, while seizing your opportunities to persuade.** Respect is a key part of the process, but this does not refer to how you personally feel about your jurors. It refers to what you convey to the jury. These are two different things.

For example, in one case counsel prefaced a discussion of a financial mismanagement scheme by telling jurors that *“this is very complicated, so I’ll go thorough it very slowly for you.”* It was a well-intentioned comment, and counsel had the utmost respect for the jury, but some jurors took offense and began wondering why counsel thought they weren’t up to the task...at the expense of hearing his message. This isn’t where you want jurors to be.

The bottom line is that when you convey respect, it is easier to engage jurors and get them to attend to what you’re telling them. When you don’t convey respect, you can easily erect barriers to communication, which at best distracts jurors from your message, and at worst offends jurors and makes them stop listening altogether. And of course you want nothing standing between your story and the jury.

That said, it would be nonproductive to spend your time second-guessing everything you say or continually worry that you may offend the jury. It is better to take a more affirmative approach, as discussed next.

Planning Your Delivery

How do you make sure that you are giving jurors an informative, engaging, persuasive, and memorable opening (or closing) statement that conveys respect? As you are preparing your presentation, adopt the following eight strategies.

1. Consider what jurors are entitled to.

Jurors deserve engaging, message-driven opening and closing statements. Listening should be effortless, and jurors should not have to wonder why you are telling them what you are telling them. Jurors really want to be persuaded (or at least they want you to give it your best shot), and they are counting on you to show them why your client should win and why they should feel good about finding for your client. Give it to them clearly and concisely. **That’s the # 1 method for getting jurors to (a) adopt your story and (b) convey respect for the jury.**

Consider, too, what jurors **don’t** need from you: A bunch of disjointed arguments (at least in their view) to interpret and put together on their own. Jurors are coming into your case “cold” and will not appreciate how all the details fit together in the way that you do. Without your guidance on what it all means and how to put it together, the jury’s job is much harder and you run the risk of jurors putting it all together wrong, perhaps in a way that benefits your opponent.

2. Boil your story down to 4-5 bullet points.

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