**Closing Statements**

Closing arguments are the final opportunity attorneys have to persuade jurors. Unlike opening statements, attorneys know what evidence is before the jury, and they are able to use their persuasive skills and techniques in a relatively unrestricted manner. Through closing arguments and any rebuttal arguments available, attorneys show jurors how the evidence supports a verdict in favor of the client and they motivate jurors to return such a verdict.

***Features of Persuasive Closing Arguments***

There are a number of features of persuasive closing arguments.

***Organizing the Presentation.*** A well-organized presentation forms the foundation for persuasion. The theme of the case, which is presented in the opening statement and supported in the evidence presentation, is the cornerstone of the closing. The theme is reinforced several times during the closing argument.Placement of important points in the argument capitalizes on how people remember information. In general, people remember information encountered first (primacy) and last (recency) more readily than information encountered in the middle of a presentation. In addition, in longer or complex closing arguments, summary statements placed at the end of various segments of the presentation help jurors remember.

Finally, redundancy is part of a well-organized presentation. Redundancy serves to reinforce important information, provided the redundant information is sufficiently varied so that it does not bore the jury.

***Handling Your Evidence***. Persuasive closing arguments provide a detailed description of the party's evidence. The strengths of favorable evidence are reinforced. Where possible, weak or potentially damaging evidence is addressed by putting it in the best light. This defuses the opponent's arguments (and potential arguments made by jurors) and reinforces the credibility of the attorney.

***Attacking Your Opponent's Case.*** Closing arguments attack the opponent's case, highlighting the weaknesses in the opponent's case. Any failures to deliver on promises made during the opening statement are revealed. The jurors' memory for inconsistent,contradictory, and otherwise damaging evidence in the opponent's case is refreshed. Any credibility problems with the opposing witnesses, party, and attorneys (where appropriate) are brought into focus. Finally, anticipating the opponent's arguments or addressing them, once raised, serves to defuse them.

***Discussing Jury Instructions and Duties.***The relationship between the party's evidence and important legal standards and theduties of jurors is presented in a persuasive manner.Supporting evidence (and/or the lack of support for the opposition's claims) istied to key legal instructions.Discussion of these instructions uses terms that jurors understand and which convey the mostfavorable psychological connotation.In addition, the importance of those aspects of the juror's duties that support the client's goalsare stressed, e.g., deciding the case without passion or prejudice.

***Motivating the Jurors.*** An effective closing motivates the jurors to reach a desired verdict. Emotions are the key to motivating people. Appeals to appropriate emotions which are supported by the evidence provides jurors with the motivation to return a favorable verdict.

***Capitalizing on Persuasion Techniques***.Persuasive closing arguments capitalize on persuasion techniques.Techniques such as immunization and rhetorical questions foster persuasion. Immunization techniques build up the jurors ' defenses to the opposition's arguments. Analogous to the medical term, immunization fosters resistance to persuasion by "treating" the jurors before they are exposed to the opposition's argument. Three immunization techniques are available: forewarning, supportive arguments, and inoculation.

Forewarning refers to the fact that when people are aware of the coming persuasive attempt, they can prepare themselves.The old adage "forewarned is forearmed" applies here. If jurors become aware of upcoming persuasive attacks or "tricks," they can more effectively resist these attacks.Appeals to inappropriate considerations (e.g., sympathy, prejudice, and "red herrings") are examples of topics about which jurors should be forewarned.

Supportive arguments are "ammunition" jurors have to resist the opponent's attacks. Providing jurors with specific facts or arguments as to why the client's position is right and the opponent's position is wrong increases resistance to the opponent's persuasive attempts. Supportive arguments bolster the defenses of the jurors by providing them with "counterarguments" against the opponent's attacks/position. However, the effectiveness of supportive arguments is diminished when they fail to address information or arguments presented by the opposition.

Inoculation builds the defenses of jurors to the opponent's persuasive attempt by fostering the ability of the jurors to develop arguments against the opponent's position. When jurors are presented with a weakened form of the opponent's argument and they are successful in refuting it, the jurors will be more able to resist the opponent's arguments in the future. An additional benefit of inoculation is a generalized resistance to arguments not specifically addressed in the inoculation process.

Rhetorical questions guide the jurors' search for answers and, in some cases, imply answers on their own. The placement of rhetorical questions is important. For strong cases, placement near the beginning of closing arguments (or at the beginning of different subsections) leads to persuasion because the jurors' attention is directed toward an answer and the answer is forthcoming. When the case is weak, placement of rhetorical questions near the beginning of the argument is counterproductive when the answer is not forthcoming or is equivocal. In general, persuasion is facilitated when rhetorical questions which focus on the weak points of the opposition's case are placed near the end of closing arguments.

Speaking in a Powerful and Confident Manner. Persuasive closing arguments are presented in a powerful, confident manner. The language is direct, not qualified. The words and phrases are selected so as to convey the most favorable psychological impact on the jury.

**Recommendations.** While recommendations are best when based upon your case's particular circumstances, the following general recommendations work well in a variety of circumstances.

***Reinforce the Theme***. State the theme of the case near the beginning of the argument. Reinforce it later in the argument,particularly near the end of the argument.

***Be Clear and Organized.*** Present your closing argument in a clear and organized manner. Employ summary statements where needed to help jurors remember important points in the presentation. Digressions should be avoided. They tend to distract from the argument.

***Address Your Weak Points***.Do not ignore your weaknesses.Your opponent will attack your weak points.Address your ownweaknesses placing them in the best possible light.

Remind Jurors of the Opponent's Credibility Problems. Bring into question the credibility of key opposing witnesses. Point out inconsistent or contradictory statements made by witnesses. Also, take advantage of "bad" nonverbal communication by opposing witnesses. Remind jurors of the opposing witness who "couldn't look you in the eye" when he testified.

***Address the Opponent's Broken Promises.*** When opponents overstate their cases in opening statements, alert the jury to this fact. These broken promises only hurt the opposition when jurors are made aware of them.

***Reinforce the Credibility of Favorable Witnesses***. Particularly in lengthy trials, remind jurors of what it was that made favorable important witnesses credible. The bond between the testimony and the credibility of the witness weakens over time. Restating the basis for high credibility strengthens the bond and reestablishes the power of the testimony. By the same token, the testimony of less credible witnesses should be stated in summary form, without reference to credibility of the witnesses.

***Use Persuasion Defenses.*** Capitalize on techniques that increase the jurors' resistance to persuasion by your opponent. Use inoculation, forewarning, and supportive arguments to foster resistance to persuasion. In addition, remind the jurors of important commitments that they made during voir dire. Remember, these approaches can address persuasion in both closing arguments and deliberations.

***Use Rhetorical Questions.*** Use rhetorical questions to focus the attention of jurors on "important" issues and questions. When the case is strong, rhetorical questions are best used near the beginning of the argument or subsections of the argument.Rhetorical questions placed at the end of the argument raise difficult questions for the opponent to answer (either in their argument or in the jury's review of the case in deliberations).

***Start Strong and End Strong***. Take advantage of primacy and recency effects. Start the argument on a strong point and end it in a strong manner. For important points in the middle of the presentation, do something that increases the jurors' attention, e.g.,move from the podium or use interesting charts or models.

***Use Both Closings***. When the party with the burden of proof can sandwich the defense between two closing arguments(capitalizing on primacy and recency effects), it should do so. The defense, on the other hand, should use persuasive defenses to counteract the impact of this second argument.

***Use Physical Evidence.*** Reinforce the impact of critical physical evidence by using it in the closing argument. This will increase the jurors' attention and provide an opportunity to argue what the physical evidence means. Also, use summary charts, time lines or other demonstrative evidence to help jurors organize and understand the information presented. However, vary the form of the physical evidence used (e.g., blow-ups, overhead projections, pictures, videotape, charts, and models) so that jurors do not become confused by similar appearing evidence.

***Escape From the Podium.*** Where allowed by the court, move from behind the podium to demonstrate critical events. The movement will increase the jurors' attention and facilitate understanding for what is being said.Choose Language Carefully. Use a "powerful" speech style to project confidence in your case. Also, choose key words and phrases carefully. Whether used to describe actions, events, characteristics of the parties, or legal definitions, choose words or phrases that produce the most favorable psychological impact.

***Avoid Arguing Inconsistent Theories***. When attorneys argue theories which are inconsistent, jurors tend to become confused and tend to believe that attorneys making such arguments do not believe in their case. When it may be necessary to argue potentially inconsistent theories (e.g., when a defendant argues both no liability and damages), structure the argument so that the two theories are supportive. For example, the defense in a civil trial can first argue that damages claimed by the plaintiff are inflated/incredible. This can be followed by a liability argument which begins by stating that the plaintiff's claims are even more incredible since the defendant is not liable.

***Use Emotional Appeals***. Use appeals to appropriate emotions to foster a desire to return a verdict in your favor. However,emotional appeals should be tied to facts of the case and should provide for an appropriate response in terms of the verdict. Fear appeals can backfire when made too extreme or when the audience is particularly vulnerable.

***Make Eye Contact***. When addressing important points with particular jurors be sure to make eye contact with them. This eyecontact serves to underscore the points being made with these jurors.Be Sincere. People who believe in what they say are more persuasive. Attorneys who communicate sincerity through their demeanor and their language increase the persuasiveness of their argument.

**Conclusion.** Closing arguments mark the final opportunity attorneys have to persuade jurors. Careful attention to the features of persuasive closing arguments and the various recommendations presented in this article will help attorneys provide consistently persuasive arguments.