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ADVOCACY

Legendary litigator shares advice on crafting your best opening statement

BY ALLISON LEOTTA

After months of preparation, you finally have the chance to try your case. The jurors follow you expectantly as you stand, take a deep breath and say—what?

What do you say? How should you say it? The answers to these questions are crucial to your entire case. A trial can be won or lost based on choices you make in your opening statement. It's your first chance to frame the narrative, win the jurors' sympathy and establish your own credibility.

Most of us know the basics: Tell a good story, weaving the evidence with themes that will resonate with the jurors' common sense and life experience. But what's the best way to do that? Bang on the table or shoot the breeze? Attack immediately or hold your fire? Most important, how do you connect with strangers who can't talk back but will determine the fate of your case?

This topic is important enough to merit articles in two consecutive issues of the *ABA Journal*. And they follow a different format from a previous article I've written for the *Journal* about how to be an effective storyteller in court. I asked 11 of the most renowned trial lawyers in the United States to share their secrets to a great opening. Together, they provide an invaluable glimpse into the art of persuasion.

Here are their responses, in their own words, although slightly edited.

HALLIE LEVIN: TALK TO THE JURORS, NOT AT THEM

Hallie B. Levin is a partner in the business trial group at WilmerHale in New York City. She handles a broad range of matters, including complex contractual disputes, business torts, sensitive employment matters, intellectual property and trade secrets, and internal investigations.

Here are three tips that I always bear in mind as I'm crafting (and relentlessly practicing) opening statements:

1. The opening statement is the jurors' introduction to the facts of the case as you will be framing them and also to you as the narrator of those facts. It's crucial, from that first moment, to convey to the jurors that you're an honest broker, a trustworthy guide to the evidence that will be shown to them, and—most important—that you believe in what you are telling them.
2. Take the sting out of the worst evidence in your case. Do it at the start. Don't give your adversary the opportunity to undermine your credibility with the jurors by (accurately) being able to accuse you of neglecting to tell them the most damning facts for your client.
3. Turn off the PowerPoint, step away from the podium, look each and every juror in the eye. Repeat. You will never establish a relationship of trust and connectivity with jurors if you're talking at them, not to them.



Hallie Levin

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