

How to Write Opening and Closing Statements for Mock Trial

When students have a hard time writing a mock trial opening statement it is usually because they don't know where to start. It is helpful to know a little bit about what an opening statement is. An opening statement is an opportunity to outline the case for the jury, and to let the jury know what to expect. It is not an opportunity to argue your case.

It is important to remember that jurors know very little about a case before it begins. In fact, lawyers and judges make sure that jurors know nothing about a case before it begins – that way the jurors can be fair and impartial. So an opening statement is an opportunity to let the jurors know what the case is about, and to let them know what evidence they should expect. It should provide an outline or a road map to help them follow along. The opening statement is also an opportunity to introduce the themes of the case. Here are outlines on how you can properly formulate an opening statement. Keep in mind that every case is different, and you are not bound by any particular format.

How to Write a Prosecution Opening Statement for Mock Trial

THE INTRODUCTION

Good morning, my name is John Smith, and I am the prosecutor in this case. It is my pleasure to represent the people of this state. On October 3rd, 2009, the defendant in this case [describe what he or she did in detail]. At the conclusion of the case we will ask for a verdict of guilty. [It may be helpful to point to the defendant in the courtroom when you refer to him.]

THE THEME:

Ladies and gentlemen of the jury, this case is about... [a defendant who could not control his anger] or [a man whose greed got the better of him] or [a defendant who is pretending to be insane to avoid being held responsible for his own actions]. [These are some pretty basic themes. To develop your own theme, try to summarize your prosecution case in a sentence or two.]

SUMMARIZE EACH WITNESS:

Ladies and gentlemen of the jury, the prosecution will call three witnesses to the stand. We will call officer so and so who will explain that he was on duty in Springfield on the night of the robbery, and responded to the 7-11 and observed the defendant fleeing from the scene with a bag in his hand. We will call the store clerk who was on duty, and she will testify that she recognized the defendant as the robber even though he had a bandana covering most of his face. Lastly we will call a government psychologist who will testify that he did a mental health assessment of the defendant. The psychologist will testify that the defendant was definitely not insane at the time of the commission of the crime.

or

Ladies and gentlemen of the jury, the prosecution will call four witnesses to the stand. We will call Mr. Smith who will testify that he was at his residence when the defendant attacked him without provocation while he sat with his family in the tavern. We will call the ER nurse who will testify that the victim sustained four fractured ribs and a broken nose as a result of this unprovoked attack. We will also call the defendant's roommate who will testify that the defendant bragged about what he did after he

returned home that evening.

[A couple of examples are provided above, but you will need to summarize for yourself what each witness is going to testify to. A lengthier opening statement will provide a lot of details as to what each witness will say. Refer to the time limitations in your mock trial packet and adjust your summary accordingly.]

Anticipate the defense theories:

A good prosecution opening statement will try to anticipate the points that the defense will raise in their opening. Remember that the prosecution has to give their opening statement first so you will have to guess a little as to what the defense will say. Often times a prosecutor will state something along the lines of "Ladies and gentlemen, the defense may argue that the defendant acted in self-defense, however, the witnesses will all state that it was the defendant who approached the victim and began attacking him." Or the prosecution will state: "Ladies and gentlemen, the defendant may argue that the defendant was temporarily insane at the time of the fight. However, we will show that the defendant was merely intoxicated when the fight broke out, and not of the witnesses will describe unusual behavior."

CONCLUSION:

At the conclusion of the case we would ask you to find the defendant guilty, that the state has not met its burden of proof. Thank you.

How to Write a Defense Opening Statement for a Mock Trial

THE INTRODUCTION:

Good morning, my name is Ralph Jurgensen, and it is my pleasure to represent so and so on this very important case. The defendant stands here falsely accused of _____, a very serious crime. At the conclusion of the case we will ask for a verdict of not guilty.

THE THEME:

Ladies and gentlemen of the jury, this case is about... [mistaken identity] or [a person who acted out of self-defense] or [a person who mentally ill and didn't know what he was doing]. [It can often be hard for a mock trial student to think of a theme. However, there are a limited number of defenses an accused party can use. Either the defendant was mistaken for another, was forced to act out of self-defense, was insane or suffering from diminished capacity, or perhaps committed a crime but just not the specific crime that the prosecutor alleges.]

CONTRADICT THE STATE'S THEORIES:

The prosecution hopes that their witnesses will say.... However, in fact the testimony will show... [Remember in a trial, the prosecution gives their opening statement first. The prosecutor will outline his or her case and will accentuate the positive or only highlight the points of the case that help get a conviction. In every mock trial packet there are inconsistencies in the case or facts that help the defense. You need to be prepared to list all the evidence that helps you in your opening] For example: Ladies and gentlemen of the jury, the state has claimed that they have an eyewitness who

identified my client as the burglar. However this supposed eyewitness really has poor vision, and it was very dark out on the night in question.

or

Ladies and gentlemen of the jury, the state has claimed that my client confessed to killing Mr. Jones, however, my client was coerced and threatened by the police.

or

Ladies and gentlemen of the jury, the prosecution has indicated that my client's fingerprints were found on the crime scene. However, there is a legitimate explanation for this. My client was employed as a caretaker for the premises just 6 months prior.

or

Ladies and gentlemen of the jury, the prosecution has explained that three witnesses saw my client stab the defendant. However, what the prosecutor didn't say is that my client suffers from mental illness. He was literally out of his mind that day in question, and we have an expert witness who will testify that my client is insane.

SUMMARIZE EACH WITNESS:

Ladies and gentlemen of the jury, the defense will call three witnesses to the stand, the first witness will testify that she was with my client on the night in question, and my client wasn't even near the town of Springfield where the crime is alleged to have occurred. Our second witness is so and so, and he will testify that my client had no motive to commit the burglary because my client was gainfully employed, and is a person of honest character.

or

Ladies and gentlemen of the jury, the defense will call two witnesses to the stand. First will be Mr. Johnson who will testify that he observed my client on the night of the altercation, and Mr. Johnson will testify that my client was clearly provoked, and only struck the alleged victim after he was threatened. Secondly we will call Dr. Smith to the stand to testify that she was employed as an emergency room physician on the night of the incident. Dr. Smith will testify that she treated the alleged victim for a fracture and she noticed that the alleged victim was highly intoxicated when he came into the emergency room.

[Whatever your case is, or what your defense is, you will want to summarize what each witness is expected to say.]

CONCLUSION:

At the conclusion of the case we would ask you to find that my client is innocent. The state has not met its burden of proof, and we would ask for a verdict of not guilty. Thank you.

How to Write a Prosecution Closing Argument for Mock Trial

Good afternoon ladies and gentlemen of the jury, again my name is ... , and I am the prosecutor in this case. In my opening statement, I mentioned that I would call 3 witnesses to testify as to the defendant's

guilt. Each witness testified as I explained and we have established the following facts beyond a reasonable doubt: 1) that on the evening of March 2nd, the defendant did intentionally strike the victim, 2) that the instrument used was a deadly weapon, and 3) that the defendant acted without self-defense. [Insert the relevant facts that you have proven in your case.]

We would ask you to reject the defense theories of the case. [Address each argument you feel the defense will be asking the jury to consider, and explain why you disagree. Argue why these issues do not amount to reasonable doubt. Argue why your witnesses are credible, how they have nothing to gain by lying, and were consistent with each other. Argue that the defendant has a motive to lie, because he doesn't want to be held accountable for his actions. Argue that the defense witnesses lack credibility. Explain that it is an important principle that people in our society be held accountable for their actions. Explain that the defense arguments amount to just excuses.]

In conclusion, we would ask that you find the defendant guilty as charged. Thank you.

How to Write a Defense Closing Argument for Mock Trial

Good afternoon, my name is ..., and again I am the defense lawyer in this case. In the case that the prosecutor has presented to you today there is insufficient proof to convict. We would ask for a verdict of not guilty. [Echo or refer to the theme that you referenced in your opening statement.]

Critiquing the State's Case. [It is important to attack the reliability or credibility of the State witnesses. Point out any inconsistencies in the statements of the witnesses, and explain why witnesses might have a motive to lie. Also if the police did not do a thorough investigation, you will need to address this. Was there DNA evidence collected? Were fingerprints collected? Did the police fail to contact all of the witnesses? Did the police subpoena all the important records? Did the police show bias in their investigation? Is there physical evidence linking the defendant to the crime, or is it just a "he said she said" case?

The defendant does not have to prove he is innocent, rather it is the burden of the prosecuting attorney to prove that the defendant is guilty. They have not met that burden. It is the prosecutor who has all the resources to investigate the case. It is not the job of the defendant to go out and investigate the matter. We would ask you to render the only verdict that is fair, not guilty.