



CLOSING ARGUMENT GUIDE

Thank you for participating in the Animal Law Closing Argument Competition as part of the 2008 National Animal Advocacy Competitions at Harvard Law School. This event will be of benefit to all students, whether or not you will eventually spend time in a court room, by helping you develop your legal oral advocacy and public speaking skills.

During the competition, you will present a closing argument to panel of six “jurors” comprised of practicing attorneys. Making an argument to a jury mandates the use of different techniques of persuasion than one would use during a moot court appellate argument. Unlike moot court, the jurors will not be asking questions. You will have a full fifteen minutes to speak with the jury and to persuade them to give you and your client a favorable verdict.

In order to be successful, you must have a thorough understanding of the trial record. Like the actual practice of law, trial court attorneys will only be as effective as they are prepared. Not every individual has the natural ability to speak eloquently in public, however everyone may maximize their abilities by hard work and painstakingly thorough preparation.

During trial, the closing argument is the attorney’s final opportunity to address the jury in hopes of securing a favorable verdict. For the purposes of this event, your closing argument will be the first appearance in front of the jury. However, you should address the jury as if they have witnessed the trial (they will have also read the trial transcript), and as if they are lay people.

When you first receive the problem, thoroughly read all of the materials a number of times. Only after many times reading through the transcript will certain facts become relevant or will certain connections be made.

The following tips collected from various sources will help you prepare and deliver an effective closing argument. There are numerous trial advocacy guides and continuing legal education materials that may be helpful in your preparation. We hope you will find the Animal Law Closing Argument Competition to be both educational and inspiring.

PREPARING AND DELIVERING AN EFFECTIVE CLOSING ARGUMENT

Prepare an Organized Closing. It is difficult to be persuasive if the jurors are unable to follow your argument. While you will not need to present written materials for this event, drafting an outline and a written argument will help you prepare a strong oral argument. Keep in mind that people tend to remember information presented to them first and last more readily than information presented in the middle of a presentation. Also, reinforce your points by creating a theme for your closing and readdress important key issues, without being too redundant.

Burden of Proof. For criminal cases, state how your evidence met (or the prosecutor's evidence did not meet) the burden of beyond a reasonable doubt. For civil cases, state how your evidence met (or the plaintiff's attorney's evidence did not meet) the burden of preponderance of the evidence.

Focus on the Good Evidence, but Don't Ignore the Bad. Persuasive closing arguments provide a detailed description of the party's evidence, and explain to the jury why the evidence supports the conclusions you want them to make. Certainly present the facts and evidence that are most favorable to your position, but you must also embrace the bad facts and address your weaknesses. Although you will not be competing against an opposing attorney, during the competition you should anticipate what opposing counsel would argue in their closing, and address those issues. Bad facts will not simply go away, but explaining them away defuses the opponent's arguments and reinforces your credibility.

Discuss Jury Instructions and Duties. During the closing, you will want to tie the evidence presented during trial to the important legal standards and the duties of jurors found in the jury instructions. You must discuss how your evidence ties to each essential element.

Argue Both Liability and Damages. In order to secure the relief requested, counsel must clearly state both the alleged liability of the opposing party and the damages to which the counsel's client is entitled to receive in the event of a favorable jury verdict. By intertwining references to the liability and damages with the main points of the argument, counsel will simplify the jobs of the jurors, thus facilitating a faster and perhaps greater understanding for the jurors about why one party should be held liable and the other party should be awarded damages.

Remember your Role. Counsel are representatives and all they do is stand in the shoes of the parties. That means attorneys cannot refer to their own personal experiences, but can and should refer to common experiences that all people in the community may share, that is, matters of such common knowledge that it does not come from any one person's personal experience, but from a large group's. The other way to consider this rule is this: counsel cannot act as witnesses in their client's case, and talking about their personal experiences is akin to what is called "testifying from your seat" – testimony as if it were evidence to consider but without the protections of the witness being sworn in and cross-examined.

Use Rhetorical Questions. Rhetorical questions force jurors to answer questions on their own, and hopefully the way in which you want them to answer. 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 because 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.

Attitude. 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. However, be careful not to be over-aggressive or over-confident.

Reinforce the Credibility of Favorable Witnesses. Remind the jurors of what it was that made favorable important witnesses credible. The testimony of less credible witnesses should be stated in summary form, without reference to credibility of the witnesses.

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 (for example: posters, overhead projections, pictures, videotape, charts, and models) so that jurors do not become confused by similar appearing evidence. An easel and overhead projector will be available—please contact Laura Ireland Moore if you need additional equipment by February 7, 2008. There will be a meeting with participants to review visual aids on Friday, February 15. Part of your score depends on your effective use of visuals.

Make Eye Contact. Make sure to look at the jury during your closing. Eye contact will help jurors follow your argument, and stay interested and involved. Eye contact also serves to underscore important points.

Memorize Thoughts, Not Words. If you try too hard to memorize every word of your closing, you will have a hard time surviving fifteen minutes. Jurors will be more persuaded if you are more relaxed and conversational, rather than formal and pedantic. Also, you will not have to worry if you missed certain words or sentences—you will be able to focus on the larger picture of your argument. You may bring notes, but you will want to keep them to a bare minimum.

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.

Rehearse. Rehearse in front of the mirror, rehearse in front of your friends, rehearse in front of your cat. Make sure the competition is not the first time you have said your argument out loud. You may ask anyone who is not an invited judge to listen to your argument

Please refer to the rules regarding coaching.

Appearance. Your appearance is an important part of the impression you create as an advocate. It can add or detract from your credibility. During most competitions, students wear traditional navy blue, charcoal gray, or black suits; however, there is no dress code. Aim for a neat and clean appearance that is not too distracting—you want the jury to be focused on your closing argument, not on your clothes.

No outside facts. All facts and information you are able to use are within your materials. You may not do research on outside verdicts, statutes, or case law or use such information in your closing. In addition, accept all facts as true.

Be careful not to violate the “Golden Rule.” Counsel is not allowed to ask the jury to put or consider themselves in the place of the parties. You cannot ask the jury to pretend that it was they who were hurt or sued and ask what would they want to have happen for themselves.

Good Luck and Have Fun!