How To Give An Effective Closing Argument

By John M. Gonzales

“It is astonishing what power words have over man.” — Napoleon Bonaparte

It is widely accepted that jurors have already made up their mind about your case by the time closing arguments are given. So what difference will your closing argument make to the jury in deciding the case? Considering that the most important arguments take place in the jury room where jurors are free for the first time to express their views of the case, closing argument gives favorable jurors the persuasive tools to champion your arguments. A persuasive closing is essential to maximize the effectiveness of these jurors in their attempt to win your case.

How does one give an effective closing argument? The lawyer has more control over the closing argument than any other aspect of the case. For that reason it should be creative, credible, and convincing, within the boundaries of the law.

Determining what arguments might be outside those boundaries is a difficult task as trial counsel is afforded wide latitude during the presentation of closing arguments. Whether counsel has exceeded the proper bounds of closing argument is a discretionary determination to be made by the trial court. The trial court has the ability to determine whether there is a substantial likelihood that the jury may be misled by remarks that are not supported by the evidence and that are calculated to arouse passion or prejudice or designed to misrepresent evidence. Absent an abuse of discretion, the trial court’s decision will not be reversed on appeal.

Judges are usually deferential to attorneys and will often allow them to stray somewhat beyond the boundaries of appropriate argument to the jury. In practice, experienced counsel rarely bother to object to anything but the most outlandish statements made by opposing counsel. Usually, even if an objection is entered, judges are unlikely to sustain the objection and the interruption may appear rude to the jury.

Unfortunately, as the stakes of litigation have grown, attorneys are increasingly tempted to stretch the bounds of acceptable argument. One example is a personal injury lawsuit filed by a plaintiff injured at Disney World. In closing argument the plaintiff’s attorney characterized the defendant as “some nickel and dime carnival” throwing “pixie dust” in an attempt to mislead the jury. The jurors were told that the defendant’s attorney thought that they were “fools” and “idiots.”

With these limitations in mind, the following rules will guide you to an effective closing argument. First, the argument must be reflective of the true state of the evidence, grounded in reason and logic and delivered in a style which is genuine. To be sincere is more important than to be sensational.

Second, a well-organized presentation forms the foundation for persuasion. Keeping in mind that jurors remember information presented first (primacy) and last (recency). Likewise, redundancy reinforces important information and summary statements placed at the end of each segment help jurors keep attention. The use of rhetorical questions will guide jurors’ search for answers. A well-placed rhetorical question is important because the jurors’ attention is directed toward the answer. “Can any of us afford to allow this wrong to continue?”

Third, use established persuasive techniques. Tell a story that leads to your conclusions with analogies based upon everyday experiences the jurors can relate to. Did your examination of your star witness open a Pandora’s Box? Is your opponent asking your client to perform a Herculean task? Don’t assume that your jurors know their mythology. Instead, tell them a short, punchy version of the myth, and then show how it applies to your case. Idiomatic phrases are also an excellent tool for illustrating your point. Is it time for the defendant to “face the music?” Was the company “flying by the seat of its pants?” Is your opponent trying to “sweep something under the rug?”

Fourth, you also may try using the “immunization” technique. Forewarn the jury about your opponent’s coming persuasive attempts so they can prepare themselves. Inoculate the jury by presenting them with a weakened form of your opponent’s arguments and refuting evidence, which will build up the jurors’ defense to your opponent’s techniques.

Fifth, though it seems obvious, attack the opponent’s case by highlighting the weaknesses. Any inconsistent or contradictory evidence, and especially a failure to deliver on promises made in opening, is fair game.

Sixth, use the physical evidence. Pick it up, show it to the jury. This will help increase the jury’s attention and highlight important evidence.

Seventh, use jury instructions to explain to the jury the relationship between the evidence and legal standards. Not only should strong evidence be tied to the key legal instructions,
but more straightforward arguments can be anchored to the court’s instructions. For example, the standard jury instruction on judging the credibility of a witness is perfect to highlight evidence calling into question a witness’s candor, or lack thereof. My favorite is the instruction regarding the different role of the court and the jury. “The Court and the jury have separate functions. You decide the disputed facts and I give the instructions of law. It is your sworn duty to accept these instructions and to apply the law as it is given to you.” I like to reference this instruction as it allows me to empower the jury. It shows them how important their role is and how much power they are given in our system of justice – the only limitation is that they follow the law.

Here are my own ten commandments of closing arguments:

Do not read your closing; rely upon notes as little as possible.

Make eye contact with individual jurors repeatedly.

Don’t repeat whole testimony, highlight the significant parts.

Emphasize your themes.

Avoid “lawyer speak.”

Leave the podium, but move with a purpose.

Never say anything that is false.

Do not misstate the law.

Brush off objections; this is not the time to argue with opposing counsel.

Never EVER argue with the judge.

Closing arguments are the final opportunity attorneys have to persuade jurors. With all the evidence before the jury, attorneys are virtually unrestricted in their ability to persuade and show the jury how the evidence supports a verdict in favor of their client. Embrace the opportunity and enjoy the rewards.

1. That said, there are some well-established limitations on closing arguments. Arguments for per diem pain and suffering damages cannot be made for the first time in the final (rebuttal) close of the plaintiff’s argument. Jurors cannot be asked to put themselves in place of the plaintiff, commonly called the “golden rule” argument. Personal attacks on the opposing party or the opposing lawyer are improper, and personal opinions as to the credibility of a witness or litigant are prohibited.


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Sometimes, the peanut butter, as well intentioned as it may be, is just unwilling to meet the jelly half way. That’s where I come in.


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