

DOCUMENT 5

OPENING STATEMENT AND TRIAL POSITIONING – PRACTICAL APPLICATION

OBJECTIVE

The purpose of the opening statement is not to argue the law or persuade the jury to rule immediately in your favor. The purpose is to establish credibility, explain what the evidence will show, and prepare the jury to evaluate the case properly.

LD CONTEXT

The Liberty Dialogues teaches that people often begin with conclusions. Your opening statement should encourage the jury to focus on evidence rather than assumptions.

EXAMPLE OPENING

Good morning ladies and gentlemen. This case is not about danger. It is not about harm. No one was injured. No property was damaged. The evidence will show that I was engaged in ordinary, non-commercial activity and that the government must prove every element of its charges beyond a reasonable doubt. At the conclusion of the evidence, I am confident you will see that important assumptions were made, but critical facts were never proven.

COMMON PROSECUTOR ADVANTAGE

The prosecutor often begins with assumptions that feel familiar to jurors. Your role is not to attack those assumptions immediately. Your role is to allow the evidence to expose them.

COMMON MISTAKE #1

Attempting to teach the jury complex legal theories during the opening statement. The jury wants facts, not a lecture.

COMMON MISTAKE #2

Arguing with the prosecutor before evidence is presented. Opening statements are roadmaps, not closing arguments.

IF THE JUDGE INTERRUPTS

Judge: 'Move on, please.' Defendant: 'Yes, Your Honor.'

Do not challenge the Court during opening. Preserve credibility and continue.

PRACTICAL TRIAL POSITIONING

The jury should leave your opening believing: • You are prepared. • You are respectful. • You understand the burden of proof. • You are focused on evidence. • You are not attempting to evade responsibility. Those impressions often matter more than legal jargon.

FINAL PRINCIPLE

The opening statement sets the tone for the trial. Calmness, clarity, and credibility should be your primary objectives.