

Barbara Legate, Legate & Associates  
January 2003

The Plaintiff's Perspective

Telling the Story in Opening Statement

Winning Your Case in the First Five Minutes

Barbara Legate  
Legate & Associates  
London  
**January 2003**

## **Winning Your Case in the First Five Minutes**

### **INDEX**

|                                 |       |
|---------------------------------|-------|
| Overview .....                  | 3-4   |
| The First 5 Minutes .....       | 4-5   |
| A Word of Warning.....          | 6-10  |
| Elements of a Good Opening..... | 10-21 |
| Structure of the Opening.....   | 22-23 |
| Further Reading .....           | 24    |

The Plaintiff's Perspective  
Telling the Story in Opening Statement  
Winning Your Case in the First Five Minutes

Barbara Legate  
Legate & Associates  
London  
January 2003

***When it comes to many courtroom presentations,  
It's as if the typical attorney knows the words,  
but can't feel or hear the music.<sup>1</sup>***

A good opening is like a story, and a good story is like a song – it has a hook, or theme, to bind the phrases together, and it has lyrics that give substance to the theme. But more than that, a song taps our emotions, engages our senses, and a good one resides and resounds in our memory.

The goal of the jury advocate is to write an opening that engages the emotions and intellect of the juror, while creating a theme, hook or trial story that will provide a memorable framework for the evidence. If that can be done, then the little glitches along the way will take on irrelevance as the juror selects the evidence which supports the trial story.

---

<sup>1</sup> Singer, A., *How To Connect With Jurors*, Trial Magazine, April, 1999 p 20

The plaintiff's opportunity to do this is thought to be a very limited one. Just as with the journalist who knows she has a limited amount of time to catch the audience's attention, so it is true for the advocate. The next time you read a newspaper, observe those stories that have a compelling introduction and those that do not. The opening can motivate you to read on and make the effort to turn the page, or not. Jury trial lawyers must learn the techniques of good journalists to not only capture the audience's attention but also engage the audience – the jury – in the client's story.

### **THE FIRST 5 MINUTES: HOW IMPORTANT IS IT?**

We often hear that the case is won or lost in the first five minutes. That is not entirely accurate. It was formerly believed that most jurors made up their minds about a case in the first 5 minutes of the openings. However, research does not support that belief. Juries adjudge themselves neutral after both openings, and do not consider themselves swayed by closings. However, they *are* affected by the *combination of the opening, how it is structured, the trial story,<sup>2</sup> and the consistency of the first witnesses or evidence* with the trial story. Those in combination make it difficult for the defendant to overcome the plaintiff's theory.

How important is this to the plaintiff? It is critical. The bias of the average juror is to find *against* the plaintiff. Despite instructions to the contrary, jurors will *not* find

---

<sup>2</sup> Call, J. *Making Research Work for You*, Trial Magazine, April 1996 p. 20-22

for a plaintiff unless they are convinced beyond any doubt that the plaintiff is entitled to recover. Doubt is resolved in favour of the defendant.

The “Trial Story” is used by jurors to make sense of the evidence. Once constructed, the story is hard to overcome, if it is based on the evidence. Once adopted, jurors will cling to it even in the face of conflicting or discrediting evidence.<sup>3</sup> *Belief perseverance* tells us that the trial story based on initial evidence is resistant to change. It will withstand discrediting by later evidence, and will be strengthened by any new consistent evidence. Very compelling evidence is necessary to change these initially-formulated beliefs. Further, jurors will focus on information that confirms their beliefs, discount evidence which does not, and will interpret evidence in a manner that favours their expectations, called *confirmation bias*.<sup>4</sup> In other words, they will pick and choose evidence that supports how they already feel about the case.

The trial story must be clearly constructed, based on the evidence, told during opening setting it up for re-telling during evidence and reinforcement in closing.

---

<sup>3</sup> Cusimano, G citing Richard Nisbett & Lee Ross, *Human Inference: Strategies and Shortcomings of Social Judgment* (1980) at 167

<sup>4</sup> Wenner, D., *The Ten Commandments of Juror Bias* from *ATLA's Overcoming Juror Bias* September 21-22, 2001

## **A WORD OF WARNING: THE DIFFERENCES BETWEEN CANADIAN AND AMERICAN JURIES**

Much of what we read about the science of jury advocacy comes from the US where study of juries is possible and well-funded. However, there is a danger in merely adopting American research about opening statements. In my view, there are two areas in which salient differences exist and must be accounted for in the way one approaches and opens to a jury in Canada.

### 1. Jury Selection Process

The process of jury selection is significantly different from our own and ought to be reflected upon when considering how to frame an opening statement. In the US, the jury selection process is longer, taking hours or days, thereby affording counsel the opportunity to speak directly with the jurors, provide information about the type of case, assess body language, demonstrate competence, and ferret out biases that he or she will have to deal with. This process permits the *juror* the opportunity to sit in the court room, watch the proceedings, observe the roles of the clerks, judge, counsel and reporter, generally get the lay of the land and become familiar with what is otherwise pretty foreign territory. By the time the trial starts, impressions will already have been formed of the relative competence of counsel, the importance of the case, and the juror is becoming comfortable with the surroundings. He will be ready to pay attention to the openings and get on with the trial.

Consider and contrast the experience of the typical Canadian civil juror: They hit the court at 9, are often selected, sworn, and in the jury room being shown a video by 11. There is little opportunity to watch the judge, the lawyers, the clerks and the process.

Her next visit to the courtroom starts later that afternoon, and later than she was told it would, making her mildly annoyed. As she trails behind her colleagues, in spot number 4, she finds the courtroom as transformed. Everyone has moved, there are piles of paper, boxes, easels, a different judge, and everyone is watching her as she takes her place. The judge says a few words about the trial, a few exhibits are entered, a process that goes right over her head, and then the first lawyer gets up on invitation from the trial judge. She wonders how long this will take, does this chair have a cushion, will the kids remember supper and will she be able to go into work after dinner to catch up on all that mail that is piling up while she sits here. The judge says the trial will take three weeks, and that means her ten year old will need alternate transportation to swimming, she will have to cancel her bridge game and .... Half way through that thought the lawyer starts to speak.

A jury matron brought the importance of the difference between our empanelling process and the US home to me. After years of watching juries, she thought they needed about three days to settle into a case: day one all they are thinking about

is where am I, how did I get here, and how am I ever going to deal with <insert normal life stresses>? Day two they are starting to figure out who does what and how the testimony and exhibits work. Day three they are beginning to figure out the issues and by day four they are in the swing of the case.

If she is right, then crafting an opening, in particular for plaintiff's counsel, must be focused not only on the story, but more than in the US, pacing the audience, establishing rapport and credibility with the jury [see below].

## 2. Motivational Factors and Cultural Differences: *Bowling for Columbine*

Apart from how we empanel jurors, counsel must understand the differences between Canadians and Americans as groups, and when functioning in groups. An exquisite demonstration of the differences between Canadians and Americans is found in the movie *Bowling for Columbine*, a documentary that explores the prevalence of gun violence in the US. Part of the movie takes place in Canada, where we learn that 10,000,000 households have 7,000,000 guns! Yet our gun-related murders are 1/10<sup>th</sup> of those in the US. Mike Moore, the producer, beautifully demonstrates his hypothesis that the citizens of the US live in fear, while Canadians maintain a sense of essential security. Consequently, how we react to any given fact situation and what biases we may have could be fundamentally different to those reactions and biases found in the US jury. Reading a number of American authors on this topic one is struck by the prevalence of references to fear to explain the bias in favour of the defendant:

fear that it could happen to me, so I discount the case and blame the plaintiff [see defensive attribution bias below]; fear it will affect my premiums; fear I will be sued; fear my health care costs will skyrocket... In his article addressing ways to overcome juror bias, Mark Mandell defines the problem in the US as the “need for protection”. He recommends reframing the need for self-protection so that jurors see that by protecting plaintiffs they are protecting themselves.<sup>5</sup>

The information we have about Canadian attitudes is not easily found. Consequently, I watch for and collect articles on basic attitudes of Canadians, and reports from social psychologists who may comment on Canadian attitudes and values. Most recently the December 28, 2002 Globe and Mail<sup>6</sup> offered a summary of stats compiled about Canadian attitudes. A sampling: 96% of Canadians think their children are happy and well balanced; 92% of Ontarians admit to aggressive driving; 66% believe family is more important than work; 21% attend a religious service weekly but 85% identify with a religious denomination; 27% say they shun prescription and non-prescription drugs; 55% enjoy office Xmas parties, while 49% disapprove of a Friday afternoon office beer cart; 45% of Canadians and 64% of Americans are satisfied with their quality of life, while 94% of Canadians think Canada is the best or one of the best places in the world to live.

---

<sup>5</sup> Wenner, supra note 4

<sup>6</sup> Focus F3, *What We're Really Like* by Murray Campbell

Consider this: our national symbol is a beaver; theirs is an eagle; most Canadians identify Terry Fox as a national hero, not a war hero; our society is based on peace order and good government; theirs life, liberty and the pursuit of happiness. Young people in Canada feel strongly about our culture and its cultural mosaic, tolerance and other “Canadian” values.<sup>7</sup> American advocates fear trial with non-white clients.

Research from the US in the fields of social psychology, group dynamics, jury dynamics, learning styles, and beliefs, values and attitudes towards lawsuits is invaluable to the Canadian trial lawyer but cannot be adopted without consideration of the important differences between us. Having offered this caveat, this article provides a summary of what I have learned about the trial story and opening.

### **ELEMENTS OF A GOOD OPENING**

1. Address biases
  - a) Anti-lawyer bias

To be effective, the opening must address first and foremost, that which is first and foremost in the minds of the jurors: their basic attitudes towards lawyers and lawsuits, and personal responsibility and accountability. Structure it to ensure the jury sees the responsibility and accountability of your client, and the failure of the opponent to act responsibly. But do not forget what the jurors are thinking about

---

<sup>7</sup> McLean's Magazine, December 2000

you, be it ambulance-chaser or corporate pimp. Let's return to the juror, who is listening to this opening statement :

She struggles to pay attention, but can't help but wonder what this ambulance chaser wants for her lazy client. Hardly any better than the insurance company lawyer. Why do any of us pay premiums any way? Insurance companies hire smooth-talking lawyers to make sure they don't end up paying a dime.

The first bias you will have to deal with this the bias against lawyers generally, and if you are female, or a person of colour you will have to add that to your list. It is here that we attend to the differences between the Canadian and US systems, and the impact of voir dire. Since we do not have the opportunity to set up the case and establish our own credibility in voir dire, we must do so in opening. Consequently, I advocate the use of a *pacing statement* before the *theme* is introduced. This affords the juror an opportunity to hear the plaintiff's counsel make a statement that the juror will invariably agree with, which provides an opening for the lawyer to present the theme. If the theme is presented before the pacing statement is made, the juror may not be open or listening. The juror may wait until there is an opportunity to otherwise assess and evaluate your credibility.

b) Basic Attitudes and Biases

The following is a brief summary of some of the US research on biases. The caveat made above should be considered here.

Norm bias: *the more easily jurors can imagine the defendant acting differently the more likely they will infer causation.*<sup>8</sup> In other words, plaintiff's counsel seeks to demonstrate how the defendant's choice of action could have been different and thus have avoided the collision.

Fundamental Attribution bias: people tend to attribute the cause of an event to a person rather than the situation in which the event occurred. If Plaintiff is seen as a negligent type of person, and there is information overload, then there is a greater likelihood of fundamental attribution error.<sup>9</sup> The plaintiff's behaviour will be blamed for the event. This impacts the defendant as well. If the defendant is seen as an irresponsible or negligent kind of person, then the event will be attributed to her.

Defensive Attribution bias leads a juror to "protect" himself from the terrible situation affecting the plaintiff by concocting a scenario that would defend him from the same outcome. He would have acted differently, promoting a different result.<sup>10</sup> So in the case of medical negligence, the defendant might succeed in the case because the juror believes he would have sought a second opinion despite the evidence of the doctor's neglect.

---

<sup>8</sup> Wenner supra note 4

<sup>9</sup> *infra* note 11

<sup>10</sup> Mandell, M., *Overcoming Juror Bias: is there an answer?* From ATLA's *Overcoming Juror Bias* September 21-22, 2001

Hindsight Bias: in hindsight people exaggerate what could have been anticipated in foresight. This can work against the plaintiff and the defendant. Knowing the end of the story assists the jury in concluding *that conduct would lead to that injury*. Consequently, the trial story must, as set out below, include a beginning, middle, and *end*.

Availability bias: The availability of information can affect what the jurors focus on. Many plaintiffs have experienced the craftiness of an experienced defendant's counsel who focuses attention on something that is minor, even thought to be insignificant, but through this constant attention becomes the crux of the trial! This is availability bias at work: we attach importance to that which is before us and most available.<sup>11</sup> Jurors assume that information being presented by counsel is relevant to their decision making. Consequently, padding the story with irrelevant information can *change the trial story adopted by the jury*. The opening must be carefully crafted to insert the information that is necessary to the trial story and leave the irrelevant out, or discount it as irrelevant through inoculation and other techniques. Attempt to overcome the temptation to put everything in the opening.

2. Use primacy and recency.

We remember best what we hear first, then what we hear last, and least what is buried in the middle. Every advocate is taught to start strong and end big. That is

---

<sup>11</sup> Cusimano, G. *Combating Juror Bias* from ATLA's Overcoming Juror Bias September 21-22, 2001

the adoption of the theories of primacy and recency at work. This concept is important to use in the overall outline of the opening, the structure of each paragraph, and in groups of descriptors.

Priming is an off-shoot of the concept of primacy and recency: words that attribute positive or negative characteristics can be used to prime the jurors' responses to a party's behaviour or conduct. For example, an activity like skydiving can be viewed as adventurous or reckless. Referring early on to the behaviour of the plaintiff as adventurous but careful, and the manufacturer of the defective equipment he used as reckless and profit-motivated in opening, followed by consistent evidence can powerfully sway jurors' views of the incident.<sup>12</sup>

### 3. Use the Rule of Three

Information presented in groups of three is

- Better recalled
- Accepted as credible more readily
- Adopted more frequently

This rhetorical device is one use by the great orators of history. Think of Churchill's call to his country to take action. You will be surprised to read the quote, unless you are a quote – geek, and find that Sir Winston named four places where “We shall fight”:

---

<sup>12</sup> Wenner, D. An Uncommon Approach to Trial Preparation – ATLA convention materials 1997

We shall not flag or fail. We shall fight in France, we shall fight in the seas or oceans, we shall fight with growing confidence and growing strength in the air, we shall defend our island whatever the cost may be, we shall fight on the beaches, we shall fight on the landing grounds, we shall fight in the fields and in the streets, we shall fight in the hills; we will never surrender.

It is a beautiful example of repetition as a rhetorical device.

#### 4. Create Identification

Characterize your client in positive terms and liken her to the jurors

We are most motivated to assist those who are most like us. People tend to attribute less responsibility to persons similar to themselves, and more to those unlike them.

#### 5. Encourage empathy, not sympathy.

Jurors are put off by pleas for sympathy. Sympathy evokes pity. Pity does not motivate and is a feeling that we are capable of distancing from. Empathy is different – it is putting the audience in the place of the plaintiff and permitting the jurors to “walk in her shoes”. Empathy motivates the juror to take action because he understands what the plaintiff needs.

Empathy bias exists. It is not sympathy or pity, which encourage anti-plaintiff bias, but *empathy*, which allows a juror to understand how the injury affects this

plaintiff, thereby eliciting feelings of compassion and altruism, and motivates people to help.<sup>13</sup>

We must bring the jury into the equation – by providing them with a reason to identify with and help the plaintiff. That reason may be providing them with the protection that the plaintiff did not get.

6. Ensure scrupulous consistency with the evidence

To be effective, the opening and trial story first presented in opening must be borne out by the evidence, and in particular the first four witnesses. While this is the obligation of counsel as an officer of the court, it is also important in advocating before a jury. The trial story presented becomes more firmly entrenched with each witness who supports the story.

7. Judiciously use repetition

Credibility is attached to a message that is repeated. However, there can be too much of a good thing. After a certain number of repetitions, the audience begins to criticize the message and view it *less* favourably. It is thought that 4- 8 repetitions throughout the opening is optimal. After that, the audience becomes more critical of the information.

8. Adopt a theme or themes that resonate with the jury

a. Social themes

---

<sup>13</sup> supra note 11

A Social theme is one that is larger than the parties. Social themes resonate with juries because they can see the impact of their decision beyond the courtroom.

The pacing statement is a great place to introduce a pacing theme. For example:

WE ALL KNOW THAT A DRIVER HAS TO WATCH THE ROAD, WATCH HIS SPEED, AND KEEP HIS CAR UNDER CONTROL AT ALL TIMES JUST AS ANY REASONABLE DRIVER WOULD DO. NO MATTER WHAT YOU ARE DOING, YOU HAVE TO BE REASONABLY CAREFUL NOT TO HURT ANYBODY WHILE YOU ARE DOING IT. WE KNOW THAT DRIVING A CAR CAN BE A DANGEROUS ACTIVITY. <PAUSE> WE ALL MUST WATCH WHERE WE ARE GOING, BECAUSE THAT IS RESPONSIBLE BEHAVIOUR.

IN OUR CANADIAN SOCIETY, IT IS ALSO TRUE , AND THE REASON WE ARE ALL IN THIS TODAY, THAT IF SOMEONE INJURES US,/ BECAUSE HE FAILED TO ACT REASONABLY/, WE ARE ENTITLED TO SEEK DAMAGES, TO SUE FOR WHAT WE HAVE LOST /- NOW AND INTO THE FUTURE.-/ WE TOO MUST ACT REASONABLY,/ AND DO WHAT WE CAN TO OVERCOME OUR INJURIES./ A PLAINTIFF, LIKE AC,/ MUST TAKE REASONABLE STEPS TO GET HER LIFE BACK IN ORDER./ NOT HEROIC STEPS, JUST REASONABLE.

Here, counsel makes statements that are universal, true, buying credibility, and set up a larger theme – safety on the roads. Much can be done with done with drunk drivers, careless doctors, overworked truckers, the issue is only identification of the larger theme.

b. Utilization themes

Utilization themes emanate from psychotherapy theories. Whatever the person talks about in session is accepted, in order to build rapport, and open communication. A good opening will incorporate references to the beliefs we expect the jurors will hold about relevant issues and attitudes and will employ

inclusive language to build rapport. If jurors believe that acceptance of personal responsibility is important, that must be included in the opening.

9. Limit key elements to no more than seven.

Involving the jury in more than seven elements leads to confusion, straying from the trial story, and encourages the jury to build their own trial story.

10. Use Story Construction

Jurors make decisions through a cognitive process called story construction.

They listen to the story, decide if it is believable – or internally consistent.

Elements of a Good Trial Story:

- a. It is complete, having a beginning, middle and an end.
- b. It explains all of the evidence that will be presented
- c. It is internally consistent

To ensure acceptance of the precipitating event, as causative of damages, the story must include:

- a. An identifiable person or source of action;

Who and what are accountable for an event is explained with clarity and simplicity.

- b. The belief that the person should have been able to foresee the outcome;

Take away the defendant's suggestion that the plaintiff's behaviour was a surprise, of that "accidents happen", by stating what the logical consequences of

the action were, using hindsight bias to full advantage in telling the end of the story. Instead of the tavern complaining that it could not have known the patron was drunk, reframe their failure to protect the patron and others from drunk driving by its serving system that was designed to encourage drinking.

- c. The belief that the person's conduct was not justified under the circumstances;

The juror, instead of fearing that his premiums will go up if large awards are made, will be refocused on protecting us from "aggressive drivers" or drunks.

- d. The belief that the person had a choice in his or her behaviour.<sup>14</sup>

Corporations must become people, who have choices and obligations to act without negligence. The story should focus attention on the *situation* in which the injury occurred and the defendant's *control* over that situation. The goal for the lawyer should be to discover how to describe the defendant's conduct in a manner inconsistent with the juror schemas and her client's conduct consistent with those schemas.<sup>15</sup> Then demonstrate how the defendant could have acted differently to change the situation.

A powerfully engaging device is the use of contrasts and parallel stories to underscore differences in the parties' behaviour. A brief example:

AS CLAUDE READIES HIS CHILDREN FOR THE SCHOOL DAY AHEAD,  
THE DEFENDANT FLYNN CRACKS OPEN THE FINAL BEER OF HIS  
DRINKING SPREE.

The trial story should be told in the present tense using active, not passive language. This form of construction is unfamiliar to trial lawyers, who are used to

---

<sup>14</sup> Wenner supra note 4

<sup>15</sup> Cusimano, G. *Combating Juror Bias* from ATLA's Overcoming Juror Bias September 21-22, 2001

more cumbersome and formal passive language. Telling the story in the present tense engages the listener's attention. Active phrasing is more listenable and again, engaging. Contrast:

Mary does not know what today will hold for her as she gets ready for work.

-with-

As Mary got ready for work , she did not know what her day was going to hold for her.

Beyond the *tense* of the word, certain words evoke the future while others the present or past. Prevention is in the future – protection is in the here and now. To bring the jury to the here and now, to perceive it can make a difference, themes using protection bring urgency and hence motivation to the task.

A good story includes the listener. Use of inclusive language, again cumbersome and unnatural for lawyers, creates a feeling of unity of purpose between counsel and the jury.

#### 11. Use demonstrative evidence

The attention span of the average North American has declined precipitously over the years. Once in excess of 4 minutes, for Generation X, it is now less than 20 seconds.<sup>16</sup> The implications for opening statement are obvious. In my view,

---

<sup>16</sup> Trial Magazine

Generation X will not be reached with traditional techniques. You will need to use visual aids to reach and engage this group.<sup>17</sup>

Learning and memory is enhanced with visual images. The information we have now about learning is bound to change and the importance of visual information will be found to be greater due to the teaching techniques now regularly employed in the classroom, on the net, in video games, even the CD version of World Book Encyclopaedia.

The careful selection of visual images, be they charts, photos, models, or overheads is by now the standard of practice. The debate over whether this form of evidence can be used in opening is long over. It is simply mandatory that an opening include demonstrative evidence.

#### 12. Inoculate against the defendant's case / distance defendant

The opening should anticipate the defendant's case and inoculate against it.<sup>18</sup> You gain credibility through your willingness to deal with it, and take the power out of its telling by the defendant. It loses its sting.

---

<sup>17</sup> They pose another problem. Dubbed the "Seinfeld Syndrome" by one author, this group has been characterized as indifferent and unmotivated to help those in need. Losses are 'bottom-lined'. They are resistant to thoughts that money can help. Outrage comes slowly.

In the wake of 9-11, new research suggests that this group has been most profoundly affected by the events of that terrible day, and have grown more empathic and connected to their communities. What affect this might have in Canada is unknown.<sup>17</sup>

<sup>18</sup> I first heard of this concept at the 1994 ATLA annual conference. It is a subject unto itself. Briefly put, one acknowledges the argument of the opponent, and states why it has no merit.

## STRUCTURE OF THE OPENING

### 1. Open the opening through the use of pacing

Here counsel watches the jury, establishes a pace that is comfortable for them, and starts the process of credibility building through verbal advocacy.<sup>19</sup> Respect the fact that the jurors are barely familiar with the lay of the land, have no idea of the procedures except what they know from TV, and are focused on personal concerns. Give them a chance to catch up. Make positive, universal statements relating to the theme of the case, without actually stating the theme.

### 2. Establish the theme and build rapport

Once you have their attention, and their interest through the pacing statement, begin to engage the jury with the theme, strongly and briefly stated. Use the plaintiff's name throughout this section to tie the injustice they will redress to the plaintiff. Be clear: "this case is about..."

### 3. Justify entitlement – liability facts

Cynicism can be expected to continue until the justification for the plaintiff's entitlement is established. Set out the liability facts in a way that demonstrates the plaintiff's entitlement to recovery. It is here that knowledge of bias, use of rhetorical devices, priming and story construction do their work.

### 4. Empowerment

---

<sup>19</sup> This is not to say that establishing credibility starts with the opening. It starts long before the opening. But that is the subject of another paper.

The jury is told that their role is an important one. This follows the liability facts and the trial story so they are open and motivated to hear the damages section of the opening. Empowerment can sound hollow if placed too early in the opening.

5. Damages

Creation of empathy for the plaintiff, outrage at his situation at the hands of the defendant and concern for the future is the task of this section. Preview any areas of concern that will come up in the evidence such as causation.

6. Three points in the case emphasized

Simplify and summarize the three major themes you have developed in liability and causation.

7. Connect the three points to damages

8. Empower and close the opening

***Remember after all is said and done – it's the music, not the words.***

***Listen to the music of your case***

***Seek to understand the plaintiff's loss before you put pen to paper***

### **FURTHER READING**

Perhaps the most persuasive and comprehensive text on the subject of opening, and communication with the jury generally is the text Courtroom Communication Strategies by Lawrence J. Smith and Loretta A Malandro [ 1985 Kluwer Law Book Publisher Inc. New York]

Trial Magazine published by the American Trial Lawyers Association provides a wealth of information, techniques and examples of opening and persuasive strategies. ATLA publishes materials from courses, available to members, on a myriad of subjects covered in this paper.