**A FEW EXAMPLES OF WHAT YOU MIGHT SAY IN AN OPENING STATEMENT**

(***Introduction***) Ladies and gentlemen, my name is (name of counsel). Together with my colleagues over here at this table, I'm proud and privileged to represent this man (indicating the defendant). Today I get to talk to you directly about this case. This is an important time, and I am going to try my best to communicate what happened in this case.

(***Stating your theme***) This is a case of or This case is about (*state your theme, e.g., jealousy, greed, lust, etc.*)

(***Setting the scene for your story****)*   To begin to comprehend what happened here, we have to go roll back the clock to (*state time and place where your trial story begins*).

(***Let me walk you back***) Let me walk (take) you back to (*state the place and time*).

(***Boil the case down***) If we could boil this case down to everyday language, it would be this: (*without exaggeration, state the competing theories of the case in the form that best highlights the merits of your theory and deflates the merits of the opposition's*)

(***Client not guilty***) Members of the jury, (*name the defendant*) is not guilty, not guilty, not guilty.

(***Purpose of opening statement***) The purpose of an opening statement is not to tell you what the evidence is. The witnesses and the exhibits will do that. Nor is the purpose of an opening statement for me to try to imprint on your minds every important fact. If we tried to do that, we would be here for an awfully long time. So what is an opening statement? An opening statement is sort of like getting someone ready for a trip that they have never taken before. You try to get them oriented to certain signs on the road and certain landmarks, so that, as they actually take the trip, they understand where they are going, where they are and where they have been. My purpose here today is to give you a preview of what the defense expects the evidence will show. During opening statements, we lawyers are not permitted to argue the case or to explain the meaning of the evidence. What we are allowed to do is to tell you what our defense is and to tell you what the evidence will and will not show. In jury argument at the end of the case, after all the evidence has been presented, we will come back to discuss and explain the meaning of the evidence.

(***Remember this***) If you don't remember anything else I'm going to say in the next few minutes, I ask you to remember this: (*state the essence of your defensive theory, e.g., the defendant never conspired or agreed with anyone, the defendant used a reasonable amount of force to protect himself from a deadly attack, etc.*)

(***Response to plaintiff’s claims***) You've just heard somebody make a bunch of claims here about (*name the client*) as though those claims were gospel truth. What the prosecutor just said is nothing more than a claim of what s/he expects the evidence to prove. I intend no rudeness when I say, don't believe a word of it until you've heard all the evidence. You don't know what the facts are until you've heard the evidence. They (indicating the prosecutors) have the burden of proof beyond a reasonable doubt and nobody knows anything until they start to carry this burden.

(***Charges/accusations not facts***) I want to talk about this the accusations. The accusations are not facts. They are simply a claim of what plaintiff hopes to prove beyond a reasonable doubt.

(***Opening composed of several (five) parts***) This opening statement is composed of three parts. The good news is that I have just finished the first part - the introduction. Next, I'm going to tell you what the case is about. Then, I am going to walk you through some of the most relevant facts and events. After that, I'm going to spend a few minutes telling you how we are going to prove those facts and events to you. Finally, I am going to make a few concluding remarks.

(***What case is about***) What is this case about? Quite simply, this is a case about (*begin the explanation of the case*).

(***Explanation of proof***)  How are we going to prove to you that (*state the element of the offense or the defense*)?

(***Mentioning the anticipated jury instructions on the law***) If I'm right (or correct) (or I predict that) the judge will give you an instruction (or a limiting instruction) telling you (*precisely state the contents of the anticipated instruction*).

(*Defender's promise as an introduction or closer to the discussion of the defense story of the case*) So this is (*name the client*) promise to you of what we confidently believe and expect that the evidence will show. This is our promise to you.

(*Lawyer's promise not like a politician's*) You may think a lawyer's promise is akin to a politician's promise, where you hear the promise and then you vote and then you wait to see if the person you elected keeps their promise. It's different in a courtroom. You won't vote until you hear the evidence, and you will see who keeps their promise and who does not before you write the ending of this story with your verdict.

(*Truth as a one step at a time journey*) Arriving at the truth is a journey that we will take one step at a time.

(*Defense witness will give sworn testimony entirely at odds with prosecutor’s theory of case - defense opening*) You are going to hear from a witness who will present sworn testimony entirely at odds with what the prosecutor just told you, testimony that directly contradicts the prosecution’s theory of the case

(*Defense will call witnesses the prosecution could have called but won’t - defense opening*) We will call witnesses that the prosecution could have called. but won’t, but for reasons that will become apparent.

(*You will demand more than the prosecutor can produce - defense opening*). When you have heard all the evidence in this case, you will recognize that you will honor truth and justice by telling the government that it hasn’t solved this crime and that you won’t rubber stamp it’s theory of the case. You will demand more of the government.

*(Asking yourself if you are qualified to sit in judgment)*

You come in here and you wonder if you are equipped to be a juror.  You have never had any experience with the law, the law books, and you wonder ‘What makes me qualified to be a juror?’  The simple answer is the truest. It's the common sense you have developed by living as long as you have and undergoing the life experiences you have faced. This makes you the most qualified people in this world to be sitting in judgment in this case.  So please don’t abandon that gift of common sense that you all have.  Listen to the evidence, and you will do what’s right.

(*Keep an open mind until all evidence in; important stuff may come near end*) I ask you, please keep an open mind until you have heard all the evidence. Sometimes the very last thing you hear about some situation is the thing that decides it for you. Sometimes it's what you hear near the end that is the solution to the whole problem.

(*Concluding portion of opening; defender refuses to carry burden of proof; defense will return at end of case to explain how the prosecution failed to carry its burden*) I have told you what we believe the evidence will be. I am not, by doing this, going to assume a burden of proof that we don't have. No, members of the jury, the prosecutors have that burden of proving their claims beyond a reasonable doubt, and when this case is all over and the evidence is in, I will stand before you again and point out the ways in which we believe they have not carried their burden of proof.