

Opening Statements

“Dos” and “Don’ts”

Things You Should Do

- Remember the contemporaneous objection rule
 - Failure to object=waiver unless fundamental error
- Tell your story—try to capture the jury’s interest immediately, and organize the o/s around themes
- Tell the jury what they can expect from the other side—and put your spin on it

Things You Should Not Do

- Don't use just words—use exhibits (*e.g.*, deposition excerpts, key parts of documents (sparingly)
 - But make sure you will not have problems getting the exhibits in evidence
- Do not refer to a demonstrative exhibit the other side has not seen
- Don't take all the fun away from the jury—if possible, leave a little mystery so that they will wonder what you will be delivering later in trial