



Insights: Perspectives

5 Key Takeaways | How Young Lawyers Can Sharpen Their Trial Skills

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5 KEY TAKEAWAYS

How Young Lawyers Can Sharpen Their Trial Skills

On October 20, [Kilpatrick Townsend's](#) partner [Vince Parrett](#), McManis Faulkner partner Elizabeth Pipkin, and three distinguished Santa Clara County Superior Court Judges Roberta S. Hayashi, Sunil R. Kulkarni, and Joanne McCracken taught over 50 young lawyers at the SCCBA Civil Trial Institute how to sharpen their skills as trial lawyers.

For the first thirty minutes, Parrett and Pipkin asked Judges Hayashi, Kulkarni, and McCracken to share with the audience:

1

What is the biggest mistake that they have seen lawyers make in opening statements?

Key takeaway: The biggest mistake during opening is over-promising the jury more than your witnesses and exhibits will prove during trial. Promise more than you will prove, and it can be used against you to devastating effect during closing arguments.

What are the dangers of using a slide deck during opening statements containing documents that have not been admitted?

Key Takeaway: While there was a range of views among the Judges on whether they would allow the use during opening statement of slide decks containing documents that have not been pre-admitted, they agreed that it is good practice for counsel to exchange slide decks before trial and to bring any objections to the attention of the Court before opening statements.

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3

Under what circumstances should opposing counsel object during opening statements?

Key Takeaway: If opposing counsel violates an order from a motion in limine, then object. Otherwise, be selective in objecting during openings, especially as you may be able to use excessive statements of opposing counsel against them later during your closing arguments.

When a witness is evasive during cross-examination and refuses to answer the question asked, what should the lawyers at trial do?

Key Takeaway: When it involves an important issue, an effective way to deal with an evasive witness is to point out that the witness has not answered the question and then calmly repeat the same question, several times if necessary—vividly showing the jury that that witness is being evasive.

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5

What is an effective way to cross-examine experts?

Key Takeaway: While it is usually a mistake to try to get an opposing expert to change



his or her opinion on the stand, it is often effective to cross examine the expert with their own prior writings and testimonies that are inconsistent. By pointing out inconsistencies in their own words, the expert witness loses credibility.

And then for the next two and a half hours of learning-by-doing, the three Judges and lawyers Parrett and Pipkin split up into small groups with young lawyers who practiced giving opening statements, direct and cross examinations of expert witnesses, and closing arguments. Parrett teamed up with Judge Kulkarni to provide constructive guidance and tips (and a few “war stories”) to two groups of around 20 young lawyers on improving their advocacy skills in jury trials.

By all accounts, the Civil Trial Institute was well received and a success.

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