

PAPER OUTLINE

I.	COMMUNICATING DURING THE TRILOGY OF PERSUASION: VOIR DIRE, OPENING AND SUMMATION	1
A.	UNDERSTANDING AND UTILIZING THE DYNAMICS OF DECISION MAKING	1
1.	Aristotle's Principles of Persuasion	1
2.	Modern Forensic Principles	2
a.	Jurors Decide Cases on Perceptions	2
(1)	Preloaded Perceptions	2
(2)	Preloads Role in Decision Making	3
(3)	Preloads Role in Primacy	3
(4)	Coping with Long-Held Beliefs	3
(5)	Suspending Long-Held Beliefs	4
(a)	Acknowledge and Justify Belief	4
(b)	Link to the Belief	4
(c)	Build a New Belief System	4
(6)	Organization of Perceptions	5
(7)	Jurors Seek to Render a Verdict Which They Perceive as Equitable	5
b.	Understanding the Conscious (Logic) vs. Unconscious (Emotion) Mind	5
(1)	The Conscious Mind (Logic)	5
(a)	The Conscious Mind Can Abstract	5
(b)	The Conscious Mind Distinguishes Reality From Non Reality	5
(c)	The Conscious Mind and the Rule of Three	5
(d)	The Conscious Mind is Detail-Oriented	6
(e)	The Conscious Mind Deals with Negatives	6
(2)	The Unconscious Mind (Emotion)	6
(a)	The Unconscious Mind Records a Total Experience	6
(b)	The Unconscious Mind and Reality	6
(c)	The Unconscious Mind Experiences in the Present Tense	6
(d)	The Unconscious Mind Deals with Unlimited Information	6
(e)	The Unconscious Mind Cannot Interpret Negatives	6
(f)	The Unconscious Mind Handles Information Emotionally	6
(3)	Retention and Recall	6
(4)	The Role of the Five Senses -	6
(5)	Pneumonics	7
(6)	Negatives and the Unconscious Mind	7
(7)	Present Tense Appeal	7
c.	Attorneys Must Create Perceptions of Reality	8
d.	Jurors Search For and Appreciate Similarities	8
(1)	The Search for Similarities	8
(2)	The Effect of Similarities	9
(3)	The Creation of Similarities	9
(a)	Neurolinguistic Programming	9
(b)	Tap Into the Listener's Model	9
(c)	Communicate With the Unconscious Mind	9
(d)	Using Jurors Frame of Reference	10
(e)	Psychological Bonding with Jurors	10
e.	The Principle of Reciprocity	10

f.	Jurors Use Trait Associations to Organize Perceptions	10
g.	The Attribution Theory on Causation Issues	11
(1)	Reactive Attribution	11
(2)	Purpose of Attribution	11
3.	Goals of the Advocate	11
a.	Inspire the Jury	12
(1)	Creation of Perceptions	12
(2)	Validation of Perceptions	12
(3)	Motivation of Perceptions	12
b.	Influence the Jury	12
(1)	Jurors Seek to Make Sense Out of Their Environment	12
(2)	Consistency in Communications	12
(3)	Data Which Influences Jurors	12
(a)	Jurors are Impressed with Hard Data	12
(b)	Jurors are Impressed with the Court's Instructions	12
(c)	The Principle of the Value of Scarcity	13
(d)	Objections Increase Perceptions of Value	13
(e)	Scarcity of the Expert	14
(4)	Jurors are Subject to the Anesthetizing Effect	14
(5)	Attorney-Client-Witness Credibility	15
(a)	Jurors Search For and Appreciate Credibility	15
(b)	Achieving Credibility	15
(i)	Competence	15
(ii)	Trustworthiness	15
(iii)	Dynamism	16
(c)	Influences on Perceptions of Credibility	16
(i)	Personal Attributes	16
(ii)	Self Monitoring Characteristics	17
(iii)	Reputation	17
(iv)	Fairness	17
(d)	Attorney's Goals to Establish Credibility	17
(i)	Establish Rapport	17
(ii)	Importance of Integrity	17
(iii)	Attorney-Client Relationship	17
(iv)	Display Professional Demeanor	17
(v)	Communicate Simply	18
(6)	Arenas of Influence	18
(a)	Witness Stand	18
(b)	Courtroom	18
(c)	Courthouse	18
(d)	Extrajudicial Considerations	19
(7)	The Real Final Argument	19
(a)	Identifying Roles Jurors Play	19
(i)	Juror Advocates	19
(ii)	Followers	19
(iii)	Bench Warmer	20
(iv)	Negotiator	20
(v)	Hangers	20
(b)	Selection and Influence of Jury Leaders	20
(i)	Ascribed or Achieved Status	20

	(ii) Leaders Are Confident and Communicative	20
	(iii) White Males Prevail	20
	(iv) Leaders Use Communication Skills	20
	(v) Identifying Juror Advocates	20
	(c) Arming Juror Advocates	21
c.	Instruct the Jury	21
	(1) Jurors Look to Attorneys for Guidance	21
	(2) Lead Jurors Through Suggestions	21
	(3) Advise Jurors of Duties and Responsibilities	21
	(4) Sample Argument Regarding Duties	22
d.	Empower the Jury	22
	(1) Jurors Do Not Understand Their Power	22
	(2) Use of Rhetorical Questions	22
	(3) Imbue Jurors with a Sense of Power	23
B.	CREATING AND ADAPTING THEMES AND MESSAGES	23
	1. Developing Case Specific Themes	23
	2. Adapting Standard Themes	23
	3. Thematic Anchoring	23
C.	STRUCTURING POWER THEMES	24
	1. Psychological Principle of Structuring	24
	2. Psychological Tools of Structure	24
	a. Primacy	24
	b. Thematic Anchoring	25
	(1) Anchoring Through Repetition	25
	(2) Anchoring Technique	26
	(3) Collapsing an Anchor	26
	(4) Anchor Recalls Entire Experience	26
	c. Neurolinguistic Programming - Pacing	26
	(1) Pacing to Create Similarities	26
	(2) Matching and Mismatching	26
	(3) Pacing at all Levels	27
	(4) Pacing in the Primary Representational System	27
	d. Embedded Commands	27
	(1) Communicate a Command to the Unconscious Mind	27
	(2) Preface, Pause, Voice Change and Command	27
	e. The Zeigarnik Effect	27
	f. Recency	28
	3. Rhetorical Tools of Structure	28
	a. Triad	28
	b. Parallel Structure Triad	29
	c. Antithesis	30
	d. Repetition	30
	(1) Repetition At The Beginning	30
	(2) Refrain	30
	(3) Echo Effect	30
	(4) Augmentative Repetition	30
	(5) Repetition of the Central Theme	31
	e. Thematic Reversal	31
	f. Rhetorical Question	33
	g. Alliteration	33

h.	Understatement	33
i.	Grammatical Inversion	34
j.	Rhythm	34
4.	Verbal Tools of Structure	34
a.	Power Word Choices	35
(1)	Abstract vs. Concrete	36
(a)	Simulative Concrete Words	36
(b)	Deliberative Abstract Terms	36
(c)	Preloaded Word Selection and Avoidance	37
(2)	Catch Phrases	37
(3)	Emotive Words	37
(4)	Logical vs. Emotional Words	38
(5)	Short, Long, Old & New Words	38
(6)	Bilingual: Technical & Lay	39
(7)	Use of Jargon	39
(8)	Slang	39
(9)	Vernacular or Colloquialism	39
(10)	Language of the Case	40
b.	Analogies	40
c.	Metaphors	41
d.	Similes	42
e.	Establish Sense of Humor	42
f.	Anecdotes	42
g.	Quotes	43
(1)	Prose	43
(2)	Poetry	43
(3)	Biblical Quotes & Parables	44
(4)	Song Lyrics	44
(5)	Literature	44
(6)	Witnesses/Parties	44
(7)	Medical Quotations	44
h.	Adapting Standard Arguments	47
(1)	Pain and Suffering:	47
(a)	Measuring physical pain and suffering	47
(b)	Constitutional right to be free from pain.	47
(c)	Pain is life's window into hell.	47
(d)	Job ad - catastrophic injury:	47
(e)	Minimum wage:	47
(2)	Value of Human Life:	47
(3)	Full Justice:	47
D.	PERSUASIVE COMMUNICATION OF POWER THEMES AND MESSAGES	48
1.	Communicating on Multiple Levels	48
a.	Non Verbal Communication	49
(1)	The Importance of the Pause	49
(2)	Pacing the Jury	50
(3)	Movements and Gestures	50
(4)	Touching the Client	51
(5)	Dressing for Summation	51
b.	Mood Transference	51
(1)	Transferring a Feeling	52

(2)	Transferring Factual Information	53
(3)	Transferring Visual Information	53
2.	Voir Dire - Goals of Jury Selection	54
(a)	Obtain Information	54
(b)	Create Rapport	54
(c)	Begin the Persuasive Process.	54
(d)	Inoculate Against Weaknesses.	54
(e)	Introduce Case Themes	55
(f)	Empower Jurors	55
(g)	Create Visual Images	55
(h)	Listen to the Jury	55
(i)	No Such Thing As a Stupid Question	55
(j)	Avoid Legalese	55
(k)	Do Not Ignore Anyone On the Panel	55
(l)	Ask Open-Ended Questions	55
(m)	Use Juror Questionnaire	55
3.	Effective Storytelling Throughout Trial	56
II.	MODELS OF ELOQUENT SPEECHES	60
A.	A DAY OF INFAMY BY FRANKLIN D. ROOSEVELT - DELIVERED IN 1941	60
B.	ADDRESS OF MARTIN LUTHER KING, JR.	60
C.	KENNEDY INAUGURAL ADDRESS	62
D.	GENERAL DOUGLAS MACARTHUR'S SPEECH TO CONGRESS	62
III.	SAMPLE SUMMATIONS	65
A.	MARVIN LEWIS	65
B.	MOE LEVINE	68
C.	HOWARD L. NATIONS	69
D.	HOWARD L. NATIONS	82
IV.	SAMPLE OPENING STATEMENT: HOWARD L. NATIONS	84