

CLOSING ARGUMENTS

PURPOSE

Convince jury that they should render a verdict for your client by explaining how key evidence and reasonable inferences drawn from that evidence support a verdict in your client's favor.

WHAT AN EFFECTIVE ARGUMENT LOOKS LIKE.

- Start with same “hook” used in opening statement.
- Start strong with your position.
- Organize evidence and inferences in a memorable, persuasive way.
- Remind jury of key evidence and draw reasonable inferences.

WHAT AN EFFECTIVE ARGUMENT LOOKS LIKE. (Continued)

- Use admitted exhibits where it makes sense.
- Address weaknesses in middle of case and put your spin on them (as shown by evidence).
- Use stories/analogies if they are on point and clarify your position.

WHAT AN EFFECTIVE ARGUMENT LOOKS LIKE. (Continued)

- Show jury portions of charge.
- Tell jury how to answer questions in verdict form.
- Use definitions / instructions in charge to show how evidence supports verdict.
- Explain burden of proof and how it requires verdict in your client's favor.

WHAT AN EFFECTIVE ARGUMENT LOOKS LIKE. (Continued)

- Anticipate opponent's argument and "steal their thunder".
- Explain how you kept your promises.
- Remind jury of opponent's broken promises (from opening statement).
- Tell them the relief you want.
- End strong with hook.

DO'S

- Rehearse your argument including use of exhibits (and equipment).
- Memorize beginning and end.
- Maintain eye contact with jury.
- Use impact words and phrases.
- Use everyday language.
- Move with a purpose.
- Use gestures for emphasis.

DO'S

- Be dramatic where appropriate (use tone, inflection, pace).
- Use effective pauses.
- Discuss key evidence in persuasive way, telling jury what it means.
- Use exhibits!
- Repeat hook throughout and also at end.
- Listen to other side's argument so you can respond in rebuttal if you have burden of proof.

DO'S

- “Fully open” in first part of argument (covering all issues and request for relief) if you have the burden of proof.
- Ask to reserve time for rebuttal if you have the burden of proof.
- Anticipate rebuttal and undercut it if you give your argument second.
- End strong.

DON'TS

- Don't read your argument.
- Don't use legalese.
- Don't focus too much on other side's case.
- Don't pace.
- Don't use distracting gestures.
- Don't try to discuss every exhibit or piece of testimony.
- Don't engage in Prohibited Conduct.
- DON'T READ YOUR ARGUMENT.

PROHIBITED CONDUCT

- Cannot state personal beliefs about credibility of evidence or witnesses or about merits of case.
- Cannot refer to evidence not admitted.
- Cannot misstate the law.
- Cannot misstate testimony or other evidence.
- Cannot appeal to jury's passion or prejudice.
- Cannot appeal to jury's personal or social interest (examples: (rich vs. poor; out of state party v. local)).

PROHIBITED CONDUCT

- Cannot argue improper inference from evidence admitted for limited purpose.
- Cannot refer to insurance unless an issue in case.
- Cannot violate “Golden Rule”.
- Cannot attack opposing counsel unless justified.
- Cannot refer to your client’s or your witnesses’ perjured or mistaken testimony as support for verdict.

Closing Argument Demo

THE TORTOISE AND THE HARE

Judge's Definitions

The term “preponderance of the evidence” means the greater weight of credible evidence presented in this case.

For a fact to be proved by a preponderance of the evidence, you must find that the fact is more likely true than not true.

Circumstantial Evidence...

is the proof of facts or circumstances that give rise to a reasonable inference of other facts.

Circumstantial evidence proves a fact indirectly in that it follows from other facts or circumstances **according to common experience and observations in life.**

The law makes no distinction between direct and circumstantial evidence as to the degree or amount of proof required...

Question No. 1

Did Tortoise's conduct towards Hare constitute an intentional infliction of emotional distress?

Answer "Yes" or "No".

Answer: _____

If you answered "Yes", answer No. 2.

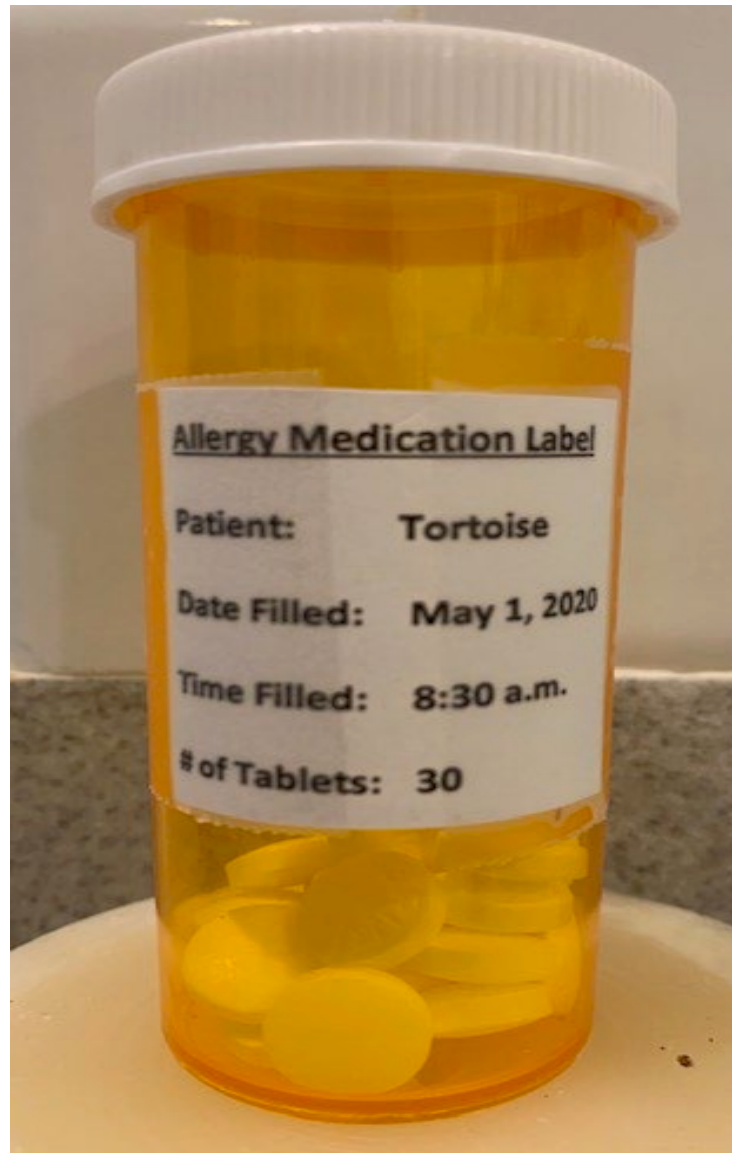
Jury Instruction

To recover for intentional infliction of emotional distress, a plaintiff must show that:

- (1) the defendant acted intentionally or recklessly,
- (2) the defendant's conduct was extreme and outrageous,
- (3) the defendant's actions caused the plaintiff emotional distress, and
- (4) the resulting emotional distress was severe.

Tortoise acted intentionally
or recklessly.

Tortoise's conduct was
extreme and outrageous.



Allergy Medication Label

Patient: Tortoise

Date Filed: May 1, 2020

Time Filed: 8:30 a.m.

of Tablets: 30

Allergy Medication Label

Dosage: Do not exceed one tablet daily in the evening with food.

Warning of Side Effects: Even recommended dosage may cause dizziness, lightheadedness and extreme drowsiness.

YouTube: Search “Loooooooooser!”



Tortoise's actions caused
Hare emotional distress,
and the resulting emotional
distress was severe.

Dr. Golden, PhD
Hare's Psychiatrist



Hare has met his burden to prove Tortoise is liable for intentional infliction of emotional distress because:_____

- (1) Tortoise acted intentionally,
- (2) Tortoise's conduct was extreme and outrageous,
- (3) Tortoise's actions caused Hare's emotional distress, and
- (4) Hare's emotional distress was severe.

Question No. 1

Did Tortoise's conduct towards Hare constitute an intentional infliction of emotional distress?

Answer "Yes" or "No".

Answer: Yes

If you answered "Yes", answer No. 2.

Question No. 2

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Hare for his damages, if any, that resulted from Tortoise's conduct?

Consider the following elements of damages, if any, and none other. Answer separately in dollars and cents for damages, if any.

Loss of race & sponsorship income sustained in the past. _____

Loss of race & sponsorship income that, in reasonable probability, will be sustained in the future. _____

Mental anguish sustained in the past. _____

Mental anguish that, in reasonable probability, will be sustained in the future. _____

Dr. Oliver Owl

Professor of Actuarial Sciences



Question No. 2

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Hare for his damages, if any, that resulted from Tortoise's conduct?

Consider the following elements of damages, if any, and none other.
Answer separately in dollars and cents for damages, if any.

Loss of race & sponsorship income sustained in the past. **\$ 300,000**

Loss of race & sponsorship income that, in reasonable probability, will be sustained in the future. **\$ 900,000**

Past mental anguish and pain and suffering **\$ 400,000**

Future mental anguish and pain and suffering. **\$ 600,000**