

The background of the slide features a modern architectural structure with a complex network of glass panels and steel beams, creating a sense of depth and perspective. The lighting is bright, with a strong blue and teal color palette. The central text is overlaid on a dark blue horizontal band.

IADC Trial Academy 2019 Closing Arguments

SIDLEY

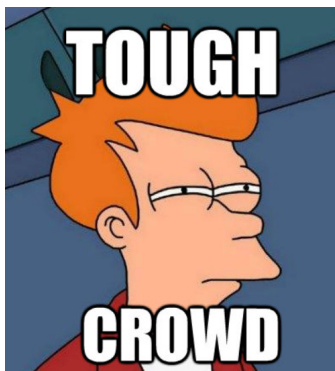
Use Closing Arguments as a Chance to Reiterate Your Central Trial Themes: “Tell Mama”

- I talk to Mama...**Mama’s got 10 minutes** to hear my story and the reasons why I should win.
- Mama needs me to **keep it simple** and crystal clear
- Talking to Mama distills your case to its **key theme(s)**



Targeted Trial Themes

- Target it towards your **toughest audience** – the jurors who still need to be persuaded



- Make it economical: the best theme sums up why you should win in **as few words as possible**
- Make it **easy**: easy for you to work into narrative, easy to repeat, **for the jury to remember**



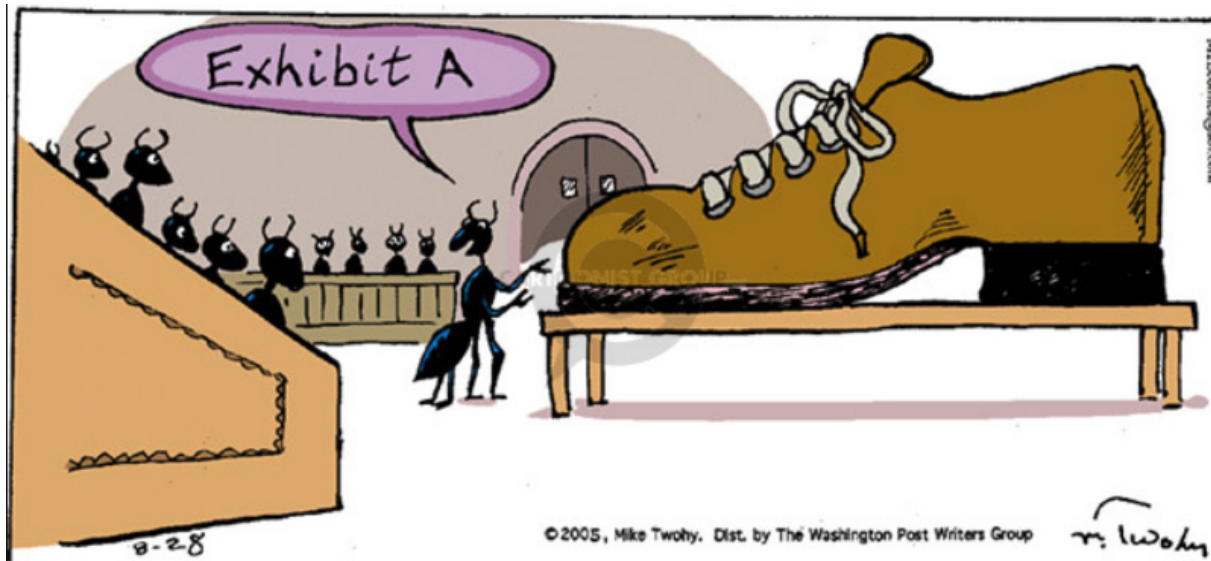
Making your themes “stick”

- Sound bites
- Memorable moments
- Simple summaries
- Lasting labels



Reinforce Your Theme

- Visual aids should support the theme and remind the jury of your proof points
- Think of demonstratives that illustrate your themes graphically, but remember to be selective and don't overwhelm the jury with a slideshow of all your evidence



Plaintiffs' Go-To Torts Theme: The Rise of the Reptile

- Premised on (dubious) psychological research and theory regarding the evolutionary relics of the “reptile brain” – fear-based, “fight or flight” response to perceived threats to safety of community and family
- Appeals to jurors’ desire to protect family and community, rather than on their sympathy for the plaintiff
- Focuses on company conduct, through documents and company witness depositions





The Reptile Theory

- **“Safety is the Company’s No. 1 Priority”**: establish this seemingly innocuous admission through multiple witnesses: start with the general concept and move to specific situations
- **“Safety Rules”**: establish these through company witnesses using company documents, e.g., SOPs
- Show violations of “safety rules” through company witness depositions and admissions
- Continually and implicitly message the jury that safety rule violations are a **threat to the community**
- Invite the jury to **“send a message”** that these perceived threats will not be tolerated

Defeating the Reptile

- “Snakes. Why did it have to be snakes?”
-- *Indiana Jones*



- Objections
- Motions in Limine
- Golden Rule
- Prepare: The Judge, The Witnesses and Yourself

Refine Themes During Trial

- Many alternatives – but simplify the jury’s job
- Roadmap of proof elements: make it easy for jury to tie evidence to elements of proof
- Use jury instructions
- Use verdict form

Put Your Best Foot Forward

- Select key testimony
- Use best exhibits
- Link them to both **THEORY** and **THEME**
- **Theory** = application of law to facts, i.e., why you win
- **Theme** = the key to viewing the case favorably to your client, or unfavorably toward your opponent

Return to the Theme in Closing Argument

- This is your chance to bring all of the evidence together in support of your case-view
- Return to the phrases you used in voir dire and opening statement
- Link the elements of proof together using your case theme as the anchor
- Tell the winning story from the viewpoint of your trial theme

