

# “Add Impact to Your Opening Statement”

USE THIS SIMPLE PRESENTATION TECHNIQUE TO KEEP JURORS LISTENING

By Elliott Wilcox

*Every single second of every single moment of his opening statement was filled with the sound of his voice which when you think back upon it you have to admit you were kind of amazed because there wasn't a single comma or period or pause I mean did this guy even need to breathe it didn't seem like it because he just kept going and going and going without regard to oxygen or jury expectations or even the court reporter it was almost as if he was afraid that the thought of pausing would let someone else start talking and that would simply be unacceptable for him so rather than pausing for even a moment and letting you think about what he was saying he just kept talking and talking and...*

Unfortunately, many trial lawyers' opening statements and closing arguments seem to feel like this.

They either have such a poor understanding of the pause's importance of pausing or don't know how to effectively pause that you're tempted to say, “Whoa, buddy! Stop! Take a breath before you pass out!” One of the most powerful tools in your opening statement and closing argument toolbox is the well-placed pause. Often, that brief moment of silence following a profound thought can be more important than the words themselves.

## “WHY SHOULD I PAUSE?”

Imagine reading a newspaper without a single comma, period, or paragraph indentation – just word after word after word. How far could you read before losing your train of thought?

*An opening statement or closing argument without any pauses feels exactly the same way to your jurors.*

Do you want the jury to remember your message? To understand it? Do you want them to take the message into the jury deliberation room, and incorporate it into their verdict? If so, you need to give them a chance to stop and reflect upon what you're saying. Here are three reasons why you need to effectively pause during your opening statements and closing arguments:

### A pause lets us think.

Many trial lawyers ask rhetorical questions during closing argument, but then move immediately to their next sentence without pausing. This robs the jury of their chance to think about how that question should shape their verdict or how it might apply to their deliberations. Pausing for a moment lets the audience answer the question and wrap their minds around your message.

**A pause helps us feel.** During opening statements, you often describe emotional scenes of great pain, fear, or loss. The best trial lawyers describe these moments with such clarity that the jurors feel exactly what happened to the clients and, on their own initiative, place themselves in the clients' shoes. (Notice that I said, “on their own” — please don't think I'm encouraging you to make any arguments that violate the Golden Rule!) After describing an emotional scene, give the jurors a moment of silence so that they can absorb its impact and “feel” the same experience.

**A pause helps us absorb ideas.** Your message travels at the speed of sound.



*Pause for a moment and let the jury think*

“When you master the skill of pausing in your openings and closings, you'll enhance the impact of emotional moments in your case and will help your jurors absorb the important issues in your case.”

Even in the largest of courtrooms, it travels from your mouth to the jurors' ears almost instantaneously. But often, it takes a few extra seconds for your message to travel the last few inches from the jurors' ears to their brains. Pause for a moment, and you'll give your message enough time to complete its journey.

### “WHEN SHOULD I PAUSE?”

There are several opportunities in every opening statement and closing argument where you might consider pausing:

- After you've said something important
- After you've asked the jurors a rhetorical question
- When you want the jurors to think
- When you've asked the jurors to remember a moment in their past or envision a common experience
- When you hit an emotional moment
- As a transition between points

Look through the outline of your opening statement or closing argument to find moments where your jurors need to mentally “breathe.” Notate your outline or make a mental note, so that you *purposely* pause at the appropriate moment.

### “HOW DO I EFFECTIVELY PAUSE?”

Even when they purposely pause during their presentations, most trial lawyers underestimate the amount of time that they've paused. What seems like an *eternity* of silence before the jury may, in fact, last only a second or two. Here are three tips for holding your pauses for maximum impact:

**Count silently.** “One Mississippi, two Mississippi, three Mississippi, four Mississippi...” and then resume.

**Look around.** Make eye contact with at least three different members of the jury before continuing.

**Get uncomfortable.** Pause for one second longer than feels comfortable. The pause won't be nearly as long as you think it is. You'll feel uncomfortable, but your jurors won't.

Effective trial lawyers know how to pause at the right moment and hold their pauses long enough to let jurors think, feel or respond appropriately. When you master the skill of pausing in your openings and closings, you'll enhance the impact of emotional moments in your case and will help your jurors absorb the important issues in your case. It may feel uncomfortable at first, but before long, those pauses will become a natural part of your repertoire, and an essential element of your winning arguments. ■

### WANT TO USE THIS ARTICLE IN YOUR NEWSLETTER, WEBSITE, OR BAR ASSOCIATION PUBLICATION?

You can, as long as you include the following blurb with it: “Elliott Wilcox publishes *Trial Tips Newsletter*. Sign up today for your free subscription and a copy of his special reports: “How to Successfully Make & Meet Objections” and “The Ten Critical Mistakes Trial Lawyers Make (and how to avoid them)” at [www.TrialTheater.com](http://www.TrialTheater.com)”



Want more FREE trial practice tips? Go to [www.TrialTheater.com](http://www.TrialTheater.com) right now to get your FREE copies of my special report, “How to Successfully Make & Meet Objections,” “The 10 Critical Mistakes Trial Lawyers Make (and how to avoid them),” and Francis Wellman’s *The Art of Cross-Examination*. You’ll also receive a free subscription to *Trial Tips Newsletter*. If you’re serious about improving your trial practice skills, then you’ll want to find out without delay if *Trial Tips* can do for you what it’s done for thousands of other trial lawyers in every state, every Canadian province, and on every continent around the world (except Antarctica!) So please go to [www.TrialTheater.com](http://www.TrialTheater.com), and we’ll start serving you immediately.