

2.0 OPENING – PURPOSE/OBJ

Purpose: The purpose of the opening statement is to inform the jury in a general way of the nature of the action and defense, to advise them of the facts relied on by the party to make up his or her right of action or defense, to define the nature of the questions involved, and advise them of the issues to be tried and the facts intended to be proved, so as to enable them to understand the case to be tried [*Williams v. Goodman* (1963) 214 CA2d 856, 869; *People v. Harris* (1989) 47 C3d 1047, 1080].

Objecting: An objection during opening statement must: (1) be timely; (2) specify the grounds; and (3) include a request to have the jury admonished to disregard the improper statement. In addition, the court may be requested to strike the improper remarks, give additional instructions, or grant a mistrial [*TRG Civ. Trials Prac. Guide* ¶6:74-6:80 ff.].

Failure to object and request admonishment may be excused in situations where the misconduct is persistent and pervasive [*Love v. Wolf* (1964) 226 CA2d 378, 392].

Note: Most judges discourage marginal objections during opening and may rebuke counsel sharply in front of the jury for such conduct.