**Classroom Law Project**

**Mock Trial in the Classroom**

**Developing your Case Theory**

**(telling your story)**

A case theory is a detailed and accurate story of what occurred in the case at trial. It is how you tell the story of your side of the matter.

In a civil case, Plaintiffs must present a case theory that shows they are entitled to the relief that is sought in their Complaint. Defendants must present a case theory that shows plaintiffs do not have enough “preponderance of the evidence” to entitle them to the relief they claimed. A **preponderance of the evidence** means plaintiffs must prove to the jury their theory of the case is more true than not true.

**A good case theory is:**

* Based on strong facts and inferences that can be fairly drawn from these facts;
* Built on facts not subject to much, if any, dispute;
* Consistent with any incontestable fact;
* Takes into account and explains away as many unfavorable facts as possible;
* Accepted by the trier of fact without having to stretch the imagination;
* Not based on wishful thinking about any aspect of the case.

**To develop a case theory:**

1. Construct a factual chronology of the case;

2. Analyze the case from a common sense perspective by asking:

a) What's the essential wrong or unfairness to the client?

b) Does this unfairness suggest any causes of action or defenses that are not obvious to you?

c) Identify any facts that make the case special or more appealing.

d) Identify any theme or unifying principle that these facts suggest.

e) Identify the legal theories (causes of action/defenses).

f) Identify the elements you must prove to prevail on each cause of action or defense.

g) Identify the facts that support the elements, opponent's rebuttal to these facts.

h) Identify the theory of the case

3. Repeat the process to anticipate your opponent's theory of the case.