



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.