



# NEGOTIATION SPEECH

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# INTRODUCTION

- YOU
  - TIRED
  - BORED
- YOUR JURY
  - TIRED
  - BORED

# CASES

- 98% NEGOTIATED
- 2% TRIED

# WHY NEGOTIATE

# PROSECUTION

- CASE IS OVERCHARGED
- DON' T WANT TO GO TO TRIAL
- TOO MUCH WORK TO DO
- AFRAID OF LOSING
- MIGHT BE INNOCENT
- PROOF OR WITNESS PROBLEMS
- NO RECORD AND YOU WANT TO GIVE DEFENDANT A BREAK

# DEFENSE

- CASE IS OVERCHARGED
- DON' T WANT TO GO TO TRIAL
- TOO MUCH WORK
- AFRAID OF LOSING
- PROBABLY GUILTY
- PROOF OR WITNESS PROBLEMS
- AN OFFER YOU REGARD AS TOO ATTRACTIVE TO REFUSE

# WHY TRY THE CASE (PROSECUTION)

- DEFENDANT IS GUILTY
- YOU ARE GOING TO WIN
- GUIDELINE SENTENCE OR HIGHER IS APPROPRIATE

# WHY TRY THE CASE (DEFENSE)

- DEFENDANT IS INNOCENT
- YOU ARE GOING TO WIN
- NO REASON NOT TO--NO ADVANTAGE IN PLEADING

# PHONY REASONS

- LET THE JURY DECIDE
- IT'S AN INTERESTING ISSUE
- I NEED TO IMPRESS MY BOSS TO JUSTIFY MY JOB



IT'S FUN





# YOU CAN OBTAIN FAVORABLE SETTLEMENTS

- DEVELOPING A TRIAL HISTORY--TRIAL EXPERIENCE
- DEVELOP A REPUTATION FOR GOING TO TRIAL
- DEVELOP A REPUTATION OF ACCURATELY ASSESSING WHAT CASES SHOULD NOT BE SETTLED AND WHAT CASES SHOULD
- BE PERSONABLE

- KEEP YOUR WORD
- CONTROL YOUR CLIENT OR VICTIM
- EASIER IF YOU ARE LOCAL
- IT IS HARDER TO NEGOTIATE IF THE AMMUNITION IS UNEQUAL
- DO WHAT IS BEST FOR YOUR CLIENT
- HAVE A GOOD MEMORY
- EXPLAIN ALL OFFERS CAREFULLY

- COMPLIMENT ADVERSARY
- DO NOT BEG
- DO NOT BRAG
- DO NOT ALLOW YOURSELF TO GET PUSHED AROUND BY COURT PERSONNEL, WITNESSES, POLICE, CLIENT'S FAMILY, ETC.

# CONCLUSION

- YOU HAVE AN IMPORTANT JOB THAT YOU WORKED HARD TO GET
- DON' T LEAVE IT TO CHANCE
- FIGURE OUT WHAT IS FAIR

