



TEN HOUR SETTLEMENT TRIAL – ATTORNEY CHECKLIST

__ 1. **Execute an Arbitration Agreement with an undisclosed High-Low** This will ensure that you get a closed case from your trial efforts.

__ 2. **Choose and hire an Arbitrator** Prefer someone experienced in mediation and mock trials, who knows the dynamics of how jurors work.

JURY SELECTION

__ 3. **Background questions** No later than twenty one days before trial, provide First Court, the Arbitrator and Opposing Counsel with the five voir dire questions you want each potential juror to answer. Bear in mind First Court's standard background questions (below), so that you don't waste any of your questions on topics already covered. Note that questions which seek to condition the jury into loving your case will not be given. Remember that each Losing Objection will cost your client \$100.

__ 4. **Study and strike the jurors** You will typically have a week or so to watch each juror answering questions in front of a webcam. This is an unhurried time (less stressful than voir dire in a public trial) to reflect on your strikes, which need to be prioritized for the pre-trial conference. Plaintiff will go first, then defendant, and so on until each side has executed up to three strikes.

WITNESSES & ARGUMENT

__ 5. **Choose your three most compelling witnesses.** These should be called to testify live, if possible. Prepare them.

__ 6. **Videotape the other witnesses you want the jury to see and hear.** Note that the other side will have the right to record a cross of the witnesses you videotape. Use videotaped deposition testimony whenever possible.

__ 7. **Summarize on paper the witnesses whose demeanor is unimportant.** Written bullet point summaries take little trial time to read, and can be an efficient way to feed facts to the jury. Many expert opinions, for example, can be summarized. If available you should put a picture of the witness on the summary.

__ **8. Combine video with written summaries** This combo allows the jury to see the demeanor of your witness, while saving time with the written summaries.

__ **9. Win it in the Opening** We suggest you give the jurors everything you've got in the opening. The Openings should be argumentative, like a Closing. Reserve your closing for answering the questions you will get from the jurors during the trial.

__ **10. Perfect your timing** Note that plaintiffs have a total of 180 minutes for presenting their arguments, witnesses, trial objections, and jury instructions; Defendants have a total of 120 minutes. Most human beings speak at the rate of 125 words per minute, so consider using 100 words per minute in your timing calculations. Plan on finishing your jury instructions with three minutes to spare, so that you are never left unable to respond to your opponent.

EXHIBITS

__ **11. Organize all the exhibits you want to show the jury.** First Court will provide a projector and screen, but you are responsible for displaying your own exhibits to the jury. Include digital files that will be projected on a screen, and paper copies that will be published to the jury.

__ **12. Copies, please.** Make sure you copy all exhibits, witness statements and your Order of Trial to First Court, the Arbitrator and opposing counsel at least fourteen calendar days before the Settlement Trial. Our goal is *Zero Surprises*. Under the Trial Agreement you may be sanctioned for missing this deadline.

MISCELLANEOUS

__ **13. Draft a Verdict and Jury Instructions** Remember that the jury will not have endless time to figure out a complicated verdict—so one page verdict forms are much preferred. So are simplified jury instructions that provide the key principle of law behind each instruction. The Jury Instructions you request will be counted against your total time, unless both sides agree to the instruction.

__ **14. Technology** Bring to the trial a backup projector, a laptop containing all your digital files, 30 hard copies of everything you want the jurors to see, and a flipchart if you want one.

What are First Court's Standard Juror Background Questions?

1. Highest level of education completed?
2. Racial/Ethnic background?
3. What is your age?
4. Marital Status?
5. Gender?
6. Major jobs since high school?
7. What do you think about the dollar size of American jury verdicts?
8. Have you or anyone in your immediate family ever been sued ? (any reason--small claims, landlord/tenant, business, divorce, custody, injury, etc.)
9. Have you or anyone in your immediate family ever sued anyone, for any reason?
10. Have you (or your spouse, if any) ever started a business?
11. I could explain how an engine works in detail (pistons, cylinders, valves, etc.) to a five year old child. True False
12. Please describe your favorite hobbies. How do you like to spend your free time?
13. The people who know me well would say that I am a perfectionist. True False
14. You've been appointed King or Queen of America, and can do whatever you want. What is one thing about our country that you would most want to change?
15. In the last three years, how much of your working time would you say you have been unemployed or underemployed?
16. Do you think there should be laws limiting how much money juries can award ?
17. How much experience have you had with the legal system? Ever hired a lawyer? Ever served on a jury?
18. What is the best job you have ever had? And the worst job?