

## Appendix 33-1: Guideline 7.7 Closing Argument

---

### Appendix 33-1 Guideline 7.7 Closing Argument\*

(a) Counsel should be familiar with the substantive limits on both prosecution and defense summation, including the law governing closing arguments under G.S. 7A-97 and G.S. 15A-1230, Rule 10 of the General Rules of Practice for the Superior and District Courts, and North Carolina case law.

(b) In developing closing argument, counsel should review the proceedings to determine what aspects can be used in support of defense summation and, where appropriate, should consider:

- (1) highlighting weaknesses in the prosecution's case;
- (2) describing favorable inferences to be drawn from the evidence;
- (3) incorporating into the argument:
  - (A) the theory of the defense case;
  - (B) helpful testimony from direct and cross-examinations;
  - (C) verbatim instructions drawn from the expected jury charge;
  - (D) responses to anticipated prosecution arguments; and
  - (E) visual aids and exhibits; and
- (4) the effects of the defense argument on the prosecution's rebuttal argument.

(c) Whenever the prosecutor exceeds the scope of permissible argument, counsel should consider objecting, seeking cautionary instructions, or requesting a mistrial unless sound tactical considerations suggest otherwise. Such tactical considerations may include, but are not limited to:

- (1) the possibility that an objection or cautionary instruction might enhance the significance of the information in the jurors' minds;
- (2) whether, with respect to a motion for mistrial, counsel believes that the case will result in a favorable verdict for the client; and
- (3) the need to preserve the objection for appellate review.

---

\*Reprinted from N.C. COMM'N ON INDIGENT DEFENSE SERVS., PERFORMANCE GUIDELINES FOR INDIGENT DEFENSE REPRESENTATION IN NON-CAPITAL CASES AT THE TRIAL LEVEL (Nov. 2004). For the complete guidelines, see *infra* Appendix A of this manual.