



FACT SHEET:

Mini-Openings Before Voir Dire

Summary: Mini-openings allow counsel to present the key aspects of the case to potential jurors. The goal is to help potential jurors understand the relevance of questioning and provide more complete answers.

Empirical Studies: 2005 New York State Jury Trial Project: Tested in six (6) civil trials and sixteen (16) criminal trials. Seventy-seven percent (77%) of judges¹ and attorneys in civil trials believed mini-openings **aided juror understanding of why they were being questioned**. Of the twenty-one (21) attorneys who participated in trials where mini-openings were used, eighty-one percent (81%) approved of the use of these openings.² If the 186 jurors who heard mini-openings before voir dire, ninety-one percent (91%) said that they were very **helpful for understanding what the case was about**, while only eighty-two percent (82%) of jurors in typical introductions thought those introductions were helpful.³

Current Usage: Data on usage across federal and state courts is not currently available.

Legal Support: Some states have civil procedure laws that already provide for mini voir dire openings. For example, California Code of Civil Procedure §222.5 states that the “trial judge should allow a brief opening statement by counsel for each party prior to the commencement of the oral questioning phase of the voir dire process.” Arizona provides for something similar. See Rule 47(b) and 51(a), Ariz.R.Civ.P., and Rule 18.5(c) and 18.6(c), Ariz.R.Crim.P. Conversely, some states have civil procedure laws that suggest mini openings would not be allowed, for example Oklahoma provides that “Counsel shall scrupulously guard against injecting any argument in their voir dire examination.” Okla. Dist. Ct. R. 6. The Federal Rules do not discuss the practice. Fed. R. Civ. P. 47

¹ *Final Report of the Committees of the Jury Trial Project*, NEW YORK STATE UNIFIED COURT SYSTEM 23 (2005). While the result is encouraging, the sample size of six trials and thus presumably six or fewer judges is very small, making it difficult to draw conclusive results.

² *Id.* at 24.

³ *Id.* at 25.