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Damaging Evidence: The Effects of Brief versus Extensive Explanations and Need for Cognition on Juror Verdicts

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Damaging Evidence: The Effects of Brief versus Extensive Explanations and Need for Cognition on Juror Verdicts

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University of Nebraska, 1998

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Previous research has shown that if an attorney reveals evidence damaging to his or her case before the opposing attorney reveals the evidence, it will result in more favorable verdicts for his or her client. This study tested the most effective way for attorneys to reveal damaging evidence about their clients in opening statements by varying the amount of explanation the plaintiff's attorney gave of the damaging evidence. In addition, this study tested whether the participants' Need for Cognition would affect which type of opening statement was more persuasive. The participants read one of four different versions of fictitious opening statements for a civil trial that contained damaging evidence about the plaintiff. The different versions of opening statements consisted of 1) the plaintiff's attorney giving an extensive explanation for the damaging evidence, 2) the plaintiff's attorney giving a brief explanation for the damaging evidence, 3) the plaintiff's attorney giving no explanation for the damaging evidence and 4) a control condition in which the damaging evidence was never mentioned by either attorney. In each condition, with the exception of the control condition, the defendant's attorney brought up the damaging evidence in the same manner. After reading the opening statements, the participants read a set of jury instructions and chose a verdict. A significant effect of type

of explanation revealed that the most favorable verdicts for the plaintiff were in the control condition, followed by the no explanation and extensive explanation conditions, followed by the brief explanation condition. However, the plaintiff's attorney gained no advantage by revealing the damaging evidence in his case in the opening statements. Participants' Need for Cognition did not effect their verdicts.

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Imagine a criminal trial where there is a witness who observed the crime taking place. Now imagine that this witness has a criminal record. Will the credibility of the witness be affected when the jury learns about the witness's prior criminal activity? The answer may depend on how the evidence is revealed to the jury. Trial lawyers are often faced with facts that are damaging to their case. Knowing that the opposing attorney will inevitably introduce the damaging evidence to the jury, the trial lawyer must decide if he or she wants to be the first to reveal the damaging evidence. Conflicting theories exist concerning whether an attorney should reveal damaging evidence about his or her case to the jury.

Most authors of trial handbooks agree that attorneys must reveal any damaging evidence in their case to the jury (Stern, 1991). By revealing damaging evidence in his or her case, an attorney can prepare the jury in advance so there is no surprise or shock connected with the damaging evidence when it is addressed by the opposing attorney (Massery, 1978). Research on forewarning indicates that individuals are resistant to persuasion if they are informed of the communicator's position in advance (Allyn & Festinger, 1961). In a study by Hass and Grady (1975), participants who were warned about a communicator's topic and counter position were resistant to persuasion after a brief delay, and participants who were warned of a communicator's persuasive attempt were immediately resistant to persuasion.

If jurors are surprised or shocked by a piece of evidence it may be easier for jurors to recall this evidence when rendering a verdict. Research shows that it is easier to recall information that is inconsistent with our initial beliefs then it is to recall consistent information (Hastie & Kumar, 1979). Furthermore, if the damaging evidence is salient in jurors' minds, jurors may overestimate the importance of the evidence when rendering a verdict. In a study by Reyes, Thompson, and Bower (1980), mock jurors read summaries of a trial in which the authors varied how favorable the defendant appeared. Evidence that was inconsistent with the mock juror's initial impression of the defendant was more easily recalled than consistent evidence. In addition, evidence that was easy for the mock jurors to recall had a disproportionate impact on their verdicts. In the same study, the mock jurors also viewed summaries of arguments in a trial that were either presented in a "pallid" or "vivid" manner. After a 48-hour delay the mock jurors recalled the "vivid" arguments easier than the "pallid" arguments. Again, evidence that was easily recalled greatly influenced the mock jurors' judgments of guilt or innocence.

Another reason which advocates of revealing damaging evidence assert in support of their theory is framing (Rumsey, 1986). The attorney who reveals the damaging evidence first has the opportunity to frame the evidence by presenting it in a way which will most benefit his or her side. Research shows that jurors may develop different perceptions of evidence depending on how the evidence is framed. In a study by Kassin, Reddy, and Tulloch (1990), jurors, who were either high or low in Need for Cognition, viewed an ambiguous videotape that was introduced either by the plaintiff's attorney or

the defendant's attorney. Each side put their own "spin" on the videotape, making the videotape seem to favor whichever side that presented it. Results showed that jurors who were high in Need for Cognition were influenced by whichever side presented the videotape first.

Another reason why attorneys should reveal weaknesses in their case to the jury is to gain credibility with jury members (Stern, 1991). Studies have shown that if people perceive the communicator as credible, they are more likely to believe the communicator's message (Eagley, Wood, & Chaiken, 1978). If a trial attorney reveals evidence that is damaging to his or her case the jurors may perceive the attorney as honest and trustworthy. In a study by McGinnies and Ward (1980), the perceived trustworthiness of the communicator was found to be the most important factor in determining credibility. If an attorney does not reveal damaging evidence to the jury, he or she may appear to be hiding evidence (Rumsey, 1986). This may result in the attorney losing credibility with the jurors.

Other sources suggest that attorneys should not reveal damaging evidence about their case to the jury (Lubet, 1993). These sources assert that by revealing damaging evidence to the jury, the attorney will call more attention to the evidence and, therefore, increase the damaging impact of the evidence (Lubet, 1993). There are several reasons why revealing damaging evidence could leave the evidence salient in jurors' minds. One reason is that although jurors may expect attorneys to reveal the weaknesses in their opponent's case, they may not expect attorneys to reveal weaknesses in their own case

(Rumsey, 1986). Because the jury does not expect the attorney to reveal such weaknesses, jurors could be surprised by the attorney's statements. Secondly, an attorney who is warning jurors about what the opposing attorney is going to say may appear to be defensive about the particular information. If jurors believe that the attorney is being defensive, they may view the evidence as important, leading to increased saliency of the damaging evidence. Finally, research shows that repetition leads to better comprehension and recall (Nelson, 1977). Therefore, if both attorneys discuss the damaging evidence, it is more likely that jurors will remember it.

The trial technique of revealing damaging evidence was tested by Williams, Bourgeois, and Croyle (1993). In this study, mock jurors read transcripts of a criminal trial in which damaging evidence was introduced about the defendant. The mock jurors either viewed the damaging evidence being introduced by the defense attorney or being introduced by the prosecuting attorney. When the defense attorney introduced the damaging evidence it had less of an impact on the trial, resulting in more favorable verdicts for the defendant. In the same study, the mock jurors read a civil trial transcript in which damaging evidence was revealed about a plaintiff's witness. The mock jurors learned of the damaging evidence about the witness from either the opposing attorney or the witness himself. The results were consistent with the first study in that the damaging evidence had less impact on the trial when it was introduced by the witness instead of the opposing attorney, resulting in more favorable verdicts for the plaintiff.

One factor, which may affect the impact revealing damaging evidence has on a jury, is at what stage of the trial the attorney reveals such evidence. Although the study by Williams et al. (1993) indicates that attorneys should reveal the damaging evidence in their case, this study only tested damaging evidence that was introduced after the opening statements. In reality, any damaging evidence that is significant to an attorney's case will likely be introduced by the opposing attorney in his or her opening statement. Therefore, in order for the plaintiff's or prosecuting attorney to reveal the damaging evidence first, he or she must reveal the damaging evidence in his or her opening statement. The results of an attorney revealing damaging evidence about his or her own case may differ when it is revealed in the opening statements, because of the importance of the opening statement on the rest of the trial. Research on opening statements indicates that what occurs in the opening statement may have a direct effect on verdict outcome.

The importance of the opening statement was demonstrated in a study by Pyszczynski and Wrightsman (1981). In this study, the authors tested the effects of brief and extensive opening statements. The brief opening statements consisted of a brief introduction of the parties involved and a reassurance that convincing evidence would be presented. The extensive opening statements consisted of a comprehensive summary of what the evidence was expected to show. The results were that the extensive opening statements had more influence on verdict outcome then the brief opening statements. In addition, mock jurors were influenced by the first extensive opening statement that they

heard. There were significantly more guilty verdicts when the prosecution gave an extensive opening statement followed by an extensive defense opening statement than there were when the prosecution gave a brief opening statement followed by an extensive defense opening statement. Also, the mock jurors who were exposed to an extensive defense opening statement and a brief prosecution opening statement were relatively unaffected by the prosecution's first witness. However, the mock jurors who were exposed to a brief defense opening statement and an extensive prosecution opening statement were greatly influenced by the prosecution's first witness. Participants in this study were asked to report what their anticipated verdicts were at certain points in the trial. The results indicated that the anticipated verdicts that were reported early in the trial were relatively unchanged after viewing all of the evidence.

In another study, Wells, Miene, and Wrightsman (1985) tested the timing of the defense opening statement. In this study the defense attorney's opening statement was either given after the prosecution's opening statement or at the conclusion of the prosecution's entire case. The results indicated that it was disadvantageous to delay the defense opening statement. Delaying the defense opening statement resulted in more favorable results for the prosecution.

One reason that opening statements are so important is that in the opening statements jurors are hearing the facts of the case for the first time. Although attorneys have the rest of the trial to change the impressions formed by jurors during the opening statements, the first impression may be the most important. Research shows that once an

impression is formed it may bias the way future information is perceived (Ross, Lepper,& Hubbard, 1975). One reason this bias could occur is that people may use a schema to help interpret and organize new information that they encounter. A schema is defined as "a cognitive structure that contains units of information and the links among these units" (Fiske & Dyer, 1985, p. 839). Research shows that when a particular schema is activated people may judge otherwise ambiguous behavior in terms that are consistent with the particular schema that has been activated. For instance, in a study by Zadney and Gerard (1974), participants watched a videotape of two people engaged in conversation while moving about and handling different objects in a living room. Before the participants watched the videotape they were given one of three different sets of instructions. One set of instructions stated that the two people came to a friend's house to burglarize it. Another set of instructions stated that the two people were at a friend's house removing any trace of drug use before a probable police raid. The third set of instructions stated that the two people were at a friend's house waiting for their friend to arrive. The participants who were told that the people in the videotape were there to burglarize the house recalled more behaviors that were consistent with a theft then did the participants in the other conditions. The participants who were given the burglary instructions appeared to have activated a schema that guided them to infer theft related behavior in behavior that would have appeared normal had they received different instructions.

Similar results were found in a study by Goldman, Cowles, and Florez (1983). In this study, a speaker and audience were each given a description of the other as "warm" or "cold" prior to the speaker's performance. After the speaker delivered the speech, the audience was asked to evaluate the speaker. The results indicated that both the information that was given to the class and the information given to the speaker prior to the performance affected the evaluation of the speaker's performance. The most negative evaluation of the speaker occurred when both the audience and the speaker were given information that the other was "cold", and the most positive evaluation occurred when both the speaker and the audience were described as "warm".

Jurors may form a schema in the beginning of the trial that may guide the way they perceive future evidence and testimony. This may greatly impact the outcome of a trial especially if the jurors perceive one side or the other as guilty or innocent early in the trial. Research shows that most jurors have decided the case or favor one side over the other by the time opening statements have concluded (Stern, 1991).

Research also indicates that once an impression is formed it has a tendency to persevere even after the basis for the impression is proved invalid. Ross et al. (1975) demonstrated this by having participants perform a novel task and manipulating the number of correct answers each participant received. The participants were randomly assigned to conditions in which they received predetermined scores of high, low, or average on the specified task. After the task was completed, participants were informed that the scores they received were predetermined and, therefore, did not accurately reflect

their performance on the task. Participants then rated themselves according to how they perceived their actual performance. The results showed that the participants continued to rate their performance consistent with their predetermined score. Those in the low scoring condition rarely rated themselves above average, and those in the high scoring condition rarely rated themselves below average.

It is clear that the impressions formed early by jurors are very important to the outcome of a trial. An attorney should consider what impression he or she will leave with the jury when deciding whether or not to reveal damaging evidence in the opening statements. For instance, jurors may not be as surprised by damaging evidence when it is revealed in the opening statements as opposed to later in the trial. Because jurors are learning the facts of the case in the opening statements, it is likely that they may expect to hear conflicting information, otherwise there would be no need for a trial. Since the main strategy supporting the theory of revealing damaging evidence before your opponent is to take away the element of surprise, when the element of surprise is reduced the strategy may not be as effective.

Another factor, which may affect the impression formed by jurors, is how much time the attorney spends discussing the evidence. Assuming that revealing damaging evidence is as effective in the opening statement as it is later in the trial, it may follow that the more time an attorney spends explaining the damaging evidence in the opening statement the less impact this evidence will have on the trial. As previously mentioned, the study by Wrightsman et al. (1990) found that extensive opening statements led to

more favorable verdicts. One reason that giving an extensive explanation of damaging evidence may be beneficial is because the attorney may have a better chance of framing the evidence before it is addressed by the opposing attorney. If the jury hears an explanation that minimizes the damaging evidence before the damaging evidence is presented, the jury may be less persuaded by the opposing attorney when he or she reveals the damaging information. By spending a lot of time trying to "explain away" the damaging evidence the attorney may leave jurors with the impression that the damaging evidence is not so damaging after all.

On the other hand, other sources suggest that attorneys should not reveal damaging evidence in their case because by doing so the attorney may call too much attention to such evidence (Lubet, 1993). One reason attorneys may call too much attention to the damaging evidence when they reveal it themselves is through repetition. The more jurors hear about the damaging evidence the more likely they may be to remember such evidence when rendering a verdict. If this is true, then giving an extensive explanation of the damaging evidence may call more attention to the damaging evidence than giving a brief explanation. Another reason cited in support of not revealing damaging evidence in one's case is that attorneys may appear to be defensive about the particular evidence by bringing it up themselves. Again, if this is true, by giving an extensive explanation of the damaging evidence the attorney may appear to be more defensive about such evidence than if he or she gave a brief explanation. By giving an extensive explanation of the damaging evidence, the attorney may leave jurors with the

impression that the damaging evidence is more important to the case then it really is. Taking this into account, it may be more effective for the attorney to give a brief explanation. By briefly explaining the damaging evidence, the attorney may have the advantage of revealing the evidence first, while at the same time calling less attention to the damaging evidence than he or she would by giving an extensive explanation.

The current study examined the effects of an attorney revealing damaging information about his or her case by varying the level of explanation the attorney gave for the damaging information in the opening statement. The participants in this study read one of four different variations of opening statements for a fictitious civil trial in which damaging evidence was introduced about the plaintiff. In each variation of the opening statements, the plaintiff's attorney either 1) did not reveal the damaging evidence about his client to the jury, 2) revealed the damaging evidence to the jury by giving a brief explanation, or 3) revealed the damaging evidence to the jury by giving an extensive explanation. With the exception of a control condition, in which the damaging evidence was not revealed by either attorney, the defendant's attorney addressed the damaging evidence about the plaintiff in the same manner in each variation of the opening statements.

In addition, the current study also measured how a person's Need for Cognition affected the way the damaging evidence was perceived in each condition. A person's Need for Cognition is defined as their "tendency to engage in and enjoy thinking" (Cacioppo & Petty, 1982, p. 116). Research shows that people who are high in Need for

Cognition are more likely to think carefully about persuasive messages. They are likely to judge a message by the strength and quality of its content (Kassin et al., 1990). People who are low in Need for Cognition will think less about a persuasive message. They are likely to judge a persuasive message by context cues such as physical appearance, number of arguments, and the reactions of other audience members (Kassin et al., 1990).

The participants in this study were asked to render a verdict after they read the opening statements. It is predicted that participants in the control condition, in which the damaging evidence about the plaintiff is never revealed, will be the most likely to find for the plaintiff. In the other three conditions, since the participants were exposed to the damaging evidence about the plaintiff, it is expected that there will be fewer verdicts in favor of the plaintiff. However, of these three conditions it is predicted that the most favorable verdicts for the plaintiff will be in the extensive explanation condition, followed by the brief explanation condition. The fewest verdicts in favor of the plaintiff will be in the condition where the plaintiff's attorney gives no explanation for the damaging evidence. However, it is possible that by giving an extensive explanation the attorney may overemphasize the damaging evidence. If this is the case, then it is expected that the order of verdicts in favor of the plaintiff will be reversed in the brief and extensive explanation conditions, resulting in more verdicts in favor of the plaintiff in the brief explanation condition than the extensive explanation condition.

Additionally, it is predicted that the participant's Need for Cognition will affect how he or she is influenced by the brief or extensive explanations of the damaging

evidence. Specifically, participants who are low in Need for Cognition, since they are not influenced by the quality of the arguments, will be equally likely to find for the plaintiff when they are given either a brief or an extensive explanation of the damaging evidence by the plaintiff's attorney. However, participants who are high in Need for Cognition, since they are influenced by the quality of the arguments, will more likely find for the plaintiff when they are given an extensive rather than a brief explanation of the damaging evidence by the plaintiff's attorney.

A questionnaire was also given to the participants in order to assess their impressions of the damaging evidence as well as the overall case. Since some authors of trial handbooks suggest that attorneys will gain credibility by revealing damaging evidence in their case, questions regarding the credibility and honesty of both attorneys were included in the questionnaire. These questions were included to determine if the participants' perceptions of the attorneys would be affected by the different explanations of the damaging evidence. It is expected that the questionnaire will help clarify why differing strategies of revealing damaging evidence to a jury might be more effective under certain circumstances than others.

Method

Participants

The participants in this study were 152 undergraduate psychology students from a midwestern university. Of the 152 participants, 47 (31%) were male and 105 (69%) were

female. The participants ranged in age from 18 to 62 with 21 as the median age. Course credit or extra credit was received for participating in this study.

Procedure

The participants signed up to participate in this study in small groups ranging from 1-17. The participants were randomly assigned to one of four conditions. Each participant first read an opening statement by the plaintiff's attorney followed by an opening statement by the defendant's attorney. Each opening statement was approximately three pages in length. After the participants read the opening statements, they were given a verdict form that included brief jury instructions and seven verdict choices. After choosing a verdict, the participants completed a questionnaire that measured their impressions of the damaging evidence as well as their overall impression of the case. The questionnaire included the "Need for Cognition" test created by Cacioppo and Petty (1992).

Opening Statements

The opening statements that were used in this study were fictitious opening statements written for a civil trial for the purpose of this study. The opening statements were developed with the help of an attorney. The attorney's assistance was necessary to ensure that the opening statements reflected opening statements that would be used in an actual trial. The facts used in the opening statements portray a plaintiff who was struck by a car, driven by the defendant, while walking home from a bar. The damaging evidence that this study was designed to test is evidence that the plaintiff was drinking

the night the accident occurred. The plaintiff claims that the accident is the defendant's fault because he was driving carelessly at the time of the accident. The defendant alleges that the accident was the plaintiff's fault because the plaintiff was drunk at the time of the accident and carelessly ran out in front of the defendant's car.

The conditions differed in how the damaging evidence about the plaintiff was introduced in the opening statements. With the exception of a control condition, in which neither side brought up the damaging evidence about the plaintiff, the defendant's opening statements were exactly the same in all of the conditions. The only difference in the plaintiff's opening statements were the details regarding the damaging evidence about the plaintiff. In condition 1, the plaintiff's attorney did not mention the damaging evidence about the plaintiff. In condition 2, the plaintiff's attorney gave a brief explanation of the damaging evidence. In condition 3, the plaintiff's attorney gave an extensive explanation of the damaging evidence.

Measures

Verdicts were measured by two methods. For the first measure of Verdicts, the participants indicated their verdicts on a 7-point scale. The values 1-3 on the rating scale represented verdicts of 1) completely for the defendant, 2) mostly for the defendant, and 3) somewhat for the defendant, respectively. The values 5-7 on the verdict scale represented verdicts of 5) somewhat for the plaintiff, 6) mostly for the plaintiff, and 7) completely for the plaintiff, respectively. The value 4 on the verdict scale represented a verdict of undecided. For the second measure of Verdicts, the participants indicated the

amount of blame they attributed to the plaintiff and defendant by filling in percentages for each party that equaled 100%.

Two open-ended questions were included to measure the participants' impressions of the damaging evidence. In the first question, participants were asked to explain why they chose the verdict that they chose. In the second question, participants were asked to indicate what evidence was the most damaging to the plaintiff's case. The second question also contained a 7-point rating scale, with "1" representing "not at all important" and "7" representing "very important", in which the participants were asked to indicate how damaging the evidence was to the overall case.

To determine the attorney perceptions, the participants were given four questions in which they were asked to rate the credibility/trustworthiness and honesty of both attorneys. The questions contained a 7-point scale with "1" representing "not at all" credible/trustworthy or honest and "7" representing "very" credible/trustworthy or honest.

To determine Need for Cognition, the participants filled out the "Need for Cognition" test created by Cacioppo and Petty (1992). The questionnaire consisted of 18 true or false questions. Each participant was given a Need for Cognition score based on the amount of questions he or she responded to as "true". Nine of the questions were reversed before scoring.

Two questions were included to measure the participants drinking level. In the first question, the participants were asked to circle, on a scale of 0-7, how many days of the week they consumed a drink containing alcohol. In the second question, the

participants were asked to fill in the number of total drinks containing alcohol they consumed per week.

Results

Verdict Scores

Participants indicated their verdicts on a 7-point rating scale. Rating values of 1-3 favored the defendant; rating values of 5-7 favored the plaintiff. Table 1 displays the frequency of verdicts across Explanation Type.

In addition to the verdict scale, the participants were asked to determine the percentage of blame they attributed to the plaintiff and the defendant. Participants were asked to fill in percentages for the plaintiff and defendant that equaled 100%. All of the participants' percentages of blame equaled 100%. However, it was noted that several participants' percentages of blame were inconsistent with the verdict scores they had chosen, indicating that these participants misunderstood one of the measures. Since it was not clear what these participants intended their answers to be, a consistency criterion was created which compared the participants' verdict scores with the percentages of blame they attributed to the plaintiff and the defendant. If a participant chose a verdict of completely, mostly, or somewhat for the defendant then he or she should have found the plaintiff 50% or more to blame. If a participant chose a verdict of somewhat, mostly, or completely for the plaintiff then he or she should have found the defendant 50% or more to blame. According to this criterion, 13 participants were excluded

Table 1

Verdict Frequencies Across Explanation Type

Verdict	Explanation Type				
	Extensive	Brief	None	Control	Row Totals
Plaintiff	26	23	31	31	111
Defendant	7	14	6	3	30
Undecided	4	1	1	4	10

because their data were inconsistent. Table 2 displays the frequency of verdicts across Explanation Type with the inconsistent data excluded.

The following results include data obtained from 139 participants, of which 42 (30%) were male and 97 (70%) were female. Analyses were also performed on the data from all 152 participants. Any differences in results will be reported.

It was predicted that the most verdicts in favor of the plaintiff would be found in the control condition, followed by the extensive, brief, and no explanation conditions. A chi-square was performed comparing the frequency of verdicts in favor of the plaintiff and verdicts in favor of the defendant across Explanation Type. The verdicts that were undecided were dropped from the chi-square analysis because of the low number in each condition. The total number of verdicts after dropping the undecided verdicts was 129. There were significant differences in the frequency of verdicts for the plaintiff and the defendant across Explanation Type, $\chi^2(3)=12.379$, $p=.006$. Ninety-seven percent of the verdicts in the control condition favored the plaintiff compared to 83% in the no explanation condition, 80% in the extensive explanation condition, and 62% in the brief explanation condition. The pattern of these results is somewhat inconsistent with the hypothesis of this study.

It was also predicted that Need for Cognition would interact with Explanation Type when determining a verdict. Specifically, participants who were high in Need for Cognition would be more likely to find for the plaintiff when they were given an extensive explanation. A median split was performed to determine whether the

Table 2

Verdict Frequencies Across Explanation Type Excluding Inconsistent Responses

Verdict	Explanation Type				
	Extensive	Brief	None	Control	Row Totals
Plaintiff	24	21	29	29	103
Defendant	6	13	6	1	26
Undecided	4	0	0	4	10

participants were high or low in Need for Cognition. Seventy-three participants scored a 13 or lower and were considered low in Need for Cognition. Sixty-six participants scored a 14 or higher and were considered high in Need for Cognition. The mean values for verdict score as a function of Explanation Type and Need for Cognition are displayed in Table 3.

A two-way between subjects ANOVA was performed using Explanation Type and Need for Cognition as factors and Verdict Score as the dependent variable. As displayed in Table 4, the results indicated no interaction between Need for Cognition and Explanation Type. There was, however, a main effect for Explanation Type. There was no main effect for Need for Cognition.

In addition, an a priori contrast was performed between the control condition and the remaining three conditions. As predicted, the control condition proved to have a significantly higher mean verdict score (M =5.71) than the mean verdict score of the extensive, brief, and no explanation conditions combined (M = 4.95), $t(131)=2.498$, $p<.05$. The residual for Explanation Type was examined with the effect of the contrast subtracted. The residual was not significant, $F(2, 131)=1.877$, $p>.05$; thus, further comparisons were not appropriate.

As previously mentioned, the participants were asked to allocate percentages of blame to the plaintiff and the defendant. It was predicted that the pattern of results for Percentage of Blame attributed to the plaintiff would be the same as the results for Verdict Score. In other words, the participants would find the plaintiff least to blame in

Table 3

Mean Verdict Scores as a Function of Need for Cognition Level and Explanation Type

Need for Cognition	Explanation Type				
	Extensive	Brief	None	Control	Row Means
Low	4.93	4.76	5.32	5.79	5.23
	n=15	n=17	n=22	n=19	
High	5.21	4.28	5.14	5.60	5.03
	n=19	n=18	n=14	n=15	
Column Means	5.09	4.51	5.25	5.71	

Note. Verdict Scores are based on a 7-point rating scale (1= completely for the defendant, 7 = completely for the plaintiff).

Table 4

Analysis of Variance Using Explanation Type and Need for Cognition as Factors and Verdict Score as the Dependent Variable

Source	Sums of Squares	Df	Mean Square	F
Explanation Type (E)	24.107	3	8.036	3.331*
Need for Cognition (N)	.703	1	.703	.291
E x N	2.541	3	.847	.351
Error	316.006	131	2.412	
Total	4012.000	139		

*$p < .05$.

the control condition, followed by the extensive explanation condition, the brief explanation condition, and the no explanation condition. The mean values for Percentage of Blame attributed to the plaintiff are displayed in Table 5. Verdict and Percentage of Blame attributed to the plaintiff were strongly correlated, $r = .89$, $p = .01$.

A two-way between subjects ANOVA was performed using Explanation Type and Need for Cognition as factors and Percentage of Blame attributed to the plaintiff as the dependent variable. As displayed in Table 6, there was a significant main effect for Explanation Type. There was no main effect for Need for Cognition and no interaction.

An a priori contrast was performed between the control condition and the remaining three conditions. In the control condition, there was a significantly lower percentage of blame attributed to the plaintiff ($M = 21.88$) than in the extensive explanation, brief explanation, and no explanation conditions combined ($M = 31.32$), $t(131) = 2.017$, $p < .05$. The residual of Explanation Type was examined with the effect of the contrast subtracted. The residual was not significant, $F(2, 131) = 2.139$, $p > .05$; thus, further comparisons were not appropriate.

Attorney Perceptions

Participants were given four questions in which they were asked to rate the credibility/trustworthiness and honesty of both attorneys. The purpose of these questions was to explore any differences in the participants' perceptions of the two attorneys in the different Explanation Type conditions.

Table 5

Mean Percentages of Blame Attributed to the Plaintiff as a Function of Need for Cognition and Explanation Type

Need for Cognition	Explanation Type				
	Extensive	Brief	None	Control	Row Means
Low	27.67	36.76	26.82	18.79	27.22
High	27.47	40.28	29.43	25.80	31.00
Column Means	27.56	38.57	27.83	21.88	

Note. The percentages of blame were based on a scale of 0% to 100%.

Table 6

Analysis of Variance Using Explanation Type and Need for Cognition as Factors and Percentage of Blame Attributed to the Plaintiff as the Dependent Variable

Source	Sums of Squares	Df	Mean Square	F
Explanation Type (E)	4765.952	3	1588.651	2.783*
Need for Cognition (N)	356.426	1	356.426	.624
E x N	222.003	3	74.001	.130
Error	74,788.999	131	570.908	
Total	197,431.0	139		

*$p < .05$.

Plaintiff's attorney. A two-way between subjects ANOVA was performed using Explanation Type and Need for Cognition as factors and Credibility/Trustworthiness of the plaintiff's attorney as the dependent variable. The mean values for these variables are displayed in Table 7. As displayed in Table 8, there were no significant effects.

Since the plaintiff's attorney did not reveal the damaging evidence in the no explanation condition but did reveal the damaging evidence in the extensive and brief explanation conditions, it is logical that the participants would perceive the plaintiff's attorney as less credible in the no explanation condition. An a priori contrast was performed for the credible/trustworthy rating between the no explanation condition and the combination of the brief, extensive, and control conditions. The control condition was included because it was thought that the plaintiff's attorney would actually lose credibility in the no explanation condition for failing to mention the damaging evidence. In the control condition, the damaging evidence was never mentioned so there would be no reason for the plaintiff's attorney to lose or gain credibility. The contrast between the no explanation condition ($M = 4.86$) and the extensive, brief, and control conditions ($M = 5.18$) was not significant, $t(131)=1.279$, $p>.05$.

A two-way between subjects ANOVA was also performed using Explanation Type and Need for Cognition as factors and Honesty of the plaintiff's attorney as the dependent variable. The mean values for these variables are displayed in Table 9. As displayed in Table 10, there was a main effect for Explanation Type. There was no main effect for Need for Cognition and no interaction.

Table 7

Mean Scores for Credibility/Trustworthiness of the Plaintiff's Attorney as a Function of Need for Cognition and Explanation Type

Need for Cognition	Explanation Type				
	Extensive	Brief	None	Control	Row Means
Low	5.47	5.00	4.73	4.84	4.97
High	5.21	5.06	5.07	5.60	5.23
Column Means	5.32	5.03	4.86	5.18	

Note. Credibility/ Trustworthiness scores were based on a 7-point rating scale (1= not at all credible/trustworthy, 7= very credible/trustworthy).

Table 8

Analysis of Variance Using Explanation Type and Need for Cognition as Factors and Credibility/Trustworthiness of the Plaintiff as the Dependent Variable

Source	Sums of Squares	Df	Mean Square	F
Explanation Type (E)	3.908	3	1.303	.816
Need for Cognition (N)	1.730	1	1.730	1.083
E x N	4.693	3	1.564	.979
Error	209.254	131	1.60	
Total	3826.000	139		

Table 9

Mean Scores for Honesty of the Plaintiff's Attorney as a Function of Need for Cognition and Explanation Type

Need for Cognition	Explanation Type				
	Extensive	Brief	None	Control	Row Means
Low	5.07	4.59	4.09	4.95	4.63
High	5.47	4.78	4.71	5.07	5.03
Column Means	5.29	4.69	4.33	5.00	

Note. Honesty scores were based on a 7-point rating scale (1= not at all honest, 7= very honest).

Table 10

Analysis of Variance Using Explanation Type and Need for Cognition as Factors and Honesty of the Plaintiff's Attorney as the Dependent Variable

Source	Sums of Squares	Df	Mean Square	F
Explanation Type (E)	14.548	3	4.849	2.653*
Need for Cognition (N)	3.817	1	3.817	2.088
E x N	1.330	3	.443	.243
Error	239.455	131	1.828	
Total	3492.000	139		

*p=.05.

An a priori contrast revealed a significant difference in Honesty of the plaintiff's attorney between the no explanation condition (M= 4.33) and the combination of the extensive, brief, and control conditions (M= 4.99), $t(131)$= 2.504, $p<.05$.

Defendant's attorney. A two-way between subjects ANOVA was performed using Explanation Type and Need for Cognition as factors and Credibility/Trustworthiness of the defendant's attorney as the dependent variable. The mean values for these variables are displayed in Table 11. The participants were given the same opening statements by the defendant's attorney in each condition, with the exception of the control condition, in which the damaging evidence was not mentioned. As displayed in Table 12, there were no significant effects.

A two-way between subjects ANOVA was also performed using Explanation Type and Need for Cognition as factors and Honesty of the defendant's attorney as the dependent variable. The mean values for these variables are displayed in Table 13. As displayed in Table 14, there was no main effect for Explanation Type or Need for Cognition. There was, however, a significant interaction. A simple effects analysis of this interaction indicated a significant difference between the participants who were low and high in Need for Cognition in the control condition, $F(1, 131)=6.24$, $p<.05$. Because there was no mention of the damaging evidence about the plaintiff in the control condition, the difference between Need for Cognition levels in the control condition are not relevant to the issue of the persuasiveness of the damaging evidence.

Table 11

Mean Scores for Credibility/ Trustworthiness of the Defendant's Attorney as a Function of Need for Cognition and Explanation Type

Need for Cognition	Explanation Type				
	Extensive	Brief	None	Control	Row Means
Low	4.73	4.24	4.27	3.53	4.16
High	4.32	4.89	4.14	4.53	4.48
Column Means	4.50	4.57	4.22	3.97	

Note. Credibility/Trustworthiness scores were based on a 7-point rating scale (1= not at all credible/trustworthy, 7= very credible/trustworthy).

Table 12

Analysis of Variance Using Explanation Type and Need for Cognition as Factors and Credibility/Trustworthiness of the Defendant's Attorney as the Dependent Variable

Source	Sums of Squares	Df	Mean Square	F
Explanation Type (E)	6.684	3	2.228	1.471
Need for Cognition (N)	2.637	1	2.637	1.741
E x N	11.167	3	3.722	2.457
Error	198.423	131	1.515	
Total	2810.000	139		

Table 13

Mean Scores for Honesty of the Defendant's Attorney as a Function of Need for Cognition and Explanation Type

Need for Cognition	Explanation Type				
	Extensive	Brief	None	Control	Row Means
Low	4.47	4.29	4.36	3.26	4.08
High	3.84	4.61	3.79	4.27	4.14
Column Means	4.12	4.46	4.14	3.71	

Note. Honesty scores were based on a 7-point rating scale (1= not at all honest, 7= very honest). _

Table 14

Analysis of Variance Using Explanation Type and Need for Cognition as Factors and Honesty of the Defendant's Attorney as the Dependent Variable

Source	Sums of Squares	Df	Mean Square	F
Explanation Type (E)	8.203	3	2.734	1.945
Need for Cognition (N)	.0296	1	.0296	.021
E x N	15.418	3	5.139	3.656*
Error	184.132	131	1.406	
Total	2555.000	139		

*p= .01.

When all 152 participants were used, there was a main effect for Explanation Type, $F(3, 144)=2.821$, $p=.041$.

Damaging Evidence

The participants were asked to respond to two open-ended questions regarding their impressions of the overall case. The purpose of these questions was to determine if the participants had different impressions of the damaging evidence depending on the explanation they received.

In the first question, the participants were asked to briefly explain their verdict choice. The responses to this question were then rated on whether the response contained any mention of the plaintiff drinking on the night the accident occurred. If the response included any reference to the plaintiff drinking, it was then rated on whether it considered the plaintiff to be at fault, at least in part, because of the drinking. The same questions were rated by two people.

In rating the responses on whether or not they contained any mention of the plaintiff drinking, the interrater agreement was 99%. After discussion, it was agreed that of 152 responses, 52 (34%) of the responses mentioned the plaintiff drinking, while 100 (66%) of the responses did not. Of the 52 participants who mentioned the plaintiff's drinking, 19 were in the extensive explanation condition, 19 were in the brief explanation condition, and 14 were in the no explanation condition. Since the participants in the control condition were not exposed to the damaging evidence, no one in the control condition mentioned the plaintiff's drinking in their response. A chi-square was

performed comparing the frequency of responses that mentioned the plaintiff drinking and the responses that did not mention the plaintiff drinking across Explanation Type. The control condition was excluded from the analysis. There were no significant differences found, $\chi^2(2)=1.768$, $p=.413$.

In rating the responses on whether or not they indicated the plaintiff to be at least partially at fault because of the drinking, the interrater agreement was 91%. After discussion, it was agreed that of 152 responses, 23 (15%) considered the plaintiff at least partially at fault because he was drinking. Of these 23 participants, seven were in the extensive condition, 12 were in the brief explanation condition and four were in the no explanation condition. One hundred and twenty nine of the participants (85%) did not state that the plaintiff was at fault because he was drinking. A chi-square was performed comparing the frequency of responses that considered the plaintiff at fault and did not consider the plaintiff at fault because he was drinking. Again, the control condition was excluded from analysis. There were no significant differences found, $\chi^2(2)=5.338$, $p=.069$.

In the second question, the participants were asked what information they found the most damaging to the plaintiff's case. They were then asked to rate how damaging this evidence was to the overall case. The interrater agreement on this question was 99%. After discussion, it was found that 94 (62%) of the responses mentioned the plaintiff's drinking as the most damaging information to the plaintiff's case. Of these 94 participants, 30 were in the extensive explanation condition, 36 were in the brief

explanation condition and 28 were in the no explanation condition. Again, no one in the control condition mentioned the plaintiff's drinking because they were not exposed to this information. Fifty-eight responses (38%) did not mention the plaintiff's drinking. A chi-square was performed comparing the frequency of responses that mentioned the plaintiff's drinking and did not mention the plaintiff's drinking as the most damaging evidence to the case across Explanation Type. The control condition was excluded from analysis. The differences in the frequency of responses across Explanation Type were significant, $\chi^2(2) = 6.306$, $p<.05$. Drinking was cited as the most damaging information to the plaintiff's case, especially by participants in the brief explanation condition.

In order to rate how damaging the evidence was to the overall case, the participants used a 7-point rating scale with "1" representing "not at all damaging" and "7" representing "very damaging". The mean scores were calculated for the participants who cited the plaintiff's drinking as the most damaging evidence to the plaintiff's case. The mean rating scores were 4.13 in the extensive explanation condition, 4.72 in the brief explanation condition, and 4.82 in the no explanation condition. Because the means were derived from a subset of self selected participants, an ANOVA was not performed.

Alcohol Consumption

The participants were also asked two questions regarding their amount of alcohol consumption. The purpose of these questions was to see if the participant's drinking level would affect his or her perceptions of the opening statements. The participants reported the number of days per week they consumed alcohol and also the number of

drinks containing alcohol they consumed per week. The days of the week the participants drank ranged from zero to six with a mean of .89. The number of drinks per week ranged from zero to 50 with a mean of 2.84. The number of days the participants drank and the number of drinks the participants drank were correlated .81, $p=.01$. Since the answers from the two drinking questions were highly correlated, data from only one of the drinking questions was analyzed and will be reported.

The numbers of days that the participants drank per week was divided into two categories. Seventy-one participants reported that they did not drink at all, while 68 subjects reported some amount of alcohol consumption. A two-way between subjects ANOVA was performed using Explanation Type and Drinking Level as factors with each of the six dependent variables. Significant results were found when Credibility of the plaintiff's attorney was the dependent variable. The mean values for Credibility of the plaintiff's attorney are displayed in Table 15. As displayed in Table 16, there was no main effect for Explanation Type. There was a significant main effect for Drinking Level. There was also a significant interaction between Explanation Type and Drinking Level. A simple effects analysis of this interaction indicated a significant difference between the participants who drank and the participants who did not drink in the extensive explanation condition, $F(1, 131)=9.716$, $p<.01$, and also the brief explanation condition, $F(1, 131)=7.229$, $p<.01$. In these two conditions, the participants who did not drink gave the plaintiff's attorney a higher credibility rating. The interaction was only

Table 15

Mean Scores for Credibility/ Trustworthiness of the Plaintiff's Attorney as a Function of Drinking and Explanation Type

Drink Alcohol	Explanation Type				
	Extensive	Brief	None	Control	Row Means
Yes	4.72	4.47	5.00	4.95	4.79
	n=18	n=17	n=16	n=20	
No	6.00	5.56	4.75	5.50	5.41
	n=16	n=18	n=20	n=14	
Column Means	5.32	5.03	4.86	5.18	

Note. Credibility/Trustworthiness scores were based on a 7-point rating scale (1= not at all credible/trustworthy, 7= very credible/trustworthy).

Table 16

Analysis of Variance Using Explanation Type and Drinking as Factors and Credibility/Trustworthiness as the Dependent Variable

Source	Sums of Squares	Df	Mean Square	F
Explanation Type (E)	4.862	3	1.621	1.126
Drinking Level (D)	15.203	1	15.203	10.566**
E x D	12.272	3	4.091	2.843*
Error	188.491	131	1.439	
Total	3826.000	139		

*$p < .05$.

**$p < .01$.

marginally significant when data from all 152 participants was used, $F(3)=2.489$, $p=.063$.

Although the credibility rating of the plaintiff's attorney interacted with Explanation Type and Drinking Level, there was no interaction when Honesty of the plaintiff's attorney was measured.

Discussion

Verdicts

The results of this study suggest that the amount of explanation the plaintiff's attorney offered concerning the damaging evidence affected the verdicts. However, the effect of the different explanations on the verdict scores was somewhat contrary to what was expected. It was predicted that the verdict scores would be highest, or more in favor of the plaintiff, in the control condition, followed by the extensive explanation condition, the brief explanation condition, and the no explanation condition. As predicted, the control condition did contain a higher mean verdict score than the extensive, brief, and no explanation conditions. However, of the three conditions in which the damaging evidence was revealed, the highest mean verdict score was in the no explanation and extensive explanation conditions. There was little difference between the mean verdict scores in these two conditions. The lowest mean verdict score was in the brief explanation condition. The percentages of blame the participants attributed to the plaintiff and defendant resulted in the same pattern as the verdict scores, with the highest percentage of blame occurring in the brief explanation condition.

As previously mentioned, most trial handbooks state that an attorney must reveal any damaging evidence in his or her case before the opposing attorney (Stern, 1991). By revealing the damaging evidence first, most trial handbooks suggest that an attorney will reduce the impact of the damaging evidence by taking away any surprise connected with the damaging evidence when it is revealed by the opposing attorney. Evidence to support this theory was found in a study by Williams et. al (1993). In their study, it was found that when the attorney brought up damaging evidence in his case first, more favorable verdicts were received for his client.

In the current study, when the plaintiff's attorney revealed the damaging evidence about his client, it did not lead to more favorable verdict scores for the plaintiff. In fact, 83% of the verdicts in the no explanation condition favored the plaintiff as opposed to 62% of the verdicts in the brief explanation condition. One difference between the two studies that may have contributed to the different results was the timing of the disclosure of the damaging evidence. In the current study, the damaging evidence was revealed in the opening statements, whereas, in the Williams et al. (1993) study, the damaging evidence was revealed later in the trial.

The timing of the disclosure may have an impact on how effective an attorney will be when he or she reveals damaging evidence in his or her case. In the opening statements, jurors are learning the facts of the case for the first time and may expect to hear conflicting information. Therefore, they may not be as surprised by damaging evidence when it is revealed in the opening statements as opposed to later in the trial.

When the element of surprise is reduced the strategy may not be as effective. In the current study, the participants in the no explanation condition may not have been surprised when the defendant's attorney made damaging allegations about the plaintiff.

Other trial handbooks suggest that attorneys should not reveal damaging evidence in their case to the jury because by doing so, the attorneys may call too much attention to the damaging evidence (Lubet, 1993). This in turn may cause jurors to overestimate the importance of the damaging evidence when rendering a verdict. There is some evidence that the participants who received the brief explanation attributed more importance to the damaging evidence than the participants who received the other explanation types. The participants in the brief explanation condition, in response to a question asking them to state what information they found the most damaging to the plaintiff's case, stated that the plaintiff 's drinking was the most damaging to the plaintiff's case more often than the participants in the no explanation and extensive explanation conditions. It is logical to assume that the more damaging the participants viewed the evidence that the plaintiff was drinking, the more likely they would be to attribute blame to the plaintiff. This may explain why 38% of the participants in the brief explanation condition found for the defendant, while only 17% of the participants in the no explanation condition found for the defendant.

Three possible reasons were suggested as to why attorneys may call too much attention to the damaging evidence in their case when they reveal the damaging evidence themselves. First, attorneys may call too much attention to the damaging evidence

through repetition. In other words, the more jurors hear about the damaging evidence the more likely they will be to remember it when rendering a verdict. However, in the extensive explanation more time was spent talking about the damaging evidence than in the brief explanation condition. If repetition of the damaging evidence results in too much attention being drawn to such evidence, it would be expected that the mean verdict score would have been lower in the extensive explanation condition. Second, when attorneys reveal damaging evidence themselves, they may appear to be defensive about the particular information. Again, if this were the case, the mean verdict score would have been lower in the extensive explanation condition. Third, jurors may not expect an attorney to reveal damaging evidence about his or her own case. If an attorney does reveal damaging evidence about his or case, jurors may be surprised, and therefore, more likely to remember the evidence. This explanation cannot be ruled out.

Contrary to the hypothesis of this study, there was not a significant difference between the mean verdict scores in the extensive explanation condition and the brief explanation condition. One reason for this result may have been that, although there was a difference in the quantity of the arguments presented in the two explanations, the difference in the quality of the arguments was minimal. Because participants were only exposed to the opening statements, careful consideration was made in the extensive explanation condition to make sure that no new facts were added to the case that might have impacted the participants' verdicts. It is reasonable to assume that the difference

between the extensive and brief explanations would have been greater if the extensive explanation would have included more facts contradicting the damaging evidence.

It was predicted in this study that the participants' Need for Cognition would interact with Explanation type to influence the verdict that they chose. No interaction was found. There are several reasons why this result may have occurred. First, as previously discussed, there was not a big difference in the strength of the arguments between the brief and extensive explanation conditions. It was predicted that the participants who were high in Need for Cognition would be more persuaded by the extensive explanation because of the greater quality of the arguments presented in the extensive explanation. Since the quality of the brief and extensive explanations was similar, the participants who were high in Need for Cognition may have been equally persuaded by both explanations. Second, it is likely that the participants used in this study would have a higher Need for Cognition level than would be found in the average jury sample because they were all college students. If this is true, then the two groups of participants, those who were considered to be high in Need for Cognition and those who were considered to be low in Need for Cognition, may have had similar levels of Need for Cognition. Third, it is also possible that Need for Cognition does not make a difference in the type of explanation by which jurors are persuaded. A jury, and arguably a mock jury, is unique in that the jury members may use extra caution in deciphering attorneys' arguments. Therefore, jurors may have a heightened Need for Cognition during a trial or mock trial.

Attorney Perceptions

In the Williams et al. (1993) study, the authors suggested that it was the credibility the attorney gained, by revealing the damaging evidence about his or her case first, which led to more favorable verdicts. In the current study, the plaintiff's attorney was not perceived as more credible when he revealed the damaging evidence about the plaintiff. This result is logical considering the outcome of the verdicts. However, it was expected that the highest credibility rating for the plaintiff's attorney would be found in the condition which contained the most favorable verdicts for the plaintiff. Studies have shown that if people perceive the communicator as credible, they are more likely to believe the communicator's message (Eagley et al., 1978). It is not clear why the credibility rating did not positively correlate with the verdict scores.

Although the plaintiff's attorney was not perceived as more credible, he was perceived as more honest when he revealed the damaging evidence about his client. The highest honesty rating of the plaintiff's attorney was found in the extensive explanation condition and the lowest honesty rating was found in the no explanation condition. However, the enhanced perception that the plaintiff's attorney was honest did not lead to more favorable verdicts. It is possible that although the plaintiff's attorney may have been perceived as more honest when he revealed the damaging evidence, he may also have called more attention to the damaging evidence.

Alcohol Consumption

Since the damaging evidence presented was evidence that the plaintiff was drinking on the night of the accident, the participants' level of alcohol consumption was measured. This measure was included to confirm that the results were not influenced by the participants' perceptions of drinking. It was possible that the amount of alcohol the participants drank may have influenced their perception of the damaging evidence.

Although the participants' alcohol consumption did not influence the verdicts, it did influence the credibility ratings of the plaintiff's attorney. There was an interaction between the participants' Drinking Level and Explanation Type. The most pronounced differences in the perceived credibility of the plaintiff's attorney were in the extensive and brief explanation conditions. In these two conditions, the participants gave the plaintiff's attorney a higher credibility rating when they did not drink. These results suggest that jurors' individual differences may affect their perception of credibility depending on the type of explanation they are given. Further research is needed to explore the effects of these individual differences.

Conclusions

Although most trial handbooks argue that attorneys should reveal evidence which is damaging to their case before the opposing attorney does, the results of this study suggest otherwise if the attorney must reveal the damaging evidence in the opening statements. More research needs to be done in this area to be certain under what conditions damaging evidence should or should not be revealed.

For instance, in the current study, the participants read a set of opening statements instead of a full trial transcript. Further study is necessary to determine whether the impressions of the participants would change after viewing an entire trial. In order to test this, verdicts could be measured after the opening statements have been presented and again at the conclusion of the trial. Since the timing of the disclosure of the damaging evidence may be an issue, varying which point in the trial the damaging evidence is revealed may also provide useful information.

In addition, the current study only tested one example of damaging evidence. There are many types of damaging evidence. For example, damaging evidence could be revealed about a witness in the case, a personality attribute, prior criminal activity, etc. The importance of the damaging evidence will vary as well. The damaging evidence could be very minor or extremely important to a case. It is possible that whether or not an attorney should reveal damaging evidence in his or her case might depend on the type of damaging evidence. Further research is needed to identify the most effective method for dealing with different types of damaging evidence.

The type of explanation the attorney should give concerning the damaging evidence also needs to be explored further. In the current study, the difference between the extensive and brief explanation was relatively small. Future studies could incorporate more extreme differences in the explanations presented. For example, an explanation that consists of stating only what the damaging evidence will be could help isolate the impact of surprising jurors.

In addition, the current study may lack in external validity because of the differences between the experimental procedures and an actual trial. The participants in this study most likely did not possess the same characteristics found in an average jury sample. Also, the participants in this study only read opening statements as opposed to viewing an actual trial taking place. Finally, the participants in this study rendered verdicts without participating in the deliberation process. However, the intent of this study was to assess impressions that would be formed after the opening statements. When viewed in this context, these results have considerable value.

References

Allyn, J., & Festinger, L. (1961). The effectiveness of unanticipated persuasive communications. Journal of Abnormal & Social Psychology, 62, 35-40.

Cappioppo, J., & Petty, R. (1982). The need for cognition. Journal of Personality and Social Psychology, 42, 116-131.

Eagley, A., Wood, W., & Chaiken, S. (1978). Casual inferences about communications and their effect on opinion change. Journal of Personality and Social Psychology, 56, 424-435.

Fiske, S., & Dyer, L. (1985). Structure and development of social schemata: evidence from positive and negative transfer effects. Journal of Personality and Social Psychology, 48, 839-852.

Goldman, M., Cowles, M., & Florez, C. (1983). The halo effect of an initial impression upon speaker and audience. The Journal of Social Psychology, 120, 197-201.

Hass, R., & Grady, K. (1975). Temporal delay, type of forewarning resistance to influence. Journal of Experimental Social Psychology, 11, 459-469.

Hastie, R., & Kumar, P. (1979). Person memory: personality traits as organizing principles in memory for behaviors. Journal of Personality & Social Psychology, 37, 25-38.

Stern, H.J. (1991). Trying cases to win. New York, New York; Wiley Law Publications.

Kassin, S., Reddy, M., & Tulloch W. (1990). Juror interpretations of ambiguous evidence. Law and Human Behavior, 14, 43-55.

Lubet, S. (1993). Modern trial advocacy: Analysis and practice. Notre Dame, Indiana; Nita.

McGinnies, E., & Ward, C. (1980). Better liked than right: trustworthiness and expertise as factors in credibility. Personality & Social Psychology Bulletin, 6.

Nelson, T. O., (1977). Repetition and depth of processing. Journal of Verbal Learning & Verbal Behavior, 16, 151-172.

Pyszczynski, T., & Wrightsman, L. (1981). The effects of opening statements on mock jurors' verdicts in a simulated criminal trial. Journal of Applied Social Psychology, 11, 301-313.

Reyes, R., Thompson, W., & Bower, G. (1980). Judgmental biases resulting from differing availibilities of arguments. Journal of Personality and Social Psychology, 59, 2-12.

Ross, L., Leppen, M., & Hubbard, M. (1975). Perseverance in self-perception and social perception: biased attributional processes in the debriefing paradigm. Journal of Personality and Social Psychology, 5, 880-892.

Wells, G.B., Miene, P., & Wrightsman, L. (1985). The timing of the defense opening statement: don't wait until the evidence is in. Journal of Applied Social Psychology, 15, 758-772.

Williams, K., Bourgeois, M., & Croyle, R. (1995). The effects of stealing thunder in criminal and civil trials. Law and Human Behavior, 17, 597-609.

Zadny, J., & Gerard, H.B. (1974). Attribute intentions and information selectivity. Journal of Experimental Social Psychology, 10, 34-52.

Appendix A

Plaintiff's Opening Statement for Extensive Explanation Condition

Ladies and gentlemen my name is Jack McPhearson and I am the attorney for the plaintiff, Mark Donovan. Shortly before 9:00 p.m. on July 16, 1996, Mark Donovan was walking home. It was a beautiful summer night, the temperature was about 82 degrees and since it was still light out, people were outside riding bikes and walking their dogs. As Mark walked home that night, he came upon the intersection of 90th and Pine streets. Before crossing the intersection Mark did what he has done since the first time he crossed the street, he looked both ways. When Mark saw that the road was safe to cross, he began walking across Pine street. When Mark was halfway across Pine street he heard a car coming around the corner. Mark looked up to see a red Camaro furiously speeding toward him. Mark began to run to try to get out of the way of the speeding car, but it was too late. The car smashed into Mark throwing him into the air and then onto the concrete sidewalk about 20 feet from crosswalk.

The man behind the wheel of the car that smashed into Mark that summer night was the defendant, John Thompson. The defendant was on his way to work at St. Luke's Hospital that night, which is about two miles from the intersection of 90th and Pine streets. The defendant is very familiar with the intersection of 90th and Pine. In fact, the defendant has driven though that intersection at least 500 times before that night. Every night the defendant goes to work he passes through that intersection.

The people who live in the neighborhood know the defendant. Rose Pedersen, a woman who lives on the northwest corner of 90th and Pine, knows the defendant because she has seen the defendant speeding through the neighborhood on several occasions before the night of the accident. Rose has two sons who play football in the yard and a

teenage daughter who drives through that intersection on her way home from school. For obvious reasons, Rose Pedersen was concerned about the defendant's driving habits. Rose was always worried that the defendant's red Camaro would come flying around that corner and run over her sons or smash into her daughter's car. Several other neighbors will also testify that they witnessed the defendant on occasion speeding recklessly through their neighborhood.

We also have a witness who saw the defendant speeding down 90th street the night of the accident just before he smashed into Mark Donovan. James Simpson whose house faces 90th street was in his front yard the night of the accident. Mr. Simpson will testify that he saw the defendant's red Camaro speed by his house traveling about 40 miles per hour. He will also testify that he heard tires squealing and a loud thump just moments after the defendant passed by his house.

However, we don't need to take the neighbors' word that the defendant was speeding because evidence from the scene of the accident will show that the defendant was speeding. George Sims, who is a forensics expert who specializes in accident scenes, will testify that according to the skid marks that were left on 90th and Pine the defendant had to be traveling at a speed no less then 40 miles per hour. The speed limit on 90th and Pine is 25 miles per hour.

As you know, the defendant was on his way to work the night that he ran down Mark Donovan. According to the police report, the defendant ran into Mark at approximately 8:56 p.m. The defendant was scheduled to begin work at St. Lukes at 9:00 p.m. The defendant was speeding through the intersection of 90th and Pine at 8:56 p.m., with only four minutes to get to work. This was not the first time the defendant was late to work. The defendant's supervisor will testify that the defendant was often late for work. In fact, the defendant's supervisor told the defendant the evening before the

accident that if he was late for work one more time he could lose his job. The defendant was in a hurry to get to work that night for obvious reasons.

Mark Donovan will admit that he was drinking beer the night of the accident. But Mark was not drunk. It was one of his co-worker's birthday and he and some of his friends went to Sliders to celebrate. Mark and his friends arrived at the bar about 6:00 p.m., ate dinner, had a few beers, and left the bar about 9:00 p.m.. You will hear testimony that Mark tripped as he walked out of Sliders Bar that night. Two witnesses will tell you that it appeared that Mark was drunk. What the witnesses did not know, however, was that Mark tripped over loose carpet in the doorway while he was leaving Sliders. The bartender at Sliders will testify that many of the customers at Sliders tripped over the carpet in the doorway. In fact, so many customers tripped over the carpet that the owner of Sliders replaced the carpet the day after the accident. What the two witnesses also did not know was that Mark was only at the bar for three hours and he ate dinner while he was there. As you can see Mark Donovan is a large man. It takes a lot of beer to get a man the size of Mark drunk. Three hours at Sliders during which Mark had dinner is not enough time for Mark to get stumbling drunk. Besides Mark will testify that he did not want to get drunk because he did not want to be hung over for work the next day.

The fact that Mark was drinking did not make him invisible. Mark looked both ways before crossing the street, and when he saw the defendant's car he tried to get out of the way. Whether he was drinking or not, Mark followed all of the rules that a pedestrian should when crossing the street.

When the paramedics arrived on the scene that night, they found Mark lying on the concrete sidewalk. They found Mark with a broken leg, four broken ribs and cuts and bruises all over his body. When Mark arrived at the hospital he began to complain of

severe pain in his chest and stomach. The doctors at the hospital soon discovered that Mark had a collapsed lung and a ruptured spleen. Mark lost so much blood he needed a blood transfusion. The surgeons operated on Mark immediately, removing his spleen to stop the internal bleeding. As you look at Mark today you can not see the cuts and bruises because they have healed. But what you can see is crutches that hold up Mark, the scar that spreads 5 inches across his face and obvious signs of pain as he takes each step.

Appendix B

Plaintiff's Opening Statement for Brief Explanation Condition

Ladies and gentlemen my name is Jack McPhearson and I am the attorney for the plaintiff, Mark Donovan. Shortly before 9:00 p.m. on July 16, 1996, Mark Donovan was walking home. It was a beautiful summer night, the temperature was about 82 degrees and since it was still light out, people were outside riding bikes and walking their dogs. As Mark walked home that night, he came upon the intersection of 90th and Pine streets. Before crossing the intersection Mark did what he has done since the first time he crossed the street, he looked both ways. When Mark saw that the road was safe to cross, he began walking across Pine street. When Mark was halfway across Pine street he heard a car coming around the corner. Mark looked up to see a red Camaro furiously speeding toward him. Mark began to run to try to get out of the way of the speeding car, but it was too late. The car smashed into Mark throwing him into the air and then onto the concrete sidewalk about 20 feet from the crosswalk.

The man behind the wheel of the car that smashed into Mark that summer night was the defendant, John Thompson. The defendant was on his way to work at St. Luke's Hospital that night, which is about two miles from the intersection of 90th and Pine streets. The defendant is very familiar with the intersection of 90th and Pine. In fact, the defendant has driven though that intersection at least 500 times before that night. Every night the defendant goes to work he passes through that intersection.

The people who live in the neighborhood know the defendant. Rose Pedersen, a woman who lives on the northwest corner of 90th and Pine, knows the defendant because she has seen the defendant speeding through the neighborhood on several occasions before the night of the accident. Rose has two sons who play football in the yard and a teenage daughter who drives through that intersection on her way home from school. For

obvious reasons, Rose Pedersen was concerned about the defendant's driving habits. Rose was always worried that the defendant's red Camaro would come flying around that corner and run over her sons or smash into her daughter's car. Several other neighbors will also testify that they witnessed the defendant on occasion speeding recklessly through their neighborhood.

We also have a witness who saw the defendant speeding down 90th street the night of the accident just before he smashed into Mark Donovan. James Simpson whose house faces 90th street was in his front yard the night of the accident. Mr. Simpson will testify that he saw the defendant's red Camaro speed by his house traveling about 40 miles per hour. He will also testify that he heard tires squealing and a loud thump just moments after the defendant passed by his house.

However, we don't need to take the neighbors' word that the defendant was speeding because evidence from the scene of the accident will show that the defendant was speeding. George Sims, who is a forensics expert who specializes in accident scenes, will testify that according to the skid marks that were left on 90th and Pine the defendant had to be traveling at a speed no less then 40 miles per hour. The speed limit on 90th and Pine is 25 miles per hour.

As you know, the defendant was on his way to work the night that he ran down Mark Donovan. According to the police report, the defendant ran into Mark at approximately 8:56 p.m. The defendant was scheduled to begin work at St. Lukes at 9:00 p.m. The defendant was speeding through the intersection of 90th and Pine at 8:56 p.m., with only four minutes to get to work. This was not the first time the defendant was late to work. The defendant's supervisor will testify that the defendant was often late for work. In fact, the defendant's supervisor told the defendant the evening before the

accident that if he was late for work one more time he could lose his job. The defendant was in a hurry to get to work that night for obvious reasons.

You will hear testimony that Mark Donovan was at Sliders Bar the night of the accident and tripped as he walked out of the bar. Two witnesses will tell you that it appeared that Mark was drunk. However, what the witnesses did not know was that Mark tripped over loose carpet in the doorway of Sliders Bar while leaving the bar. Mark will admit that he was drinking that night, but he was not stumbling drunk. But the fact that Mark was drinking did not make him invisible. Mark looked both ways before crossing the street, and when he saw the defendant's car he tried to get out of the way. Whether he was drinking or not, Mark followed all of the rules that a pedestrian should when crossing the street.

When the paramedics arrived on the scene that night, they found Mark lying on the concrete sidewalk. They found Mark with a broken leg, four broken ribs and cuts and bruises all over his body. When Mark arrived at the hospital he began to complain of severe pain in his chest and stomach. The doctors at the hospital soon discovered that Mark had a collapsed lung and a ruptured spleen. Mark lost so much blood he needed a blood transfusion. The surgeons operated on Mark immediately, removing his spleen to stop the internal bleeding. As you look at Mark today you can not see the cuts and bruises because they have healed. But what you can see is crutches that hold up Mark, the scar that spreads 5 inches across his face and obvious signs of pain as he takes each step.

Appendix C

Plaintiff's Opening Statement for No Explanation and Control Conditions

Ladies and gentlemen my name is Jack McPhearson and I am the attorney for the plaintiff, Mark Donovan. Shortly before 9:00 p.m. on July 16, 1996, Mark Donovan was walking home. It was a beautiful summer night, the temperature was about 82 degrees and since it was still light out, people were outside riding bikes and walking their dogs. As Mark walked home that night, he came upon the intersection of 90th and Pine streets. Before crossing the intersection Mark did what he has done since the first time he crossed the street, he looked both ways. When Mark saw that the road was safe to cross, he began walking across Pine street. When Mark was halfway across Pine street he heard a car coming around the corner. Mark looked up to see a red Camaro furiously speeding toward him. Mark began to run to try to get out of the way of the speeding car, but it was too late. The car smashed into Mark throwing him into the air and then onto the concrete sidewalk about 20 feet from the crosswalk.

The man behind the wheel of the car that smashed into Mark that summer night was the defendant, John Thompson. The defendant was on his way to work at St. Luke's Hospital that night, which is about two miles from the intersection of 90th and Pine streets. The defendant is very familiar with the intersection of 90th and Pine. In fact, the defendant has driven though that intersection at least 500 times before that night. Every night the defendant goes to work he passes through that intersection.

The people who live in the neighborhood know the defendant. Rose Pedersen, a woman who lives on the northwest corner of 90th and Pine, knows the defendant because she has seen the defendant speeding through the neighborhood on several occasions before the night of the accident. Rose has two sons who play football in the yard and a teenage daughter who drives through that intersection on her way home from school. For

obvious reasons, Rose Pedersen was concerned about the defendant's driving habits. Rose was always worried that the defendant's red Camaro would come flying around that corner and run over her sons or smash into her daughter's car. Several other neighbors will also testify that they witnessed the defendant on occasion speeding recklessly through their neighborhood.

We also have a witness who saw the defendant speeding down 90th street the night of the accident just before he smashed into Mark Donovan. James Simpson whose house faces 90th street was in his front yard the night of the accident. Mr. Simpson will testify that he saw the defendant's red Camaro speed by his house traveling about 40 miles per hour. He will also testify that he heard tires squealing and a loud thump just moments after the defendant passed by his house.

However, we don't need to take the neighbors' word that the defendant was speeding because evidence from the scene of the accident will show that the defendant was speeding. George Sims, who is a forensics expert who specializes in accident scenes, will testify that according to the skid marks that were left on 90th and Pine the defendant had to be traveling at a speed no less then 40 miles per hour. The speed limit on 90th and Pine is 25 miles per hour.

As you know, the defendant was on his way to work the night that he ran down Mark Donovan. According to the police report, the defendant ran into Mark at approximately 8:56 p.m. The defendant was scheduled to begin work at St. Lukes at 9:00 p.m. The defendant was speeding through the intersection of 90th and Pine at 8:56 p.m., with only four minutes to get to work. This was not the first time the defendant was late to work. The defendant's supervisor will testify that the defendant was often late for work. In fact, the defendant's supervisor told the defendant the evening before the

accident that if he was late for work one more time he could lose his job. The defendant was in a hurry to get to work that night for obvious reasons.

When the paramedics arrived on the scene that night, they found Mark lying on the concrete sidewalk. They found Mark with a broken leg, four broken ribs and cuts and bruises all over his body. When Mark arrived at the hospital he began to complain of severe pain in his chest and stomach. The doctors at the hospital soon discovered that Mark had a collapsed lung and a ruptured spleen. Mark lost so much blood he needed a blood transfusion. The surgeons operated on Mark immediately, removing his spleen to stop the internal bleeding. As you look at Mark today you can not see the cuts and bruises because they have healed. But what you can see is crutches that hold up Mark, the scar that spreads 5 inches across his face and obvious signs of pain as he takes each step.

Appendix D

Defendant's Opening Statement for Extensive, Brief and No Explanation Conditions

Ladies and Gentlemen my name is Samuel Patrick and I am the attorney for the Defendant, John Thompson. At about 6:00 p.m. on Tuesday, July 16, 1996, the plaintiff, Mark Donovan, met his buddies at Sliders Bar. The plaintiff went to Sliders Bar because it was one of his co-worker's birthday. The plaintiff and his buddies had a tradition of meeting at Sliders and drinking all night long whenever it was someone's birthday.

The plaintiff started drinking beer at 6:00 p.m. and drank beer after beer until a little before 9:00 p.m. At 9:00 p.m. the plaintiff decided he wanted to go home so he finished his last beer and stumbled out of the bar. You will hear testimony from two witnesses who saw the plaintiff almost fall down as he left the bar that night. Those two witnesses were Mike and Mary Jones, who were out walking with their children that night, when they saw the plaintiff leave the bar. They will tell you that the plaintiff was so drunk that he could barely stand up as he walked out of the bar.

About the same time the plaintiff and his buddies arrived at Sliders to guzzle some beers, my client, John Thompson, went out for his nightly jog. After finishing his jog, John had a glass of Gatorade and took a shower. At 8:45 p.m., after he cleaned up he kissed his wife and daughter good-bye and left for work. John is a Sleep Technician at St. Lukes Hospital. St. Lukes is about 15 minutes from John's house and about ten minutes from the intersection of 90th and Pine. That night John drove the same route to work as he always does. He took 90th Street heading toward the intersection of 90th and Pine. The speed limit on 90th street is 25 miles per hour. John is well aware of the speed limit because he drives the street every day to work and almost everyday there is a police car at 90th and Oak street, about two blocks from the intersection of 90th and Pine, making sure no one is speeding on 90th street. And sure enough, that night just like

many other nights there was a police car at 90th and Oak. Seeing the police car, John did what we all do when we see a police car, he made sure that he was going the speed limit. He looked at his speedometer and it read 25 miles per hour. In fact, Officer Stacey Munce was the police officer in the car at 90th and Oak that night and she will testify that John was going 25 miles per hour when he passed her police car.

As John approached the intersection of 90th and Pine he signaled his turn and slowed his car. He then began his left turn. When his car was just about straightened out on Pine Street, John saw something shoot across the road. He slammed on his breaks but it was too late. He heard a loud thump and saw something hit his front bumper. John immediately jumped out of his car to see what he hit. John was shocked to see that it was the plaintiff that he hit. The reason John did not see the plaintiff that night is because the plaintiff ran into the intersection without looking before he crossed the street. The reason the plaintiff ran right into the path of John without looking was because he was drunk.

The plaintiff will testify that he was drinking the night of the accident. We all know that when people drink alcohol they do not react to things as fast and their judgment becomes impaired. The night of the accident the plaintiff's senses and judgment were impaired. Impaired so much that he did not look both ways before crossing the street and ran right into the path of John Thompson's car. After John got out of his car he realized that the Plaintiff needed medical attention. John immediately ran to the nearest house and called for an ambulance. The ambulance arrived just minutes later and took the plaintiff to the hospital.

You will hear testimony that John was scheduled to work at 9:00 p.m. on the night of the accident. That is true, John was scheduled to work at 9:00 p.m.. His wife will tell you that he left for work at 8:45 p.m. It takes John 15 minutes to get to work

which means he would have been at work by 9:00 p.m. Had this accident not occurred, John would have been to work on time.

Now there were only two witnesses to the accident that night. The police weren't there. Rose Pedersen wasn't there. It was just John and the plaintiff. It is very unfortunate what happened to the plaintiff. Anytime someone is injured in an accident it is unfortunate. But we all make our own choices. That night John Thompson chose to quench his thirst with Gatorade after his nightly jog. Unfortunately, the plaintiff chose to quench his thirst with a different drink that night. A drink that impairs a person's senses if he drinks too much of it. Because only John and the plaintiff were there that night we will only hear what John and the plaintiff remember. It is from that testimony that you will decide what really happened at the intersection of 90th and Pine streets on the night of July 16, 1996.

Appendix E

Defendant's Opening Statement for Control Condition

Ladies and Gentlemen my name is Samuel Patrick and I am the attorney for the Defendant, John Thompson. At about 6:00 p.m. on Tuesday, July 16, 1996, my client, John Thompson, went out for his nightly jog. After finishing his jog, John had a glass of Gatorade and took a shower. At 8:45 p.m., after he cleaned up he kissed his wife and daughter good-bye and left for work. John is a Sleep Technician at St. Lukes Hospital. St. Lukes is about 15 minutes from John's house and about ten minutes from the intersection of 90th and Pine. That night John drove the same route to work as he always does. He took 90th Street heading toward the intersection of 90th and Pine. The speed limit on 90th street is 25 miles per hour. John is well aware of the speed limit because he drives the street every day to work and almost everyday there is a police car at 90th and Oak street, about two blocks from the intersection of 90th and Pine, making sure no one is speeding on 90th street. And sure enough, that night just like many other nights there was a police car at 90th and Oak. Seeing the police car, John did what we all do when we see a police car, he made sure that he was going the speed limit. He looked at his speedometer and it read 25 miles per hour. In fact, Officer Stacey Munce was the police officer in the car at 90th and Oak that night and she will testify that John was going 25 miles per hour when he passed her police car.

As John approached the intersection of 90th and Pine he signaled his turn and slowed his car. He then began his left turn. When his car was just about straightened out on Pine Street, John saw something shoot across the road. He slammed on his breaks but it was too late. He heard a loud thump and saw something hit his front bumper. John immediately jumped out of his car to see what he hit. John was shocked to see that it was the plaintiff that he hit. The reason John did not see the plaintiff that night is because the

plaintiff ran into the intersection without looking before he crossed the street. After John got out of his car he realized that the Plaintiff needed medical attention. John immediately ran to the nearest house and called for an ambulance. The ambulance arrived just minutes later and took the plaintiff to the hospital.

You will hear testimony that John was scheduled to work at 9:00 p.m. on the night of the accident. That is true, John was scheduled to work at 9:00 p.m.. His wife will tell you that he left for work at 8:45 p.m. It takes John 15 minutes to get to work which means he would have been at work by 9:00 p.m. Had this accident not occurred, John would have been to work on time.

Now there were only two witnesses to the accident that night. The police weren't there. Rose Pedersen wasn't there. It was just John and the plaintiff. It is very unfortunate what happened to the plaintiff. Anytime someone is injured in an accident it is unfortunate. Because only John and the plaintiff were there that night we will only hear what John and the plaintiff remember. It is from that testimony that you will decide what really happened at the intersection of 90th and Pine streets on the night of July 16, 1996.

Appendix F

Verdict Form

JURY INSTRUCTIONS

The plaintiff has the burden of proving his claim. Any party who has the burden of proving a claim must do so by the greater weight of the evidence. The greater weight of the evidence means evidence sufficient to make a claim more likely true than not true. If the plaintiff has met his burden of proof then you must find for the plaintiff. If the plaintiff has not met his burden of proof then you must find for the defendant.

Please render a verdict in this case by circling the appropriate number:

1 I am completely certain I would find for the defendant (driver).

2 I am mostly certain I would find for the defendant.

3 I am somewhat certain I would find for the defendant.

4 I am undecided.

5 I am somewhat certain I would find for the plaintiff (pedestrian).

6 I am mostly certain I would find for the plaintiff.

7 I am completely certain I would find for the plaintiff.

Appendix G

Questionnaire

1. Briefly explain why you chose the verdict that you chose.

2. What percentage of blame would you attribute to the plaintiff (pedestrian) and to the defendant (driver)? (the combined percentages must equal 100%).

_____% + _____% = 100%
plaintiff defendant

3. a) What information, if any, did you find the most damaging to the plaintiff's (pedestrian's) case?

b) How important was this information to the overall case? (please circle the appropriate number).

1	2	3	4	5	6	7
not at all important			somewhat important			very important

4. How credible or trustworthy was the plaintiff's (pedestrian's) attorney? (Please circle the appropriate number)

1	2	3	4	5	6	7
not at all credible			somewhat credible			very credible

5. How credible or trustworthy was the defendant's (driver's) attorney? (Please circle the appropriate number).

1	2	3	4	5	6	7
not at all credible			somewhat credible			very credible

6. How honest was the plaintiff 's (pedestrian's) attorney regarding what happened on the night of the accident? (Please circle the appropriate number).

1	2	3	4	5	6	7
not at all honest			somewhat honest			very honest

7. How honest was the defendant's (driver's) attorney regarding what happened on the night of the accident? (Please circle the appropriate number).

1	2	3	4	5	6	7
not at all honest			somewhat honest			very honest

Please circle T for True or F for False for each of the following questions

1. I would prefer complex to simple problems. T F

2. I like to have the responsibility of handling a situation that requires a lot of thinking.	T	F
3. Thinking is not my idea of fun.	T	F
4. I would rather do something that requires little thought than something that is sure to challenge my thinking abilities.	T	F
5. I try to anticipate and avoid situations where there is likely chance I will have to think in depth about something.	T	F
6. I find satisfaction in deliberating hard and for long hours.	T	F
7. I only think as hard as I have to.	T	F
8. I prefer to think about small, daily projects to long-term ones.	T	F
9. I like tasks that require little thought once I've learned them.	T	F
10. The idea of relying on thought to make my way to the top appeals to me.	T	F
11. I really enjoy a task that involves coming up with new solutions to problems.	T	F
12. Learning new ways to think doesn't excite me very much.	T	F
13. I prefer my life to be filled with puzzles that I must solve.	T	F
14. The notion of thinking abstractly is appealing to me.	T	F
15. I would prefer a task that is intellectual, difficult, and important to one that is somewhat important but does not require much thought.	T	F
16. I feel relief rather than satisfaction after completing a task that required a lot of mental effort.	T	F
17. It's enough for me that something gets the job done; I don't care how or why it works.	T	F
18. I usually end up deliberating about issues even when they do not affect me personally.	T	F

Appendix H

Consent Form

IRB #108-97-EX

ADULT INFORMED CONSENT FORM

OPENING STATEMENTS

You are invited to participate in this research study. The following information is provided in order to help you to make an informed decision whether or not to participate. If you have any questions please do not hesitate to ask.

You are eligible to participate because you are a student in Psychology 101 at the University of Nebraska at Omaha (UNO).

The purpose of this study is to test how different opening statements in a civil trial affect verdicts.

Participation in this study will require approximately 30 minutes of your time. First you will read a set of opening statements from a fictional civil trial approximately 6 pages in length. You will then give a verdict based on the opening statements that you have read. After you have given a verdict, you will fill out a questionnaire regarding your impressions of the trial and other perceptions.

There are no known risks or discomforts associated with this research.

There are no direct benefits to you as a subject. However, the knowledge gained from this study may be of value to trial attorneys.

Any information obtained regarding this study which could identify you will be kept strictly confidential. The information obtained in this study may be published in scientific journals or presented at scientific meetings but your identity will be kept strictly confidential.

You are free to decide not to participate in this study or to withdraw at any time without adversely affecting your relationship with the investigator or the University of Nebraska. Your decision will not result in any loss of benefits to which you are otherwise entitled.

Should you choose to participate in this study, you will receive one point of research exposure credit or extra credit toward your psychology course grade. Your psychology course instructor has alternatives to research participation available to you as means of earning research exposure credit and extra credit.

DOCUMENTATION OF INFORMED CONSENT

YOU ARE VOLUNTARILY MAKING A DECISION WHETHER OR NOT TO PARTICIPATE IN THIS RESEARCH STUDY. YOUR SIGNATURE CERTIFIES THAT YOU HAVE DECIDED TO PARTICIPATE HAVING READ AND UNDERSTOOD THE INFORMATION PRESENTED. YOU WILL BE GIVEN A COPY OF THIS CONSENT FORM TO KEEP.

_____ _____

SIGNATURE OF SUBJECT **DATE**

IDENTIFICATION OF INVESTIGATORS

PRINCIPAL INVESTIGATOR

Jodi K. Simon

SECONDARY INVESTIGATOR

Wayne Harrison, Ph.D.