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**NEGOTIATION
SPEECH**

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**HOW MANY CASES
GO TO TRIAL?**

**98% NEGOTIATED
2% TRIED**

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WHY NEGOTIATE?

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PROSECUTION

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

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DEFENSE

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

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WHY TRY THE CASE? PROSECUTION

- DEFENDANT IS GUILTY
- YOU ARE GOING TO WIN
- BOSS OR COPS WILL NOT LET YOU NEGOTIATE AND YOU FEAR THEM
- GUIDLEINE SENTENCE OR HIGHER IS APPROPRIATE

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WHY TRY THE CASE? (DEFENSE)

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

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POOR REASONS TO GO TO TRIAL

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

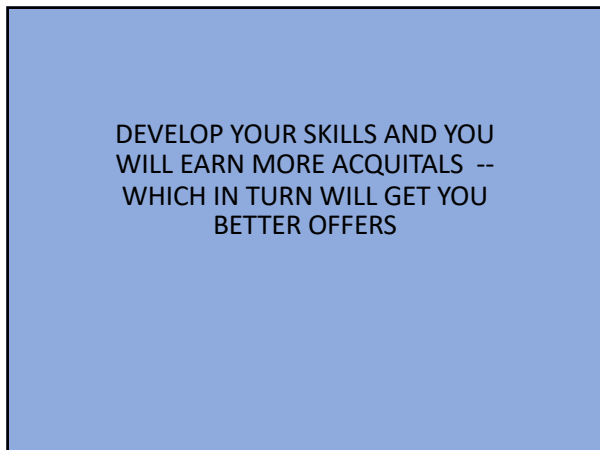
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- DEVELOPING A TRIAL HISTORY--TRIAL EXPERIENCE
- DEVELOP A REPUTATION FOR GOING TO TRIAL
- DEVELOP A REPUTATION OF ACCURATELY ASSESSING WHAT CASES SHOULD NOT BE SETTLED AND WHAT CASES SHOULD
- BE PERSONABLE

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

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FINAL ADVICE

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

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CONCLUSION

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

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