Name:

Defense Theory of the Case

***REMEMBER:*** A case theory is a **detailed and accurate story** of what occurred in the case at trial. It is how you tell the story of your side of the matter.

In a civil case, the Defense must present a case theory that shows plaintiffs do not have enough “preponderance of the evidence” to entitle them to the relief they claimed. That means Defense must show the jury that their theory of the case is *more* true than what the plaintiffs claim.

**A good case theory is:**

* Based on strong facts and inferences that can be fairly drawn from these facts;
* Built on facts not subject to much, if any, dispute;
* Consistent with any incontestable fact;
* Takes into account and explains away as many unfavorable facts as possible;
* Accepted by the trier of fact without having to stretch the imagination;
* Not based on wishful thinking about any aspect of the case.

Briefly tell the story about what happened from the Defendant’s point of view keeping in mind the points above:

(Continued on back)

What will Defense need to convince the jury?

What might be the Defense’s main themes (words, phrases, ideas to repeat and emphasize to the judge and jury):

1.

2.

3.

4.

5.

6.

How does Defendant’s theory/story disprove the claim of Wrongful Death?