RHETORIC UTILIZED BY ATTORNEYS TO ACHIEVE SUCCESS IN THE COURTROOM

By

Varsik Sabina Kazarian

Presented to the
Department of English & Communications
in Partial Fulfillment of the
Requirements for the Degree of Bachelor of Arts

American University of Armenia
Yerevan, Armenia

May 17, 2021

Table of Contents

Introduction

According to a Japanese proverb, painters and attorneys are the only people who can turn white to black. Why is this so? Attorneys are often perceived as mythical beings who are able to enchant others with their powers of persuasion to obtain trust and compliance; or in other words, success in the courtroom. The primary purpose of the present Capstone paper is to thoroughly research and analyze how attorneys utilize rhetoric to attain victory in the courtroom. A subtopic that will be highlighted are the differences between the rhetorical tactics employed by attorneys in Armenia (hereinafter also referred to as "Armenian attorneys") versus those in the United States (hereinafter also referred to as "American attorneys" or "U.S. attorneys").

To properly address and satisfy these inquiries, I have conducted research through the means of literature and interviews. The research conducted to obtain expansive results was done by interviewing several attorneys of various backgrounds. Pepperdine Dispute Resolution Law Journal's "Gaining Compliance through Non-Verbal Communication" highlights a quote from *The Attraction Paradigm*, "a skilled attorney will be able to effectively communicate across cultures, languages and legal systems" (Byrne, 1971). Through the research conducted for this paper, I have found that understanding the key differences between these three components will allow for attorneys to sharpen and adjust their skills of rhetoric to maximize their chances of success in the courtroom.

As the legal systems of the two countries are very different from one another, attorneys must modify their tactics of rhetoric in the courtroom to be able to attain success. One of the primary differences between the two countries is that the United States enjoys the Common Law System while Armenia practices the Civil Law System. The Common Law Systems are made up of laws that are established by legislators, and judges normally rely on previous precedents set by

courts to decipher those laws and employ them to individual cases. In the Civil Law System, a judge determines the facts of a case and solely applies resolutions that are underlined in the codified law (Berkeley Law, 2017). This relatively warrants a more black and white trial process for the latter. This makes it harder for attorneys to argue in the grey area, which is where they usually do their best work. Another main difference is that the courts in the United States also include a set of 12 randomly selected common citizens (also known as juries) in the decision making process. Whereas in Armenia, the judge is the sole decision maker.

While traditional rhetoric deals with “effective or persuasive speaking or writing” (Oxford Language, 2021), the rhetoric utilized as tactics by the attorneys I interviewed highlighted that although language may be an attorney's primary rhetorical tool, nonverbal communication is also a key factor of achieving success in the courtroom. The Pepperdine article highlights that one word may have various meanings which depend on its timing, context, volume, tone, and accompanying nonverbal signals (Starr et al., 2012). Nonverbal communication consists of "all the messages other than words that people exchange in interactive contexts" (Guerrero et al., 2008).

This Capstone paper will explore the rhetoric used by attorneys and all the elements included therein. I aim for my Capstone project to contribute to the academic studies conducted at the American University of Armenia. It can serve a variety of functions in the university, such as being used as an effective rhetorical resource in the Negotiations class, which is predicated on the study of rhetoric. On top of that, the paper can be used in the Master of Laws program as it will give students the opportunity to delve very deep into courtroom psychology and the art of persuasion practiced by attorneys – knowledge that is imperative to their profession. This is where most of my interest in the topic comes from – as a graduating student of the University, I

acknowledge how much knowledge I acquired through the years and believe it is my responsibility to give back to my community. Furthermore, as I intend to become an attorney myself, the work carried out to produce this paper will educate me about the best rhetorical practices to use in the courtroom.

Literature Review

Both the Armenian and American justice systems necessitate processes wherein the administration of justice occurs through many arguments being presented against each other before an impartial judge (as well as a jury, in the case of the United States). The defense attorney presents various arguments to protect the accused, while the prosecuting officer aims to undermine the defense attorney's claims and render them invalid by presenting effective counter arguments. Therefore, in this game of disputes, rhetoric, the art of persuasion, becomes a weapon that can be used by both parties in the courtroom. This art of persuasion was once considered to only take place in either written form or through verbal expression. However, in more recent years, rhetoric has taken on a much broader definition. Nowadays, and in this Capstone paper, rhetoric addresses nonverbal communication as well. In other words, all messages that people exchange and communicate without words. A New York City attorney, Franklin Weiss, once said, "rhetoric is an instrument, a tool, and is one of the very few tools available to an attorney in his daily life of advocacy" (Weiss, 1959). This arguing procedure eventually results in the most cogent one winning against the weaker. Hence, defining the prevalence and promienc of rhetoric utilized by attorneys in the courtroom during trials.

The literature collected for the present paper includes several themes, two of which I decided to explore. The most significantly discussed themes deal with gaining compliance through nonverbal communication and Aristotle's three appeals: logos, pathos and ethos. The second theme deals with the influence of bias in the courtroom and how it affects the rhetoric used by attorneys in court.

It is said that "a lawyer is a wordsmith; words are his tools, but perhaps communication is more than merely what is said" (Peters, 2007). The Pepperdine article includes a study

highlighted in *Silent Messages* which found that expressions, appearances, movements and body language make up 55% percent of communication; while inflection, tone and sound constitute 38%. Henceforth, only 7% of communication remains for words (Mehrabian, 1981). Through the means of similar features, the building of trust, and establishing credibility through nonverbal communication, an attorney's ability to persuade increases (Peters, 2007). As a result of legal research, it was found that juries are more likely to believe those attorneys who are attractive and relatable to the jurors themselves (Berscheid et al., 1998).

As attractiveness is heavily based on appearance, attorneys should aim to dress in formal clothing of high status. Not only is this linked to attractiveness, but also credibility, intelligence, persuasion, and hence, compliance (Behling, 1995). This is also why attorneys often advise their clients to elevate their appearance. Research has shown that unattractive defendants are found guilty more often than those that are seen as attractive (Peters, 2007).

Vocalics such as tone, expressiveness, pitch, fluency, and rate also affect the feeling of attraction between an attorney and their audience. Attorneys who speak more slowly are often perceived as less attractive. Additionally, if an attorney often pauses and hesitates while speaking in court, it will negatively affect their attractiveness and ability to persuade. It is always best for attorneys to maintain neutral and pleasant tones of voice as hostile tones result in a lack of attractiveness and compliance (Peters, 2007).

Dominance, power and confidence also elicit feelings of attraction towards attorneys. Those who are able to portray confident, friendly, and poised demeanors create the impression that they are both powerful and socially skilled, which makes them much more attractive and thus, more influential. Dominant attorneys are almost always perceived as more credible and competent than those who seem submissive. Nonverbal cues and behaviors which communicate

this impression and influence across cultures include effortless eye contact, friendly but strong vocal tones, calm tempo, and appropriate short pauses (Burgoon, 2000). It is advised to avoid awkward body language and gestures an audience may find unattractive. Rather, attorneys should “strive for graceful movement and erect posture" (Peters, 2007).

Establishing feelings of relatability starts with being alert to the nonverbal messages one’s audience is communicating to them. To elucidate, an attorney may ensure that they are relatable in court by depicting similar behavior between themselves and their audience (or in other words, their jury). Under this line of reasoning, they must be attentive to jurors’ movements and communication styles in order to be able to control their own nonverbal signals and subtly mirror their audience’s (Peters, 2007). For example, if a juror is making eye contact with, smiling at, or nodding towards an attorney, the attorney modestly emulating these nonverbal cues is a beneficial psychological tactic of persuasion. Ultimately, from the moment an attorney stands before a jury, they are communicating messages about themselves (Segrin, 1993). This begins as early as jury selection (Starr et al., 2012). To ensure success throughout the trial, they must immediately impress their audience.

Next, I would like to discover the rhetoric developed by the classical philosopher, Aristotle and how it is utilized by modern attorneys. To explore this theme with accuracy, one must acknowledge that rhetoric is not taught at law schools, where all attorneys mandatorily attend before attempting to receive their licenses (Barnwell, 2015). However, attorneys both consciously and subconsciously utilize that of Aristotle’s, whose philosophies the evolution of rhetoric is a testament to.

Aristotle believed rhetoric to be a capability of people to detect and utilize the means of persuasion available to them in various scenarios (Cooper, 1998). As the collected literature

suggests, this specific way of describing rhetoric is used in and very well conforms to the psychology prevailing in a modern courtroom (Chandler, 2019). According to Aristotle, there was a lot of potential in rhetoric as a separate discipline, but it could be used to manipulate people "by distorting their emotions and ignoring facts" (Barnwell, 2015). Ultimately, he viewed rhetoric as a science and as art, which, based on logos, ethos, and pathos, was a necessary skill in dealing with "unscrupulous opponents" (Barnwell, 2015). Therefore, Aristotle took a more realist approach and interpreted it as it was, without adding his own insights about the functions the discipline must serve in society. Aristotle classified rhetoric into three categories – deliberative, epideictic, and forensic (Garver, 2009). Deliberative arguments usually urge someone to take action about something, while epideictic ones either praise or blame, making them resemble forensic arguments, which involve defending or accusing someone (Barnwell, 2015). All of these categories can be effectively used by attorneys in the courtroom during trials.

Since the viewpoints of Aristotle have been briefly outlined, it is essential to see to what extent the rhetoric practiced by modern attorneys fit his perspectives. Contrary to Aristotle, most ancient rhetoricians believed that rhetoric can be used maliciously to sway people in a certain direction, which many attorneys can be accused of. Additionally, they held the opinion that the sole purpose of utilizing rhetoric should be to educate the public of what is right and wrong. However, as most attorneys in court are more concerned with winning their cases, the rhetoric practiced by attorneys fit into Aristotle's interpretations (Levitt, 1999). As mentioned earlier, justice systems require two opposing counsels in the courtroom to compete with each other through argumentation. Because judges (and jurries, in the case of the United States) are more likely to trust the more convincingly presented claim, the attorneys must use as many rhetorical tools as they have at their disposal to win their cases and provide favorable outcomes for their

clients. Therefore, the literature I collected is right in suggesting that the education of the public comes second to winning cases for an attorney, making it obvious that the rhetoric practiced by attorneys fits into the perspectives of Aristotle.

What the philosopher is famous for in the art of persuasion is the three tools of rhetoric he coined – logos, ethos, and pathos. Logos stands for the appeal to logic; ethos entails the appeal to credibility, while pathos is the appeal to emotion (Sandler, Epps, and Waicukauski, 2010). McCormack, in his research paper, outlines the necessary skill set one must possess to become a successful attorney. In his words, a typical attorney must be able to "reason logically, understand the nature of the human character, and comprehend emotions and the ways in which they are excited" (McCormack, 2014). All of these skills are necessary to apply logos, ethos, and pathos to arguments, suggesting that the rhetoric used by attorneys fits very well into Aristotelian perspectives. Moreover, legal arguments are majorly based on evidentiary data, which is a requirement by law, according to McCormack (McCormack, 2014). No judge (or jury) will be persuaded if there is a relative absence of evidence to back up the claims any attorney makes. Hence, in their analysis and presentation of evidence, it can be assumed that all attorneys apply logos to their arguments rather extensively.

The same can be presumed about ethos and pathos. Although the appeal to the speaker's credibility and to the audience's emotions in the courtroom have been thoroughly scrutinized, there is no consensus among legal professionals about the desirability of either of these rhetorical tools (McCormack, 2014). Attorneys can attempt to use ethos by demonstrating to the judge or the jury that they are very well-prepared, professional in their job, and successful in handling their cases (Sandler and Esquire, 2016). The use of pathos comes mostly when attorneys work with jury members, which features randomly selected groups of citizens who have been

summoned to determine whether the accused is guilty. Since they mostly lack a legal background, attorneys attempt to present their cases in a relatable fashion to ensure every jury member will establish an emotional connection to the case (Sandler and Esquire, 2016). This will increase the chances of the jury voting in favor of the accused, rather than against, proving that the rhetoric used by attorneys resembles that of the Aristotelian perspectives.

The final theme in the literature is the consequences of bias in courtroom psychology and how it influences attorneys' rhetoric in court. Barnwell believes that attorneys must be able to "relate to" a judge in order to increase the chances that they will win their cases and that judges, like all of us, are humans with their own personalities, perspectives, attitudes, temperaments, prejudices, and biases (Barnwell, 2015). Before trials, attorneys do their best to accumulate as much information about their corresponding judge as possible, including the judge's ruling patterns, what they value most, how they view the world, and to what extent they are likely to adjudicate the attorneys' cases favorably (Barnwell, 2015). Because judges, being human beings, are not exempt from bias, no matter how hard they try to avoid it, their decisions will likely be influenced by their biases. For instance, because of former Supreme Court Justice Frank Barbaro's mistake, a man was wrongfully convicted of homicide for 15 years. After these 15 years expired, the case was reopened and reviewed by another judge, during which Justice Barbaro confessed that he "wrongfully convicted the man due to his racial prejudices" (Casarez, 2014). If a Supreme Court Justice openly confessed his mistake that occurred because of the bias within his thinking, one can assume that other judges deal with bias as well in their daily decision-making. Because identifying biases in one's thought patterns is quite an onerous task, it is also possible that many judges are unaware of their biases.

The central point of this theme is how the presence of biases in judges' decision-making can influence courtroom psychology and the rhetoric used by attorneys. Because attorneys attempt to relate to judges as much as possible to find favorable resolutions to their cases, they are likely to spot the specific patterns in which the judges adjudicate their cases. In return, they will respond to those biases in their rhetoric (Barnwell, 2015). Because I concur with Barnwell's analysis regarding attorneys' responses to judges' biases, I constructed a scenario in which this claim is demonstrated and proven. For example, let's suppose that after researching legal precedents, an attorney finds out that a certain judge invariably ascribes a great deal of value to cases she can emotionally relate to. In that case, the attorney will most likely change his/her argument style, concentrating mainly on emotional appeal, rather than bringing forward dense evidence. Alternatively, as Sandler and Esquire demonstrate in their textbook, during the preparation phase of a trial, an attorney may discover that a male judge had a negative experience in a hospital, after which, he has consistently shown patterns of disbelief in healthcare providers. In this scenario, the attorney will consider the judge's bias against hospital employees, and, thus, will refrain from presenting a testimony of a doctor in court (Sandler and Esquire, 2016). Although trying not to bring forward evidence presented by a healthcare worker does not necessarily mean changing the rhetoric style, it definitely influences how the attorney presents facts and arguments, making it clear that the rhetoric used by attorneys can be modified, no matter how slightly, in response to judges' biases. Furthermore, Sandler and Esquire argue that on top of considering the biases of judges, attorneys must also heavily focus on the biases in jury members' thinking process (Sandler and Esquire, 2016).

In conclusion, I believe that the major themes in the literature I collected – the use of the rhetoric developed by Aristotle by modern attorneys, the prominence of rhetoric in the form of

nonverbal communication in the courtroom, and the influence of bias in attorneys' choice of rhetoric – were effectively discussed and demonstrated by the sources. The literature for this topic was not only diverse in interpretations and themes, it also featured many scenarios and interdisciplinary perspectives, such as courtroom conversations and opening statements viewed from the angle of rhetoric and law simultaneously. This is one of the most observable strengths of the literature, thanks to which, it contributes a great deal to studies both concerned with the law and the field of rhetoric in general.

Nonetheless, the literature has some weaknesses as well, such as a lack of application to real-life courtroom scenarios. Although some sources encompassed situations from the courtroom, most of them were based on theoretical materials, rather than practical information. To make the sources more credible and applicable to real life than they already are, way more evidentiary data could have been incorporated. Therefore, to ensure that my research is free from such gaps, I interviewed ten attorneys with different backgrounds who provided me with answers that were based on the real-life cases they have handled. This compensated for the lack of application to courtroom-based scenarios that the literature featured and helped me gain further insights into the prominence of rhetoric in judicial processes.

Research Questions and Methodology

The main research question my paper will address is how attorneys utilize rhetoric in the courtroom to achieve success. The subsequent research question that will be satisfied is the differences between the rhetoric utilized in the courtroom by attorneys in Armenia and those in the United States.

To achieve accurate and extensive results, I decided to interview five attorneys from Armenia and five from the United States (the greater Los Angeles area, to be more precise). Not only do the legal systems drastically differ from one another, but the manner in which attorneys practice law varies as well. While all of the participants from the United States had different specializations, most of the Armenian participants' practices were more general - which ensured various diverse answers and perspectives.

To begin with, when creating the list of questions to ask whilst conducting these interviews, I decided to keep the questions relatively simple and few in number. As I had previously interviewed a team of attorneys for a different project, I learned that true to their reputation, attorneys love to talk and they always bring unique perspectives to the conversation that results in the birth of new questions. Thus, I wanted to allow my interviewees to really get the chance to branch out and provide me with answers that were confine-free. The following questions are those that were curated initially:

1. How do you prepare arguments for court? What tactics do you undertake? Do you consider what rebuttals you may face and how you should refute them? Do you consider what rhetoric the other attorney may use? If so, how does that affect your use of rhetoric?

The purpose of this first set of questions is to uncover the tactics of rhetoric that are prepared and established pretrial. These questions are significant as they allowed me to fully see

the thought process and intentions behind the verbal and nonverbal communication that is utilized to persuade. These questions allowed for the birth of a new question: Is it common that you are familiar with opposing counsel or their reputation prior to a trial and does that affect the rhetoric you will plan to use?

2. What type of rhetoric do you believe is most beneficial when trying to reach and persuade a judge and jury? Why do you believe so? Can you provide examples of instances?

The significance of this particular set was that it initiated the notion that verbal communication is not the sole crucial medium of rhetoric. My initial inquiries were to determine which of the three original appeals are most effective when reaching and persuading a judge (and in the U.S., a jury as well): pathos, logos or ethos. However, the answers I received from my interviewees made me recognize the importance of nonverbal communication in the courtroom and how many believe that success is impossible to attain without that component.

3. How has your use of rhetoric changed from the beginning of your career versus now? What is something you weren't aware of in the beginning of your career that you utilize now as far as achieving success in a courtroom by the means of rhetoric?

The intentions behind the questions in the third set were to unravel the most prominent aspects of rhetoric that each attorney believed to be their greatest rhetorical tool they have acquired over the years. The answers for this particular question were unique to each attorney and the way the question was posed allowed for answers that were unanticipated and truly out of the box.

4. Does the field of law of a given case affect the rhetoric you use in court? Can you provide examples of how it may differ from field to field?

Question number four is quite self explanatory. The reasoning behind it was to work out how rhetoric is changed and adjusted according to a given field of law. Moreover, the intention behind question four was to unravel which forms of rhetoric work for certain types of law and not for others.

5. Do you adjust your rhetoric based on your familiarity with a judge/a judge's reputation?

While this question is the most simple and concise, it granted the most entertaining and insightful answers. While the second question pertains to judges as well, it is asked in a broader sense. Which rhetoric can you reach and persuade judges with in general? However, question five asks on a judge by judge basis. How will you reach and persuade a particular judge based on what you know about them?

As the legal system is quite different in the two countries, I had to adjust the questions for each set of attorneys. For example, juries are not a component of the Armenian legal system and for that reason, that aspect was eliminated from question number two when interviewing the attorneys that practice law in Armenia. Additionally, while American attorneys specialize in one field or type of law, Armenian attorneys often practice in multiple fields. Thus, when asking my fourth set of questions to American attorneys, a prerequisite was to ask whether they had any experience in any other field of law other than that which they currently do. If the answer was no, I asked them to underscore particular rhetoric that was relevant to their practice. Then, I assessed and compared the differences myself through the various answers shared by the different American attorneys.

The five attorneys I interviewed from Armenia were Nshan Matevsoyan, Marine Khachatryan, Narine Babayan, a human rights attorney (hereinafter also referred to as "Human Rights Attorney") and a military prosecutor (hereinafter also referred to as "Military Prosecutor"

and "Armenian Prosecutor") who both requested to remain anonymous. Nshan Matevosyan has been a practicing attorney for over five years with predominant experience in both Civil and Administrative Laws - mostly specializing in Corporate Law. Marine Khachatryan has practiced law for four years with primary experience in both Civil and Administrative Laws - mainly specializing in Contract, Corporate, and Intellectual Property Laws. Narine Babayan has over ten years of experience in Administrative, Criminal and Civil Laws - primarily concentrating on Corporate, Banking, Family, and Contract Laws. The Human Rights Attorney specializes in Human Rights Law and has done so for the past eighteen years. In this particular field of law, one party in the courtroom is always the Government of Armenia. Last but not least, the Military Prosecutor has practiced Criminal Law exclusively for the past six years.

The five attorneys I interviewed from the greater Los Angeles area were Laura Armenian, Rosie Khachatryan, Andrew Zeytuntsyan, Aleen Avanesian and an attorney who has asked to remain anonymous and as a result, he will hereinafter be referred to as "American Attorney #5." Laura Armenian served as a Civil litigator for three years. Rosie Khachatryan has been a practicing attorney for two years now and she specializes in Labor and Employment Law. Andrew Zeytuntsyan practiced Criminal Law before specializing in Personal Injury for over fifteen years now. Aleen Avanesian is a City Attorney and has practiced Criminal Law for over seventeen years. Finally, American Attorney #5 is a defense attorney who has practiced law for over twenty years and specializes in Corporate Law.

The range of attorneys were chosen based on the desire of multiple, diverse, unique perspectives. In both sets of attorneys, it was of critical importance to include both female and male attorneys. This was crucial as not only do the genders communicate differently naturally, but because of unfortunate inequalities, it is sometimes even expected in work environments -

including the courtroom. Furthermore, to the best of my abilities, I chose attorneys who practiced different types of law to truly inquire about and grasp how the utilization of rhetoric may vary in the field. To further elucidate on the selection of the two sets of attorneys, age was a very prominent factor. It was made certain that there were attorneys of various ages and years of experience to be able to compare the differences between new attorneys and the veterans. Finally, it was of essential importance to include prosecutors in both sets of attorneys as they are vital elements of our legal system. Additionally, to hear from both the prosecution and the defense ensures vast enlightenment of the verbal and nonverbal communication that takes place between adversaries in the courtroom.

As I currently reside in Armenia, my interviews with the U.S. attorneys took place over Zoom while my interviews with the Armenian attorneys occurred at their offices or at coffee shops nearby. While the shortest interview lasted thirty minutes and the longest stretched out to three hours, the average interview time was between one and two hours.

Some of the most exciting methods of research I employed were two websites introduced to me by my interviewees - TheRobingRoom.com and HelpCourt.am. Picture RateMyProfessor.com but instead, attorneys are rating and reviewing the State and Federal judges that they have had experiences with. These websites are utilized by those attorneys whose intention it is to inquire about judges, whether it is to have a judge dinged (removed) from their case or to discover how they can adjust their rhetoric to find themselves in a judge's good graces. In addition to these third party websites, attorneys in the United States utilize court websites to familiarize themselves with "courtroom rules." These rules are independent preferences established by judges for their own particular courtrooms. As some judges do not place their rules online (http://www.cacd.uscourts.gov/court-procedures/local-rules), they usually have a

stack of papers with their preferences printed on them and will direct attorneys to take one as they enter. I will further elaborate on the employment of these websites and courtroom rules later on in the paper.

Research Findings and Analysis

After accumulating approximately 25 hours of interviews, my expectations of findings were met and exceeded. My initial inquiries leaned more towards the verbal communicative rhetoric used to persuade and gain compliance in the courtroom. However, throughout these interviews, I learned that nonverbal communication is critical to an attorney achieving success.

Before presenting my findings, it is important to establish how my interviewees imagined logos, pathos and ethos in the realm of the courtroom. While pathos directly translates to emotional appeals, logos and ethos are more difficult to define and require more elaborate explanations. Logos often translates to the utilization of logic, facts and citing the law. Ethos translates to presenting the court with precedent as it is an appeal to authority. As citing the law and pairing it with precedents go hand in hand, logos and ethos are often intertwined.

When presenting the first set of questions to my interviewees, their answers were relatively aligned as far as pretrial preparation goes. Both the Armenian and American attorneys agreed that it is of crucial importance to thoroughly read and understand the case and immediately initiate research to find precedents and citations. The majority underlined that attorneys need to be careful when citing both orally or in written form (through motions) because even mistaking one word can direct an argument to a different direction or turn it futile. Both sides of attorneys expressed that predetermining the order of rhetoric they will utilize in the courtroom is a key factor to succeed. Many of them even compared it to the game of chess.

Both sides of attorneys agreed that they always aim to predetermine what rhetoric their opposing counsel will present and prepare for it. However, how the two sides of attorneys calculated their opposition's tactics was where they finally diverged. The Armenian side predominantly underlined the notion that as the legal field in Armenia is quite narrow, attorneys

are either personally familiar with one another or are well aware of their patterns of persuasion through the reputations they have. Thus, they use this knowledge to plan out what verbal and nonverbal tactics they will execute to win at this game of chess. On the American side, most of them also agreed that it is common for those attorneys who specialize to be previously acquainted with one another. While Civil Litigation is very broad and attorneys are usually unacquainted with one another, those who have narrower specializations (such as Criminal Litigation, Personal Injury, and Labor and Employment) almost always know opposing counsel. Rosie Khachatryan even expressed that in the rare case she is met with an unfamiliar opposing counsel, she conducts brief research through "California Employment Law Group" (https://cela.org/). This is a club for the attorneys in California who specialize in Employment and Labor Law. Through this website, they are able to search up other members of those in this narrower field of law and read reviews about them (relatively similar to TheRobingRoom.com). However, this familiarity is not as heavily considered when mapping out a game plan. Instead, they conduct legal research that pertains to the opposing side of their case, which gives them insight into what opposing counsel is going to try to argue or rely on. They study their cases from both sides to find out what arguments worked or did not work in the past. Besides utilizing what did work, they will consider that which did not work and try to figure out how their case is distinguishable. Furthermore, they will examine what was a winning argument for the opposing side and figure out how to dispute it and how their case is distinguishable from that argument in their case.

Motions are the basis for all arguments in the U.S. legal system. Sometimes, judges will rule solely based on written motions presented to the court. Laura Armenian even specified the prominence of the table of contents element of a motion because judges will occasionally solely

read the table of contents. Including broad titles such as “Introduction,” “Argument 1,” and “Argument 2” are not going to properly inform a judge about the case. Instead, it is better to include concise specifics such as “Introduction of arguments between Joe and John on the constitutionality of the COVID-19 vaccine,” “Argument 1: Is the COVID-19 vaccine constitutional? Subargument: it's not constitutional because…,” “Argument 2: Is the COVID-19 vaccine safe? Subargument: it’s not safe because...” Thus, providing an informative, organized and clear table of contents will ensure that a judge not only knows very well what an attorney is going to argue, but it will be a lot easier for them to identify what's going on and pay attention to the smaller details later on. Additionally, judges in the U.S. are overworked. Consequently, even though the rules may allow for a motion to be 15 pages, they may tell attorneys that they do not want to read more than 12 pages. Although they will not dismiss a motion that is more than 12 pages because they are not legally allowed to, they can choose to simply stop reading after the first 12.

In the case that judges initiate oral arguments, everything presented has to be based on what the attorneys have written in advance in their motions. The court will be frustrated if they are surprised with new arguments and that may result in a date extension so as to provide the other side with time to research and prepare for the new argument that has been introduced. In no case can one side blindside the other. Although arguments are required to be presented prior to oral arguments, the manner in which these arguments are conveyed will heavily determine how the trial is swayed.

The second set of interview questions was where my interviewees differed in their answers the most. Different attorneys identified diverging approaches of rhetoric for the different audiences they believed they utilized their powers of persuasion upon. Attorneys in Armenia are

solely required to persuade judges as juries are not components of the Armenian legal system. Most attorneys in the U.S. explained that judges and juries are two different audiences, which translated to distinct approaches. Unexpectedly, both the Armenian and U.S. prosecutors felt that besides judges and juries, they are obligated to persuade the public as well. They expressed that although the public is not a determining factor of their win, because they are public servants, they feel responsible to maintain trust in the public and assure them that justice will always prevail.

Narine Babayan underlined that in her many years of experience, she has discovered that there are many different types of judges in the Armenian court system, and different judges respond to different rhetoric. She has found that it is always best to predetermine what kind of judge has been assigned to your case so that attorneys may employ accurate and well-thought-out communication to them. The first type of judge is very by the book and they view any argument presented to them in a black and white manner. They interpret the law word for word. If it is written, it is valid and relevant in their courtroom. Attorneys may not present any arguments that even remotely argue the grey area of the law by applying their own reason and logic. In these cases, it is best to appeal to laws and precedent, which fall under Aristotle's appeals of ethos and logos. The second category of judges are commonly careless and uninformed. These judges show up to court without having read about the case and as a result, they do not know what laws apply. With these judges, attorneys may use Aristotle's appeal to emotions. Through confidence and conviction of speech and body language, attorneys can influence these judge's compliance. Although this makes it easy for opposing counsel to sway the judge as well, if the attorney can point out that opposing counsel is lying even once, the judge will most likely no longer trust what opposing counsel has to say. At that point, it becomes quite easy to win.

The third type of judge is more logic-driven. It is said that it is easiest to work with these judges as arguments are to be presented in a logical and concise manner. If an attorney can simply explain their case and appeal to logic, they can easily find common ground with this type of judge. Finally, and typically the most difficult judges to work with in the Armenian legal system, are the sensitive and egotistical judges. Babayan underlined, "they believe that they are the center of the universe, including the universe that is your case, and you must communicate submissive and humble behavior to win favor in their court." When this type of judge speaks, everyone must silently listen to them and under no conditions should an attorney argue with them. If they do not appreciate an attorney's verbal or nonverbal communication, these judges habitually threaten them with the Chamber of Advocates or fiscal penalties.

The majority of the rest of the Armenian attorneys provided me with more general rhetoric that should be employed in court. The most prominent aspect was to communicate respect to the court, verbally and nonverbally. Pertaining to nonverbal communications, when a judge enters the courtroom, addresses an attorney, or even passes by them in the hallway, an attorney is to fully stand to their feet as a sign of respect. Furthermore, attorneys should always be in proper attire. They should be dressed formally, conservatively and in muted tones. Another nonverbal communicative behavior that should be carried out is promptness. Even if a judge has a reputation of being chronically late, attorneys should aim to be early. In terms of verbal communication, when addressing a judge, it is required that attorneys give them the correct title. For example, in Common Instance Courts, judges are addressed as "Hargeli Dataran," which translates to "Respectful Court/Judge." In Administrative Courts, the correct way to refer to a judge would be "Patvarjan Dataran," or "Honorable Court/Judge." Judges will reprimand attorneys for addressing them incorrectly. Moreover, it is always preferred to speak in formal

Armenian. This consists of always using “e” endings instead of the more colloquial “a.” More traditional and old-school judges enjoy long, eloquent arguments filled with legalese. On the other hand, more progressive judges prefer concise and impactful speeches. Regardless of a judge’s preferences, attorneys should always present their arguments at a normal pace. Rushed paces will result in audiences not being able to keep up with attorneys’ flows, and if a speech is expressed too slowly, they will lose the attention of their audience. Usually, the most favorable way to go about is for attorneys to speak calmly in their usual tone and manner. They should aim to speak with a smooth flow, and avoid jumping around from idea to idea in a choppy manner.

While the American nonverbal communicative aspect is in unison with that of the Armenian, the verbal preferences for courts are quite different from one another. Laura Armenian underlined that nowadays, long and eloquent speeches in court are considered an outdated practice. In order to avoid frustrating judges, attorneys should be concise and use layman's terms. Armenian specified that attorneys should be able to express their entire case in under one minute or less than a tweet (280 characters). One attorney highlighted the quote, “I’m sorry for the long writing, I didn’t have time to make it short.” This quote conveys the idea that writing in a short and concise manner is much more difficult than the opposite. However, putting in time and effort will result in a judge being more persuaded and engaged in what an attorney is expressing. This is probably due to the fact that the United States is sociologically a success based society in which members of its culture function under the mentality that "time is money." Hence, this is why it is crucial for U.S. attorneys to keep arguments short to ensure they communicate the notion that they are respectful of the judge’s time. Constrastingly, Armenia is sociologically an honor based society in which formalities and traditions are heavily valued. Thus, Armenian

attorneys usually will take the time to follow the more traditional formalities in the courtroom to communicate respect towards the judge.

Regarding Aristotle's three appeals of rhetoric, both sets of attorneys had very contrasting ways of achieving success. One Armenian attorney held the opinion that using pathos is not always as beneficial in Armenia because of a lack of jury. She stated that in her experience, appealing to emotions does not affect judges in Civil Courts. Despite this declaration, she underlined that Family Courts in particular are a completely different matter as emotional appeals are required in order to achieve success in this type of courtroom. For example, in Family Court, during a custody battle of which parent the child will predominantly live with, she used a child's emotions to appeal to the judge. After portraying a notable closeness between the child and his mother, she expressed, "As you can see, judge, the child is much more connected and in harmony with their mother." Through this tactic, she triumphed in court and circumvented a little boy being ripped away from his mother. She further expressed, "Judges are led far more emotionally and are much more kind in these types of courts." In addition to Family Courts, she stated that emotional appeals may be employed in Criminal Courts. To elucidate, she once had an 18 year old client who was charged with a crime. While he was an adult by law, Armenia's culture of perceiving an unmarried 18 year old male as a child allowed for her to utilize pathos to exonerate him from his charges. She appealed to the judge's emotions by explaining that the defendant is not a criminal, he is simply an 18 year old boy who made a poor decision; but if the judge sent him to prison at such a young and impressionable age, he was bound to become a criminal.

Most Armenian attorneys agreed that in Corporate cases, no one is interested in emotional appeals. Attorneys must use precedents of higher courts to make their case. Often,

these courts make contradictory decisions and attorneys should make themselves aware of all verdicts that are relevant to their case. This is not only done to utilize whichever works best for their own stance, but because they should prepare to refute the other verdicts as their opposing counsel will most likely bring them up in court. A tactic Armenian attorneys employ is presenting a judge with a higher court's established precedent that initially began with that particular judge's ruling. This appeal of ethos allows for attorneys to especially win favor in court as it not only flatters the judge but it is quite impossible for them to rule against their own previous decisions. In the end, however, logos is the most prominent of appeals and the others are considered merely helping factors.

The U.S. attorneys all agreed that it is always best to immediately cite legal authority when trying to persuade a judge. The higher the court that set the precedent is, the stronger the argument. It is essential to be firm, direct, calculated, clear and straight to the point when citing legal authority to a judge. Armenian explained, "Be a robot, essentially." On the other hand, when trying to persuade a jury, "You speak as though you're pitching your case to your friend at a bar," Armenian expressed. In the United States, attorneys cannot say to a jury anything even remotely similar to "put yourself in my shoes." This is considered an emotional argument attorneys are not allowed to make and can result in their case being dismissed as jurors are expected to follow the law, not their emotions. This, however, does not mean they cannot use implicit emotional appeals to enable feelings of relatability within the jury of a given case. Referring to the abovementioned hypothetical case regarding the COVID-19 vaccination, Armenian provided an example of an acceptable way to persuade the jury. She depicted, "I just want to go to school but they want me to take a vaccine. I don't want to take a vaccine, that thing hasn't even really been tested yet. I see different things on the news: one news channel says one

thing about the vaccine and another says something different. How am I supposed to know who to believe? Haven't you ever seen two different sides of the story on the news?" Thus, through this, it is clear that it is possible for attorneys to paint a vivid picture of what they are feeling without explicitly telling the jury to feel it as well. Armenian further explained, "You can make them feel emotions without making an emotional argument. Do it implicitly, subtly, allude to it, and always use common language - avoid sounding pompous."

While jury selection was not a part of my initial research plans, Armenian pointed out to me the importance of nonverbal and verbal communication during jury selection as well. This is because the selection of and familiarization with a jury will allow for accurate pretrial planning of rhetoric to take place. Jury selection is a process in which a judge and the attorneys assigned to a case ask potential jurors questions to decide whether they are suitable to serve as jurors.

Armenian explained that when jurors are asked questions during jury selection, it is critical that attorneys pay attention to what they are communicating in every regard. Attorneys should consider a juror's age, political beliefs, gender, employment, and if they are more conservative or liberal. This is because these groups all uphold different values and attorneys will need to adjust their rhetoric accordingly. For example, if the jury is predominantly made up of younger citizens, it is best for attorneys to use more modern examples and appeals. Armenian underlined that the younger generation values notions of authenticity, creativity and ingenuity. In the younger generation, if someone comes up with a new and creative idea to make things more attainable and easy, they are valued way more than the traditional person. The example Armenian provided that she believed a younger jury would respond to was for a case about an older and more established man stealing Intellectual Property Rights from an up-and-comer. She explained that it would be in an attorney's best interest to say something along the lines of, "this

young guy came up with a brand new idea for a business and this more established sleazeball came and tried to steal it from him." For the older crowd, someone who has worked at the same job for 50 years is respected and valued. When working with middle-aged jurors, attorneys should appeal to values such as hard work, principles, respect and modesty. This generation respects roles. More often than not, they believe that a boss can yell at an employee and under no circumstances should an employee yell back. Even if the boss is younger than their employee, the employee must accept their role. On the other hand, a younger jury would be repulsed by notions of hypocrisy. They have the mindset, "if I'm not allowed to cuss and yell, why should my boss be allowed to? That's not fair." In other words, attorneys should aim to find ways to appeal to their demographic of jurors, whether it is what they're saying (values) or how they are saying it (language).

Armenian provided an example of how attorneys can provide their jury with a relatable analogy during jury selection to assist them in making legal arguments later on. In this case, her jury was made up entirely of mothers and she chose to use a story she felt they could all relate to. She began with, "How many times have you been working on something and you suddenly hear a bang and rush over to your kids? You get there and both kids are pointing in different directions, telling you different stories. When observing the room for evidence, you notice a broken lamp. You separate the two to hear the different stories without one interfering with the other. The older kid is crying and said the younger kid threw it at her. Contrastingly, the younger kid said he didn't throw it at her, she's only crying because she dropped it and started crying because she doesn't want to get in trouble. So you ask the older kid, 'Why did the younger one throw it at you?' The older kid responds, 'I don't know, I didn't do anything!' Then you ask the same kid, 'So unprovoked, your younger sibling threw a lamp at you?' They answer, 'Yes, he's

just being a jerk!' Then, you go to the other kid and ask them to tell you what happened. This kid explains, 'I bet her she couldn't walk on the edge of the bed with the lamp in her hand and then she got up to do it and dropped the lamp, got scared and started crying.' You go back to the other kid and ask, 'Were you walking on the edge of the bed?' The older sibling says they did not and you ask again, 'You weren't walking on the edge of the bed at all today?' Then the older sibling says, 'Okay I was! But not with the lamp in my hand!' Then you tell them, 'So you just lied about one thing, how do I know you're not lying about the other'?" Armenian continues, "Then, as a mother, you discipline your child to teach them right from wrong. In addition to disciplining them for breaking the vase, would you then discipline your child for lying? Or do you say, 'Next time don't break the vase and walk away'?" If all the jurors agree that lying is worse than breaking the vase, when it is time to discuss damages, Armenian will ask for 50,000 dollars for the damages to the car and 100,000 dollars for fraud for lying about the accident. She will tie this in with, "As all of you agreed, lying is worse than the crime itself. Thus, extra damages should be rewarded for the fraud that was committed when the defendant lied to my client." It could be possible that the jurors agree that, "No, I wouldn't punish my child too harshly for lying because it's normal behavior for children to lie to try to protect themselves. I would mainly punish them for breaking the vase and just ask them to please not lie to me next time." In this case, Armenian would ask for 140,000 dollars for damages and 10,000 dollars for fraud for lying. She would further pair it with, "We understand, it's human nature to lie when you're afraid, we're not asking for too much compensation for that. Instead, we're asking for a lot of damages for our client who actually had to pay for a new car and pay for medical bills." Henceforth, in either case, she is able to receive the same 150,000 dollars her client aimed for. She simply had to determine what to give more power and weight to in her own arguments and communication by heavily taking

into account what the jury was communicating to her. Armenian quoted, “To be an effective communicator, you want to elicit emotions out of your audience in a way that makes them want to say ‘Dude, that's so true!’.”

Most of the U.S. attorneys that participated in my interviews expressed that jury selection is the most important aspect of your case. If a case is paired with an unsuitable jury, it may no longer matter what the attorneys express verbally or nonverbally during trial - the case might as well be tossed out. Interestingly enough, while rhetoric is not taught in law schools, jury selection and the use of verbal and nonverbal communication during the process is. Although only one attorney is required to be present during the process of selection to ask questions, it is most favorable to go with a team. To elucidate, if the main attorney takes three assistant attorneys with them, they can tell Assistant #1 to be attentive to jurors 1-4, Assistant #2 to pay attention to jurors 5-8, and Assistant #3 to take note of jurors 9-12. These assistants should write down anything the jurors communicate. For example, if the attorney asks jurors if they have kids, their assistants should write down who raises their hands. If the attorney discusses dogs and juror 3 smiles, Assistant #1 should take note of that. If juror 6 crosses their arms or frowns when the attorney discusses a topic that is related to the facts of the case, Assistant #2 should highlight that. Another way to approach the process is that if juror 3 is asked a question and juror 4 starts nodding, there is no longer a need to ask juror 4 the same question as their verbal communication already answered the question honestly. In the case that Armenian was to underscore the vase analogy mentioned above and nine jurors agreed that lying is worse and the other three believed otherwise, and the facts of the case are that the tangible damages are miniscule and the defendant lied, she would try to have the other three dismissed. This is because she knows that she will be able to ask for extra damages for lying during the actual trial. Going with a team is an invaluable

tactic as attorneys should focus on what they are asking and how they ask it and they cannot do so while simultaneously taking notes. Hence, other members of the team should be attentive to and document that which jurors communicate. To conclude the U.S. attorneys recommendations, when persuading a jury, attorneys should speak longer and include relatable jokes, analogies, and anecdotes. When persuading a judge, attorneys should aim to be concise and to the point.

The answers for question three seemed to mainly surround nonverbal communications. Most attorneys from both ends expressed that in the beginning of their careers, they were far more tense and aggressive when presenting and refuting arguments. But after gaining confidence throughout their years of experience, they know to have and portray calm demeanors. Some even mentioned that when one attorney is calm and confident, it results in their opposition feeling more intimidated and nervous. One participant mentioned that throughout her years of experience, she came to the conclusion that it is never beneficial to directly call out opposing counsel in court. For example, in the past, she may have explicitly said, “You’re lying!” As she now knows better, if her intention is to call out another attorney, she will make an underhanded comment that undermines that attorney before the judge. She concluded with the notion that while it’s great to appeal to others' emotions, it’s not in an attorney’s interests to allow for their own to lead them. The Human Rights Attorney emphasized that the most valuable lesson he has learned throughout his time as an attorney is to memorize everything he plans to argue in court. While it is common practice for attorneys to occasionally read from their notes, he expressed that he found his arguments to be much more engaging and convincing when he knew them by heart. Zeytuntsyan and Khachatryan both underlined that the most valuable lesson they learned throughout their careers was to utilize rhetoric to ensure they are connecting with their audience,

whether it is the judge or a jury of a given case. Everyone is human and most of these scenarios can be relatable to them, it depends on the attorney's tactics of establishing those connections.

The fourth set of questions elicited the most agreement between both sets of attorneys. Every single attorney agreed that there are major differences between the rhetoric that is utilized for different fields of the law. One participant explained that because there is specific psychology and distinct parties in every given field of law, attorneys must communicate rhetoric that is particularly relevant to that field.

To begin with, each field of law calls for different sets of vocabulary or in other words, "buzzwords." These popular legalese words and phrases that pertain to a specific field of law are not complex, but they do ensure that an attorney is perceived as though they know what they are talking about, which translates to being more persuasive. In a Family Law case in the U.S., an attorney would not ask, "When did the couple break up?" They would query, "When was the date of separation?" Significant terms in Contracts Law include "clarity" and "vagueness." Attorneys may appeal to whichever party is the most clear with their answers and has the most basic interpretation of the contract to attack any points of vagueness. To illustrate, in an Entertainment contract, if one party required the other to fulfill five posts on Instagram, and the required party did not fulfill it, an attorney can make their entire case on the vagueness of the word "posts." This is because there are many ways to define a "post." Were they required to post a story that disappears after 24 hours? Were they required to post on their grid? If so, was it expected for the grid post to stay up for one month or should it remain on their page forever? Was there promised engagement (likes or views) with these five posts? For further depiction, in a Rent Contracts Dispute, the contract may outline "reasonable wear and tear" for receiving a deposit back. However, what is "reasonable?" A U.S. attorney would use the "vagueness" of

"reasonable" to argue their case. In Labor and Employment cases, when someone is fired from their job and is dealing with anxiety and depression, their attorney will use "terminated" and "emotionally distressed" to describe the situation to the court. A buzzword that would be utilized by an Armenian attorney in a Family Law case is "erexayi lavaguyn shah," which translates to "a child's best interest."

Continuously, words have different meanings in different types of laws. In the United States, liability means a lot more in an Insurance case than it does in a Family Law case. If a plaintiff who is divorcing her husband states, "Marrying him was a liability," in legal terms, this is nothing more than an analogy. In an Insurance case, if it is said that a particular person has 100% liability, this is making a factual statement that, in legal terms, can translate to fiscal penalties or even criminal charges. On the Armenian side, vocabulary is a lot more specific in Criminal Law than it is in Civil. While "goxutyun," "avazakutyun," and "koxoput" (which translate to "robbery," "theft" and "banditry") are synonyms of one another in most scenarios, they can result in very different punishments in Criminal Court.

Additionally, different appeals can and should be applied to different fields of the law to achieve success. One Armenian attorney mentioned that as there are a lot of emotions in Family Law, attorneys should be extra careful with how they communicate in court so as to not trigger negative emotions. Eliciting negative emotions from their own clients or their opposing counsel's client could result in them being blocked from doing their job due to clients yelling and fighting. Thus, attorneys should be very balanced and calculated in their rhetoric in sensitive cases in order to not offend anyone. An example she provided was when the owner of a little booth sued her client, a massive corporation, for taking over his territory. As the owner of the little booth passed during the duration of the trial, his sister took his place as the trial's plaintiff. Because her

brother had just died, she was quite emotional. Initially, the Armenian attorney took an indifferent stance with her. However, this caused the plaintiff to aggressively attack the Armenian attorney in open court. As the attorney recognized that her stance was not working, she took a more personable approach and told the plaintiff, "I understand this is hard for you, but I am not the CEO of this corporation. This is solely my job and my duty as an attorney. If you are unable to handle it, please remove yourself from the case." Frankly, she could have continued to bluntly cite law and precedent in court to make her case. Except, that would further aggravate the grieving sister and this unintentional provocation would result in her client looking like a bully and losing the case. Since she was able to calmly appeal to the plaintiff with logos, the lady no longer kept her from doing her job by attacking her verbally and she was able to come out with triumph.

In the United States, attorneys outlined how careful they must be when using emotional appeals in court. This is because opposing counsel can undermine their argument by stating something along the lines of, "This is the law, so I'm sorry your client is young and they have a bright future ahead of them, but so was the person they unintentionally killed while drinking and driving." Contrastingly, Zeytuntsyan, who specializes in Personal Injury, says that sometimes connecting to people's hearts is much more persuasive than appealing to their minds. It simply depends on the case.

One of the most unexpected and amusing findings as a result of these interviews has been because of question five, which inquires as to how attorneys may adjust their rhetoric to win the favor of a particular judge. The majority of attorneys in Armenia said that because the legal field is so small, they are usually either personally acquainted with judges or are at least familiar with their reputations. Marine Khachatryan even expressed that most judges in Armenia also serve as

professors, which makes familiarity exceptionally common. On the other hand, the Human Rights Attorney introduced me to HelpCourt.am, which a slim amount of attorneys in Armenia utilize to either write or read reviews about judges.

On the U.S. side of the spectrum, The Robing Room (http://www.therobingroom.com/) was presented to me by Laura Armenian, a millennial attorney in the know. She described this website as a vital component of research that is conducted pretrial to learn about a judge's reputation and plan out tactics of rhetoric accordingly. As mentioned in the Research Questions and Methodology section of this paper, this website is a safe space for those entrenched in the legal field (especially attorneys) to anonymously rate and write reviews about judges to inform those who may have to deal with them in the future.

The Robing Room is utilized for both state and federal judges. However, I thought it would be most enthralling to include sample reviews about some of the most controversial federal judges in the United States. Comment #33763, rating the judge six out of ten stars, underscores, "PreJudges cases. He already decides cases on reading one side of the papers and is prejudgemental, Therefore he makes a ruling right away in his head which side he is going to rule on. This makes him biased as he does not weigh arguments since he already made his mind up. Also oversimplifies complex issues and can miss the important details. Not very balanced, detailed or thorough like some others." When taking this comment under advisement, an attorney can adjust by putting more emphasis on their written arguments in hopes that their motion will be more persuasive than their opposing counsels. This instance supports Armenian's notion of the importance of written motions as far as persuasion tactics go. Additionally, when reading the final sentence, an astute attorney would consider that presenting details to the court is not going to be in their favor. But rather, they should be very calculated when predetermining their speech

to ensure it is concise and concurrently, impactful. Comment #33776, with no rating, reads, "Judge S***** is short-sighted, failing his Hippocratic Oath to Uphold Justice. Does not know a broad spectrum of Civil issues. Makes decisions based on his personal involvement and personal biases. His wife is the DA, they uphold each other's wrongdoings." Evidently, this is not the type of judge that an attorney should feel inclined to utilize the combination of ethos and logos appeals to bluntly present precedent or logical reasoning in court. Instead, it would be best to do some research on their history: Where did they go to university? Which side did they lean towards politically before becoming a judge? Are they more liberal or conservative? How have they ruled in the past? Through a Google search to find the answers to these questions, an attorney will be at a point of advantage when creating arguments and determining the manner in which they will be delivered. For example, if this judge in particular upheld more conservative beliefs, an attorney should appeal to more traditional values when making their case. Additionally, one of my participants underlined the notion that learning whether a judge is more conservative or liberal assists in understanding which side they will be more inclined to rule in favor of. Conservative judges usually lean towards the defense while liberal judges gravitate towards the plaintiff's side. Comment #33775, with a one out of ten rating, states, "Another corrupt biased judge usually in favor of abusers, men, corrupt individuals. Also, doesn't like women. She's biased… Unseat this trash human." Based on my interviews, this comment could be useful to attorneys to recognize the importance of appearance in this judge's courtroom. Whether it is a female client or a female attorney, it would be best to avoid a very "female" look. Strangely, it may be best to stay in the confines of neutral-colored and subtle pant suits and make up. It would be deft for females to also tie their hair back when dealing with a judge who has blatant prejudices against women. Additionally, if the attorney or client is a female, the verbal

communications utilized before a judge of this sort should not include any emphasis of gender. Also, it would be wiser to not make any emotional appeals that will be ignored by a judge who feels no sympathy for a female plaintiff or a female representative. Rather, an attorney should employ ethos and logos to illustrate the matter in an objective, black and white manner. They should focus on making their arguments about the matter rather than the individual the matter surrounds. In other words, attorneys utilize this website to conduct research on judges and take these reviews under consideration when planning how they will present themselves and their arguments in court. However, it is important to mention that some of the U.S. attorneys were in agreement with the Armenian attorneys. They mentioned that although the legal field in the U.S. is immense, because attorneys usually specialize in narrower fields of the law, they are sometimes familiar with the judges that rule over their jurisdictions.

Besides The Robing Room, the U.S. attorneys underlined the cruciality of familiarizing themselves with a judge's personal preferences in order to beneficially utilize nonverbal persuasive communication tactics to remain in a judge's good graces. As previously stated, these are learned either through court websites or through printed papers that are provided in the courtroom upon entry. These "courtroom rules" are often referred to as "local local rules" by attorneys as a joke. This is because as state rules govern and city rules are considered "local rules," "local local rules" are specific to one judge's courtroom only. For example, a judge that one of my participants has encountered required that women exclusively wear skirt suits in their courtroom. Henceforth, a female attorney familiarizing herself and obliging with these (odd and unfortunate) specifications will result in her more likely receiving favor and compliance in the courtroom.

Stepping away from websites and taking into consideration how the reputation of a particular judge affects the nonverbal communication an attorney may carry out to achieve success in the courtroom, both sets of attorneys' ideas seemed to relatively align. Attorneys from both sides discussed the prominent differences between conservative and progressive judges, and how this should affect attorneys both in terms of their behavior and how they express themselves. In both sets of attorneys, it was expressed that if a judge is a little more conservative or traditional, arguments should never be presented through electronic devices. One of my participants even shared an experience that consisted of her filing a motion electronically, through the online system, and a judge kicking the motion out of his court entirely. She had done everything correctly, followed proper protocol, and even considered COVID-19 social distancing etiquette. However, because she did not hand deliver a copy to the judge, he felt she did not deserve her day in court.

To sum up, to be able to achieve success in the courtroom, attorneys must be intentional and calculated about the rhetoric they employ during trial, whether it is through verbal or nonverbal communication. They must equally be attentive to their audiences and ensure that the rhetoric they utilize is specially tailored to a particular judge and jury on a case. Attorneys should conduct both legal research to cite laws and precedents and research to inquire about their audiences to appropriately predetermine how and in what order they will utilize Aristotle's three appeals: logos, pathos and ethos. While all three appeals are vital components to achieve success in the courtroom, logos is almost always the most prominent appeal to make in both the United States and Armenia.

Avenues for Future Research

As there is always room for improvement, there are many avenues for future research pertaining to this topic. One way to go about would be to interview a greater number of attorneys from both the U.S. and Armenia. While I conducted five interviews within each group of attorneys and they provided me with great content, a broader selection would result in many more unique perspectives and a better understanding of the intertwinement between the legal system and the field of rhetoric. Furthermore, while I was only able to interview attorneys from the greater Los Angeles area; each state has its own legal systems, customs and best practices of rhetoric to achieve success in the courtroom. While Los Angeles is one of the legal capitals of the world, it is only a small viewpoint in the grander scheme of the law. If someone was to add onto this topic, it would be exceptional and would truly round out this work if they interviewed a few attorneys from each state and compared that with the overall tactics.

References

Barnwell, D. (2015). Rhetoric And Law: How Do Lawyers Persuade Judges? How Do Lawyers Deal With Bias In Judges And Judging? In *ScholarWorks*, Georgia State University. Retrieved from https://cutt.ly/SjxjTUI.

Behling, D. (1995). Influence of Dress on Perception of Intelligence and Scholastic Achievement in Urban Schools with Minority Populations. Clothing and Textiles Research Journal, 13(1), 11–16. https://doi.org/10.1177/0887302X9501300102

Berkeley Law. (2017). THE COMMON LAW AND CIVIL LAW TRADITIONS. https://www.law.berkeley.edu/wp-content/uploads/2017/11/CommonLawCivilLawTraditions.pdf.

Berscheid, E., & Reis, H. T. (1998). Attraction and close relationships. In D. T. Gilbert, S. T. Fiske, & G. Lindzey (Eds.), The handbook of social psychology (p. 193–281). McGraw-Hill.

Burgoon, J. K., & Dunbar, N. E. (2000). An interactionist perspective on dominance‐submission: Interpersonal dominance as a dynamic, situationally contingent social skill. Communication Monographs, 67(1), 96–121. https://doi.org/10.1080/03637750009376497

Byrne, D. E. (1971). *The Attraction Paradigm.* Academic Press.

Casarez, J. (2014). *Did Racial Bias Lead NYC Judge to Convict Man of Murder? Ruling Postponed*, CNN. Retrieved from https://edition.cnn.com/2014/08/06/justice/new-york-murder-conviction-revisited/index.html.

Chandler, A. (2019). A Rhetorical Analysis of Opening Statements in Trial: Reconsidering the Classical Canon of Invention. In *ScholarWorks*, Bellarmine University. Retrieved from

https://scholarworks.bellarmine.edu/cgi/viewcontent.cgi?article=1048&context=ugrad_theses.

Cooper, L. (1988). *The Rhetoric of Aristotle: An Expanded Translation with Supplementary Examples for Students of Composition and Public Speaking*. Prentice-Hall Publishing.

Garver, E. (2009). Aristotle on the Kinds of Rhetoric. In *Rhetorica: A Journal of the History of Rhetoric, 27*(1), 1-18. Retrieved from www.jstor.org/stable/10.1525/rh.2009.27.1.1.

Guerrero, L. K., & Hecht, M. L. (2008). The nonverbal communication reader: classic and contemporary readings. Waveland Press.

Levitt, D. (1999). Rhetoric—From Socrates to Court TV. In *Litigation, 26*(1), 42-49. Retrieved from http://www.jstor.org/stable/29760104.

McCormack, K. C. (2014). Ethos, Pathos, and Logos: The Benefits of Aristotelian Rhetoric in the Courtroom. In Washington University Jurisprudence Review, Vol. 7, 130-155. Retrieved from https://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1107&context=law_jurisprudence.

Mehrabian, A. (1981). Silent Messages: Implicit Communication of Emotions and Attitudes. Wadsworth Pub. Co.

Peters, P. (2007). Gaining Compliance through Non-Verbal Communication. PEPPERDINE DISPUTE RESOLUTION LAW JOURNAL. https://digitalcommons.pepperdine.edu/cgi/viewcontent.cgi?article=1098&context=drlj.

Sandler, P., Epps, J., & Waicukauski, R. (2010). CLASSICAL RHETORIC AND THE MODERN TRIAL LAWYER. In *GPSolo, 27*(6), 24-44. Retrieved from http://www.jstor.org/stable/23630221.

Sandler, P., M, Esquire. (2016). *The Art of Persuasion: Essays on Rhetoric in the Courtroom*. Retrieved from https://www.shapirosher.com/img/headers/The-Art-of-Persuasion-Sandler.pdf.

Segrin, C. (1993). The Effects of Nonverbal Behavior on Outcomes of Compliance Gaining Attempts. Communication Studies, 44(3-4), 169–187. https://doi.org/10.1080/10510979309368393

Starr, V. H., & McCormick, M. (2012). Jury selection. Wolters Kluwer Law & Business.

Weiss, Franklin R. (1959). "How the Lawyer Uses Rhetoric." In *Today's Speech*. Vol. 7, Iss. 3.