

Hand-Out



Direct and Cross-Examination Questions

The following two worksheets are useful for student attorneys preparing questions to ask their witnesses and the other side's witnesses. Attorneys may collaborate with the witnesses to develop the direct examination questions.

Direct Examination

Witness Role: _____ Lawyer Role: _____

The Witness You Will Question: _____

To prepare direct examination questions of your witness:

1. Determine your theory of the case. Your theory consists of a simple, logical story explaining your version of "what really happened." It must be consistent with the evidence that you have and with the jury's common-sense notions about how things occur. What is your theory of the case?
2. Carefully read the statement made by the witness you will be questioning.
3. What is the main point you want the jury to understand after hearing this witness testify?
4. How does that point support your theory of the case?
5. Read any other witness statements that discuss interactions with or observations of your witness to check for any inconsistencies in stories.
6. List all inconsistencies and potential weaknesses in your witness's story/testimony.
7. Write a list of questions designed to address the weaknesses and inconsistencies in your witness's testimony in a light most favorable to your case. Think of ways your witness can explain these weaknesses to the jurors in a truthful way that will generate empathy for the witness. Next to each question, write the answer you expect the witness to give, with a reference to the page of the trial packet where you found that information.
8. Write a list of questions you will use to introduce your witness to the jury and provide background on the witness. Ask for only one small piece of information in each question. (NOT "What is your name, age, date of birth, address, and dog's name?") Next to each question, write the answer you expect the witness to give, with a reference to the page of the trial packet where you found that information.
9. Write questions designed to establish your witness's relation to the case. (For example, "Do you remember the night of December 7? Where were you that night? Do you recognize anyone in the courtroom? How do you know her?") Next to each question, write the answer you expect the witness to give, with a reference to the page of the trial packet where you found that information.
10. Write a list of questions that will elicit from your witness a description of the "scene." The questions should evoke only one small piece of information at a time. Write questions that provide a vivid description of what the witness observed about the place, the people, and the atmosphere of the day/night that is the focus of the testimony. The jury should be able to visualize the scene. Next to each question, write the answer you expect the witness to give, with a reference to the page of the trial packet where you found that information.
11. Write a list of questions about the actions your witness observed. Focus on open-ended questions, beginning with the words *who*, *what*, *when*, *where*, *why*, and *how*. Start at the beginning. Avoid jumping around in time and instead design questions that get the witness to tell the story chronologically, one step at a time. Next to each question, write the answer you expect the witness to give, with a reference to the page of the trial packet where you found that information.
12. What is the information you want the jury to hear last, in order to make a lasting impression? Write a question designed to drive home the main thing you want the jury to learn from this witness.

Cross-Examination

Hand-Out



Witness Role: _____ Lawyer Role: _____

The Witness You Will Question: _____

To prepare cross-examination questions of the other side's witness:

1. Determine your theory of the case. Your theory consists of a simple, logical story explaining your version of "what really happened." It must be consistent with the evidence that you have and with the jury's common-sense notions about how things occur. What is your theory of the case?
2. Carefully read the statement made by the witness you will be questioning.
3. What is the main point you want the jury to understand after hearing this witness testify?
4. How does that point support your theory of the case?
5. Read any other witness statements that discuss interactions with or observations of your witness to check for any inconsistencies in stories.
6. Describe what you know about the witness you will be cross-examining.
7. How do you think the jury will want you to treat this witness?
8. List all inconsistencies and potential weaknesses in this witness's story/testimony.
9. List the two best ways you think you can attack this witness (perception, credibility, memory, bias, prejudice, interest, inconsistencies). Be specific about what aspect of perception, etc.
10. Why do you think those are your best methods of attack? What in the witness statement makes you think these are the areas you should focus on in cross-examination?
11. Write a list of LEADING questions (suggesting the answer and seeking only "yes" or "no" answers) focused on the first way you intend to attack the witness. Next to each question, write the answer you expect the witness to give, with a reference to the page of the trial packet where you found that information.
12. Write a list of LEADING questions (suggesting the answer and seeking only "yes" or "no" answers) focused on the second way you intend to attack the witness. Next to each question, write the answer you expect the witness to give, with a reference to the page of the trial packet where you found that information.
13. What is the information you want the jury to hear last, in order to make a lasting impression? Write a leading question designed to drive home the main thing you want the jury to learn from this witness.

Adapted from lesson plans prepared by a law student as part of the Street Law class, 2000, at the University of Washington School of Law, Seattle, Washington, and available at www.law.washington.edu/streetlaw.