



Go Into Cross-Examination With a Clear Plan

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Cross-examination has been described as the greatest legal invention ever devised for the discovery of the truth. Few scenes illustrate this better than this exchange from the 1957 film “Witness for the Prosecution.”

Sir Wilfrid Robarts: Frau Helm, it would appear that when you first met the prisoner in Hamburg, you lied to him about your marital status?

Christine Helm: I wanted to get out of Germany, so—

SWR: You lied, did you not? Just yes or no, please.

CH: Yes.

SWR: Thank you. And subsequently, in arranging the marriage, you lied to the authorities?

CH: I did not tell the truth to the authorities.

SWR: You lied to them?

CH: Yes.

SWR: And in the ceremony of marriage itself, when you swore to love and to honor and to cherish your husband, that, too, was a lie?

CH: Yes.

SWR: And then—when the police questioned you about this wretched man who believed himself married and loved—you told them—

CH: I told them what Leonard wanted me to say.

SWR: You told them he was at home with you at 25 minutes past nine—and now you say that that was a lie?

CH: Yes. A lie.

SWR: Now today you told us a new story entirely. The question is, Frau Helm, were you lying then, are you lying now—or are you not, in fact, a chronic and habitual liar?

As trial lawyers, we dream of conducting a cross-examination like this—one where the key witness against our client unravels on the stand. Yet even after more than 30 years of trying cases, I still feel my heart in my throat when a judge calls me up to begin cross-examination.

Over the course of my career, I have cross-examined many witnesses. While my approach may vary depending on the witnesses, I rely on the same core strategies every time.

Preparation is paramount. Master the facts. Know every

document in your file. Write out every question you expect to ask each witness. You don’t need to follow a script, but the act of writing each question forces discipline and helps weed out questions that don’t advance your theory of the case. Every examination—direct or cross—should reinforce that theory.


Have a plan for each witness. Ask yourself, what do I need from this witness to move my client’s case forward? Sequence your questions deliberately to maximize their persuasive impact. Ask one fact per question. Start with a simple fact and build from there. End each question with, “Isn’t that true?”

If a witness dodges the question, regain control: “I appreciate that answer, but my question was X.” If necessary, write the question on an easel so the jurors can see that the witness is not answering it. Don’t allow the witness to repeat their direct testimony.

Know your experts. If your witness is an expert, read everything they have written. Google them. Run their name through Lexis or another research tool to determine whether other courts have excluded their testimony. Ask other plaintiff attorneys for past transcripts. The more you know going in, the stronger your cross will be.

Project confidence. Confidence matters—whether you feel it or not. Most witnesses, especially experts, have sharp instincts and can sense hesitation. Your cross should feel like a tennis match, with jurors’ heads moving back and forth between your questions and the witness’s answers.

Make your questions the focus of the examination. Plan your movements. Don’t pace while asking a question. Look at the witness. Pay close attention to your body language, tone, and cadence. Don’t argue with or yell at the witness. You don’t want jurors to sympathize with the witness—or the judge to admonish you.

Know when to stop. A clear plan tells you not only where to begin, but where to end. Preparation gives you control. Going into cross-examination fully prepped and organized allows you to advocate effectively and put your best foot forward for your client. 

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