



**PART VII  
CROSS  
EXAMINATION**



## THE STORY

A business man had just turned off the lights in the store when a man appeared and demanded money. The owner opened a cash register. The contents of the cash register were scooped up, and the man dashed away. A member of the police force was promptly notified.

### Statements about the Story:

- T F ? 1. A man appeared after the owner had turned off the store lights.
- T F ? 2. The robber was a man.
- T F ? 3. The man did not demand money.
- T F ? 4. The man who opened the cash register was the owner.
- T F ? 5. The store owner scooped up the contents of the cash register and ran away.
- T F ? 6. Someone opened a cash register.
- T F ? 7. After the man who demanded the money scooped up the contents of the cash register, he ran away.
- T F ? 8. While the cash register contained money, the story does not state how much.
- T F ? 9. The robber demanded money of the owner.
- T F ? 10. The story concerns a series of events in which only three persons are referred to: the owner of the store, a man who demanded money, and a member of the police force.

## TIPS FOR THE ADVOCATE FOR EFFECTIVE CROSS-EXAMINATION

- Prepare for your cross-examination.
- Don't cross-examine unnecessarily; know when to stop.
- Don't ask a question unless you know the answer.
- Don't repeat damaging testimony of the witness unless you can clearly impeach the witness.
- Avoid too many objectionable questions.
- Ask leading questions with well-chosen words.
- Word the question so that the answer is limited to the information you seek.
- Observe the witness closely for reactions to questions, for conduct while answering.
- Discover the witness's weakness, and if they relate to the case, e.g., witness has poor vision--therefore couldn't observe incident clearly.
- Vary the order of questions so memorized testimony is disrupted.
- Ask questions at such a rate that the witness does not have time to contrive an answer.
- Do not cross examine true statements unless repetition will help your case.
- Use impeaching statements, documents, records if advisable.
- If advisable, avoid offensive questions.

# **SOURCES FOR CROSS EXAMINATION QUESTIONS**

- **Direct Examination**

- Be sure to listen carefully and flag responses which you will explore
- Leave room within note taking to write cross exam questions and responses to them

- **Exhibits**

- Review your exhibits sheet to see if any documents need to be explored
- Review any exhibits which have been entered into evidence after your exhibits sheet was completed

- **Arguments**

- Review your argument sheet to see if any need to be developed or argued through this witness

- **Hints**

- If necessary, request a few minutes to prepare your questions. This is a normal and accepted practice.

**Remember the Tips and The Ten Commandments  
of Cross Examinations**

## **REBUTTAL WITNESSES**

- Only use when necessary for damage control.
- Management has produced relevant argument or evidence not covered in your presentation.
- Witness should have direct knowledge of new aspects of the controversy.
- If management calls rebuttal witness, ask them why the witness is being called. Make sure the questions are limited to specific rebuttal points.



## **CREDIBILITY DETERMINATIONS**

- The opportunity and capacity of the witness to observe the event or act.
- Whether the witness has made any prior inconsistent statements.
- The witness's character.
- Whether the witness is biased or prejudiced.
- Whether there is any other evidence presented that either contradicts or corroborates the witness's statements.
- Whether it is inherently improbable that the events happened in the manner in which the witness states that they occurred.
- The demeanor (carriage, behavior, manner, and appearance) of a witness during testimony.

## THE TEN COMMANDMENTS OF CROSS-EXAMINATION



1. Be brief.
2. Ask short questions, use plain words.
3. Ask leading questions.
4. Ask only questions to which you already know the answers.
5. Don't let the witness merely repeat- -his/her direct testimony.
6. Don't let the witness explain.
7. Listen to the witness' answer.
8. Don't quarrel with the witness.
9. Avoid the one question too many.
10. Save the argument for the closing statement.

