

Victim's Counsel

Checklist:

- Make sure you understand the law
- Assign specific roles:
 - A. Opening Statement
 - B. Cross Examination of Anna Kabolo
 - C. Cross Examination of Patrick Bateman
 - D. Cross Examination of Arthur Mabo
 - E. Cross Examination of Thomas Gaba
 - F. Direct Examination of Alia Rutu
 - G. Closing Statements

Opening Statements:

- Become familiar with your witnesses' fact sheets
- Select which facts should be included in the opening statement. Include the central facts of your case that are not likely to be challenged by the other side.
- Stick to the facts!
- Check with the lawyer writing the closing submissions for your side, to make sure that both the opening and closing arguments are very similar and present the same theory of the case.
- When giving the opening statements, try to speak in short, clear sentences. Be brief and to the point.
- Have notes handy to refresh your memory.

Direct Examinations:

This is when one side puts a witness in the witness box to give evidence to support its case. The purpose of a direct examination is to have the witness tell the judges, in a clear and logical way, what the witness observed.

- Write down all the things your side is trying to prove.
- Read the witness' testimony carefully, several times over.
- Make a list of all of the facts in the witness' testimony that help your case.
- Put a star beside the most important facts that you must make sure that your witness talks about. For example an important fact might be that your witness saw the event first-hand.
- Create questions to ask the witness that will help the witness tell a story:

- Start with questions that will let the witness tell the judges who s/he is; for example: What is your name? What do you do? How long have you worked in that job?
- Move to the events in question; for example: What were you doing on the night in question? Where were you? When did you first hear there was a problem?
- Move to more specific questions; for example: What did you see? What did you do after that happened?
- **Remember to keep your questions short and to use simple language. It is helpful to remember that your questions should start with *who, what where, how, why or when.***
- **It is important not to ask leading questions. A leading question is one which suggests an answer, or puts words in the witness's mouth.**
- **An example of a leading question is: "Was the man six feet tall and about 25 years old?" Instead you might say: "Please describe what the man looked like." Or ask: "How old was he? And how tall?"**

Cross-Examination:

This is when the counsel for the other side gets to ask your witness questions.

There are two basic approaches to cross-examination:

1. To get the witness to agree to the facts that support your case.
2. To discredit the witness. This approach is used so the judge will minimize or disregard evidence or comments that do not support your case.

How To Prepare for Cross-Examination:

- Make a list of all the facts in the witness's testimony that hurt your case.
- If there are a lot of facts that don't help your case, can you find a way to challenge the witness's credibility? For example, can you show that the witness made a mistake, or has a reason for not telling the truth?
- Put a star beside the facts you must make the witness talk about.
- Write short leading questions that move towards the key points you want to make.
- Try to build toward the point you want to make by asking your short leading questions. Keep in mind that you want to paint a picture.
- Depending on what the witnesses say, you might need to come up with different questions on the spot during the trial.
- Your questions should get the witness to answer with a yes or a no. For example, if you want the witness to tell the court that it was dark outside, you would ask: "It was dark outside that night wasn't it?"

How to Prepare Closing Submissions:

- Write down your key arguments and summarize the important facts you want to stick in the judge's mind.
- When delivering the closing submission, try to speak in short, clear sentences. Be brief and to the point.
- Only summarize evidence that actually was given at the trial. You cannot introduce new evidence during the closing statement. This may mean you have to rewrite your closing submission on the spot during the trial.
- Where a witness for the other side admitted something important to your case, point that out.
- Check with the lawyer writing the opening statement for your side and make sure that both the opening and the closing statements are similar, and present the same theory of the case.

Common Courtroom Objections

COMMON TRIAL OBJECTIONS

"Objection, your Honor, the question is ambiguous."

A question is ambiguous if:

- It may be misunderstood by the witness. It is objectionable on the ground that it may take on more than one meaning.

"Objection, your Honor, the question is argumentative."

A question is argumentative if:

- It is asked for the purpose of persuading the jury or the judge, rather than to elicit information.
- It calls for an argument in answer to an argument contained in the question.
- It calls for no new facts, but merely asks the witness to concede to inferences drawn by the examiner from proved or assumed facts.

"Objection, your Honor, the question has been asked and answered."

A question may be objectionable on the ground that

- The witness has already answered a substantially similar question asked by the same attorney on the same subject matter.

"Objections, your Honor, the question assumes facts not in evidence."

A question assumes facts not in evidence if:

- It presumes unproved facts to be true. Example: "When did you stop beating your wife?" This question assumes that the person has beaten his wife.

"Objection, your Honor, the question is compound."

A question is objectionable on the ground that it is compound if:

- It joins two or more questions ordinarily joined with the word "or" or the word "and."

"Objection, your Honor, the question is too general."

A question is too general, broad, or indefinite, if:

- It permits the witness to respond with testimony which may be irrelevant or otherwise inadmissible. Each question should limit the witness to a specific answer on a specific subject.

"Objection, your Honor, the question is hearsay."

A question is hearsay if:

- It invites the witness to offer an out-of-court statement to prove the truth of some matter in court. There are many exceptions to the hearsay rule.

A question is irrelevant if:

- It invites or causes the witness to give evidence not related to the facts of the case at hand.

"Objection, your Honor, the question is leading."

A question is leading if:

- It is one that suggests to the witness the answer the examining party desires. However, this type of question is allowed on cross-examination of a witness.

"Objection, your Honor, the question mis-states the evidence."

A question misstates the evidence if:

- It misstates or misquotes the testimony of a witness or any other evidence produced at a hearing or at a trial.

"Objection, your Honor, the question calls for a narrative answer."

A question calls for a "narrative answer" if:

- It invites the witness to narrate a series of occurrences, which may produce irrelevant or otherwise inadmissible testimony.

Question and Answer interrogation is the standard format. It allows opposing counsel to object to improper questions.

"Objection, your Honor, the question calls for speculation."

A question is speculative if:

- It invites or causes the witness to speculate or answer on the basis of conjecture.

Scoring Rubric

| | Excellent (10-8) | Good (7-5) | Developing (4-0) |
|---------------------------------|---|---|--|
| Opening Statement | <ol style="list-style-type: none"> 1. Well Prepared 2. Shows a complete understanding of case 3. Makes a convincing case using all available resources 4. Is articulate | <ol style="list-style-type: none"> 1. For the most part is well-prepared 2. Shows a good understanding of case 3. Makes a somewhat convincing case 4. Is for the most part articulate | <ol style="list-style-type: none"> 1. Needs to be better prepared 2. Shows a lack of understanding of case 3. Not a convincing case 4. Needs to be more articulate |
| Direct Examination of Witnesses | <ol style="list-style-type: none"> 1. Well prepared 2. Focused Questions 3. Effective use of questioning 4. Uses witnesses to support case outlined in opening statement 5. Articulate | <ol style="list-style-type: none"> 1. For the most part is well-prepared 2. Mostly focused questions 3. Mostly uses effective questioning 4. Makes pretty good use of witnesses to support the case outlined in opening statement 5. Is for the most part articulate | <ol style="list-style-type: none"> 1. Needs to be better prepared 2. Lacks focused questions 3. Needs to use effective questioning 4. Needs to use witnesses to support the case outlined in opening statement 5. Is not articulate |
| Cross Examination of Witnesses | <ol style="list-style-type: none"> 1. Well prepared 2. Focused Questions 3. Effective use of questioning 4. Uses witnesses to support case outlined in opening statement 5. Articulate | <ol style="list-style-type: none"> 1. For the most part is well-prepared 2. Mostly focused questions 3. Mostly uses effective questioning 4. Makes pretty good use of witnesses to support the case outlined in opening statement 5. Is for the most part articulate | <ol style="list-style-type: none"> 1. Needs to be better prepared 2. Lacks focused questions 3. Needs to use effective questioning 4. Needs to use witnesses to support the case outlined in opening statement 5. Is not articulate |
| Closing Statement | <ol style="list-style-type: none"> 1. Well Prepared 2. Shows a complete understanding of case 3. Makes a convincing conclusion to case using all available resources 4. Is articulate 5. Does not introduce new evidence | <ol style="list-style-type: none"> 1. For the most part is well-prepared 2. Shows a good understanding of case 3. Makes a somewhat convincing case 4. Is for the most part articulate | <ol style="list-style-type: none"> 1. Needs to be better prepared 2. Shows a lack of understanding of case 3. Not a convincing case 4. Needs to be more articulate |