

How to write cross examination questions

Each direct examination is followed by a cross examination. During cross examination the attorney for the opposing party asks questions of the witness. Cross examination allows the opposing attorney an opportunity to secure admissions from the opposing witness that will tend to prove his/her client's side of the case. The attorney asks questions of the opponent's witnesses in an attempt to discredit those witnesses and negate the opponent's case. Witnesses may be cross-examined regarding both those things to which they testified during direct examination and the other information contained within their witness statement included with the case materials. Their in court statements and their affidavit together comprise the "scope" of their testimony. During cross-examination, the attorney should ask questions which will explain, modify or discredit what a witness said during direct exam. The attorney should examine the witness's statement prior to trial to decide what evidence is favorable to his/her case and attempt to address that evidence during cross examination. During cross-examination, attorneys should ask narrow questions that lead the witness to the answer. "Yes" or "no" questions are very effective during cross examination. Attorneys should not ask questions that give the witnesses the opportunity to explain their sides of the story, as it may be damaging to the client's case. Leading questions (those which suggest the answer) are appropriate during cross-examination, but not during direct examination. It is especially important to maintain courtroom etiquette when conducting cross-examination. Be fair and courteous, and do not harass the witness by speaking harshly or deliberately asking a question over and over. Keep in mind that it may be helpful to your client's case when a witness does not provide an answer to a question.

The attorneys for the defense will conduct cross-examination of each of the plaintiff/prosecution witnesses immediately after each direct examination has been finished. The attorney's for the plaintiff/prosecution will conduct cross-examination of each of the defense witnesses after each of the defense attorneys has completed his/her direct examination.

Re-cross-examination can be used by opposing counsel only after an attorney has conducted a re-direct examination of his/her own witness. Like re-direct, it provides an opportunity to further explain the witness's response to a question asked by the other side. It must be in response to something that occurred during re-direct examination: it must be within the scope of the re-direct examination. Re-direct and re-cross-examinations should be kept as brief and to the point as possible. Usually only one or two questions will be sufficient. The time used for re-direct and re-cross examinations is taken from the team's overall time for examinations. If the attorney does not need to conduct re-direct or re-cross examination of a witness, then she/he should not do so. Re-direct and re-cross are not required aspects of the mock trial tournament and student attorney scores will not be lowered for failure to conduct re-direct or re-cross. However, a team that has learned how to conduct a re-direct or re-cross appropriately is likely to earn a higher score than one that has not.

Tips to remember...

- 1) Use narrow, leading questions
- 2) Expose any lack of sincerity
- 3) Never ask "why?" It gives a well-prepared witness a chance to hurt your case
- 4) Don't ask a question that you don't know the answer to...or how it will be answered
- 5) Be courteous
- 6) Link your questions to those that were given during the direct examination
- 7) Try to make the witness look "not credible"