

Sp Com 324 Legal Communication
Questioning Trials

Goal: To demonstrate your ability to elicit important information by asking questions.

Assignment: Working individually, each group member questions a witness in your case for five minutes.

Details:

1. I strongly suggest that you question the same witness that you will be assigned to question at trial, and that the person who plays that witness for you be the one who will play him/her at trial, too. In other words, use this exercise as a trial warm-up.
2. Notice that questioning requires only one witness and one or more questioners. In other words, once you have assigned responsibilities, you may not need to meet as a full group in order to practice. You may share questioning responsibilities for one witness among several group members—indeed, you'll probably want to for important witnesses.
3. Plan and practice your questions with your witness. But don't overpractice; if it sounds scripted, the testimony won't be credible.
4. In questioning the witness, introduce at least one fact vital for your theory of the case ("*core fact*"). Also introduce other facts that will establish the witness's credibility and orient the jury enough to understand the core fact(s) ("*foundation*").
5. On your assigned day, also hand in a sheet of paper with the following:
 - a. Your theory of the case.
 - b. The core fact(s) you will try to introduce.
 - c. The facts establishing witness credibility you will try to introduce.
 - d. The orientational facts you will try to introduce.

Assessment:

Good questioning

1. Succeeds in introducing core facts and foundation (credibility and orientation).
2. Is appropriately directive and open, but not leading or calling for a narrative.
3. Avoids sponsorship problems.
4. Is organized for clarity and force.
5. Is presented in a confident and persuasive manner; in particular, is not read.
6. Produces credible answers (not over- or under-practiced).
7. Deals fluently with any unexpected difficulties.

Note: The most common beginner's error is to underestimate the amount of detail necessary to lay a foundation and to establish core facts.

Timeline:

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| 10T | 21 Mar | Questioning Trials for Groups 1 & 3; Groups 2 & 4 may not attend. |
| 10R | 23 Mar | Questioning Trials for Groups 2 & 4; Groups 1 & 3 may not attend. |