

# Cross Examination

Here are some of the classic areas of cross-examination

## 1. IMPAIRED PERCEPTIONS.

("I was drunk.")

Faulty perceptions. Impaired perceptions. Drugs, alcohol, prescription medications.

## 2. INABILITY TO RECALL.

("Since I got hit on the head, I don't remember so good.")

Inability to remember the events. Amnesia, Alzheimers, bad memory, etc.

## 3. DISTRACTIONS.

("Sorry baby, I was watching the game.")

I was paying attention to something else. My attention was focused over *here*, but the events happened over *there*. I shifted my attention once I heard the "Bang!"

## 4. PRESUMPTIONS AND ASSUMPTIONS.

(An "ASS" out of "U" and "ME...")

Is the witness presuming something that's not true? Assuming something .

## 5. IMPOSSIBILITY.

(Gravity. It's not just a good idea, it's the law.)

Common sense/Impossibility. Shutting the doors except "I'm an idiot - the laws of physics don't apply in my world" or "I lied. I didn't think you'd catch me."

## 6. MISTAKEN? OR LYING?

("Whoops!")

Mistaken or lying? Presume they're mistaken, not lying. When you cross examine Nana who says Little Johnny is a good boy, don't immediately assume that she's lying. She probably **believes** that he is. If you show the jurors why she's mistaken, they'll understand. If you try to paint her as a liar, they'll just see you attacking a nice little old lady.

## 7. INTEREST IN THE OUTCOME.

(Baby's Daddy.)

Financial or personal Interest in the outcome. He's "baby's daddy" - if he's convicted, he might not be able to pay the rent.

## 8. BIAS.

("Go Gators!")

Florida fans see Bobby Bowden in a different light than Florida State fans see him. Bias comes in many forms: Company loyalty. Familial bias. Longstanding relationship. Racism. Sexism. Classism. Homophobia. School loyalties.

## **9. INABILITY TO PERCEIVE.**

("It was dark.")

Inability to see or hear the events.

## **10. MONEY OR PREFERRED TREATMENT**

("Show me the money")

Follow the money. (Payoffs? Benefits? Ex. Confidential informants, expert witnesses.) Look for any preferred treatment.

## **11. PRIOR CONVICTIONS.**

("You're a thief!")

Prior felony convictions or convictions for crimes of dishonesty or false statement.

## **12. PRESSURE OR THREAT.**

("I'd hate for something to happen to that pretty little wife of yours")

Did anyone (regardless of whether it's an opposing party or someone else) threaten a witness to change their testimony? What pressure is being applied to this witness?

## **13. PRIOR INCONSISTENT STATEMENTS.**

("I said *what?*")

Prior inconsistent statements.

## **14. CONFLICTS IN THE EVIDENCE.**

("That's not what Willie said...")

Conflicts with other testimony or evidence.

## **15. REPUTATION.**

("Everybody knows he's a mean drunk")

Reputation in the community.

## **16. Demeanor ON THE STAND.**

(He's got shifty eyes)

You should consider how the witnesses acted, as well as what they said. Some things you should consider are: Was the witness honest and straightforward in answering the attorneys' questions?