

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?