

Direct Examination

The following is good advice from The Trial Tips Newsletter on how to develop your direct examination:

1. **Organize** your direct examination to benefit from the theories of **primary and recency**.
2. Choose an **outlining method** that best fits with your style of learning and preparation.
3. Know how (and when) to elicit the **weaknesses** in your witness's testimony.
4. Conduct an effective **pre-trial interview** with your witness.
5. Keep the jury's attention by starting with the **(almost) ultimate question**.
6. Establish your witness's **vantage point** to pre-empt cross-examination.
7. **Take responsibility** for lousy questions.
8. Consider **WWJA?** (What Would the Jury Ask?)
9. Use the power of a **pause** to highlight important information.
10. Ask **short questions** to focus the attention on your witness, rather than you.
11. Use **headlines** to keep the witness (and the jury) on track, and to help them focus on what's important.
12. **Talk like a human being** again.
13. **Translate** any foreign words or terms for your jury.
14. Create a **vocabulary list** of words to use (and words to avoid.)
15. If possible, start your questions with **magic words** (who, what, where, how, when, or why.)
16. Help the witness describe events using all **five senses** (but know which sense is most important for helping the jury understand and remember).
17. Remember to **listen** to your witness, and know what benefits you'll gain.
18. Ask **follow-up** questions to clarify information.
19. If necessary, **lead the witness** (*especially* past the land mines!)
20. **Create evidence** to flesh out the details. (It sounds like I'm discussing something unethical here, but that's not what I'm talking about).
21. **Highlight** the most important details in your direct.
22. If a witness gives you a magic phrase, **repeat the answer** (without drawing an "Asked and answered" objection).
23. Help your witness tell his story in the **present tense** (but don't tell them you're going to do it!)

24. Use the power of **reverse leading** to challenge your witness and solidify the most important issue in the witness's testimony.
25. If timing is an issue in your case, help the jurors **feel the passage of time**.
26. If distance is an issue in your case, help the jurors **see the distance**.
27. Introduce your **exhibits** smoothly.
28. Don't let jurors see your exhibits until the **most impactful time**.
29. Use the most effective method of **publishing the exhibit** to the jury.
30. Use **demonstrative aids** to tell the story.
31. **Make a record** of the physical actions in the courtroom.
32. Demand a **verbal response** from your witnesses.
33. **Position yourself** in a location that focuses the jury's attention towards the witness.
34. Prepare yourself *and* your witnesses to **handle objections**.
35. Finish with an **exit line** that summarizes your case or highlights an important element of the witness's testimony.