

# Use psychology in cross-examination.

*Author: Stritmatter, Paul*

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Lawyers are often tempted to "make a kill" in cross-examination. The visibility, thrill of performance, and excitement are enticing, as is the power. There is also a desire to break the case wide open, a la Perry Mason, by reducing the witness to a quivering shell.

But resist this temptation; otherwise, jurors may cast you as a bully ganging up on a layperson by using legal tricks. Instead, understand how psychological factors can shape an effective cross-examination.

How you begin a cross-examination often sets the tone of the testimony and shapes the jury's attitude toward you. Make a smooth transition from the direct examination. Let the other lawyer's voice and images die down. Organize your notes, set up visual aids, and arrange the exhibits you plan to use--unless the element of surprise is important. Use the delay to heighten the drama.

Lift the jury's energy for the cross by moving into position with enthusiasm and purpose. Don't let your body language, your voice, or your energy level suggest that your questioning will be an attack--unless you have a bomb to drop.

When you're ready to begin, use these techniques to make the most of your cross-examination:

- \* Start the cross with benign, clear, and short questions.
- \* Be courteous and considerate, but don't give the jurors reason to doubt your sincerity throughout the trial by assuming exaggerated warmth in the beginning.
- \* Maintain eye contact with the witness. Staring a witness down keeps him or her focused. But be careful: Respect the witness's space so as not to seem aggressive.
- \* Don't patronize or engage in name-calling--it is unprofessional and the jury will dislike you for it. Avoid even feeling hostile toward the witness, because your feelings will show.
- \* If the court allows, move away from the podium for emphasis.
- \* When opposing counsel objects, don't look at the objector--otherwise you give the objection too much importance. Look only at the jury or judge.
- \* Hold a series of questions for just before a break, and always end a cross-examination before a break on a high note.

Cross-examination is one of the ways that the law safeguards accuracy and truthfulness, and persuading the trier of fact is its ultimate goal.

Paul Stritmatter

Hoquiam, Washington