

# Memorandum

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*Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P.*

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To:

From: Mary Kennedy

Date:

Subject: TOP TEN LIST FOR CROSS-EXAMINATION

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**NUMBER ONE: LEADING QUESTIONS. PERIOD.**

Because cross-examination is all about control, your questions must be leading. Leading questions help you to control the pace of the examination, the flow of the information, and the attention of the fact finder.

**NUMBER TWO: ONE FACT PER QUESTION**

Or, at a minimum, one new fact per question.

**NUMBER THREE: SHORT QUESTIONS**

Witness should be answer with a "yes" (preferably) or "no." Research shows the shorter the question the shorter the answer.

**NUMBER FOUR: NO TAGS**

Particularly not repetitive ones. E.g., "right?", "isn't that correct?"

**NUMBER FIVE: PLAIN LANGUAGE**

No "legalese" or "policese." No "exiting vehicles" or "obstructions to views."

**NUMBER SIX:**

**KNOW THE ANSWER**

From discovery, from investigation, from Jencks.  
Cross is the time to make your points, not find out  
information.

**NUMBER SEVEN:**

**LISTEN & LOOP**

When you get a gem, include the answer in the next  
question. E.G., "It all happened so fast."

**NUMBER EIGHT:**

**NO EXPLANATIONS**

Move smoothly past requests by witnesses to explain

**NUMBER NINE:**

**NO FIGHTING**

Unless you have "permission" from the fact finder

**NUMBER TEN:**

**NO ULTIMATE ISSUES**

You don't need to make the point with the witness.  
Save it for argument.