# DIRECT EXAMINATION CHECKLIST

Your direct examination should include everything below. Number each set of questions according to the numbers in the left column. Once your rough draft has been graded, you are free to rearrange your opening in any order you wish.

| | REQUIREMENT | DESCRIPTION |
|---|---|---|
| 1 | **Introduction & Credibility** | Ask questions that allow the witness to explain who they are *and* how they fit into the case. Humanize the witness and build credibility with the jury. Ask questions that make the jury understand why they should believe this witness. The plaintiff's attorney/prosecutor should ask questions that establish the witness saw the incident first-hand. The defense attorney should ask questions that put the witness's credibility and/or reliability in doubt (is the witness just guessing because he wasn't present? Has the witness lied before?) |
| 2 | **The Scene** | Ask who, what, where, when, why, and describe questions. The jury should be able to visualize the scene by listening to the witness. Ask the witness to give details (approximate height, distance, weight, etc). If possible, ask the witness to demonstrate what they saw. Put the most important information at the beginning and end of your direct. Any information that is considered "bad" for your case, should be in the middle of your direct. Ask questions in chronological order. Examples of good direct questions: "describe what you saw," "and then what happened?," "what happened next?" Ask very few "yes" or "no" questions. The witness does most of the talking. |
| 3 | **Foundation Questions** | Establish a foundation for all questions. For example, do not assume a witness saw something. Even if you know they saw something, the jury doesn't. Therefore, your first question should be, "Did you see anything?" Then, you can ask, "what did you see?" Or, you can ask, "what, *if anything*, did you see?" |
| 4 | **Evidence/Exhibits** | Use evidence/exhibits to emphasize important testimony. Ask questions that establish the exhibit is relevant and reliable. Show or deny important statute elements using the exhibit. Make sure you have questions that ask to admit the exhibit into evidence and publish it to the jury. |
| 5 | **Theme & Theory** | Ask questions that incorporate your team's theme and theory. Every time you use your theme, make it **red and bold**. Work with your opening statement attorney to make sure you have the same theme and theory. |
| 6 | **Statute(s)** | Ask questions that support or deny the statute elements applicable in your case. This is very important. Remember, if you are the plaintiff's attorney/prosecutor, you have the burden to prove the statute elements. You can do that through your questions. If you are the defense attorney, you can ask questions that disprove the statute elements, making it difficult for the plaintiff/prosecution to meet their burden. |
| 7 | **Witness Preparation and Presentation** | Work with the witness to come up with a presentation plan. How will they dress? Do they need to apply a fake scar? Should they speak with an accent? Should they be confident or shy? Should they be happy or sad? Will they cry on the stand? Make sure the witness is likeable and looks at the jury when they answer your questions. Prepare the witness so that they know every question you will ask and you know every answer they will give. *Never* ask a question you do not know the answer to. |
| 8 | **End Strong** | Plan a memorable ending. Ask questions that highlight important testimony. End on a high note. *Never*, *ever* end on a lost objection. Ask your strongest question last. |
| | **Prepare for Objections** | Be prepared for objections. Know the rules of evidence so you can quickly and properly respond to any objections. Highlight questions you think might cause an objection. Next to those questions, write the objection you anticipate and a brief way you can respond to that objection. |
| | **Presentation** | Underline words you want to emphasize. Put a star next to questions you absolutely cannot forget to ask. Stand back from the witness and jury so the jury can focus on the witness. |