## **Charles Mwewa Intro to Law Lecture Outline**

## **ADVOCACY**

Notes	DIRECT EXAMINATION (EXAMINATION-IN-CHIEF)
	Three Stages of Witnesses' Evidence Presentation  • Examination-in-Chief – the affirmative presentation of evidence  • Cross-Examination – an attempt to discredit prior given testimony  • Re-Examination – questioning to ensure clarity of points which have been raised during cross-examination  Theory of Your Case
	<ul> <li>Your version of what happened</li> <li>Decision-maker must balance two theories of the case</li> </ul>
	Meaning and Purpose of Direct Examination  • Questioning under oath one's own witnesses  • Purpose: to elicit from your witnesses the evidence you need to satisfy all the elements of your claim or defence  • Goal: to present the more persuasive version of the facts
	Preparing Yourself for Direct Examination
	<ul> <li>Decide which facts to elicit</li> <li>Decide how you will prove each fact</li> <li>Decide who your witnesses are</li> <li>Decide the order in which you will call your witnesses</li> <li>Documentary evidence – which witness and in what sequence</li> <li>Eliminate repetitive evidence</li> <li>Develop the Witness' Story – logical, detailed, understandable and persuasive</li> <li>Prepare Your Questions – questions should tell your story, your theory of your case</li> <li>Begin your examination questions with witness' background – helps to personalize/humanize your witness</li> </ul>
	Preparing Your Witnesses for Direct Examination  What the witness will say – no leading questions How the witness will say it – coach to tell the truth Where the witness will say it – courtroom experience, trial process Cross-Examination: difficult to rehearse, but tell the truth, mock cross? Witness's obligation to listen to cross questions and understand them

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Forn	nulating Your Questions
	One question v. multiple questions at a time Simple v. complex language Leading v. Open-ended questions – in Direct as only open-ended questions (Review Table 7.1 on page 54) Capitalize on these types of questions in Direct –Examination: Who? Why? How? What? When? and Where? Avoid questions which imply the answer or elicit the response
Guid	delines for Direct Examinations
	Focus on the witness Listen, observe and write down what your witness says Be in control, direct your witness's testimony Preempt the other side's strong position by admitting your weak facts Facts v. Opinion, focus on the former, latter material to Expert Witness Monitor the pace of your testimony – time management is key
CRO	SS-EXAMINATION
Defin	It is the questioning of a witness who was produced by the other side
Prep	aring for Cross
	Know your case well Listen, write down what witness says in Direct
	Know when not to cross-examine
— Your	Questions
	Control through Leading Questions Avoid Open-Ended Scenario – witness should not agree with your conclusion; do not invite an explanation Know both the answer and risk before asking any particular question – why?
	Cross is not repetition of the other side's Direct