

ADVOCACY

Notes

RE-EXAMINATION

When Do You Re-Examine?

- After the other side has finished cross-examining your witness

Scope of Re-Examination

- Only question about the matters arising out of the witness' answers in cross-examination
- No introducing new materials; no additional evidence

Purpose of Re-Examination

- Respond to, explain, or clarify matters raised during cross-examination – if needed
- If possible, limit your responses to “yes” or “no” answers
- It is to repair damaging evidence given by your witness
- If the witness has given new information on cross-examination, but the information has not hurt your case, do not re-examine
- Do not lead in Re-Examination

Preparation and Conducting Re-Examination

- Take notes while your witness is being cross-examined
- Make a note of any new information
- Is this new information harmful to your case?
- Start each line of questioning with a reference to and a restatement of the particular evidence given on cross-examination
- For example: “On your cross-examination you stated you didn’t complain to the landlord about the other tenant; can you explain why

EXHIBITS

- Oral Testimony v. Physical Evidence v. Demonstrative Evidence
- **Exhibits** – object that is introduced as evidence at a trial or hearing; it is non-oral evidence made as part of the record at trial or hearing

Using Exhibits

1. In Direct Examination

- To confirm a fact of testimony
- To help decision-maker better understand the witness’ testimony

Charles Mwewa Intro to Law Lecture Outlines

2. During Cross-Examination

- To help agent/counsel discredit the witness's testimony

Introducing Exhibits into Evidence

- Establish a context for the exhibit
- Set up the exhibit
- Show the exhibit to the witness and to the other side
- Have the witness authenticate the exhibit (prepared the exhibit; received the exhibit from another party; discovered the exhibit)
- Enter the exhibit into evidence: "I would ask that this document be introduced as Exhibit A"
- Use the Exhibit – ask your witness questions about the exhibit
- Monitor the pace of your testimony – time management is key

Working with Exhibits that Have Already been Entered

- Exhibits entered must be numbered
- Refer a witness to an exhibit that has been entered into evidence earlier in the trial/hearing through another witness by referring to the number
- You may say: "Your Honour, may I please have Exhibit #5, the lease agreement"

Basic Steps for Admitting an Exhibit

- Clerk marks the exhibit.
- Show the exhibit to opposing counsel/agent.
- Lay the foundation.
- Offer the exhibit.
- Get the ruling on admissibility.
- Use the exhibit.