

Courtroom Drama without Trauma: Evidence 2009
Outline Supplement
Foundational Questions

1. Photos

- Legalese: Is it a fair and accurate representation of ___?
- Jury Talk: Is this what the (name object or person) looked like (at relevant time period)?

2. Voice and Handwriting

- Did you recognize the voice/handwriting?
- When have you heard /seen voice/handwriting before?
- How did you know it was ___'s voice?

3. Business Records

Get certified; if uncertified must lay foundation with witness who has knowledge of how the records are made and their contemporaneousness of entries

- Do you know what this is?
- How do you know?
- How is _____ created, made, etc.
- When is _____ created?
- Is this done in the regular course of business?

4. Refreshing Recollection

- Witness does not remember a fact
- Will something help you remember?
- (Show witness statement/police report, etc.)
- Is this a copy of your statement/police report, etc.
- Please read it to yourself.
- Take statement/police report from witness
- Did the statement/report help you remember?
- Ask the question
- Adverse party can introduce document into evidence

5. Past Recollection Recorded

- Try to refresh recollection
- If document does not refresh, use past recollection recorded.
- Prepared a report/statement/document while incident fresh in mind?
- Is the document you prepared after the incident?
- Please read the statement/report to court/jurors (or you can read it)

6. Impeachment: RAC or ARC Formula: Recommit, Accredit, Confront

- You testified in court before on this matter
- You took an oath
- Raised your right hand
- Swore to tell the truth

- And you were truthful
- To the best of your ability
- The event had just happened
- As you testified you mentally replayed it
- Your memory was fresh (& clear)
- You knew it was important to be truthful
- Today in court you said ABC...
- But before when you say you told the truth....you said XYZ

7. Prior Convictions

- Court determines # of priors
- Witness is advised how to answer
- Have you ever been convicted of a crime (or adjudicated delinquent)?
- How many times?
- May go into specifics on cross only if witness gives wrong answers
- May go into specifics w/own witness, waiving prejudicial effect

8. Qualifying an Expert Witness

- Current title & work
- Education & Degrees
- Post-graduate
- Publications
- Papers
- Honors
- Professional Associations
- Previous Testimony as Expert Witness
- Ask Court to permit witness to give opinion testimony on subject of witness' expertise