

Tips for Answering **Difficult Questions**



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INTRODUCTION

If you testify at a trial, the other party's attorney is entitled to cross-examine you. Witnesses are frequently asked difficult questions during cross examination. Sometimes the questions are objectionable, but your attorney may choose not to object for strategic reasons or may miss the opportunity. Other times the question may be ruled appropriate by the judge. Therefore, you need to be prepared to answer these questions. Here are 13 common types of tricky cross-examination questions with tips and examples of how to handle them.

Of course, if the attorney does object, do not answer the question unless the judge tells you that you must.

Compound Questions

When asked multiple questions at one time, ask for a clarification or be clear which part you are responding to.

Q: Do you drink alcohol or take illegal drugs?

A: Yes to the alcohol; no to the illegal drugs.

Your attorney would probably object to this type of question. If there is no objection, and it is too complicated to easily respond to both parts, then do not be afraid to ask for the question to be restated.

Leading Questions

Leading questions (questions that suggest how you are supposed to answer) should be expected, but do not assume the “facts” included in the question are true.

Q: How far was the defendant’s car behind the plaintiff’s car at the intersection?

A: About a car length.

Q: *You'd agree that the average length of a car is thirty feet?*

A: *No. I don't know the average length of a car.*

Witnesses often agree too readily to a statement like this just because the attorney suggested it was true.

Questions Asking for Estimates



If you are providing an estimate, make it clear that you are doing so.

Q: *What was the distance between your car and the car*

in front of you when you were both stopped at the intersection?

A: *My best estimate is about 15 to 20 feet.*

If you do not clearly know an answer, but you can provide an honest and fair estimate, then provide the estimate. However, it is very important to clarify that the answer is only an estimate.

Questions to Which You Don't Know the Answer

Do not speculate or guess unless you are specifically asked to do so, and then make it clear that the answer is speculation or guesswork.

Q: *What was the distance between your car and the car in front of you when you were stopped at the intersection?*

A: *I have no idea.*

Q: *About how far?*

A: *I could only guess.*

Q: *Give me your best guess.*

A: *Ten to twenty feet.*

Normally you could expect an objection as soon as you say you would have to guess.

"Box-in" Questions



Be careful if asked a question that attempts to cut off your responses, such as: "Is that everything?"

Q: *You have now told me about your husband's injuries to his shoulder, elbow, and back. True?*

A: *Yes.*

Q: *Have we now covered all of the injuries that he claims to have suffered in the January 15th motor vehicle accident?*

A: *Those are all that I can recall at this time.*

Notice that the witness left the door open in case she may have forgotten something. Most witnesses do forget—even things that may seem very obvious. It will be easier for the attorney to remind you what you have forgotten if you do not testify under oath that you have already covered everything.

Questions That Ask for Your Observations

When asked to describe what you saw, heard, or experienced, use factual statements. Avoid opinions and personal attacks.

Q: *Describe what you observed of the defendant after he walked out of the bar.*

A: *He stumbled over his own feet. He weaved from side to side. He bumped into two cars in the parking lot.*

Notice how this witness did not give an opinion that the defendant was “drunk,” and also avoided making any sort of personal attacks. The testimony was limited to personal observations.

Vague Questions



If asked a question with poorly defined or vague terms, ask for clarification.

Q: *We have discussed that Jenny started limping after the accidents. Did she ever have a similar problem before?*

A: *What do you mean by "similar problem?"*

Be sure that you understand what is being asked before you answer the question.

Questions about Another Person's Thoughts, Beliefs, Motivations, etc.

Refuse to read the mind of another person.

Q: *Why did your boss decide to fire you?*

A: *I can only tell you what I was told.*

Double Negatives and Other Incomprehensible Questions

Request that complex questions (such as double negatives) be clarified before responding.

Q: *Is it not true that you never complained of knee problems for six months?*

A: *Could you please restate that?*

Questions Purporting to Quote Your Prior Statements

Carefully review any statements or depositions you have given to refresh your recollection before you testify. If a question purports to quote this prior testimony, listen carefully to be sure that it was done accurately. If the quotation seems incorrect, then ask to see the exact quotation.

Q: Do you recall testifying during your deposition that the plaintiff “never missed one single day of work because of her slip and fall?”

A: I do not recall that. May I see that part of the deposition?

Questions about Your Prior Inconsistent Statements

If you are asked about testimony or a statement you gave that differs from your testimony in trial, answer truthfully. Some answers do change with time, and some mistakes can be adequately explained.

- Q: Today you have testified that you do not recall the make, model, color, or size of the car that hit the tree. True?
- A: Yes.
- Q: Do you recall telling an officer three days after the accident that you could describe the car?
- A: Yes.
- Q: Can you explain why you testified to something different today?
- A: Three days after the accident I remembered what the car looked like, but now that it has been three years, I no longer remember.



Questions Calling for “Yes” or “No” Answers Whether Neither Is Adequate

At times, the attorney may demand a “yes” or “no” answer to a question you do not feel could be appropriately answered with either. You should explain why neither is appropriate.

Q: *You did not always go to the doctor when you had pain in your neck before this accident, did you?*

A: *I do not . . .*

Q: *Objection, nonresponsive. I have asked a “yes” or “no” question.*

You did not always go to the doctor when you had pain in your neck before this accident, did you?

A: *I cannot answer yes or no, because I do not ever recall having neck pain before this accident.*

Questions Designed to Provoke Anger

If asked a question that is argumentative, try to answer the question without getting angry.

Q: *Wouldn't you agree that it would be impossible to be hurt from a tap so light that it hardly damaged the car?*

A: *I do not know how car damages and injuries relate.*

I hope this information has been helpful. If I can provide legal assistance, please contact me at: