LAW CLASS
How Courts Work

Steps in a Trial

Direct Examination

 Lawyers for the plaintiff or the government begin the presentation of evidence by calling witnesses. The questions they ask of the witnesses are direct examination.

 Direct examination may elicit both direct and circumstantial evidence. Witnesses may testify to matters of fact, and in some instances provide opinions. They also may be called to identify documents, pictures or other items introduced into evidence.

 Generally witnesses cannot state opinions or give conclusions unless they are experts or are especially qualified to do so. Witnesses qualified in a particular field as expert witnesses may give their opinion based on the facts in evidence and may give the reason for that opinion.

 Lawyers generally may not ask leading questions of their own witnesses. Leading questions are questions that suggest the answers desired, in effect prompting the witness.

An example is, *"Isn't it true that you saw John waiting across the street before his wife came home?"*

Objections

 Objections may be made for many reasons under the rules of evidence, such as to

1. leading questions,
2. questions that call for an opinion or conclusion by a witness, or
3. questions that require an answer based on hearsay.

 Most courts require a specific legal reason be given for an objection. Usually, the judge will immediately either sustain or overrule the objection.

* If the objection is sustained, the lawyer must re-phrase the question in a proper form or ask another question.
* If the objection is overruled and the witness answers the question, the lawyer who raised the objection may appeal the judge's ruling after the trial is over.

A ruling by the judge does not indicate that the judge is taking sides. He or she is merely saying that the law does, or else does not, permit that question to be asked. Even if the judge decides every objection against a certain party, he or she is not taking sides or indicating to jurors how they should decide the case.

Cross-Examination

 When the lawyer for the plaintiff or the government has finished questioning a witness, the lawyer for the defendant may then cross-examine the witness. Cross-examination is generally limited to questioning only on matters that were raised during direct examination.

 Leading questions may be asked during cross-examination, since the purpose of cross-examination is to test the credibility of statements made during direct examination.

 Another reason for allowing leading questions is that the witness is usually being questioned by the lawyer who did not originally call him or her, so it is likely that the witness will resist any suggestion that is not true.

 When a lawyer calls a “hostile” witness (a witness whose relationship to the lawyer’s client is such that his testimony is likely to be prejudicial) on direct examination, the lawyer can ask leading questions as on cross-examination.

 On cross-examination, the attorney might try to question the witness's ability to identify or recollect or try to impeach the witness or the evidence. Impeach in this sense means to question or reduce the credibility of the witness or evidence. The attorney might do this by trying to show prejudice or bias in the witness, such as his or her relationship or friendship with one of the parties, or his or her interest in the outcome of the case.

Witnesses may be asked if they have been convicted of a felony or a crime involving dishonesty, since this is relevant to their credibility.

Opposing counsel may object to certain questions asked on cross-examination if the questions violate the state's laws on evidence or if they relate to matters not discussed during direct examination.