How to Win Your Cross-Examination

A guide for parents in divorce and child custody cases

The short version

Cross-examination isn't a debate you win by scoring points. You win it by being boring. If the other lawyer sits down frustrated, your ex doesn't get the fireworks they were hoping for, and the judge sees a calm, straightforward parent — you won. Everything in this guide serves that one goal.

What cross-examination is

When you finish testifying for your side, the other parent's lawyer gets a turn. That's cross-examination. They can ask you about anything relevant to the case, and in a divorce or custody case that covers a lot of ground: your parenting, your schedule, your finances, your temper, your text messages, your new partner.

How long it lasts depends on how much time the court has set aside for your hearing or trial. Five minutes or two hours, the rules are the same.

Where it falls in the trial

If you're the one who filed — the plaintiff, petitioner, or movant — your cross almost always comes right after your own lawyer finishes questioning you.

If you're the one responding — the defendant or respondent — it can land before or after your lawyer's questions, depending on how the case is structured.

Either way, it changes nothing about how you handle it.

Your real audience is the judge

Not your ex. Not their lawyer. Not whoever is sitting in the gallery. The judge.

From the moment you walk into the courthouse, everything you do is being observed by the person who is going to decide your case — and by their staff, who talk to them. The hallway counts. The elevator counts. Sitting at counsel table counts. So does the look on your face while your ex is testifying.

What judges want to see in a parent

- **Stability.** Emotional stability especially. Kids do well in steady environments, and custody cases are anything but steady. Judges look for the parent who can hold it together while everything else is chaos.
- **Discipline.** Disciplined parents follow rules and follow court orders. Judges read that as a household with structure, and structure is good for children.
- **Calm.** Calm parents handle the stress of separation and co-parenting without doing the things that damage kids in the middle of it.

What the judge is watching during your cross

Two things, at the same time:

- **What you say.** Your actual answers on the issues they have to decide.
- **How you handle it.** Are you steady under pressure, or do you come apart when someone pushes you?

Fair or not, judges tend to assume that how you behave under pressure in a courtroom is how you behave under pressure at home.

The mindset

Custody cases are as emotional as it gets. There will be moments during trial when you want to stand up and scream. Your ex may exaggerate. They may distort things. They may flatly lie. The lawyer questioning you may be unfair, and may be unpleasant about it.

None of that gives you permission to break the rules. That is the entire test.

Three things to leave at the courtroom door:

- Anger
- Contempt
- Disgust

That goes for how you feel about your ex and how you feel about their lawyer.

Stay calm. Be relentlessly polite. When you do that, you're winning — and they'll hate it, because polite and boring is the opposite of what they were hoping for. They want you rattled. They want the judge to see the person they've been describing in their filings. Don't hand it to them.

It helps to think of cross as a game with rules. The person who knows the rules and follows them has the best shot at winning. That's going to be you.

How cross-examination actually works

Most of what you'll get on cross are closed questions — questions built to be answered yes or no, with no room to explain. That's deliberate. The lawyer is trying to control your testimony.

When they're finished, they "pass the witness" to your lawyer, who can then ask you to explain any answer that needs explaining.

Here's the system working. On cross:

> **Q:** *Isn't it true you grabbed your son hard by the arm on October 31 and made him cry?*
>
> **A:** *Yes.*

Then your lawyer gets you back:

> **Q:** *Why did you grab his arm?*
>
> **A:** *He was about to step in front of a truck.*

The explanation isn't lost. It just comes later, from the friendly side of the room. Your lawyer passes you back, they may ask more, and it goes back and forth until everyone is done or the court cuts it off.

What if I don't have a lawyer?

You still get to explain. Instead of passing the witness to your lawyer, opposing counsel passes to you, and you explain in narrative form — you just talk. It sounds like this:

> *"Your Honor, counsel asked me whether I grabbed my son on October 31 and made him cry. I said yes. The reason I grabbed him was to keep him from stepping in front of a speeding truck."*

Two notes if you're representing yourself. Practice varies by judge and by courtroom, so pay attention to how the judge is running things, and ask politely if you're not sure how to get your explanation in. And remember you're allowed to object to improper questions — but pick your moments. A self-represented parent who objects to everything does more harm than good.

What each side is trying to do

Their lawyer wants two things:

- To get you to confirm the facts that help their case.
- To get a reaction out of you that proves the story they've been telling about you — that you're angry, controlling, unstable, whatever label they've picked.

You want the opposite:

- Give them as little as you honestly can.
- Show the judge you are not that person.

The first goal is mostly out of your hands. Some points are going to get made. There are true facts in every case that don't help you, and your lawyer knows how to handle them. That's fine.

The second goal is entirely within your control. That's where your energy belongs.

The core rules

If you remember nothing else, remember these eight. The rest is extra credit.

Rule 1 Tell the truth.

Everything else in this guide is technique. This is the foundation.

A lie under oath will very likely come out, and when it does it doesn't just cost you that one point. It costs you your credibility on everything else, including the things you were telling the truth about. It can also take the case out of your lawyer's hands entirely.

Lawyers are very good at handling bad facts. No lawyer can handle a client who lies on the stand.

Rule 2 Tell your lawyer about the bad facts early.

Don't hide them. Handling bad facts is exactly what you're paying for. Two reasons this matters:

- Together you can plan how to deal with it before you're in the chair.
- If your lawyer doesn't know an explanation exists, they can't ask you for it when it's their turn. All they'll hear is your "yes," and the "yes" will just sit there.

The worst version of this is your lawyer hearing a bad fact for the first time from the other side, in open court.

Rule 3 Answer only what was asked, then stop.

For a closed question, your answer is usually one of five:

- Yes
- No
- I don't know
- I don't remember
- It depends

"It depends" is a real answer, not a dodge. If a lawyer asks a parent "isn't it true that parents should have as much time with their children as possible?" the honest answer is that it depends — because of course it does. Use it when it's true, and don't use it as a hiding place.

If you didn't understand the question, ask them to repeat it or rephrase it. That's completely fair and nobody will hold it against you.

Rule 4 Don't explain yourself on cross unless you're asked to.

This is really part of Rule 3, but it gets its own number because it is the hardest one to follow. Almost everyone wants to tack an explanation onto an answer that makes them look bad. Resist it.

Two reasons:

- An unfriendly lawyer will use your explanation against you. Their follow-up questions are built to make it sound unreasonable. That same explanation, drawn out by your own lawyer, sounds sensible — because those follow-ups are built to make it sound sensible.
- The moment you go past the question, you've opened a door you didn't have to open. That's how a cross that should have taken ten minutes turns into an hour on subjects nobody planned to cover.

Your explanation isn't gone. It's waiting for the right person to ask for it.

Rule 5 On open questions, take the shortest route to a true answer.

Not everything on cross is yes or no. When you get an open question — "Why did you do that?" — answer it in as few words as will do the job honestly.

Good:

> **Q:** *Why did you grab his arm?*
>
> **A:** *To keep him from stepping in front of a truck.*

Not good:

> **A:** *Well, it was Halloween, and there are always cars going up and down that street, some of them much too fast, and we were out trick-or-treating with the neighbors and…*

The second answer is true, and it's still a mistake. Every extra detail is a new place for them to go.

Rule 6 Be polite and stay calm.

Judges like calm parents, because calm parents tend to be good parents. The opposite of calm is chaotic, and judges have very little appetite for chaos — that's a big part of why they chose the job.

Judges also notice politeness, especially politeness toward someone you'd have every right to resent. If "yes sir" and "no ma'am" come naturally to you and fit the customs where you live, use them. Opposing counsel will find it maddening and the judge will like you for it. If it doesn't come naturally, don't force it — forced courtesy sounds sarcastic, and sarcasm is worse than nothing.

Rule 7 Take your time.

Pause before you answer. It gives you a beat to think, and it gives your lawyer a moment to object if the question is improper.

People worry that pausing makes them look evasive. It doesn't. It makes you look like someone taking the question seriously. Fast answers are how witnesses talk themselves into trouble.

Rule 8 If you don't know, say so.

You're there to give what you actually know. Nothing more.

That doesn't mean you can't estimate when you genuinely can:

> **Q:** *Mr. Jones, approximately how much do you have in your checking account?*
>
> **A:** *Between three and five thousand dollars.*

That's fine if you know it's true. But when you don't know, say you don't:

> **Q:** *Mr. Jones, how many of your son's pediatrician appointments have you attended in the last three years?*
>
> **A:** *I don't recall.*

Understand what's happening in that second question. They're not asking because they want to know. They're asking because they already have the sign-in sheets. If you guess "ten or twelve" and the records say four, the number is the small problem. The big problem is that the judge now has a reason to discount everything else you said.

> **One caution.** Don't hide behind "I don't recall." A parent who can't remember anything about their own children looks disengaged, and that does its own damage. The rule is to be precise about what you know — not to be blank. "I don't have an exact number, but I take her to every Tuesday appointment because Tuesday is my day" is a far stronger answer than a made-up count.

Extra credit

Rule 9 Don't accept a characterization you wouldn't use.

Lawyers slip words into questions that shade the facts in small, inaccurate ways. Don't adopt a word just because they used it.

Say your son had a minor infection, the doctor prescribed an aggressive course of antibiotics, and you learned that stopping two days short would clear the infection without taxing his system further. You made a call.

> **Q:** *It's true, isn't it, that you stopped short of the full course of Johnny's antibiotics?*

A: *Yes.*

Q: *So you ignored the doctor's advice?*

A: *No.*

"No" is the right answer. You didn't ignore the doctor. You listened to the doctor and then made an informed decision as a parent. Those are different things. This isn't splitting hairs — it's politely insisting on accuracy.

Rule 10 Don't answer a loaded question.

A loaded question smuggles in an assumption you never agreed to. A classic opener:

Q: *How many times have you left the children home alone to go out drinking?*

Any number you give accepts two things — that you've left them alone, and that you did it to go drinking. Don't play. Say something like:

A: *I'm sorry, but that question assumes things that aren't true.*

Then wait for a fair question. If you have a lawyer, this is a good moment to pause; they may object before you say anything at all.

> **Two cautions.** If the judge directs you to answer, answer. You can say what's wrong with the premise, but you don't get to refuse a judge. And use this sparingly — it's a scalpel. A witness who declares every question unfair starts to look like someone with something to hide.

Rule 11 If you misspeak, fix it right away.

"I'm sorry, I realize I misspoke a moment ago. May I correct that?"

They will almost never object, the judge will appreciate it, and most importantly it keeps them from throwing it back at you an hour later as though you lied.

Rule 12 Know your own prior statements cold.

Your deposition, your affidavits, your sworn financial statement, your declarations. Anything you've said before becomes ammunition if today's version doesn't match. Go through them with your lawyer before trial. If something you said earlier was wrong, deal with it in advance instead of in front of the judge.

Rule 15 Don't argue with the lawyer.

You aren't going to out-argue them. That's their profession. And even if you could, that's not the image you want to project. Answer the question, stop, and let your lawyer clean it up.

Rule 16 Stop talking the moment someone says “objection.”

Stop mid-sentence if you have to, and wait for the judge to rule. If the objection is overruled and you’ve lost the thread, just say so and ask for the question again.

Rule 17 Answer out loud.

No nodding, no head-shaking, no “uh-huh.” The court reporter can’t record a gesture, and the transcript is what an appellate court would read someday. Speak up, and don’t talk over the person questioning you.

Rule 18 Don’t look at your lawyer for help.

It’s a natural instinct and it reads badly, like you’re checking whether you’re allowed to say something. Look at the person asking the question, or at the judge when you’re explaining. Your lawyer can’t answer for you anyway.

Before you walk in

- Go over your testimony with your lawyer, but don’t memorize a script. Memorized answers sound memorized, and judges hear the difference. Know your facts, not your lines.
- Dress like you’re interviewing for a job you want. Neat and unremarkable. You want the judge thinking about your answers, not your outfit.
- Sort out parking, childcare, and time off in advance so you arrive early and unrushed. Flustered is a bad way to start.
- Phone off. Not silent — off. And don’t text your lawyer while you’re on the stand.
- Assume you’re being watched everywhere: the parking lot, the hallway, the restroom, the elevator. Court staff notice things, and they mention them.
- Don’t discuss your testimony during breaks if the judge has told you not to, and don’t discuss it anywhere someone you don’t know can hear you.
- Don’t take notes up to the stand unless your lawyer tells you to. Anything you carry up there can usually be demanded and read by the other side.
- Eat something. Testifying is more tiring than people expect, and hungry witnesses get short-tempered.

The bottom line

Your cross-examination should be boring.

The other lawyer should sit down feeling like they got nothing. Your ex should not get the show they were expecting. And the judge should come away thinking you are a calm, disciplined, honest person who answers the question in front of you.

That's a win. And it's the kind of win that tends to matter when the judge sits down to decide everything else.

This guide is general information for clients, not legal advice, and reading it does not create an attorney-client relationship. Procedures vary by state and from one courtroom to the next. If you have a lawyer, their instructions in your case control — always.