



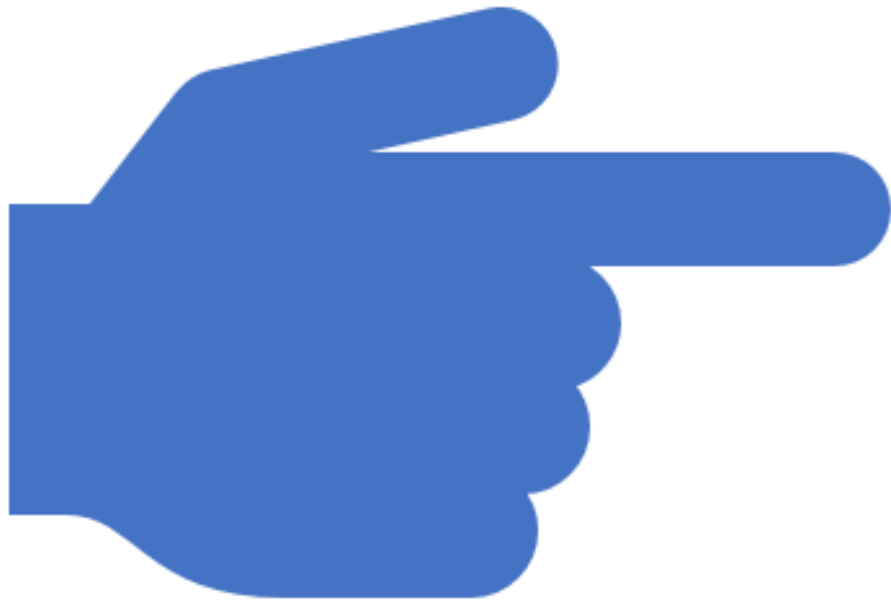
FENWICK THOMPSON  
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PRACTICE WITH A PASSION™

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HOW  
TO  
PREPARE  
A  
WITNESS

WITNESS FOR THE PROSECUTION, “DAMN YOU, DAMN YOU”!



## WITNESS PREP CHECKLIST



Schedule a trial meeting for a party witness (or a video or phone conference with a nonparty witness).

## WITNESS PREP CHECKLIST

Review the case, the testimony and the purpose  
of the testimony



## WITNESS PREP CHECKLIST



Explain the attorney-client privilege  
(if applicable)

# WITNESS PREP CHECKLIST

Explain the process:  
court reporter, direct,  
cross



## WITNESS PREP CHECKLIST



Tell the truth:

“I don’t know what you mean”

“Certainly not”

“Perhaps in Germany”



## WITNESS PREP CHECKLIST

Stay in control:  
Be polite and kind  
(do not get defensive or angry)



# WITNESS PREP CHECKLIST



Listen:

Ask for questions you do not understand to be repeated, do not jump the gun

## WITNESS PREP CHECKLIST



Answer only what you know:

If you don't remember then do not try to answer the question, regardless of how the question may change;

“I do not recall”

## WITNESS PREP CHECKLIST

Answer only what is asked:  
“I only write on blue stationary”



## WITNESS PREP CHECKLIST



Read documents carefully:

Ask for question to be repeated before testifying (after reviewing and reading the document); don't just start talking about the document

## WITNESS PREP CHECKLIST



Wait for instructions after objections:

When your counsel objects, wait for the judge to instruct you on whether to answer or not. Always ask for the question to be repeated

## WITNESS PREP CHECKLIST

Your cross is not your  
clean-up:

Explaining testimony  
you believe harmed  
your case during  
cross is not the time.

Your attorney will  
clean-up during your  
rebuttable.





**F HD**



## WITNESS PREP CHECKLIST



Dry Run:

Prepare direct questions and practice cross

## RESOURCES



*The Ten Rules of  
Powerful Witness Preparation*  
by Daniel I. Small (2012)

*Preparing Your Expert Witness  
for Trial – A Checklist*  
by Mehjabeen Rahman (2016)



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