



Courtroom Testimony

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Why Is Courtroom Testimony Important?



The Actors



The Actors

- **The judge**
- **The prosecutor**
- **The defense attorney**
- **The defendant**
- **The witnesses**
- **The jury**

WE THE JURY



Phases of Trial

- **Pretrial motions AKA house keeping**
- **Jury selection AKA voir dire**
- **Opening “statement”**
- **Case in chief**
- **Closing**

WE THE JURY



Story Telling

#1 *Wall Street Journal* Bestseller

DONALD MILLER

New York Times Bestselling Author

BUILDING A STORY BRAND



Clarify Your Message
So Customers Will Listen

Use the 7 Elements of Great Storytelling to Grow Your Business

Trial Brand







CAREER TRIBUTES





A woman with long, dark, wavy hair is shown from the chest up, holding a baby. She is wearing a patterned, short-sleeved top. The background is a field of tall, golden-brown grass, suggesting a rural or natural setting. The lighting is warm, possibly from late afternoon or early morning. The woman has a neutral, thoughtful expression.

What does the hero want?

What is opposing the hero getting what she wants?

What will the hero's life look like if she does not get what she wants?

Who is the Hero?

- **The judge**
- **The prosecutor**
- **The defense attorney**
- **The defendant**
- **The jury**

Who is the Guide?

- The judge
- **The prosecutor**
- The defense attorney
- The defendant
- **The witnesses**
- The jury

Trial Brand



vs



☆☆☆☆☆ **Absolute Junk!**

Reviewed in the United States on October 24, 2020

Size: 32GB | Color: Multicolored | **Verified Purchase**

☆☆☆☆☆ **Absolutely useless**

Reviewed in the United States on April 4, 2021

Size: 32GB | Color: Multicolored | **Verified Purchase**

☆☆☆☆☆ **A good deal**

Reviewed in the United States on October 25, 2018

Size: 32GB | Color: Multicolored | **Verified Purchase**

☆☆☆☆☆ **Good drives, as advertised.**

Reviewed in the United States on November 24, 2017

Size: 32GB | Color: Multicolored | **Verified Purchase**



Takeaway #1 - Identify characteristics of a credible witness (The Guide)

Credible Witness Characteristics?



Tell the Truth



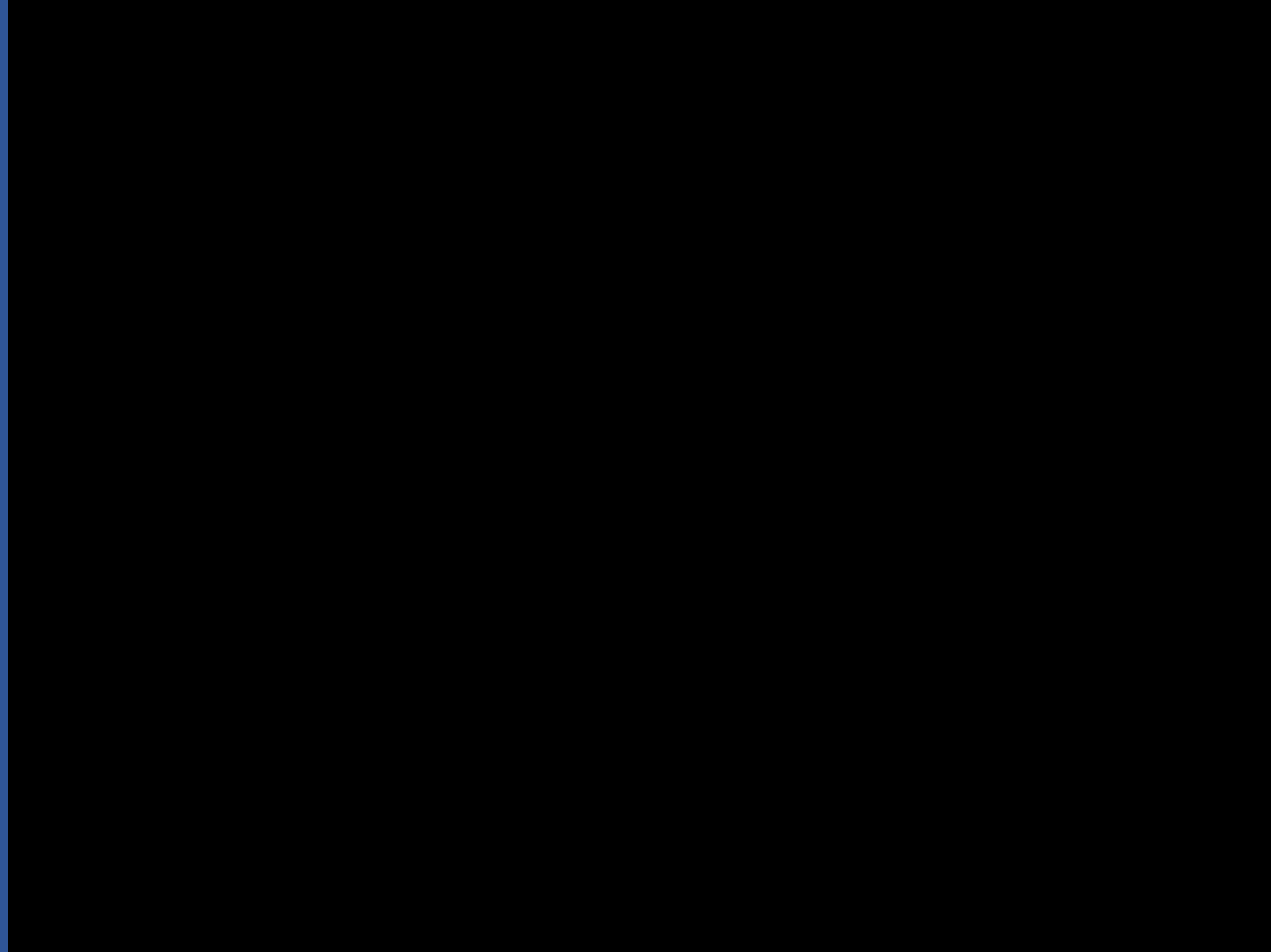
Impartial and Objective



Respect



Respect the Process!



**Review reports and
video.**

**Meet with the
prosecutor.**

Every battle is won
before it is fought.

Sun Tzu

quote fancy

Dress for success.

IT'S WHAT YOU **DON'T SAY** THAT COUNTS!



Stay serious

Avoid a bad attitude

Admit mistakes



Takeaway #2: Identify characteristics of credible and persuasive testimony.



Always conduct yourself in a professional manner.



VS



What Makes Testimony Convincing?

- **Listen to the question**
- **Give audible responses**
- **Do not volunteer information**
- **Do not look to the prosecutor
for assistance**

Testimonial Skills

A police officer in a dark blue uniform is seated at a desk with microphones. He is looking slightly to the right of the camera with a neutral expression. The background is a plain, light-colored wall.

**Do not address
questions or
concerns to the
judge**

Avoid cop talk

**Positive and
definitive answers**

What cop talk sounds like to the jury



Remember yesterday,
walking hand in hand,
Love letters in the sand,
I remember you.
Through the sleepless nights,
and every endless day,
I'd wanna hear you say,
I remember you.



Memory Loss

- **Give positive and definitive answers (avoid I think, or I believe)**
- **Memorized testimony is suspect**
- **I do not recall vs I don't know**



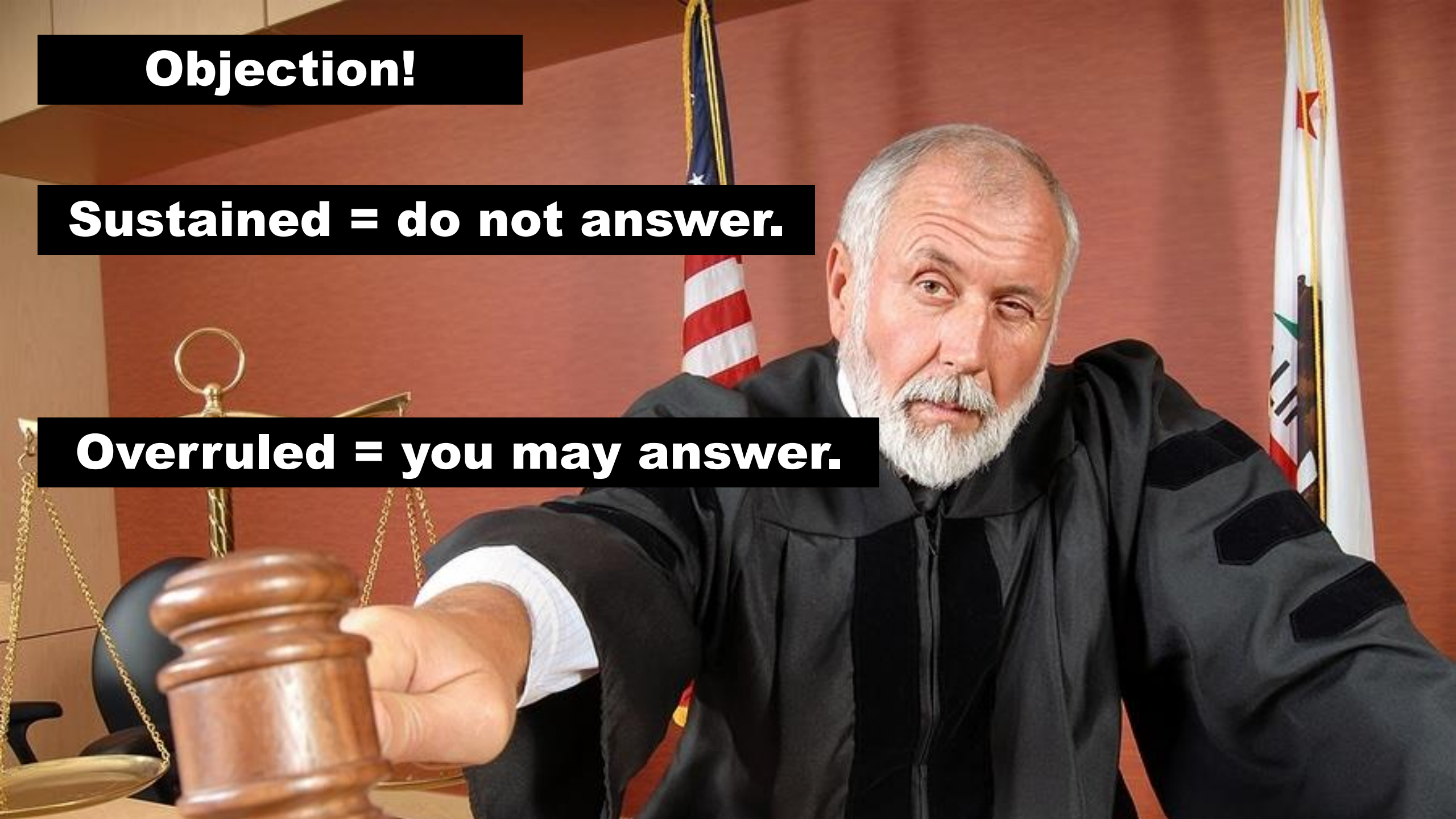
**Make eye contact
with the jury**

**Do not make it
creepy**

Objection!

Sustained = do not answer.

Overruled = you may answer.

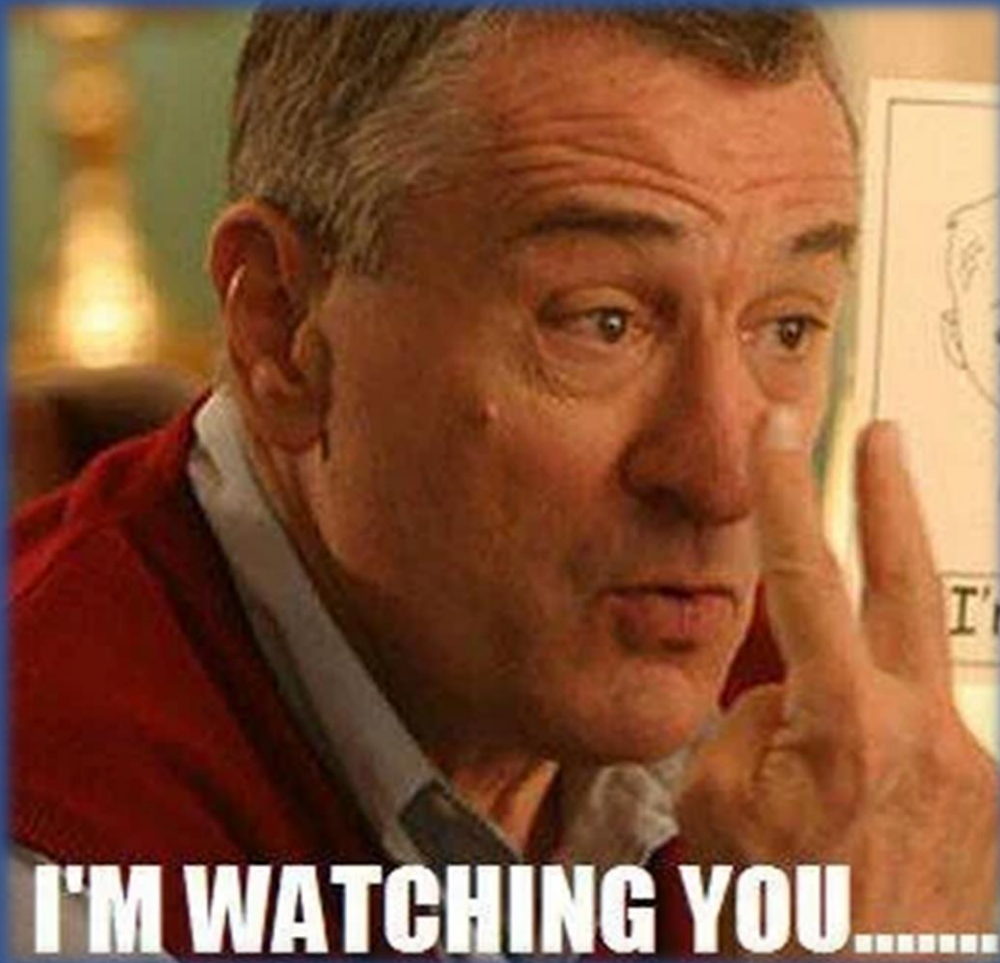


Using Your Report

- **Impeachment material**
- **Memory may be refreshed by anything**
- **Memory refreshment is normal**
- **Brady material?**



Hallway Discussions



Direct Examination

- **Open ended questions (non leading)**
- **The looping technique**
- **Limited to personal observations**
- **Who, what, where, when, why questions**

Anatomy of a Direct

- **Most important part of the prosecutions case**
- **Introduction**
- **General investigation**
- **Highlighting specific acts**
- **Foundation for exhibits (introduction into evidence)**

Drawing the Sting



Takeaway #3: Identify common techniques used during cross exam to discredit LE witnesses.

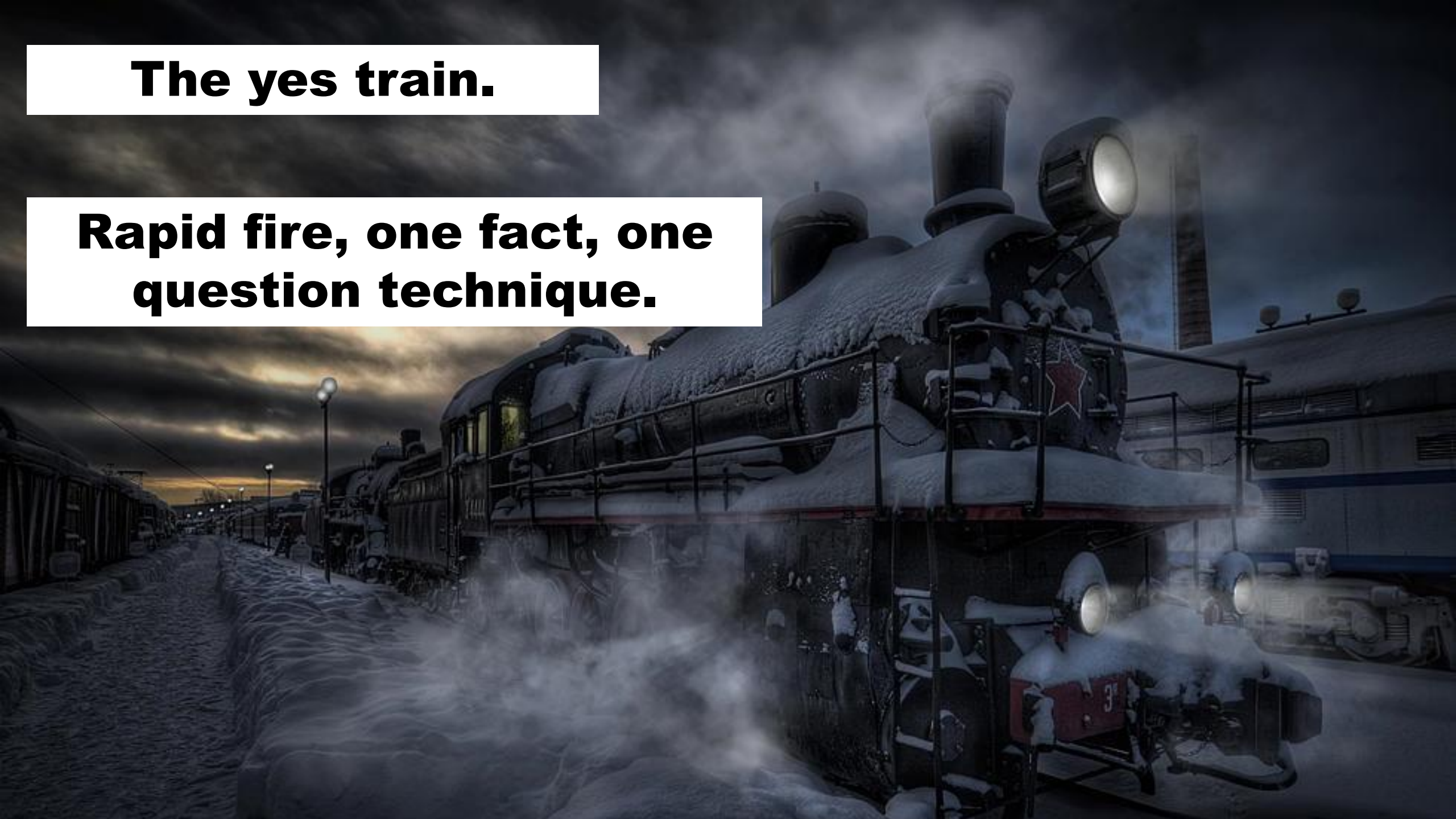


Cross Examination

- **After direct exam, the witness is passed to opposing counsel for cross-examination**
- **Leading questions are allowed**
- **3 typical techniques used by defense attorneys**

The yes train.

**Rapid fire, one fact, one
question technique.**



The aggressive cross.

**Defense attorney will be
overly aggressive.**

**Why would a defense
attorney want to do this?**





The nice guy cross.

Involves asking simple questions, laying traps.

Impeachment

- **Used to attack the credibility of the witness**
- **Very difficult to do correctly, take advantage of this**
- **Do not argue, re-direct will allow you to clean up**

Impeachment



Cross Examination

- **“Wouldn’t you agree”**
- **Partially true questions**
- **Repetitive and compound questions**
- **Possibilities**



Handling Cross

- **Always maintain professionalism**
- **Make eye contact with jury**
- **Stay consistent and definitive with your answers**
- **Do not volunteer information**

A man with dark hair, wearing a dark suit, white shirt, and striped tie, is pointing his right index finger directly at the camera. He has a serious, somewhat stern expression. The background is a wall with a light-colored brick pattern and a dark wood paneling at the bottom.

That's not exactly true

Have you ever told a lie?

Other Techniques

- **Repetitive questions**
- **What did the prosecutor tell you to say**
- **Isn't it possible/you would agree with me**
- **“Listen” for softballs**

Do Not Volunteer Information

Answer the question only

Do not “help” the defense attorney

Inadmissible character evidence

MISTRIAL

Pretrial Discussions With The Prosecutor

Ok and encouraged

Be prepared to explain

“Tell the truth”



Responding to Repetitive Questions

- **“As I stated earlier”**
- **Goal is to alert the DA while maintaining professionalism**
- **May also make the defense attorney look bad**

Other Techniques

- **Mistakes and lies**
- **Conflicting testimony with other witnesses**
- **Isn't it possible/you would agree with me**
- **“Listen” for softballs**



Persuasive Stories are Told by Credible Witnesses

- **Always stay professional**
- **Make eye contact with jury**
- **Remember body language**
- **You are the guide, not the hero**

Avoid a Mistrial

- **Do not volunteer information**
- **Be aware of pre-trial rulings**
- **Do not testify to defendant's criminal history**
- **Do not comment on right to remain silent**

Avoid a Mistrial

State v. Jonathan Soto, A-1-CA-37022 (NM)

PROSECUTOR: Can you please tell me a little bit about the circumstances that led up to you being at the Rex Arms apartments that day?

AGENT JORDAN: We were there to execute a search warrant.

PROSECUTOR: And a search warrant, ... now what was this in regards to?

AGENT JORDAN: To possession of weapons.

{4} Defendant then requested a mistrial, which the district court granted based on manifest necessity. The district court stated that a ruling had been made prior to trial prohibiting the State from introducing the basis for the search warrant at trial. The district court found that Agent Jordan's response was in violation of that order, and that Jordan's statement regarding possession of weapons was so prejudicial to the defense that a curative instruction could not correct it. The prosecutor apologized, stating that he had admonished the witnesses not to testify as to the basis for the warrant, but that there must have been a miscommunication.

Trials Have Consequences

Teen Arrested After Deadly Shooting in Hobbs

A teenager has been arrested in connection to a deadly shooting in Hobbs. 17-year-old Jimmy Thompson is facing murder charges.





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