

Important Phrases To Remember For Competition

Throughout the course of our practices thus far, I have mentioned specific statements or phrases that are appropriate to make at times during the course of a trial, and these are “extra point” phrases that I have learned generally result in higher scores during competition. I am providing as many of those as I can remember below, along with a brief reminder / explanation, of when they should be used. Some are very basic and simple, while others will require that you be listening and know when you need to use them:

“May it please the Court” – an attorney must ALWAYS state this before addressing the judge, beginning questioning of a witness, beginning Opening or Closing, etc...

“Thank you Your Honor” – an attorney must ALWAYS thank the judge after a ruling is given on an objection (even if the judge did not rule your way)

“That is all the questions I have at this time, please answer any questions the defense / prosecution may have for you” – an attorney should always state this at the conclusion of direct examination of a witness

“Your Honor, may I approach the witness” – an attorney must ALWAYS ask the judge for permission to approach a witness for any reason

“Let me show you what has been previously marked as Exhibit # ____, can you identify that document?” – an attorney must begin any attempt to introduce evidence by making this statement and showing the witness the document

“Is that a fair and accurate representation of ***”** – before offering the exhibit into evidence, once it has been identified by the witness, this question MUST be asked

“Your Honor, at this time the prosecution / defense would OFFER exhibit #* into evidence, its authenticity has previously been stipulated to” – after the witness has identified the document and testified that it is a fair and accurate representation, an attorney must ALWAYS offer the exhibit into evidence in the manner set forth above

“Your Honor, may I please PUBLISH this to the jury” – if an attorney is going to hand or show something that has been entered into evidence to the jury, he or she must first ask in the manner set forth above

“No further questions for this witness Your Honor, I would ask that the witness be excused” – if an attorney does not have redirect for a witness when asked by the judge, the attorney needs to respond in this manner

“Your Honor, I would beg the Court’s indulgence for a moment please” – if an attorney needs a few moments to return to the table to review notes, etc..., you MUST ask the Court’s permission in this way.

“Your Honor, I would ask the Court to please direct the witness to answer the question which has been asked” – if a witness is avoiding a question and simply refusing to answer it, the attorney may ask the judge to direct the witness to answer the question

“Your Honor, I would ask that we not be penalized for possible time violations as a result of the witnesses conduct / testimony” – if you have a witness who is avoiding questions or refusing to give you a straight answer, and if you ask the judge to direct him / her to answer the question and the judge says the witness must answer but can explain his / her answer, you need to ask the judge this

“The State would rest at this time Your Honor” – lead counsel for the State / prosecution needs to say this after the last witness has testified and the judge asks if the State has any more witnesses.

“The Defense would rest at this time Your Honor” – same as above except lead counsel for the Defense would say this after the last witness for the defense has finished testifying

The following are specific objections and / or responses to objections which can be made:

“Objection Your Honor, that has no relevance” – you can also state, “Objection Your Honor, I fail to see the relevancy of this document / testimony Your Honor,” or simply state, “Objection, relevancy.”

“Objection Your Honor, that question calls for hearsay” – make the objection in this manner if the question asked by the attorney calls for hearsay testimony

“Objection Your Honor, that testimony constitutes hearsay” – if the question itself was proper, however the witness gave testimony that consisted of hearsay, you would make the objection in this manner

“Your Honor, I believe this testimony is admissible and does not constitute hearsay because the declarant (the person who made the statement) is available in court and has previously testified (or is available in court to testify if they have not yet testified)” – this would be one response to an objection for hearsay

“Your Honor, I believe this testimony would fall within the excited utterance exception to the hearsay rule and would therefore be admissible” – if you feel the testimony (which would otherwise be considered hearsay) represents an “excited utterance” of a witness, this would be your response. NOTE: Review your materials on what constitutes an excited utterance

“Your Honor, although this testimony may be hearsay, it is not being offered for the truth of the matter asserted, therefore I believe it is admissible” – if you are offering the hearsay statement to simply prove or establish who said it (not that it was a true statement), then this response is appropriate to a hearsay objection

“Objection Your Honor, counsel has failed to lay a proper foundation” – the proper way to make this objection

“Your Honor, I believe a proper foundation has been laid (either by the witness testifying or a previous witness)” – this would be the response to the objection if you feel a foundation has been laid

“Your Honor, I would be glad to ask some additional questions and lay a foundation” – this would be your response to the objection if you know you have not laid a proper foundation – just remember, go back and lay the foundation after you say this

“Objection Your Honor, counsel is asking the witness to assume facts which are not yet in evidence” – you would make this objection in the manner set forth

“Your Honor, I believe these facts are already in evidence based on the testimony or a previous witness” – this would be a possible response to the objection above

“Objection Your Honor, counsel is asking the witness a question which calls for opinion testimony and this witness has not be qualified by the court as an expert” – remember, in order to give an opinion about a subject, unless it is something that any “normal” person would be deemed to be capable of giving an educated opinion on, the witness must first be qualified as an expert by the court

“Your Honor, I do not believe that question calls for an expert opinion, but rather is one in which any person of average intelligence should be able to respond to” – possible response to the above objection

“Objection Your Honor, that question calls for speculation” – make this objection in the manner set forth if the witness is being asked to testify as to what they think someone else would do, say, etc... (Unless the witness has been qualified as an expert)

“Objection Your Honor, that question calls for a legal conclusion” – if the question asks for the witness to give their opinion on a matter of law (which only the judge or jury can decide) this objection is proper

“Objection Your Honor, that question has been asked and answered” – if an attorney continues to ask your witness a question which has been previously asked and answered, make this objection

“Objection Your Honor, counsel is badgering the witness” – this is an objection which you would make when your witness is being cross examined if you feel the attorney is

going beyond the scope of permissible conduct during cross examination – for example, of the attorney is up in the face of your witness or is yelling at them, this objection would be appropriate

“Your Honor, this is cross examination and I would ask that the Court allow me a little latitude” – if an objection is made during cross examination (it could be an objection to relevance, badgering, asking a question that has been previously asked and answered, etc...), this will ALWAYS be your response

“Your Honor, I would ask that the witness be allowed to finish his / her answer to one question before being asked another” or **“Your Honor, the witness has a right to finish or explain his / her answer”** – you need to stand up and say this if the attorney during cross examination is cutting your witness off and not letting them complete or explain their answer

“Your Honor, it is our position that this witness lacks sufficient knowledge, expertise, and experience in the area in which they are being offered as an expert, therefore we would object to them being qualified in that regard” – this is your standard “vanilla” objection which you would make when a witness is being offered as an expert witness in a particular field. It should be followed by an explanation as to why you feel the person is not qualified, however, even if you say nothing else you need to say this.

“Your Honor, counsel’s objection would go to the weight of the testimony this witness would offer and not its admissibility, therefore we believe he / she should be qualified as an expert” – this is your standard response to an objection made to the qualification of your witness as an expert. Usually, you will first respond by stating why you feel your witness is qualified, and will end your response with the statement set forth above.

“Your Honor, we would move to strike that testimony” OR **“Your Honor, we would ask that the testimony be stricken from the record”** – if you have objected to testimony which a witness has gotten in (before you objected) and the judge rules in your favor (i.e. sustains your objection), you would ask one of the above. **If you really want to impress the judge and jury, once you state one of the above you can also state, **“Your Honor, we would ask the Court to instruct the jury that they should not consider the previous testimony in their deliberations.”**

“I will be glad to withdraw the question Your Honor.” OR **“I will be glad to rephrase the question Your Honor”** – if you have clearly asked an improper or badly phrased question you should state this after the objection is made and the judge asks for your response

“Objection Your Honor, argumentative” OR **“Objection Your Honor, counsel is making a statement, not asking a question”** – remember that even in cross examination, you have to ask questions and not make statements