

8.05 | DIRECT AND CROSS EXAMINATION OF WITNESSES

After the opening statements have been completed, the plaintiff presents his/her case by calling his/her witnesses and questioning them. The plaintiff presents his/her case first. When an attorney or pro se litigant questions his/her own witness (a witness he/she has called), it is called "direct examination."

Once the plaintiff has presented and questioned a witness, the defendant's attorney is entitled to question the plaintiff's witness about the matters that have been testified to on direct examination. Such questioning is called "cross-examination." On cross-examination, each party will attempt to challenge the testimony given by the other party's witnesses. If a witness testifies as to one fact, and a statement or document in the files contradicts such testimony, the document can then be used to question the witness on the accuracy of the witness's statements. If the evidence produced shows that the testimony of the witness is false or inaccurate, the witness is considered "impeached" by the cross-examination. If, after cross-examination has been completed, the plaintiff has additional questions raised by the cross-examination, he/she may ask them on "redirect examination." Following redirect, the defendant's attorney may ask additional questions of the same witness on "re-cross-examination." This procedure is repeated for all of the witnesses called by the plaintiff.

Once the plaintiff's last witness has testified, the plaintiff rests his/her case. At this point, the defendant may, but is not required to, make a motion for a "directed verdict." This means that the defendant will try to establish that the plaintiff has failed to prove one or more of the essential elements of his/her claim for relief and that therefore the defendant is entitled to judgment in his favor as a matter of law. If this motion is not granted, the defendant will present his/her case by calling and questioning defense witnesses. The plaintiff will have the opportunity to cross-examine the defendant's witnesses and further questioning of each defense witness will take place as described above.

After each side has presented its witnesses and evidence, the judge may allow the plaintiff to present some rebuttal testimony.

During the questioning of witnesses by the pro se litigant and the defense attorney, exhibits such as documents or other items may be



introduced and witnesses may be asked to answer questions about them.

*(US District Court, New York, Western District // Buffalo, NY 14202
Pro Se Litigation Guidelines)*

