

Rule 611. Mode and Order of Interrogation and Presentation

(a) Control by court. The court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.

(b) Scope of cross-examination. Cross-examination should be limited to the subject matter of the direct examination and matters affecting the credibility of the witness. The court may, in the exercise of discretion, permit inquiry into additional matters as if on direct examination. An accused who testifies in a criminal case may be cross-examined on any matter relevant to any issue in the case, including credibility.

(c) Leading questions. Leading questions should not be used on the direct examination of a witness except as may be necessary to develop the witness' testimony. Ordinarily leading questions should be permitted on cross-examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, interrogation may be by leading questions.

(Amended effective January 1, 1990.)

*Committee Comment - 1977***Rule 611(a)**

The mechanics of the trial process and the method and order of interrogating witnesses is left to the discretion of the trial court. The rule makes it clear that the court must bear the ultimate responsibility for the proper conduct of the trial. The rule presents three general principles which should guide the court in its exercise of "reasonable control." See also Rule 102.

Rule 611(b)

The court is also given some discretion over the scope of cross-examination. Generally, the scope of cross-examination should be limited to the subject matter of the direct examination and matters affecting the credibility of the witness. Consistent with Rule 611(a) and the court's power to control the order of proof, the court may permit a broader scope of cross-examination in the appropriate case. However, inquiries into matters which were not the subject of direct examination will be treated as if originating from direct examination. The rule makes it clear that the scope of cross-examination of an accused who takes the witness stand in a criminal trial is limited only by principles of relevancy and the Fifth Amendment. See, e.g., Rules 104(d), 608(b).

Rule 611(c)

The use of leading questions is left to the discretion of the trial court. Generally, leading questions should not be permitted when the witness is sympathetic to the examiner. However, for preliminary matters and the occasional situation in which leading questions are necessary to develop testimony because of temporary lapse of memory, mental defect, immaturity of a witness, etc., the court may permit inquiry by leading questions on direct examination. When a party calls the opposing party, a witness identified with the opposing party, or a hostile witness leading questions should also be permitted.

Usually there is a right to ask leading questions on cross-examination. When the witness is clearly sympathetic to the examiner the court has discretion to prohibit the use of leading questions. For example, if a party defendant is called as a witness by the plaintiff for direct examination, leading questions should not be permitted on the cross-examination by the defendant's own attorney.

MINNESOTA COURT RULES

EVIDENCE

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This rule and Rule 607 incorporate and expand Minn. R. Civ. P. 43.02. The committee urges that the procedural rule be repealed.