

Section 10. Examination of Witnesses

(a) Objections. Lawyers shall state objections succinctly, stating only the specific legal grounds for the objection without argument. Argument, if allowed by the court, and any offer of proof shall be made outside of the hearing of the jury and on the record.

(b) Caution to Witnesses. Before taking the stand and outside of the hearing of the jury, a witness called by counsel shall be cautioned by such counsel to be responsive to the questions and to wait in answering until a question is completed and a ruling made on any objection. Lawyers should advise their clients and witnesses of the formalities of court appearances.

Counsel may request the court to caution a witness while on the stand as to the manner of answering questions.

(c) Questions Not to be Interrupted. A question shall not be interrupted by objection unless then patently objectionable.

(d) Effect of Asking Another Question. An examiner shall not repeat the witness' answer to the prior question before asking another question.

An examiner shall wait until the witness has completed answering before asking another question. If a question is asked before the preceding question of the same examiner is answered or any objection is ruled upon, it shall be deemed a withdrawal of the earlier question.

(e) Number of Examinations. On the trial of actions only one counsel on each side shall examine or cross-examine a witness, and one counsel only on each side shall sum up the case to the jury, unless the judge otherwise orders.

(f) Counsel's Use of Graphic Devices. Counsel may use a graphic device to diagram, calculate, or outline chronology from witnesses' testimony.

(g) Familiarity with witnesses, jurors and opposing counsel. Lawyers and judges shall not exhibit undue familiarity with adult witnesses, parties, jurors or opposing counsel, or each other and the use of first names shall be avoided. In arguments to the jury, no juror shall be singled out and addressed individually. When addressing the jury, the lawyers shall first address the court, who shall recognize the lawyer.

(h) Matters to be Out of Jury's Hearing. The following matters shall be held outside the hearing of jurors. Counsel wishing to argue such matters shall request leave from the court. The first time this request is granted in a trial, the judge shall advise the jurors that matters of law are for the court rather than the jury and that discussions as to law outside the jurors' hearing are necessary and proper for counsel to request.

(1) Arguments: Evidentiary arguments and offers of proof as provided for in section 10(a) of this Trialbook;

(2) Offers to Stipulate: Counsel shall not confer about stipulations within possible jury hearing, nor without leave of the court when such conference would impede trial progress;

(3) Requests for Objects: Other than requests to a witness during testimony, requests by a party to opposing counsel for objects or information purportedly in the possession of the opposing counsel or party shall be made outside the hearing of jurors;

(4) Motions: Motions for judgments on the pleadings, to exclude evidence, directed verdict, and mistrial shall be made and argued outside the hearing of the jurors. If the ruling affects the issues to be tried by the jury, the court, after consulting with counsel, shall advise the jurors.

Immediately upon granting a motion to strike any evidence or arguments to the jury, the court shall instruct the jury to disregard the matter stricken; and

(5) Sensitive Areas of Inquiry: Areas of inquiry reasonably anticipated to be inflammatory, highly prejudicial, or inadmissible, shall be brought to the attention of opposing counsel and the court outside the hearing of jurors before inquiry. A question of a witness shall be framed to avoid the suggestion of any inadmissible matter.

(i) Questioning by Judge. The judge shall not examine a witness until the parties have completed their questions of such witness and then only for the purpose of clarifying the evidence. When the judge finishes questioning, all parties shall have the opportunity to examine the matters touched upon by the judge. If a lawyer wants to object to a question posed by the court, he or she shall make an objection on the record outside the presence of the jury. The lawyer shall make a "motion to strike" and ask for a curative instruction.

(j) Advice of Court as Self-Incrimination. Whenever there is a likelihood of self-incrimination by a witness, the court shall advise the witness outside the hearing of the jurors of the privilege against self-incrimination.

(k) Policy Against Indication as to Testimony. Persons in the courtroom shall not indicate by facial expression, shaking of the head, gesturing, shouts or other conduct disagreement or approval of testimony or other evidence being given, and counsel shall so instruct parties they represent, witnesses they call, and persons accompanying them.

(l) Policy on Approaching the Bench. Except with approval of the court, persons in the courtroom shall not traverse the area between the bench and counsel table, and counsel shall so instruct parties they represent, witnesses they call, and persons accompanying them.

(m) Use of Depositions and Interrogatories. A party, before reading into evidence from depositions or interrogatories, shall cite page and line numbers to be read, and pause briefly for review by opposing counsel and the court and for any objections. The court may require designation of portions of depositions to be used at trial in a pretrial order.

Cross Reference: Minn. R. Civ. P. 43.

Task Force Comment - 1991 Adoption

Subsections (a)-(d) are derived from paragraphs 48-53 of the existing Trialbook, in order.

Subsection (e) is derived from Rule 27(d) of the Code of Rules.

Subsection (f) is derived from paragraph 59 of the existing Trialbook.

Subsection (g) is derived from paragraph 58 of the existing Trialbook.

Subsection (h) is derived from paragraph 18 of the existing Trialbook.

Subsections (i)-(l) are derived from paragraphs 62-65 of the existing Trialbook, in order.

Subsection (m) is derived from existing Trialbook, paragraph 22.