

2019**Car Crash Seminar**

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**CROSS EXAMINATION:
A QUESTION OF CONTROL****Mike Davis**

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Control is the key to effective cross-examination. Preparation is the first step in taking control. Effective cross-examination begins with learning about the witness and the subject matter, fully exploring the witness' testimony in deposition, and knowing the applicable law. With this framework, you can develop a cross-examination strategy.

PREPARATION

Who Is The Witness

How you prepare and what you do to prepare will depend upon the witness. Is the witness a fact witness or an expert witness? A witness who is not an expert witness may testify only if the witness has personal knowledge of the subject matter. Tex. R. Evid. 602.

Consequently, areas of inquiry of a fact witness might include:

- The witness' opportunity to observe or know the facts.
- The witness' ability to recall the facts.
- Whether the witness has a bias.
- Prior inconsistent statements by the witness.

Areas of inquiry for an expert witness could include:

- The witness' qualifications to testify on the subject matter.
- The witness' methodology in forming opinions.
- Whether the witness has sufficient data to form opinions.
- What the witness' opinions are.

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"From Deposition to Cross-Examination: Finding It, Organizing It, and Using It"