

**PRESENTED AT**

16<sup>th</sup> Annual Advanced Texas Administrative Law Seminar

September 9-10, 2021  
Live Webcast

**Effective Cross Examination at SOAH:  
I Fought the Law . . . and the Law Won**

**Susan Dillon Ayers**

Sue Ayers  
Jackson Walker LLP  
100 Congress Ave., Ste. 1100  
Austin, Texas 78701  
(512) 236-2336  
[sayers@jw.com](mailto:sayers@jw.com)

I taught teenagers in alternative schools for 9 years. My students were known as “at risk.” That usually meant they were smart enough, but a variety of social and emotional obstacles (they were teen parents, they had moved frequently, or experienced trauma) put them behind grade level, and made it statistically likely they would fail to graduate. While I was pressed into service from time to time to do other things – teach 7<sup>th</sup> grade or World History, for example – 9<sup>th</sup> grade English was my sweet spot and I did that for most of my teaching career. Given the alternative school setting, my age, and my personality, I ended up equal parts English teacher, foster mom, counselor, sex education teacher (no matter what the curriculum or public policy, kids will always have questions), food pantry, and investigator. One of my more memorable days in the classroom started routinely. During first period there was a knock at the door. I answered to find a mom I knew well, with her daughter beside her. Mom told me: “I got a call at work telling me she was absent from your class. I left my job (at a grocery store bakery) to go home and found her in bed with her boyfriend.” I hugged the mom, said “so glad she’s here now” and resumed the lesson with her girl in attendance.

I’ve been asked over the years whether it’s scary to address judges, juries, hostile witnesses, or hostile lawyers. I usually say that even at “this” age with “these many” years’ experience, I still feel the gravity and the privilege of my role and responsibility as a lawyer. Every time I’m going to have a speaking role, my knees are usually knocking a bit – until I start talking. When I get to engage with the information and my audience, my nerves dissipate. In my civil litigation practice, I have yet to meet the adult who can compete with a teenager for either unselfconscious, pointed, and brutal honesty (“that is a TERRIBLE haircut, Miss”) or evasiveness. If you survive that first year of teaching, and come back for more, you must have learned to leave your ego at the door,

and do a damn good cross examination whenever you need to get to the best version of the truth possible. I found my kiddos rarely lied, but they did not give up the goods unless they were asked the exact right question.

These tips are all based on things I learned a teacher, but have modified over the years to fit my law practice. For the last 10 years, many of my clients have been condemning authorities, so many of my specific examples are from eminent domain cases. But the subject matter is irrelevant.

Ultimately, the goal of every cross examination is for me to be able to tell some part of my case, using the witness as the vehicle to do so. When it's "perfect," the cross examination is really like a soliloquy, punctuated by another person saying "yes" or "that's right" every so often. Each of the following steps is designed to get me from "I don't know anything (or much) about this person, case, application" to that goal – me "testifying" knowledgeably and confidently through "Mr./Ms. Adverse Witness." Sometimes these steps have to be modified depending on the resources available – primarily, how much time I have until the deadline/hearing date/trial, and any budgetary constraints.

**In my initial conversations with other people – lawyers and staff, the client, witnesses, subject matter experts, and random people I have an inkling may be helpful (often my daughter, whether aged 4 or 17) – I generate a long list of stuff. This is a living document that will grow, and will be cannibalized to create other materials, through the entire life of the matter.**

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First appeared as part of the conference materials for the  
16<sup>th</sup> Annual Advanced Texas Administrative Law Seminar session

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