Surviving Cross-Exam
Managing Risks For Testimony At Depositions & Trial
Presented by Tony M. Sain, Esq.

1. Listen to the Question CAREFULLY

"Do I Understand the Question?"

2. WAIT 3 Seconds

"Do I Know the Answer?"

3. Then, ANSWER the Question Actually Asked

TRUTHFULLY & ECONOMICALLY

PRIVILEGED-CONFIDENTIAL

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Skipping Shrapnel

- Each Word Of Your Answer Is **A Bullet**
  - You're Giving Opposing Counsel That Can Ricochet & Hurt You.
  - Why Give Them More Ammo Against You?

In Civil Litigation…

WORDS ARE WEAPONS.

Don't Give Opposing C... Than Are Needed.

Possible Answers to Questions on Cross

Yes	**No**	**I Don't Recall** (I.D.R.)
I Don't Know (I.D.K.)	**I Don't Understand the Question** (I.D.U.Q.)	**Substantive Answer** • Don't Hesitate to Give Substantive Answer to a Proper Question

But… AVOID Evasive Answers (Question Types)

WHO

WHAT

WHERE

WHEN

HOW

WHY
- (Why Is Always A List Question)

Match Answer To Question Or Draw Objection (Non-Responsive, Evasive)

Golden Goals Are Rare, But…

Golden Goal Opportunities Usually Involve Spending a **Few More Word-Bullets** To

Debunk Π's Themes & Theory on Cross	Develop Δs' Themes & Theory on Cross	Educate the Jury-Court On An **Important Issue**

RECAP: Trap Questions

No! It is a trick question

Presumed Lie
Best Solution:
Fix & Answer

Compound
Best Solution:
Fix & Answer

Vague; Scope Shell Switcheroo
Best Solution:
Fix & Answer

Misleading
Best Solution:
Resist The Trance

Dead Horse Carousel
Best Solution:
Give Same Answer (But Watch For Different Subject-Matter Question)

Cutthroat Buddy; The Bully (Angry Attorney); & Cunning Chaos
Best Solution:
Ignore Tone/Distractions, Stand Ground on Truth

Record Hypnosis
Best Solution:
Know Record OR Pivot to Known Facts

Former Statement Swamp
Best Solution:
Fix Statement &/Or Avoid "Complete" Pin

List Question
Best Solution:
Complete List OR State List Incomplete

All & Every
Best Solution:
Avoid Sweeping Overstatements

No But Yes
Best Solution:
Additional Words To Clarify Answer

RECAP: Common Objections to Trap Questions

Presumed Lie
Argumentative, Misstates Testimony/Evidence, Assumes Facts

Compound
Compound

Vague; Scope Shell Switcheroo
Vague, Assumes Facts

Misleading
Argumentative, Misstates Testimony/Evidence

Dead Horse Carousel
Asked & Answered, Cumulative, Harassing

Cutthroat Buddy; The Bully (Angry Attorney); & Cunning Chaos
Argumentative, Badgering, Discovery-Phase Relevance

Record Hypnosis
Document Speaks For Itself, Misstates Evidence

Former Statement Swamp
Argumentative, Assumes Facts, Doc. Speaks…

List Question
Witness Was Not Done With Answer/Speaking

All & Every
Overbroad, Vague As To Time

No But Yes
Vague, Unintelligible

The Three C's of Telling a Compelling Story…

C Credibility

C **Clarity** of Details

C Connection