**Impeachment by Deposition or Prior Statement**

|  |  |
| --- | --- |
| **B. Example**: | **On direct examination, Blair Nichols states that he (insert testimony)** |
| **STEP 1**: | **COMMIT** the witness to the most current statement; what the attorney believes is not true |
| **Q:** | **Mr. Nichols, on direct examination you said that (insert testimony)** |
| **A:** | **That’s right.** |
| **STEP 2:** | **CREDIT** the prior statement |
|  | **Mr. Nichols you gave a deposition in this case**  **That was on May 13, 2021**  **You came to my office**  **I was there**  **Your attorney was there**  **You took an oath before giving your deposition**  **An oath to tell the truth**  **Just like the oath you took today**  **A court reporter was there**  **The reporter wrote down all of your answers**  **You promised your answers would be full and complete**  **After your deposition you had a chance to review the deposition for its accuracy**  **You made no corrections**  **You signed the deposition indicating that your deposition was accurate** |

**STEP 3: CONFRONT** witness with the deposition

* Announce to the opposing counsel what page and line you are going refer to
* Ask the judge for permission to approach the witness
* Hand the deposition to the witness
* **Mr. Rosenburg, I am handing you your deposition**
* **That is your signature on page 22**
* **Please turn to page line**
* **Please follow silently as I read aloud.**
* **You were asked this question and gave this answer**
* Read the question and witness' answer verbatim

**Q: (insert question)**

**A: (insert answer)**

**STEP 4: CONCLUDE**

* **Mr. Nichols, I read that correctly.**
* **Optional: Mr. Nichols, until today your sworn testimony has been that (repeat information form the deposition).**