

A Template For Telling The Story At Trial: Who To Call, What To Introduce

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1. Write out your theory of defense paragraph
2. Create a separate chapter for every point in your theory
3. Under each chapter, list the facts you need to prove to establish that chapter
4. Under each fact, list the witnesses who can testify to that fact
5. Under each witness make a list of:
 - a. The source of the witness's information
 - b. The anecdotes or personal observations the witness can testify to that establish that fact or facts

The following is an example of how to do this in a hypothetical child sex case:

(1) Theory of Defense

Bob was granted a divorce and full custody of his daughter on the grounds of his wife's adultery and on the grounds that he had been the sole caregiver for the child during the marriage. The enraged and vindictive ex-wife swore she would "do anything" to get her child back. Using threats, lies, and promises, she tricked their seven year old daughter into falsely accusing Bob of sexually touching her. When questioned by teachers, police, and social workers, the girl changed her story five times and ultimately admitted that she made it all up to please her mother.

(2) Chapter One: The Divorce Decree – Adultery And Full Custody

(3) Facts Needed To Establish The Divorce Decree:

- a. The divorce is final
- b. It was on grounds of her adultery

- c. She contested it
- d. Bob won
- e. Bob was given full custody

(4) Witnesses Who Can Establish These Facts

- a. The divorce is final
 - I. A certified copy of the decree
 - ii. Bob's testimony
- b. It was on grounds of her adultery
 - I. A certified copy of the decree
 - ii. Bob's testimony
 - iii. The testimony of anyone else who knew of the adultery
 - iv. Cross-examination of the wife
- c. Bob was the sole caregiver for the child during the marriage
 - I. Bob's testimony
 - ii. The testimony of any family members, neighbors, etc., who knew the family and had seen Bob taking care of the child or had seen the wife neglecting the child.
 - iii. Any social workers, etc., who visited and evaluated the family during the divorce proceedings
 - iv. Cross-examination of the wife
- c. She contested it
 - I. A certified copy of the decree
 - ii. Bob's testimony
 - iii. Cross-examination of the wife
- d. Bob won
 - I. A certified copy of the decree
 - ii. Bob's testimony
 - iii. Cross-examination of the wife
- e. Bob was given full custody
 - I. A certified copy of the decree
 - ii. Bob's testimony
 - iii. Cross-examination of the wife

(5) Source of the Witnesses' Information

- a. The certified copy of the decree – self authenticating

- b. Bob’s testimony – his personal observations
- c. Neighbors, relatives, teachers, social workers, etc. – personal observations, official visits.

(5a) Artifacts, Anecdotes, etc of the Witnesses

- a. Photos
 - b. Recordings of interviews
 - c. Personal anecdotes of the witnesses about interactions they have seen between Bob, his daughter and his wife
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(2A) Chapter Two: The Wife Swore She “Would Do Anything” To Get Her Child Back

(3A) Facts Needed To Establish This:

- a. She said it
- b. The date, time and place she said it

(4A) Witnesses Needed To Establish This:

Etc. . . .