

The logo for Bradley, featuring the word "Bradley" in a bold, black, sans-serif font. A red horizontal line is positioned directly beneath the letters "a", "d", and "l".

Bradley

The text "IADC TRIAL ACADEMY 2019" is centered on the page in a large, red, sans-serif font. The background of the slide is a faded, grayscale photograph of three people in a meeting setting, with a man on the left and two women on the right, all looking at documents on a table.

IADC TRIAL ACADEMY 2019

Direct Examination

Kim Bessiere Martin

DIRECT EXAMINATION OF CLIENT

- Very important part of the case
- Allows jury to hear directly from client
- Often overlooked part of prep
- Not as much “fun” as cross



DIRECT EXAMINATION OF CLIENT

- **Goals of Direct Exam – Tell the story**
 - BUT, must present facts needed to support claims or defenses
 - Satisfy burden of proof
 - Background information - make more credible or compelling
 - Lay a foundation for other evidence
 - Admit exhibits

DIRECT EXAMINATION OF CLIENT

- **General Considerations**
 - Witness should be storyteller and focus – not the lawyer
 - Use short, open-ended questions; be conversational
 - Usually best to organize in chronological order of the story

DIRECT EXAMINATION OF CLIENT

- **General Considerations**
 - Convey confidence in client's case
 - Use emotion where appropriate
 - Watch the judge and jury for visible reactions/attentiveness
 - Try not to turn back on a witness or block jury's view

DIRECT EXAMINATION OF CLIENT

- **Organization - Background Questions**
 - Starting point for the direct
 - Puts the witness at ease
 - Allows the jury to learn about and relate to the witness
 - Be focused and targeted in background questioning

DIRECT EXAMINATION OF CLIENT

- **Organization – Substantive Questions**
 - Organize substantive questions to bring out best telling of story/themes
 - Be open about weaknesses but pick times to address strategically
 - Do not invite over-statement of evidence
 - Be careful not to open the door

Preparing for Cross

- Tell the truth
- Don't argue; stay calm; Avoid absolutes – “never” or “always”
- Short, direct answers to questions
- Prepare on anticipated subjects of cross
- Ask for clarification and don't guess

Re-Direct Examination

- Opportunity to clarify testimony made confusing on cross
- Affords the opportunity to rehabilitate impeached testimony
- Permitted to respond to new matters brought out during the cross-examination
- Re-direct is permitted at the judge's discretion