

## IMPEACHING A WITNESS

**These instructions are for impeaching a witness with his or her previously-sworn statement *after* the witness has made a statement that is inconsistent with or contradicts something in the previously-sworn statement.**

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1. **REPEAT AND CONFIRM THE INCONSISTENT STATEMENT:** “So it is your testimony that \_\_\_\_\_?”
2. **ASK WITNESS ABOUT PREVIOUS STATEMENTS:**  
“Do you remember giving a witness statement prior to trial?”  
“You swore that you told the truth in that witness statement, correct?”  
[If the witness answers either of these “no,” move on to next step anyway]
3. **ASK WITNESS TO IDENTIFY WITNESS STATEMENT:**  
“Your honor, may I approach the witness?” [show opposing counsel the statement]  
“You recognize this document as the witness statement you gave on \_\_\_\_\_, correct?”  
“This is your signature isn’t it?”  
“And it says it was sworn before a notary public?”  
“And this was on [date]?”
4. **READ THE INCONSISTENT STATEMENT:**  
“And in this witness statement, you said \_\_\_\_\_, isn’t that right?”  
Take your time reading the statement and emphasize the most important words.
5. **DO NOT GIVE WITNESS A CHANCE TO EXPLAIN:** End the questioning; resist the temptation to ask “when were you lying?” or “that’s not your story now?” or similar statements. You may use these types of arguments in closing statement.