CONTINUING LEGAL EDUCATION

Objectives, Obstacles, and Tactics in Cross-Examination



What Trial Lawyers Can Learn from Human Behavior

Michael DeBlis III, Esq.

Trial Advocacy | Criminal Defense | CLE Faculty



The Traditional Model of Cross-Examination

Warfare, Aggression, and Its Limits

Michael DeBlis III, Esq.

The Warfare Mindset

Most trial attorneys were taught that cross-examination is warfare.

- **Attack the witness.**
- **Control the witness.**
- **Corner the witness.**
- **Expose the witness.**
- **Destroy the witness.**

The Result?

- The witness becomes entrenched.
- The jury becomes uncomfortable.
- The attorney becomes visibly frustrated.
- The examination loses its strategic purpose.

What Is Often Missing: Human Behavior

- Human beings do not pursue objectives through aggression alone.
- In everyday life, people instinctively use a vast array of tactics when pursuing what they want from another person.
- A teenager trying to extend curfew does not rely exclusively on confrontation. They charm, bargain, guilt-trip, negotiate, reason, withdraw emotionally, promise responsibility, and test multiple emotional pathways until one works.
- A spouse seeking agreement about a vacation may use humor, logic, affection, nostalgia, reassurance, timing, or compromise.
- A child trying to avoid bedtime cycles through fear, sweetness, helplessness, distraction, negotiation, and exhaustion warfare with astonishing sophistication.

When one tactic fails, you change tactics — not objectives.

— Michael DeBlis III, Esq.



The Framework

Objective · Obstacle · Tactic

Michael DeBlis III, Esq.

The Three-Part Framework

At its core, every human interaction can be reduced to three elements:

OBJECTIVE

What does Person A want from Person B?

OBSTACLE

Why is Person B resisting?

TACTIC

What strategy is Person A employing to overcome that resistance?

The Framework Applied to Cross-Examination

- Because every cross-examination is fundamentally a behavioral exercise.
- The witness wants something.
- The lawyer wants something.
- The jury is observing the struggle between the two.
- The attorney who understands behavioral dynamics possesses a significant advantage over the attorney who relies exclusively on force.



The Hidden Weakness of the 'Aggressive Cross' Model

Why Force Often Backfires

Michael DeBlis III, Esq.

Aggressive Cross: Tactics vs. Predictable Consequences

What Lawyers Do

- Cutting off answers
- Raising their voice
- Repeating questions aggressively
- Belittling explanations
- Showing visible irritation
- Attempting domination through sheer force

Predictable Responses

- Resistance
- Entrenchment
- Evasiveness
- Hostility
- Sympathy from the jury toward the witness

The Critical Distinction

- Aggression is only one tactic — and often not even the best tactic.
- Cross-examination is not about defeating the witness emotionally.
- It is about obtaining testimony — or making points — that advance your theory of the case.
- Those are not always the same thing.
- The lawyer becomes emotionally invested in 'winning' the exchange rather than achieving the actual objective of the examination.



The Better Question

What Do I Need This Witness to Say?

The Simplifying Rule

What would Person A need to hear from Person B in order for Person A to be satisfied?

That is the objective.

Once the attorney identifies the precise answer needed, the purpose of every question becomes clear.
The examination gains direction. The objective becomes a lighthouse guiding the examination safely to shore.

Without that lighthouse, lawyers drift into:

- Unnecessary arguments
- Performative hostility
- Repetitive questioning
- Ego-driven combat

With clarity of objective:

Cross-examination becomes behavioral strategy.



Tactical Flexibility on Cross-Examination

Multiple Paths to the Same Objective

Michael DeBlis III, Esq.

Example Objective: Establishing Lack of Clear Sight

"The witness never actually saw my client strike the first blow."

Direct Precision

"You never actually saw who struck first, correct?"

Incremental Concession

"You saw movement… but not the initial contact itself?"

Soft Confirmation

"It happened very quickly?"

Shared Humanity

"You're doing your best to remember events that happened very fast?"

Environmental Framing

"There were several people blocking your view?"

Contrast

"But earlier you testified you looked away briefly?"

Memory Limitation

"You were frightened in that moment?"

Exhaustion Through Specificity

"You can't say whether my client's hands were open or closed, can you?"



Adolescents Understand Cross-Examination Better Than Many Lawyers

Tactical Sophistication in Everyday Life

Michael DeBlis III, Esq.

The Teenager's Tactical Arsenal

A teenager attempting to persuade a parent to extend curfew instinctively understands:

- Timing
- Emotional calibration
- Pressure
- Bargaining
- Strategic vulnerability
- Persistence
- Retreat
- Reframing
- Escalation management

The teenager knows: *If charm fails, try logic. If logic fails, try guilt. If guilt fails, try negotiation. If negotiation fails, withdraw emotionally and revisit later.*

The objective remains constant. Only the tactics change.

Trial lawyers should think exactly the same way during cross-examination.

— Michael DeBlis III, Esq.



Why Lawyers Lose Their Way on Cross

Questions Without Purpose

Michael DeBlis III, Esq.

Why Lawyers Ask the Wrong Questions

- Many lawyers do not actually know why they are asking a question.
- Questions are often asked because they sound clever, appeared in a transcript, 'feel important,' or because the lawyer wants to expose the witness generally.
- Every question on cross should have a defined purpose.
- What objective does this serve?
- What answer do I need?
- Why does this matter?
- How does this advance my theory?
- What tactic am I currently employing?
- Without clarity of objective, cross-examination becomes improvisational combat.
- With clarity of objective, cross-examination becomes behavioral strategy.



The Jury Is Watching the Lawyer Too

Temperament, Judgment, and Persuasion

Michael DeBlis III, Esq.

What Jurors Perceive

Aggressive Lawyer

- Jurors are not simply evaluating the witness — they are evaluating the lawyer's judgment, temperament, fairness, and control.
- When a lawyer becomes visibly angry because a witness resists, jurors perceive insecurity.
- Jurors may see loss of control.
- Jurors may see bullying.
- Jurors may see desperation.

Tactically Flexible Lawyer

- Tactical flexibility communicates confidence.
- The calm lawyer who can pivot tactics fluidly appears composed, intelligent, disciplined, and persuasive.
- Sometimes the most devastating cross-examination is not the loudest one — it is the quiet one.
- The patient one where the witness unknowingly walks into the attorney's objective.



Cross-Examination Is Human Behavior Under Pressure

A Behavioral Science Approach to Trial Advocacy

Michael DeBlis III, Esq.

The Core Truth About Cross-Examination

- At its core, cross-examination is not really about questions.
- It is about objectives pursued through tactics in the face of resistance.
- Which is exactly how all human beings operate every day.
- The lawyer's job is not merely to attack.
- The lawyer's job is to strategically guide the witness toward testimony that advances the lawyer's theory of the case.
- And that can only happen if the attorney always knows: what they want, why they want it, and which tactic is best suited to obtaining it.
- Once attorneys begin thinking this way, cross-examination stops feeling like combat and starts feeling like controlled navigation.
- And that is where true persuasion begins.



Real-World Examples

Objective · Obstacle · Tactics in Action

Michael DeBlis III, Esq.

People pursue objectives constantly in everyday life, often without consciously realizing how strategic they are being.

What makes this fascinating from an acting, psychology, negotiation, or trial-lawyer perspective is that people rarely pursue objectives in a straight line. Instead, they instinctively shift tactics moment to moment depending on resistance, power dynamics, emotion, and stakes.

Adolescents are especially sophisticated because they are emotionally adaptive, highly observant, and relentlessly goal-oriented when they want something.

The following examples show: the person's objective, the obstacle, and the tactics they deploy to overcome resistance.

1. Teenager Wants Permission to Go to a Party
2. Child Wants a Toy at the Store
3. Husband Wants Wife to Agree to Vacation Plans
4. Employee Wants a Raise
5. Prosecutor Examining a Witness
6. Adolescent Trying to Extend Curfew
7. Romantic Pursuit on a First Date
8. Small Child Avoiding Bedtime
9. Defense Attorney Cross-Examining a Witness
10. Elderly Parent Trying to Get Adult Child to Visit More Often



Example 1

Teenager Wants Permission to Go to a Party

OBJECTIVE	OBSTACLE	TACTICS EMPLOYED
Get parent to say yes.	Parent distrusts the environment.	• Charm: 'You're seriously the coolest parent compared to everyone else's.' • Minimization: 'It's not even really a party. Just a few people hanging out.' • Comparative Pressure: 'Everyone else is allowed to go.' • Strategic Responsibility: 'I already finished my homework.' • Future Bargaining: 'I'll clean the garage tomorrow if you let me go.' • Guilt: 'You never trust me.' • Persistence Through Attrition: Keeps revisiting the subject over hours or days. • Alliance Building: Gets another parent or sibling to advocate for them. • Emotional Withdrawal: Sulks to create discomfort and induce capitulation.

Example 2

Child Wants a Toy at the Store

OBJECTIVE	OBSTACLE	TACTICS EMPLOYED
Get toy purchased immediately.	Parent says no.	• Seduction Through Enthusiasm: 'Look how cool this is!' • Public Pressure: Asks loudly in front of other shoppers. • Negotiation: 'Can I use my allowance for half?' • Logic: 'You said I could get something if I behaved.' • Emotional Escalation: Whining → crying → tantrum. • Time Pressure: Uses checkout line urgency to force quick decision-making. • Incremental Reduction: If denied large toy — 'Okay… can I at least get candy?'

Example 3

Husband Wants Wife to Agree to Vacation Plans

OBJECTIVE	OBSTACLE	TACTICS EMPLOYED
Convince spouse to take his preferred trip.	Cost concerns.	• Vision Casting: 'Imagine sitting on the beach with no stress.' • Data/Reason: 'Flights are cheaper this month.' • Emotional Appeal: 'We really need time together.' • Humor: Uses playfulness to lower resistance. • Reframing: Frames vacation as investment in relationship. • Selective Sacrifice: 'We can skip gifts this Christmas.' • Timing: Raises subject after pleasant evening or intimacy.

Example 4

Employee Wants a Raise

OBJECTIVE	OBSTACLE	TACTICS EMPLOYED
Increase compensation.	Employer budget concerns.	• Evidence Presentation: Lists measurable accomplishments. • Loyalty Signaling: 'I really love being here.' • Scarcity Value: Subtly signals outside interest. • Calm Confidence: Projects professionalism rather than desperation. • Future Value Framing: 'I'd like to continue growing here long-term.' • Reciprocity Trigger: Reminds employer of sacrifices made. • Silence: Lets uncomfortable pauses pressure employer to fill space.

Example 5

Prosecutor Examining a Witness

OBJECTIVE	OBSTACLE	TACTICS EMPLOYED
Get jury to trust witness and accept narrative.	Witness credibility vulnerabilities.	• Pacing: Starts with safe, non-threatening questions. • Humanization: Draws out relatable details. • Repetition: Repeats key facts with slightly different wording. • Emotional Amplification: Slows down around emotionally powerful testimony. • Control: Uses tight leading structure on cross. • Isolation: Cuts off explanatory escape routes. • Contrast: Compares defendant's behavior to ordinary conduct.

Example 6

Adolescent Trying to Extend Curfew

OBJECTIVE	OBSTACLE	TACTICS EMPLOYED
Stay out later.	Parental fear and authority.	• Incrementalism: Starts small — 'Can I stay out 15 more minutes?' — then expands. • Manufactured Maturity: Speaks unusually responsibly. • Peer Normalization: 'Jake's parents let him stay out until midnight.' • Safety Framing: 'I'll share my location.' • Tactical Vulnerability: 'You treating me like a child makes me feel bad.' • Persistence Cycling: Returns after emotions cool down.

Example 7

Romantic Pursuit on a First Date

OBJECTIVE	OBSTACLE	TACTICS EMPLOYED
Create attraction and emotional connection.	Stranger anxiety and uncertainty.	• Mirroring: Matching posture, tone, pacing. • Humor: Creates safety and chemistry. • Selective Vulnerability: Shares personal story to invite intimacy. • Curiosity: Asks emotionally evocative questions. • Status Signaling: Subtle display of competence or desirability. • Scarcity: Avoids seeming overly available. • Attentive Listening: Makes other person feel uniquely interesting.

Example 8

Small Child Avoiding Bedtime

OBJECTIVE	OBSTACLE	TACTICS EMPLOYED
Delay sleep indefinitely.	Parent enforcing bedtime.	• Need Creation: 'I'm thirsty.' • Emotional Dependency: 'Can you stay with me?' • Fear Appeal: 'I heard a noise.' • Technical Compliance: Gets into bed while continuing conversation. • Exhaustion Warfare: Relies on parent eventually giving up. • Innocence Performance: Acts unusually sweet and vulnerable. • Note: Children rapidly abandon ineffective tactics and test new ones.

Example 9

Defense Attorney Cross-Examining a Witness

OBJECTIVE	OBSTACLE	TACTICS EMPLOYED
Undermine certainty or credibility.	Witness confidence.	• Constriction: Limits witness to yes/no answers. • Impeachment: Highlights prior inconsistency. • Tempo Manipulation: Speeds up witness to induce mistakes. • Precision Attack: Focuses on tiny details. • Psychological Destabilization: Uses calm skepticism. • Strategic Politeness: Avoids appearing aggressive before jury. • Narrative Fragmentation: Breaks coherent story into disconnected pieces.

Example 10

Elderly Parent Trying to Get Adult Child to Visit More Often

OBJECTIVE	OBSTACLE	TACTICS EMPLOYED
Increase connection and attention.	Busy adult child.	• Nostalgia: 'Remember when we used to…' • Mortality Reminder: 'I'm not getting any younger.' • Guilt: 'I guess everyone's too busy now.' • Direct Vulnerability: 'I miss you.' • Practical Hooks: 'Can you help me with something?' • Emotional Reward: Makes visits feel deeply appreciated.



Important Acting Insight

How Tactical Shifts Create Believable Human Behavior

Michael DeBlis III, Esq.

In Real Life, People Rarely Play a Single Tactic

- In real life, people almost never play a single tactic continuously.
- Instead, they pursue one objective, encounter resistance, switch tactics, escalate, retreat, regroup, manipulate tone, alter emotional temperature, and constantly reassess power.
- That is exactly what creates believable dramatic behavior.
- A skilled actor plays: objective, obstacle, stakes, and tactic shifts — not generalized emotion.
- The emotion often emerges naturally from the success or failure of tactics.

Emotion Emerges from Tactic Success or Failure

persuasion fails	→ frustration
guilt fails	→ sadness
charm fails	→ anger
anger fails	→ vulnerability
vulnerability succeeds	→ relief

That dynamic tactical shifting is what makes human behavior feel alive rather than performed.



Training Exercises for Cross-Examination

Developing Tactical Flexibility Under Pressure

Michael DeBlis III, Esq.

The Problem with Scripted Practice

One of the biggest problems lawyers face during cross-examination training is that most practice sessions are too scripted.

The lawyer already knows:

- the answer,
- the impeachment point,
- the inconsistency,
- and the 'correct' sequence of questions.

That skill can absolutely be trained.

The exercises below develop tactical flexibility, emotional control, and objective-driven questioning in real time.

Real cross is:

- The witness resists.
- The judge interrupts.
- The answer changes direction.
- The jury reacts.

"What tactic do I deploy now?"

Exercise 1

The 'Single Objective / Multiple Tactics' Drill

PURPOSE: *Teach lawyers to stop repeating the same tactic when resistance emerges.*

SETUP

- One lawyer plays the witness. One lawyer cross-examines.
- The examining lawyer receives ONE objective only.
- Example: 'Get the witness to admit they never actually saw the defendant's face.'
- The lawyer may NOT argue, impeach, raise their voice, or repeat the exact same phrasing twice.
- Instead, they must pursue the same objective using different tactics.
- Tactical shifts to practice:
- Direct: 'You never saw his face clearly?'
- Softening: 'It happened quickly?'
- Sensory Limitation: 'The lighting was poor?'
- Shared Humanity: 'That must have been frightening.'
- Precision Narrowing: 'You saw a profile — not a full face?'
- Memory Degradation: 'This was over a year ago?'
- Environmental Obstruction: 'Other people were between you and the person?'

WHY IT WORKS

- Lawyers discover aggression is only one tactic.
- Repetition creates stalemate.
- Objectives survive tactical changes.
- This drill teaches adaptability under resistance.

Exercise 2

The 'Recalcitrant Witness' Exercise

PURPOSE: *Train lawyers not to emotionally escalate when witnesses resist.*

SETUP

- The witness is instructed beforehand to evade, over-explain, argue, become sarcastic, or pretend not to understand.
- The lawyer's objective remains narrow and specific.
- The catch: Every time the lawyer becomes visibly frustrated, they lose.

SKILLS DEVELOPED

- Emotional regulation
- Tactical creativity
- Pace control
- Witness management
- Jury-conscious demeanor
- Many lawyers unconsciously mirror the witness's emotional state.
- The best trial lawyers do the opposite: they regulate the room emotionally.

Exercise 3

The 'No Repeating Tactics' Drill

PURPOSE: *Force tactical variety.*

SETUP

- Rule: The lawyer cannot use the same tactic twice in a row.
- If the previous tactic was pressure, the next must be: humor, softening, silence, precision, empathy, or confusion clarification.
- Many lawyers have only 2–3 default settings: aggressive, more aggressive, impeachment.
- This drill expands the attorney's tactical palette.

WHY IT WORKS

- Makes tactical shifting automatic under stress.
- Forces the lawyer to consciously vary approach.
- Breaks the habit of defaulting to force.
- The goal is to make tactical shifting automatic under stress.

Exercise 4

The 'What Answer Do You Need?' Drill

PURPOSE: *Teach objective clarity.*

SETUP

- Before every question, the lawyer must pause and state: 'What answer do I need from this witness?'
- If they cannot answer instantly, they may not ask the question.
- Most bad cross-examination comes from: purposeless questions, curiosity, ego, or wandering.
- This drill creates ruthless intentionality.

WHY IT WORKS

- The lawyer begins asking: Why am I asking this?
- What point does this advance?
- What testimony satisfies the objective?
- This is the 'lighthouse' concept in practice.

Exercise 5

The 'Teenager Tactics' Exercise

PURPOSE: *Teach lawyers that persuasion is fundamentally human behavior.*

SETUP

- Participants roleplay ordinary life scenarios:
- Teenager extending curfew
- Spouse persuading partner
- Employee asking for raise
- Child avoiding bedtime
- Participants must consciously identify: objective, obstacle, tactic, tactical shift, emotional escalation, and emotional retreat.

WHY IT WORKS

- Lawyers suddenly realize: 'I already use tactical flexibility constantly in real life.'
- This removes the artificiality from cross-examination training.
- Cross becomes behavioral navigation, not theatrical aggression.

Exercise 6

The 'Tactical Ladder' Drill

PURPOSE: *Teach escalation sequencing.*

SETUP

- The lawyer must begin with the softest tactic, then progressively escalate only if necessary.
- Example sequence:
- ① Rapport
- ② Clarification
- ③ Narrowing
- ④ Precision
- ⑤ Contradiction
- ⑥ Impeachment
- ⑦ Pressure

WHY IT WORKS

- Many lawyers start at level 10 emotionally — jurors often dislike this immediately.
- Teaches patience, sequencing, and controlled escalation.
- The witness — not the lawyer — should appear unreasonable first.

Exercise 7

The 'Cross Without Questions' Exercise

PURPOSE: *Teach lawyers to identify objectives beneath language.*

SETUP

- The lawyer explains the objective, the witness resistance, and possible tactics — WITHOUT asking actual questions.
- Example: 'My objective is to isolate that the witness never actually observed the initial contact. The obstacle is that the witness wants to appear certain. I would begin by softening confidence before narrowing sensory limitations.'

WHY IT WORKS

- It trains strategic thinking separately from verbal performance.
- Many lawyers jump into phrasing before understanding objectives.
- This reverses the process.
- Builds the habit of objective-first thinking.

Exercise 8

The 'Silence and Pause' Drill

PURPOSE: *Teach lawyers to stop filling silence nervously.*

SETUP

- After every answer, the lawyer must wait three full seconds before asking the next question.
- Most lawyers rush because they are anxious.
- Calm lawyers control tempo.
- Tempo control is tactical control.

WHY IT WORKS

- Silence creates pressure.
- Silence encourages elaboration.
- Silence communicates confidence.
- Silence slows emotional escalation.
- The pause is itself a tactic.

Exercise 9

The 'Witness Emotional Shift' Exercise

PURPOSE: *Teach lawyers to recognize emotional transitions.*

SETUP

- The witness secretly receives instructions to gradually become: angry, fearful, defensive, arrogant, tearful, or exhausted.
- The lawyer must adapt tactics accordingly.
- A tactic that works on arrogance may fail completely against fear.

WHY IT WORKS

- Great cross-examiners read emotional states in real time.
- They do not conduct 'one-speed' examinations.
- Builds the skill of emotional reading under pressure.
- Forces the lawyer to treat each witness as dynamic, not static.

Exercise 10

The 'Objective Under Fire' Drill

PURPOSE: *Train lawyers to maintain objective discipline under chaos.*

SETUP

- While cross-examining, opposing counsel interrupts, objections occur, the judge questions the lawyer, the witness evades, and jurors visibly react.
- The lawyer's task: Never lose sight of the core objective.

WHY IT WORKS

- Trains mental discipline and focus under pressure.
- Simulates the chaotic reality of actual trial.
- Reinforces the principle that objectives are fixed — tactics are fluid.
- Separates composed lawyers from reactive ones.

The Most Important Lesson

The central lesson underlying all these exercises is this:

Cross-examination is not question memorization.

It is tactical adaptation in pursuit of a clear objective.

The lawyer who knows:

- exactly what they need,
- exactly why they need it,
- and how to pivot tactics fluidly —

will almost always outperform the lawyer who relies exclusively on force.

Because witnesses resist pressure.

But human beings respond to strategy.

OBJECTIVE. OBSTACLE. TACTIC.

THE BEHAVIORAL BLUEPRINT FOR POWERFUL CROSS-EXAMINATION

HOW PEOPLE PURSUE WHAT THEY WANT

EVERYDAY PEOPLE use many tactics to get what they want.

WHEN ONE TACTIC FAILS, THEY CHANGE TACTICS—NOT OBJECTIVES.

THE OBJECTIVE REMAINS CONSTANT. THE TACTIC ADAPTS.

UNDERSTAND HUMAN BEHAVIOR. GAIN THE ADVANTAGE.



People don't respond to pressure.
They respond to ***strategy.***



THE FRAMEWORK

OBJECTIVE
What do you need the witness to say?

OBSTACLE
Why is the witness resisting?

TACTIC
What strategy will overcome the resistance?

THE RULE

> *"What would you need to hear from the witness in order to be satisfied?"*

THAT IS YOUR OBJECTIVE.
LET IT GUIDE EVERY QUESTION.

THE OLD WAY



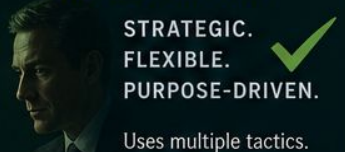
AGGRESSIVE.
HOSTILE.
BELITTLING.

Creates resistance.

A LARGER PALETTE OF TACTICS. GREATER STRATEGIC ADVANTAGE.

DIRECT	SOFTEN	REASON	CLARIFY	CONTRAST	IMPEACH	PRESSURE	PAUSE	PERSIST
Get straight	Build rapport.	Appeal to logic	Narrow the	Highlight	Challenge	Increase	Silence can	Stay committed

THE BETTER WAY



STRATEGIC.
FLEXIBLE.
PURPOSE-DRIVEN.

Uses multiple tactics.



Key Takeaways

- Every cross-examination is a behavioral exercise — know your objective.
- Aggression is one tactic, not the only tactic.
- When one tactic fails, change tactics — not objectives.
- The jury evaluates the lawyer's temperament and judgment.
- Tactical flexibility communicates confidence and intelligence.