



Cross-examination Preparation #4

Cross-examinations - Preparation #4

For this demonstration, we will revisit the cross-examination of Mr. Minchella from the questions outlined in Episode Preparation #3.

Here is the outline:

HL: I will now ask you about serving Mrs. Donoghue her Scotsman's Float. First, let's see what the order consisted of. [*Note: don't ask 'what she ordered', as this is contentious.*]

Q1: A Scotsman's Float consists of both ice cream and ginger beer, right?

Yes.

Q2: They came separately, right? Yes.

Q3: The ice cream came in a dish, right? Yes.

Q4: And the ginger beer in a bottle, right? Yes.

Q5: An opaque bottle, right? Yes.

Q6: Meaning that one can't see what's inside the bottle, right? Yes.

QTM: So no one else could either, right?

HL: Now, let's see what you did to serve Mrs. Donoghue.

Q1: You served the ice cream in a dish, right? Yes.

Q2: You placed the dish before Mrs. Donoghue, right? Yes.

Q3: And you opened the ginger beer bottle, right? Yes.

Q4: And poured some of its contents over the ice cream, right? Yes.

Q5: Let's be clear here. You poured the ginger beer over the ice cream, right? Yes.

Q6: Mrs. Donoghue did not touch the bottle as you did so, am I right? Yes.

Q7: And neither did Audrey MacIsaac touch the bottle, am I right? Yes.

Q8: You did not display the bottle to either woman for inspection, am I right? Yes.

Answer you should fear: And that's because there was nothing in the bottle to see. It was just ginger beer, as I said on direct examination. Just ginger beer!

Maybe you could follow up with, "You did not inspect the contents yourself, am I right?" But unless you have a secure answer in the pre-trial record, go there at your peril, Counsellor!

Exercise for subscribers

Continue the Question Outline in the same format as above to cover the Five-and-Out sequences for all these points with Mr. Minchella:

- He did not inspect the contents of the bottle.
- He did not pay close attention to the contents coming from the bottle.
Maybe he was chatting with his customers as he poured?
- May did not pay close attention to how he poured.

For each, what is the QTM? What answer do you most fear?