

Exercise 8

(The fact situation is a tort action arising from a collision. On direct examination, the plaintiff, Mr. Zillman, testified that he was going only 45 miles an hour.)

QUESTION: Mr. Zillman, isn't it true that you testified on direct examination you were going only 45 miles an hour at the time of the accident?

WITNESS: Yes.

QUESTION: Isn't it a fact that on August 3 of this year, you had a conversation with Joan Navin at your house?

WITNESS: Yes.

QUESTION: Isn't it correct that during that conversation, you discussed the accident?

WITNESS: Right.

QUESTION: Isn't it also true that during that conversation, you told her that you were going at least 55 miles an hour?

WITNESS: Yes.

QUESTION: Isn't it a fact that in point of time, that conversation was closer to the accident than your testimony today?

WITNESS: Yes.

QUESTION: Isn't it correct that your memory was fresher then?

WITNESS: Yes.

(This can also be done with a document. It would look like this:)

QUESTION: Mr. Zillman, isn't it true that you testified on direct examination you were going only 45 miles an hour at the time of the accident.

ANSWER: Yes.

QUESTION: Your honor, may this be marked defense exhibit F for identification?

COURT: It will be so marked.

QUESTION: May the record reflect that I am showing the exhibit to the opposing counsel?

COURT: It will so reflect.

QUESTION: Mr. Zillman, I now hand you defense exhibit F for identification. What is it?

WITNESS: It's a letter.

QUESTION: Isn't it true that the letter is in your handwriting?

WITNESS: Yes.

QUESTION: Isn't it a fact that you wrote that letter?

WITNESS: Yes.

QUESTION: Isn't it correct that on August 3 of this year, you wrote that letter at your house?

WITNESS: Yes.

QUESTION: Isn't it a fact that you then sent the letter to Ms. Joan Navin?

WITNESS: Yes.

QUESTION: Let me direct your attention to the third paragraph on page one of the exhibit. Isn't it true that in that paragraph, you wrote that you were going at least 55 miles an hour at the time of the accident?

WITNESS: Yes.

QUESTION: Isn't it true, in point of time, that the letter was closer to the time of the accident than your testimony today?

WITNESS: Yes.

QUESTION: Isn't it a fact that your memory was fresher then?

WITNESS: Yes.