Questioning Tips

* Prep
	+ Tab exhibits
	+ For a complex file, it would probably be useful to have a list of issues that you want to discuss before or after the questioning.
	+ Can give your client paper to write down any questions or points they might have during the other side's questioning, then break to discuss and continue questioning of the other side.
	+ Get paper ready to write down your own client's undertakings.
	+ Highlight items you want to discuss in their disclosure, then just go over each document.
* Planning
	+ General or on Application?
	+ How many days of Questioning
	+ Go over the claims in the Statement of Claims/Defence, Applications
	+ Order
		- Start with non-contentious questions.
		- Then contentious but undisputable facts.
		- Then finally, confrontational Qs.
* Before questioning, can ask if the other side wants to narrow the issues.
* Difficulties
	+ Speak “yes” clearly
	+ "Just off the record..."
	+ Not answering properly? Keep asking the question until you get an answer
		- Can ask the Court reporter to read back
		- Can go off record, advise opposing counsel that questioning could go for days.
	+ If they don't remember:
		- Attack credibility
		- Or try to remove their account of what happened
		- Ask: is there anything you could do to refresh your memory?
	+ Too reserved? Asked open-ended Qs.
		- Or go off record to get counsel to clarify scope of answer, that they can give up non-contentious information.
	+ This will be quicker if you answer without editorializing.
* Undertakings
	+ Can take undertaking under advisement.
* Exhibits
	+ Can mark documents as exhibits, but don't need to, can just refer to the document title, or a number if they've numbered their disclosure documents.
* Questions
	+ Start by confirming that they're the plaintiff/defendant in action #\_\_\_\_\_\_\_\_\_\_.
	+ Always ask leading Qs to get admissions.
		- Short, leading questions which lead up to the admission.
	+ Can ask what their position is, whether they'd be willing to sell x, whether they'd be willing to move into the house again, what their take on an issue is, etc... Although if you ask during questioning then their lawyer probably won't temper their statements... so it's probably only helpful with reasonable clients.
	+ Can show the opposing client the paragraph that you’re referring to.
	+ Redirect
		- “That’s not a **clarification**. My understanding in redirect is that you can’t raise new issues. It’s only to clarify evidence if it’s confusing.”
* Specific types of questions (mainly for family files)
	+ If the answer includes another person's name, get that person's last name.
	+ Can ask whether they receive any other taxable benefits.
	+ Can undertake to request employee file, but probably under advisement...
	+ Can ask whether anyone else has access to the account, or whether it's in joint names with anyone else.
	+ Can get undertaking to provide all account statements since the separation that we don't already have.
	+ Always ask whether there was a document or anything signed.
	+ Confirm that there haven't been any new or removed expenses on budget, or new acquisitions or losses on the asset list. Ask if they continue to pay certain items.
	+ Can ask for undertaking for company credit card.
	+ Can ask for documents which prove a certain state of affairs.
	+ Check to make sure that they don't have any corporate or other business interests.
	+ Check to make sure that they don't have a safety deposit box.
	+ Check to see whether they're holding assets on behalf of anyone else.
	+ Ask whether pension funds could be withdrawn, and what the maximum limit on credit cards is, so that you can figure out a buy-out or way to pay off debt.
	+ Can refer to credit cards by the last numbers.
	+ Ask if there are any custody issues, like schooling, healthcare, religion, etc...
	+ Can ask where each item of property is, whether they still have it, etc...
	+ Controlled finances? Separate bank accounts?
	+ Reached any agreement about introducing new partners? Dating how long?
	+ Do you think that the child should know about this?
	+ Number of rooms in residence. Has the house been child/baby-proofed? Are there locks on chemical drawers?
	+ Does the child’s room have furniture, toy box, decorations on wall, dresser, clothes, crib, bed.
	+ What clothes do they have for the child.
	+ Do they have a car seat? Has it been inspected by the fire department?
	+ Do you know the family doctor? Asked to attend?
	+ Attend a church?
	+ Views on extra-curriculars
	+ Education in which system
* "Subject to the responses to undertakings and any of the documents that I requested you produce, and any positions that you tell me that you object to, subject to a court application if I so decide to bring it and if I am successful, I will conclude my questioning at this time, subject to the questions that arise out of the additional information and documents that you are to provide for me."

Look to green book for more information, especially questioning business reps.