

Establishing a Foundation

- Until an exhibit is actually admitted into evidence, a witness cannot be asked substantive questions about it
- Prior to an exhibit being admitted, witnesses can be asked preliminary questions to establish the foundation to ask the court to admit it
- These preliminary foundation questions include identifying:
 - What the exhibit is
 - When the exhibit was created
 - Who created the exhibit
 - Whether it would be helpful in supporting the witness's testimony (as in the case of an expert witnesses).
- Stipulations between the parties in the Mock Trial material may establish part or all of this foundation – read these stipulations carefully.

Introducing Exhibits

1. **Hand copy of exhibit to opposing counsel while asking permission to approach the bench.** *"I am handing the clerk what has been marked as Exhibit X. I have provided copy to opposing counsel. I request permission to show Exhibit X to witness."*
2. **Show the exhibit to the witness.** *"Can you please identify Exhibit X for the Court?"*
3. **The witness identifies the exhibit.**
4. **Offer the exhibit into evidence.** *"Your Honor, we offer exhibit X into evidence at this time. The authenticity of the exhibit has been stipulated."*
5. **Court, "Is there an objection?" If opposing counsel believes a proper foundation has not been laid, the attorney should be prepared to object at this time.**
6. **Opposing Counsel, "no, your Honor," or "yes, your Honor." If the response is "yes," the objection will be stated on the record. Court, "Is there any response to the objection?"**
7. **Court, "Exhibit X is/not admitted." The attorney may then proceed to ask questions.**
8. **If admitted, Exhibit X becomes a part of the court's official record and, therefore, is handed over to the clerk after the witness is done testifying. Do not leave the exhibit with the witness or take it back to counsel table.**