

ORAL ADVOCACY (5): CITING FACTS

EN: Hi, welcome back. I'm Eric and this is the Quick Guide to Oral Advocacy. In this episode, you'll learn how to cite the facts provided in the moot problem. In particular, we hope you'll master three 'hows' in this episode: how to draw your audience's attention to relevant documents; how to describe those documents; how to cite facts by quoting or paraphrasing the documents.

EN: First, let's take a look at an excerpt where Patrick is citing facts. Pay attention to what he's saying and doing:

PW: If I may direct the Tribunal to pp. 19 – 20 of the moot problem, I will note that the first of these, that is Claimant's Exhibit No. 7, is a letter from the Claimant to the Respondent. At the bottom of this page, the Claimant writes to the Respondent, stating, 'We urge you to continue performing the Distribution Agreement.' In response to this, on p. 20 of the moot problem, the Respondent writes back to the Claimant, stating in the third paragraph, 'We simply cannot sell branded merchandise.' Further to this, they also state, 'We are left with no choice but to terminate the Distribution Agreement.'

EN: When you cite facts, you need first of all to draw the judges' attention to relevant documents so that they know they need to read them with you. This is a bit like a teacher instructing students in a lesson. In the excerpt, Patrick politely invites the judges to refer to the moot problem by using the following structure:

PW: If I may direct the Tribunal to pp. 19 – 20 of the moot problem

EN: Notice the use of the modal verb *may* to form a polite request. More importantly, the clause here includes essential information, that is, the page number. Make sure you give judges plenty of time to turn to the correct pages before you continue. Be really patient! After all, it's a hard job – those judges have a lot of paper to juggle! Look at them in the meantime to show that you are considerate and respectful.

EN: The next thing you need to do is to describe the documents. For example, the kind of document

and who wrote to whom:

PW:

- Claimant's Exhibit No. 7 is a letter from the Claimant to the Respondent.
- On p. 20 of the moot problem, the Respondent writes back to the Claimant

EN: After describing the documents, you can point out specific lines you expect judges to read. Let them know whether you're talking about the top, middle, or bottom of the page. It would be good to specify the paragraph number as well. Again, make sure the judges are with you.

EN: One way of citing facts is quoting directly from the moot problem. Notice that Patrick adds the reporting verb *state* every time before reading the document out:

PW: Further to this, they also state, 'We are left with no choice but to terminate the Distribution Agreement.'

EN: Now, let's take a look at Heather's example. You'll find that it's pretty similar to Patrick's. This time, Heather uses the phrase *and I quote* to show that she is using the exact words of the problem:

HC: On p. 20 of the moot problem, you will find a notice of termination. In this notice, the Respondent wrote, and I quote, 'Due to the current market environment, we also cannot justify the prices that we are paying or the current amounts that we are purchasing.' It is important to note that this reason is entirely unrelated to Bill 275.

EN: Quoting the facts word for word from the moot problem allows a more precise statement of the facts. Alternatively, another strategy is to paraphrase the facts. Let's see how Priyanka cites facts by paraphrasing them:

PM: In order to establish the unforeseeability of the impediment, I draw the Tribunal's attention to first Respondent's Exhibit No. 1 on p. 28 of the record. In Respondent's Exhibit No. 1, the last

paragraph clearly states that analyst estimated that the new Bill would not come into force as the Gondwandan regime regarding tobacco distribution was already so stringent and (on a par) with most of the regimes across the world.

EN: In the excerpt, Priyanka uses her own words to cite the essential facts. One potential advantage of paraphrasing is that it allows you to summarize complicated facts efficiently. Having said that, be very careful that you report the original meaning precisely and avoid creating ambiguity. Make sure the paraphrase is as faithful to the original text as possible.

EN: We hope that this episode gives you better ideas of what you need to pay attention to as you cite facts. To sum up, you can invite your audience to turn to certain pages of the moot problem with expressions such as *If I may direct the Tribunal to pp. 19 – 20 of the moot problem; I draw the Tribunal’s attention to Respondent’s Exhibit No. 1 on p. 28 of the record.* Describe the documents briefly by saying the document name and who wrote to whom: *Claimant’s Exhibit No. 7 is a letter from the Claimant to the Respondent.* As you cite facts, you either quote them by using phrases such as *and I quote* or paraphrase them.

EN: In the next episode, we will talk about how to cite laws. Stay tuned!