

Note: The following checklist is excerpted with permission from Thomas P. Schwaba, “Preparing for Trial,” chapter 1 of Eric L. Andrews et al., [Wisconsin Trial Practice](#) (3d ed. 2013-14). For a thorough analysis of each step, including applicable cross-references, please see the discussions in that chapter.

Checklist: Basics of Witness Preparation

- Personally prepare all witnesses.* While a paralegal or another attorney might prepare questions for the witness, trial counsel should personally meet with and prepare the witness. If the witness and trial counsel have not met before, this may be the only chance before trial that trial counsel will have to see and hear the witness in the context of the case theme and the orderly flow of the evidence.
- Review direct testimony thoroughly.*
- Consider staging a practice cross-examination.* If a particularly vigorous cross-examination of a witness is expected, it is a good idea for trial counsel to have a colleague engage in vigorous cross-examination at the practice session.
- Quell the witness’s anxiety.* Some witnesses may be overly anxious and likely to be intimidated by the environment of the courtroom—the judge, the jury, the court reporter, bailiffs, and clerks. If this is the situation, counsel should consider visiting the empty courtroom with the witness, or having the witness sit in the gallery during an ongoing trial as an observer, so that the witness can become familiar with the courtroom.
- Do not use scripted answers.* Scripted answers, used by a witness in preparation for trial, can be dangerous and should not be used. If the witness memorizes answers to questions posed on direct examination, spontaneity will be lost. On cross-examination, the witness may be more vulnerable.