Witness Preparation and Order of Proof  
Summary of Program  
Los Angeles County Bar Association

1. Witness Preparation

   a. How to prepare your client for deposition – it’s not just their testimony  
      i. Even if the deposition is not being videotaped prepare your client as if it is being videotaped  
      ii. Dress  
      iii. Demeanor  
      iv. Prepare for questions in areas that will be difficult for the client – this will likely depend on the type of case. Some examples: employment, wrongful death, personal injury, contract disputes.  
      v. Preparing the client for all questions that will be asked  
      vi. What happens if the deposition is being videotaped – do you do anything different?  
      vii. Why do you need to spend so much time with a client before their deposition?  
      viii. Give some examples of how things can go wrong in a deposition.  
      ix. Do you ever retain a jury consultant/expert in preparing witnesses for testimony? If so, when and why?

   b. How to prepare your client for testifying at trial  
      i. When do you prepare the client?  
      ii. How long do you spend with the client?  
      iii. What documents do you review with the client?  
      iv. Dress & Demeanor for trial  
      v. Focus on the jury  
      vi. Direct and Cross-Examination – how do you prepare the client for both?  
      vii. How do you rehabilitate the client if things go south during cross-examination?  
      viii. Using depositions at trial – when and why?  
      ix. Do you ever retain a jury consultant/expert in preparing witnesses for trial testimony? If so, when and why?

2. Order of Proof at Trial

   a. Does the nature of the case affect your view on the order that you will present witnesses?  
   b. What do you consider important in deciding which witness to put on first in a trial and how you present the witnesses thereafter?  
   c. What do you do if a witness is not available on a particular day?  
   d. What do you do about the treating physicians who are difficult to get into trial?  
   e. Experts – where you usually schedule them in a trial?  
   f. Clients – when do you usually put your client on during a trial?
g. Does it matter if it is a jury or bench trial?

h. What do you do to get in a witness under Evidence Code section 776?

i. Videotaped depositions – do you ever use videotaped depositions at trial and if so when and why?
   i. What are some best practices in presenting testimony by videotape?
   ii. Remote appearances – have you had witnesses appear remotely and what do you do to make sure that it works seamlessly?
Ms. Nelson is a 1983 graduate of Georgetown University Law School. She received her B.A. degree from Smith College in 1976. She is a Past President of the Los Angeles County Bar Association and a past Chair of the Litigation Section of that association. She is currently serving a three-year term on the Judicial Council of California. She is an emeritus member of the Board of Governors of the Consumer Attorneys of Los Angeles and served three years as a Trustee on the State Bar of California. She previously served a three-year term on the Board of the Association of Business Trial Lawyers.

Following law school, she practiced for several years with the law firm of Morgan, Wenzel & McNicholas in Los Angeles, California. In August 1988, she joined the law firm of Corinblit & Seltzer, a Professional Corporation, where she concentrated her practice in the prosecution of complex business litigation, with a strong emphasis on antitrust and securities class action cases.

In February 1998, Ms. Nelson formed her own law firm and in 2003, Ms. Nelson joined the law firm of Kreindler & Kreindler LLP and, along with Stuart R. Fraenkel, opened their first office in California. In April 2015, Ms. Nelson and Mr. Fraenkel formed the firm of Nelson & Fraenkel LLP where she and her partners handle a broad range of cases including complex class actions, catastrophic injury and wrongful death cases.

Ms. Nelson has lectured on class and class-related litigation issues as well as trial advocacy and evidence issues for the Consumer Attorneys Association of Los Angeles, Consumer Attorneys of California, the American Association of Justice, California’s CEB Program, the Practicing Law Institute and the ABA’s Tort Trial and Insurance Practice Section. She has also presented class action programs for the National Business Institute and Mealey’s and has published articles in the Advocate, the Forum, the Brief and other publications on class actions, evidence, law and motion and other issues.