

## Laying the Foundation for EXHIBITS

### Step I: Provide **CONTEXT** *before* you reference the Exhibit

The objective is, you want everyone in the courtroom (judge, jury, opp. counsel & witness) to know which exhibit is coming *before* you reference it and proceed to Step II. Ask the witness a handful of questions about the exhibit *before* you produce it in court.

- *Before you go to Step II, ask: does the room know what I have in my hand (or not)?*

### Step II: **PRODUCE** the Exhibit

<p><i>If exhibits were marked before trial:</i></p> <ol style="list-style-type: none"> <li>1. I have [Party’s] Exh. 1 for identification.</li> <li>2. Opposing counsel has a copy of . . . <b>OR</b> I’m showing opp. counsel [Party’s] Exh. 1 for identification.</li> <li>3. Your honor, may I approach witness?</li> </ol>	<p><i>If exhibits were <b>not</b> marked before trial:</i></p> <ol style="list-style-type: none"> <li>1. Permission to mark this as [Party’s] [next exhibit/#] for identification.</li> <li>2. I’m showing opp. counsel [Party’s] Exh. # for identification.</li> <li>3. Your honor, may I approach the witness?</li> </ol>
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### Step III: Lay the **FOUNDATION**

Documentary	Photographic	Real
<ol style="list-style-type: none"> <li>1. Do you recognize [Party’s] exhibit 1 for identification?</li> <li>2. What is it?</li> <li>3. How do you recognize it as..?</li> <li>4. Is it in substantially the same condition as it was on [date of event]?</li> </ol>	<ol style="list-style-type: none"> <li>1. Do you recognize [Party’s] exhibit 1 for identification?</li> <li>2. What is it?</li> <li>3. How do you recognize what is depicted in the photo?</li> <li>4. Does it fairly and accurately depict [description] as you saw it on [date of event]?</li> </ol>	<ol style="list-style-type: none"> <li>1. Do you recognize [Party’s] exhibit 1 for identification?</li> <li>2. What is it?</li> <li>3. How do you recognize it as...?</li> <li>4. Is it the [object] as you saw on [date of event]?</li> </ol>

### Step IV: **ADMIT** and **PUBLISH** Evidence

COUNSEL: [Party] moves [Party’s] Exh. 1 for identification into evidence.  
 COURT: (to opposing counsel) Any objection? (*\*evidentiary argument occurs*)  
 COURT: [Party’s] Exh. 1 is received.  
 COUNSEL: Your honor, permission to publish [Party’s] Exh. 1 by way of...

### Step V: **USE** the Exhibit

Now, once admitted and published, **USE** the exhibit to the jury in a way that allows you to re-tell the story from the witness’ testimony

- You can publish by way of enlargement, handing out copies, reading, etc.