

## TIPS ON TESTIFYING

Should your case proceed to a trial or a hearing you will probably be called to testify in court about records and documents or as a witness to events. To give you a general idea of the requirements and procedures concerning testifying in court, here are some practical hints and suggestions on what to do and how to do it well when you become a witness.

### BEFORE YOU TESTIFY

If you are going to testify about records, documents and other written statements, become familiar with them. You should know that they contain and be able to refer to them easily if you must do so while you are on the witness stand. Your attorney can offer suggestions on organization and should help you with the documents that have been prepared. You should help the attorney by organizing your records the best you can. If you are going to testify about some event, you should have no difficulty in recalling those events that happened recently. However, regarding an event that happened months or even years before, try to refresh your recollection – note the location of physical objects and approximate distances or the words that were stated. You may be asked about these things. Talking with friends, relatives, or co-workers who were present may help to recall details you had forgotten. But do not try to develop a common story. Remember: your testimony must state what you recall, not what somebody else told you.

Your job as a witness is to answer the questions that are asked of you truthfully.

### ON YOUR COURT DATE

1. Dress neatly but do not overdress. Your normal business attire is probably about right.
2. If you have been subpoenaed by the other party and ordered to produce documents, you should notify your attorney immediately to discuss properly preparing and producing the requested documents.
3. When you arrive outside the courtroom do not become alarmed if you do not see the attorney at once. You can search for your case on the calendar outside the courtroom to determine the number of the case and look for the attorneys at the time the case is called. In any event, if you are only a witness (rather than a party) and you cannot locate the attorney, simply wait outside the department until the attorney calls you. If you are the party, go into the courtroom and check in with the deputy or courtroom clerk.

### WHEN YOU ARE ON THE STAND

1. When you are first called as a witness, stand upright while taking the oath. Pay attention and say “I do” clearly, so that everyone can hear you. Do not worry about being nervous; almost all witnesses are.
2. While you are on the witness stand, you are sworn to tell the truth. TELL IT!!!

3. When answering questions address the questioner and the judge on about an equal basis. Look at the two of them most of the time and speak to them frankly and openly as you would to a friend or neighbor. Do not cover your mouth with your hand. Speak clearly and loudly enough so that all attorneys, parties, the court reporter and the Judge can hear you.
4. Speak in your own words. There is no need to memorize your testimony beforehand. In fact, doing so is likely to make your testimony sound “pat” and unconvincing. Be yourself.
5. Listen carefully to each question and make sure you understand it before you start to answer. Have the question repeated if necessary. If you still do not understand it, say so. Never answer a question that you do not fully comprehend or before you have thought your answer through.
6. Answer directly and simply with a “yes” or “no” if possible. It is OK to say you do not know or do not remember if that is the truth. If possible, answer only the question that is asked – then stop. Do not volunteer information that is not requested. Otherwise, your answer may become legally objectionable under the technical rules of evidence and may also cause you to appear biased. If, however, an explanation is required, say so. Sometimes an attorney will try to limit you to say a “yes” or “no” answer. If that happens, simply say that you cannot answer the question “yes” or “no”. Usually the judge will let you explain, but in any event, the judge will get the point.
7. If you did not hear the question you can let the person asking you the question that you did not hear it. If you did not understand the question, tell the person asking you the question that you did not understand the question. It is always a good idea to make sure that you are answering the “same” question that is being asked.
8. The court only wants the facts that you yourself have observed, not what someone else told you. Nor is the court interested in your conclusions or opinions – unless you are specifically asked to give your conclusion or opinion. Usually you will be unable to testify about what someone else told you. Only an “expert” witness is allowed to give his or her conclusions and opinions. There are occasions when your opinion or statements of others will be permissible as testimony, but you should be prepared by your attorney in these few exceptions.
9. When at all possible, give positive, definitive answers. Avoid saying “I think”, “I believe” or “in my opinion” when you actually know the facts. But if you do not know or are not sure of the answer, say so. There is absolutely nothing wrong with saying “I don't know”. You can be positive about the important things without remember everything. If you are asked about little details that you do not remember, just answer that you do not recall.
10. The most important thing for you to remember is to relax as much as possible and to tell the truth.