

Preparing for Your Day in Court:

A Guide to Testifying as a Witness in a Family Law Case

Family law court cases often involve sensitive and emotional issues that affect people's lives and relationships. If you have been called to testify as a witness in a family law case, it can be a daunting experience, particularly if you have never testified in court before. Whether you are testifying in a divorce case, child custody battle, or another type of family law proceeding, knowing what to expect and how to present your testimony can help you navigate the process with greater ease and clarity.

What Should I Wear to Court?

When testifying as a witness in family law court, it's important to dress professionally and conservatively. This means wearing clothing that is clean, neat, and appropriate for a formal setting. It's best to avoid anything too revealing or casual, such as shorts, t-shirts, or flip-flops. Men should wear a suit or dress pants with a dress shirt and tie, while women can wear a dress, skirt and blouse, or dress pants and a blouse. It's also important to keep accessories and makeup minimal and tasteful. Dressing appropriately for court shows respect for the legal process and can help establish credibility as a witness.

Tips on How to Testify in Court

- **Be prepared.** Review any declarations, statement that you have written or signed. However, do not try to memorize answers. If you have evidence that you believe your attorney needs to review or present, be sure to provide it to your attorney well in advance of the hearing.
- **Do not be late to court.** Arrive at least 10 minutes before the hearing. Arrive rested and ready to spend the entire day in court, if necessary.
- **Conduct yourself in a dignified manner.** Be sure to silence/turn off all cell phones or watches. Do not chew gum or eat in court. Do not make gestures or facial expression to people sitting in the courtroom.
- **Relax and speak clearly.** When testifying, speak up and speak clearly. Do not speak too fast. Think about your answer before you give it. Every word counts. Be accurate. Vague or inconsistent responses give the other side or the Judge a chance to misinterpret what you meant your answer to be.
- **Tell the truth.** Always give an honest answer. Your responsibility as a witness is to answer honestly and accurately the questions being asked of you if you know the answer.

- **Don't answer a question you did not understand.** If the question isn't clear, you do not understand what is being asked, or if you did not hear the question, do not attempt to answer it. Let the attorney or Judge know that you did not understand the question and ask them to repeat it or rephrase it. Do NOT turn to your attorney and ask him/her how you should answer the question.
- **Never guess at an answer.** If you do not know the answer to the question, say that you do not know. If you have some doubt, say so. If you don't recall exactly, say so. If you are estimating your answer, make it clear that your answer is an estimate and not exact. You may use phrases such as "I'm not completely sure, but..." "If I remember correctly..." "Approximately..." "I don't recall exactly, but I believe..." etc. Remember that "I don't know" and "I don't remember" can both be truthful answers. You should use "I don't know" if you never knew the answer. You should use "I don't remember" if you knew the answer at some point but cannot currently recall the information.
- **Do not argue with the attorney or Judge.** Do not show visible signs of being angry, rude or disrespectful. Do not respond to the question with a question of your own. Answer the questions with a calm and professional demeanor.
- **Wait until the question has been asked before you answer.** In most cases, there will be a court reporter transcribing down what everyone is saying in the courtroom. The court reporter cannot take down the words of two people speaking simultaneously. You may also miss an important nuance of the question if you attempt to answer too quickly. Remember, if you are answering too quickly, you will not give your attorney an opportunity to object if necessary.
- **Answer all questions with words.** When testifying on the witness stand, it's important to answer questions using words and not grunting or body movements, as non-verbal communication can be misinterpreted and may not be accurately recorded in the court transcript. Using clear and concise language also helps to convey the necessary information and can demonstrate credibility as a witness.
- **If you hear an objection, immediately stop speaking.** As soon as you hear the word "Objection!" stop speaking and allow the Judge to rule on the objection. The Judge will either sustain it, and you will not have to answer the question, or overrule the objection and you may continue answering the question.
- **Do not volunteer information.** While testifying on the witness stand, it's generally best to only answer the questions asked and not to volunteer additional information, as this can open the door for opposing counsel to cross-examine on new topics or information not originally relevant to the case.
- **If you don't know something or don't have personal knowledge, say so.** Don't imply that you now something personally when you don't actually know something from your own knowledge. When you don't know something personally, you may use phrases such as "I hear that..." "I believe, but I didn't see it myself..." "I was told by _____ that...." "I was informed that..."

- **Don't attempt to base your answer on what you THINK the attorney or Judge is looking for.** Answer the question asked, as succinctly and directly as possible. Just answer the question that is asked of you.
- **Keep your answers short and provide a "yes" or "no" answer whenever possible.** When answering questions on the witness stand, it's important to be succinct and to the point, avoiding unnecessary elaboration or speculation. This can help ensure that the information conveyed is clear and relevant and can also help to minimize opportunities for cross-examination.
- **If you get emotionally upset, ask for a moment.** Testifying in court isn't easy. Often, you will be asked about issues or incidents that trigger strong emotions. If you need a moment to compose yourself, you may ask for a moment to do so.
- **You must remain available to testify if the Judge orders you to do so.** Remember, you can only step down from the witness stand when the Judge excuses you. You must follow any other directions given by the Judge. Always refer to the Judge as "Your Honor."