

## **FINAL TRIAL OF YOUR CASE**

***If all efforts at settling matters amicably fail, be prepared for one of the most “trying” experiences of your life.***

### ***Testifying in Court generally***

If your case goes to court, either for a temporary hearing or a final trial, the single most important requirement for a successful outcome is you and your testimony. It is up to you to present yourself well and convey to the judge or jury the information you want them to have in deciding your case. Of course, you will be nervous, but the judge will expect that. You can overcome much of your nervousness by limiting yourself to a very narrow focus: concentrate on telling your story as you want it heard.

The most important thing to remember is that everything you say when you testify is evidence. Many people think that only documents are evidence. Documents are exhibits, which may be introduced into evidence. In nearly every case most of the evidence consists of the testimony of the parties and the witnesses.

Often, the evidence will be conflicting; that is, you may say that one thing is true and another witness will say it is untrue. It is up to the Judge to decide which evidence is more credible or more believable. This is why it is so important that you present yourself in the best possible light.

- 1. Please wait for the question to be asked completely before you attempt to answer the question**  
The court reporter can only take testimony from one person at a time so wait until the question has been completed.
- 2. Don't memorize what you are going to say.**  
Your answers will sound memorized and be far less believable than if they are spontaneous. You should have an idea of what you are going to say, but if you memorize your testimony it will usually result in a recitation that might not be believed.
- 3. Answer only the question asked**  
Do not volunteer information when testifying in court. If the question calls for a yes or no, answer “yes” or “no”. If you try to explain your answer, the lawyer will likely cut you off as being “non-responsive”. Remember, you will have a better chance to explain your side when you are questioned by your own lawyer.
- 4. Speak clearly and loudly enough that you can be heard and understood by everyone in the courtroom.**
- 5. Once an objection has been made, do not speak.**  
You will be instructed on whether or not to answer the question to which an objection was raised.

**6. Do not be hostile or antagonistic.**

Remember that what the lawyer says is not evidence, only your answer is evidence. You must detach yourself from any personal feelings about your spouse or ex-spouse's lawyer as best as you can. This is easier to do if you keep in mind that the lawyer is just doing his job. Be courteous to everyone - especially to the judge and the opposing attorney. A witness may feel that something big has been accomplished by wisecracks spoken in reply to a question. The verdict of the judge will usually reflect a definite dislike of this type of witness.

**7. Do Not React When another Witness is Testifying**

During another witness' testimony, side-bar remarks should not be used under any circumstances. Side-bar remarks are statements such as "He's not telling the truth," spoken loud enough for a court to hear. This will hurt your case.

No matter what is being said on the stand or in the courtroom, do not make faces, shake your head, groan aloud, or use any other body language to show your displeasure. This will not score any points with a judge and will just discredit you.

While your actions in the courtroom must indicate the friendly and intelligent person you are, you should continue to so act before the court convenes and after adjournment. When you are in the hall, restroom or any other common area where the judge or court personnel may be, your demeanor should be restrained.

**8. Your Appearance**

There are a number of things you can do to make yourself a good witness. First, you must be sure your appearance is appropriate. A conservative appearance will be to your advantage. Do not chew gum. Dress in clean, neat clothes. A shave and a hair cut will enable you to make a good impression. Never come to court with the smell of liquor on your breath.

**9. Tell the Truth**

You must tell the truth. Witnesses who tell the truth have nothing to fear. Your lawyer expects you to be honest, both with her and the court.

Remember, you should not withhold any facts from your attorney. Some clients feel that if they don't tell everything to the lawyer, through some miracle, the other side will not be able to pry out these facts. The great danger in such a situation is that the other side may know facts detrimental to your case and your lawyer may not. The only way your lawyer can properly be prepared to combat these facts is for you to tell her the worst in advance of the trial.

**10. Keep the Children Out of It!**

Do not involve your children in your litigation. If you insist on requiring a young child to testify, it may reflect badly upon you. If the testimony is absolutely necessary, your lawyer may ask the judge to talk with the children in his office and away from both parents.