

TESTIFYING ON THE WITNESS STAND

Always Tell The Truth: Let me say it again. Always tell the truth. You can't get tripped up for saying something if you always tell the truth.

Don't Guess:

- Don't guess the answer or guess what you think the question meant. Be sure you know what it is so that you can answer it properly. If you are not sure what was meant by the question asked, say, "I don't understand the question."
- If you don't know the answer to a question that is asked of you, say, "I don't know." There are no rules that say you have to know all the answers. Lots of times you won't.
- If you think you didn't get the question clear in your mind, ask the question to be repeated. Don't start to answer any question until you are sure of what it is.

KISS: "Keep It Simple Stupid" principle. Or "Keep It Short and Sweet" Keep your answers short, exact and to the point. If the person asking the questions wants more detail, they will say so. Then you can elaborate on your answer. This way you prevent yourself from possibly saying something that you may not have meant to say, rambling on and feeling foolish about it. Resist the temptation to be helpful, to volunteer information or to become the teacher. The most frequent mistake made is volunteering information. Don't! Just answer the question and then stop!

Emotions: The opposing attorney may hide a particularly nasty or tricky question in a soft voice and a soothing manner. Getting plenty of rest and avoiding alcohol the day before plus a good breakfast helps in keeping your emotions under control.

Be sure you understand the question. Do not answer the question if it purports to summarize your opinions or your earlier testimony but is inaccurate, even if only slightly so. Don't answer the question if you don't understand it. Tell him you don't understand the question. State that the summary of your testimony contained in the question is wrong. The attorney can ask you "loaded" inaccurate questions. You have to be alert to the misstatements in the questions. Pay particular attention to questions that begin with "don't you agree" or "isn't it true". Never lose your temper even if provoked. This may well be a "test". Don't lash out.

Focus: Don't look to anyone for the answers. Look at the person asking you the questions and answer that person.

Take Your Time: Count to 3 before you answer. If you start to get nervous, take a deep breath and remember that you are there to answer the questions whether

they are the answers the asker wants to hear or not. They are the answers you know. And that's all you can do. Be polite but firm. Relax. Don't feel compelled to speak just because there is a long silence. Many attorneys lull you into a fast pace by asking easily answered questions followed by the tricky question wrapped in a soft voice delivered at the same pace. The opposing attorney may attempt to provoke you deliberately as a tactic.

Appearance: Dress nice. As if you are going to a job interview. Show respect to the Court and the jurors.

Breaks: Do not hesitate to ask for a break if you need one, or if you wish to seek legal advice from your counsel. Don't drink much of anything prior to being called on the stand. The need to go to the washroom will only add to your stress.

Your Opinion: *You are not an expert.* Do not answer any hypothetical questions unless the question incorporates sufficient facts, circumstances, and conditions to allow a full and fair response. If it does not, just tell the opposing attorney there are not sufficient facts for you to form an opinion and answer under oath.