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## How to be a Good Witness



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Consumer Pamphlet Series

 State Bar  
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## The Importance of Serving as a Witness

You have a very important job to do as a witness in a lawsuit. Your role is not only important to the party for whom you appear and yourself, but also for the American system of justice. For a jury or judge to make a correct and wise decision, they must decide on facts stated by witnesses who have sworn to tell the truth. Potential witnesses sometimes assume they don't know anything relevant about the case. In reality, you may know a very important fact about the case although the information seems unimportant to you.

Do not ignore a summons to appear in court or at a deposition. Failure to appear in response to a subpoena could place you in contempt of court. Follow any additional instructions attached to the subpoena. For example, if there are instructions to call the attorney who requested the summons for information as to when to appear for trial, it is important that you do so. Being called as a witness may make you nervous. Understanding what you are expected to do and how to do it will ease your anxiety and make you a better witness.

## 13 Rules for a Good Witness

### 1. Review the case.

Go over the facts of the case before your court appearance. If you have provided a prior statement or deposition, obtain a copy and review your prior testimony.

### 2. Discuss testimony in advance.

If you are called as a witness, the attorney calling you will undoubtedly discuss the case with you before the trial. There is nothing improper in this. The attorney has to find out in advance what you know about the case. If asked while testifying, do not hesitate to say that you have discussed the case with the attorney who contacted you.

### 3. Dress appropriately.

You should be comfortable and appropriate for the courtroom. If you are in doubt about what to wear, ask the attorney.

### 4. Tell the truth.

You are under oath when testifying and can be prosecuted for perjury if you lie. Don't let your personal judgment of who should win or lose color your testimony. Simply tell what you know.



### 5. Take your time.

Remember to think before you speak. You may be nervous, so don't answer questions before you fully understand them. If you don't understand a question, you can ask for the question to be rephrased or repeated. Never answer a question you do not understand.

### 6. Speak clearly.

Answer all questions clearly and loudly enough so everyone in the courtroom can hear you. A low tone of voice not only detracts from the value of your testimony, but also may make the court and jury assume you aren't sure about what you're saying. Talk at a moderate rate, and don't slur or mumble your words.

### 7. Listen carefully.

Don't attempt to guess at questions you don't hear or understand. In those instances, ask that the question be repeated or explained. If you don't know the answer to a question, simply state that you don't know.

### 8. Answer questions directly.

Give a simple answer only to the question asked. If a question can be answered with a "yes" or "no," do so. If you make a mistake when answering a question, correct it immediately. Don't volunteer information.

### 9. Don't lose your cool.

Never argue with the attorney asking the questions.

### 10. Stop your testimony.

If an objection is made by one of the attorneys, or if the judge speaks, stop your testimony immediately. Don't try to complete your answer. Listen to the objection so you understand why it is being made.

### 11. Never guess.

If you do not know the answer, say so. If you have enough information to provide a reliable estimate in response to questions about distances, time or speed and you estimate, make sure to say that your answer is only an estimate.

### 12. Do not disclose anything your attorney has told you.

Conversations with your attorney are protected by the attorney-client privilege.

### 13. Be yourself.

Be natural and relax. If you tell the truth and remember you are just talking to some neighbor on the jury, you will get along fine.

## What About Depositions?

A deposition is testimony that is given outside the courtroom. Depositions are used to help attorneys determine what potential witnesses know about a particular matter. Attorneys for both sides and a court reporter are present. You are sworn in, just as in a courtroom, and everything you say is under oath. In many instances you will be called to serve as a witness at trial after the attorneys have reviewed your deposition. Both sides have a copy of your testimony provided in the deposition. If you change your story when later appearing in court, you will lose your credibility as a witness.

If you lie while giving a deposition, you may be prosecuted for perjury just as you would if you lie while under oath on the witness stand.