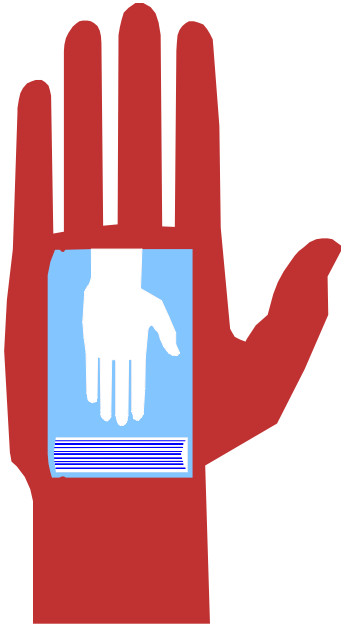


Be a Good Witness



Be a Good Witness

A Witness Is An Important Person

Our American system of justice may require a hearing or trial in a court of law in order to decide the rights and obligations of people. Most trials are decided on the facts stated by witnesses who have been sworn on their oath to tell about things they have seen and heard. The role of a witness is extremely important in our system of justice.

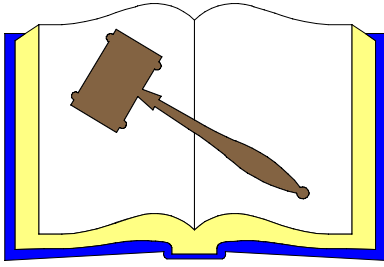
Someday you may be called upon to be a witness, to tell in court certain facts which you know. If you are summoned, you cannot refuse. If you are not summoned but are asked by one of the parties, do not refuse. It is our duty as citizens to give our testimony if it is needed. It may not be convenient to leave your job or home to spend a day in court, but remember some day you may be in court and find the fate of your case based on the willingness of someone to come forward as a witness.

Many people feel that if they testify, one of the lawyers might try to make them look foolish or “tear them into pieces.” This would only happen when a witness does not understand what he is expected to do and how he is expected to do it. You can avoid this by reading and following these simple rules:

15 Rules For A Good Witness

1. Tell the truth.
2. Discuss your testimony in advance. If you are called as a witness in a case, the lawyer calling you will undoubtedly discuss the case with you before the trial. There is nothing improper in this. It is the lawyer's job to find out in advance what you know about the case. He or she can explain courtroom procedure to you, and you should not hesitate to ask about proper courtroom behavior. If asked while testifying, do not hesitate to state you have discussed
3. Take your time. When you testify, you may be nervous, as most witnesses are. Do not answer questions hurriedly without giving them proper consideration or without understanding them fully.
4. Be attentive. You must be alert at all times while you are in the witness chair, so you can hear, understand and give a proper and intelligent answer to each question. If the judge or jury gets the impression you are indifferent they may not give much weight to your story.
5. Think before you speak. Hasty and thoughtless answers may be incorrect and cause trouble. This is particularly true when you are being cross-examined. The opposing lawyer may ask you leading questions—questions which suggest only one answer. Make sure you understand the question; then give an accurate answer.
6. Speak clearly. It is very annoying to a court jury and lawyers to have a witness who does not speak loudly enough to be heard. A low tone of voice not only detracts from the value of your testimony, but also could make the court and jury think you are not certain of what you are saying. Everyone in the courtroom is entitled to know what you have to say. There are no secrets in court; the court reporter must be able to hear all of your testimony to make an accurate record of the case.
7. If you do not understand a question, ask that it be explained. Many times a witness will not understand a question that has been asked, but will go ahead and try to answer it anyway. This is confusing to the court, the jury and the lawyers. It also extends the time a witness will be on the witness stand because the lawyers must go back and correct any misinformation given by a witness who did not understand a question. If you do not understand, feel free to say so and ask that the question be explained to you.

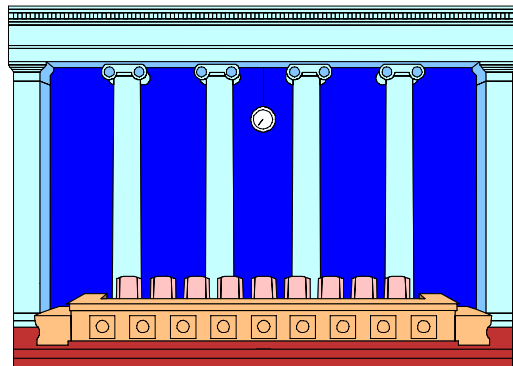
the case with the attorney who called you as a witness.



8. Answer all questions directly. Too often a witness will be so anxious to testify that he or she will want to get it all told in answer to the first question. Listen to the question. If you can answer it with a “yes” or “no,” do so. Information which you volunteer may have no bearing on the case and may serve only to delay proceedings.
9. Stick to the facts. The only thing you will be permitted to testify to is what you personally know. Information given to you by someone else is almost never admissible in the case. What you KNOW is important; what you THINK is unimportant. If you do not know or cannot remember the answer to a question, don't be afraid to say so.
10. Never lose your temper. If a witness becomes so prejudiced in favor of one side as to lose his or her temper when facts unfavorable to a friend are brought out, he or she is at the mercy of the cross-examiner and is worthless to the friend's side. Judges and juries are not interested in prejudiced testimony; they are interested only in facts.
11. Be fair. Though you may be testifying for a friend and would like to see him or her win, do not color your testimony or try to overdo it. You will do your friend the best service by making your testimony as objective as possible. If you are involved in a lawsuit some day, you will want to be treated fairly by the witnesses.
12. Don't argue with the attorneys or the judge.
13. Be helpful, not funny. A trial is an important and serious matter to the parties involved. Their money

and property may be saved or lost by your testimony. Do not try to be a wit or exchange quips with the lawyers.

14. Do not worry about the rules of evidence. Rules of evidence control courtroom proceedings. They are designed to eliminate testimony and other evidence, which lack certain basic elements of trustworthiness. The judge's ruling on an objection to testimony should not be considered as indicating in any manner the judge's feelings about the witness who is testifying or the merits of the case. Let the judges and the lawyers worry about the rules of evidence.
15. Dress sensibly. Your clothing should be appropriate for a courtroom. Wear what you would wear to work, or to any important meeting. Women should wear neat slacks or a skirt and men should wear neat slacks and a shirt. A jacket or tie is not required, but always look appropriate. If you are in doubt about what to wear, ask your attorney, if an attorney is representing you.



Depositions

Sometimes, you may be notified that an attorney wishes to take your “deposition” in connection with a legal matter. A deposition is testimony given outside of the courtroom. Attorneys for both sides will meet with you; a court reporter will also be present. You will be sworn in, just as if you were in a courtroom, and

everything you say will be under oath. Attorneys use depositions to help them determine what potential witnesses know about a particular matter.

In many instances, your deposition will be taken and you will later be called as a witness in that case. Both sides will have a copy of your testimony you gave in your deposition. If you change your story when later called as a witness, you will lose your credibility as a witness. That is why it is important to remember when your deposition is taken, it is just as like being before a judge in a court of law. It is permissible to review your earlier testimony with the lawyer prior to taking the witness stand.

If you lie while giving a deposition, you are subject to prosecution for perjury just as you are if you lie while under oath on the witness stand.

There may also be a situation when an attorney takes your deposition, but you are not called as a witness. This may happen for a variety of reasons and should not be of concern to you.

This pamphlet, which is issued to inform, not to advise, has been prepared and published by the Nebraska State Bar Association. It is distributed by those who want to help you obtain your rights under the law.



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