

## INSTRUCTIONS FOR TESTIMONY

These instructions are to assist you in preparation for your testimony in court. Read them carefully and please ask your attorney any questions you may have before your testimony.

1. **Tell the truth.** You will be sworn to tell the truth, the whole truth and nothing but the truth. These have different meanings.
  - A. **Meaning of telling the truth.** Telling the truth means that you must not lie in response to the question.
  - B. **Meaning of telling the whole truth.** “Telling the whole truth” means something else. It means not omitting the truth or only giving partial truth. For example, if a governor says that in his state they have moved 17,000 people from welfare to work and omits adding the fact that in his state 25,000 other people have moved from work to welfare at the same time, he has told the truth but hasn’t told the whole truth. That is, the net effect was that 8,000 more people were on welfare, not 17,000 fewer.
  - C. **Meaning of nothing but the truth.** This is yet another concept. For example, if a person tells the truth in response to a question and then adds a lie, he or she has told the truth, but hasn’t told “nothing but the truth.”
2. **Do not guess.** You may respond that you do not know or you do not remember. However, on cross examination, you will be further asked about not knowing and not remembering and whether your memory can be refreshed.
3. **Be sure you heard and understand the question before you answer.** If you did not hear, ask for the question to be repeated. If you do not understand the question, do not try to answer based on what you think was asked. Request that the question be repeated or rephrased (asked in a different way). Do not be intimidated to do this again, if you again do not understand the question.
4. **Take your time.** It is okay to reflect that you are nervous and take your time in answering questions. Give the question some thought before answering.
5. **How you answer the question is as important as what you say.** Body language speaks louder than words. Sit up tall. Do not cross your arms across your body. Be open. Do not chew gum. Keep your hands at your sides and away from your face or mouth. Remember you must answer out loud, not just nod your head.
6. **Look at the judge when you answer.** Look the judge straight in the eyes. Do not forget that the judge is the person who will be making the determinations.

7. **When an objection is made, stop and wait.** When an objection is made by your lawyer or the other lawyer, stop talking and sit quietly. After the judge has ruled, you will be told what to do. It may be that you are asked to answer the question. You may ask to have the question repeated. Also, the question may be asked to you again, or a different version of the same question may be asked, or a wholly new question may be asked. The important thing to remember is just that you must do nothing but wait the outcome of the objection. “Overruled” means that the objection fails, while “sustained” means that the objection is a good one under the rules of evidence.
8. **Testify only to what you know of your own personal knowledge.** Under most circumstances you will not be allowed to restate in court what someone else said outside of court for the truth of the matter. This is called hearsay testimony. If you try to do so, it is likely that an objection will be raised and the judge will rule on the objection. For example, “My child told me that \_\_\_\_\_.” or “My boss said \_\_\_\_\_.” Do not ask your lawyer to help you answer a question.
9. **Keep your cool, take a deep breath, and stay as calm as possible.** Testifying in court is stressful. Acknowledge that it is stressful and that the other side is going to try to add to that stress. Keep your composure no matter what the other lawyer or your spouse do or say. Do not ask a question rather than answer. Do not joke. Do not argue with the lawyer or your spouse. Everything you do or say will impact upon how the judge views you and your testimony, your credibility. A trial is like a play. Overreacting and acting out will affect your credibility and may impact upon the judge’s ruling.

**Remember the judge is watching you.  
Remember that the judge is the one who makes the rulings.**