

## **YOU AND YOUR TRIAL**

Preparation is a crucial factor for an effective presentation of your case at trial. This includes your being familiar with what to wear, how to act, and what will be expected of you during your testimony. We have prepared this information to help put you at ease in these areas. Please read the contents carefully and follow up with any questions you have so that your preparation will be thorough.

### **YOUR TRIAL**

Typically, at the outset of your trial, each lawyer will give his or her “opening statement,” outlining the most important aspects of the case and previewing testimony and documents he or she expects to be presented to the judge. Your attorney is not permitted to argue for or against your position in the opening statement. Rather, he or she is attempting to give the judge a “road map” to follow during the trial.

After the “opening statements,” the petitioner’s case is presented with witnesses and evidence to support the position he will take in the final argument. This evidence includes testimony from either or both of the parties, medical and psychological witnesses, CPAs and business evaluation experts, and custody witnesses. Generally, your witnesses tell your side of the story by answering questions posed by your attorney. They are then cross-examined by the other party’s attorney. In addition, the court may ask direct questions of any witness. At the conclusion of the petitioner’s case, the respondent’s attorney presents his case, going through the same process of direct examination and cross-examination. When the respondent’s attorney concludes his case, the petitioner’s attorney has one more opportunity to present witnesses or other evidence to rebut evidence presented by the respondent. The judge listens to all evidence presented by both sides so that he or she can render a fair and impartial judgment.

During the trial, the judge also has the responsibility of deciding procedural and legal matters that affect the conduct of your trial. For example, your attorney may object to a statement made by a witness for the other side on the grounds that it is not admissible under the rules of evidence or procedure. By ruling the evidence admissible or inadmissible, the judge is not deciding whether he believes or does not believe the evidence. He is simply deciding whether the other party has the right to present that particular type of evidence to the court. After he hears all the evidence, the judge will decide on how much credibility he attributes to the testimony.

After both sides have presented their evidence, the attorneys present closing arguments. Both attorneys attempt to convince the judge that his or her interpretation of the evidence is the correct one and that his or her client is entitled to the distribution of property or custody arrangement being sought.

After the closing arguments conclude, the judge will make orders relative to the nature of the case. For instance, in a dissolution proceeding, he will distribute the assets and liabilities between the parties, announce responsibilities regarding the minor children, and determine whether one party should contribute to the other’s attorney’s fees.

Usually, the decision made by the judge is a final resolution of this particular dispute between the parties; however, the losing party can appeal the judgment to a higher court if the trial judge made an error in applying the law to the facts or made a truly unreasonable order.

## YOUR COURT APPEARANCE AND DEMEANOR

Even a judge, who has a great deal of experience in a courtroom setting, derives the basis of his opinion more from what he observes in the courtroom than from what he hears. He or she cannot help but form an impression of the parties themselves. Therefore, your appearance and demeanor is of utmost importance. Study and remember the following checklist:

1. Dress appropriately. You should dress conservatively. Men should wear a coat and tie. Women should wear a basic, simple dress or suit. Both must avoid loud or flashy clothing and limit the amount of jewelry worn.
2. Be prompt and punctual in arriving at court. Your attorney will tell you when and where you should be on the day of trial.
3. Do not discuss your case. Do not talk to the witnesses or the other party when you are in the courtroom. You should not talk to your attorney during testimony. You may keep a list of really important points for your attorney to review before the testimony is concluded.
4. Pay attention to all of the witnesses. If you are not interested, the judge certainly will not be interested.
5. Be polite and control your emotions. Do not allow the other side to make you “lose your cool.” The judge will not react favorably to rude, sarcastic, and highly emotional behavior.
6. During recesses or lunch breaks, avoid all contact with participants in the trial, other than your attorney.

## YOUR TESTIMONY

Your testimony is the single, most important aspect of the trial. This checklist, along with a pre-trial conference with your attorney going over your testimony will assist you in making your best impression.

1. Listen carefully to each question. Understand each question before you answer. Take your time. If necessary, ask that the question be repeated. If you do not understand the question, simply say so.
2. Tell the truth. In a lawsuit, as in all other matters, honesty is the best policy. Being caught in even an insignificant lie can affect your case significantly. Additionally, telling the truth means more than refraining from telling a deliberate falsehood. Telling the truth requires you to testify accurately about your personal knowledge.
3. Don't guess. If you don't know the answer, say you don't know.

4. Speak up clearly and distinctly. Do not talk too fast. The judge and the court reporter must be able to hear and understand what you are saying. Look at the judge and give an audible answer to the questions. Do not nod your head yes or no. The judge may have looked down
5. Answer the question and then quit talking. Do not volunteer information.
6. Keep your answers clear and simple. Give brief and concise answers in a positive fashion. Do not begin to ramble.
7. Beware of questions asking for figures. If you make an estimate, make certain the judge understands that this is not a precise figure, but only an estimate.
8. Do not memorize a story. Testify in your own words, answering the questions as they are asked.
9. If one of the attorneys makes an objection, wait. Do not answer the question until the judge has ruled on the objection and you have been asked to continue.
10. Do not let the other attorney put words in your mouth. The other attorney will say, "Isn't it true that..." If what he says is not true, or part of what he says is not true, do not agree. Insist on your version of the story.
11. Be courteous. Being courteous is one of the easiest ways to make a good impression on the judge. Answer "Yes, Sir or Ma'am," and "No, Sir or Ma'am," to the attorneys, stand when the judge enters the room, and address the judge as "Your Honor."
12. Never lose your temper or argue. The other attorney may try to walk you into this trap, hoping you will blurt out something that can be used against you.
13. Avoid making jokes and sarcastic remarks. A lawsuit is a serious matter.
14. In summation. Show respect for the judge, the attorneys, the witnesses, and yourself.

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