

COURTROOM TIPS FOR CLIENTS

(1) ***Tell the truth*** - No one expects perfection, but if you tell the truth you are far less likely to be tripped up on cross-examination and the judge will believe you.

(2) ***Do not guess*** - "I don't know" or "I don't remember" are acceptable answers, but guessing can get you into trouble on cross-examination.

Remember that there is a difference between "No" and "I don't remember." For example, if you answer on cross that you don't remember whether something happened it means that it may or may not have happened. If the event could not have happened, then your answer should be "No."

If you are asked, "Isn't it true that you kept \$40,000 in a safe deposit box?", and you did not, the answer is clearly "No", that is not true," as opposed to "I don't remember."

(3) ***Be sure you have heard and understand the question*** - If you do not hear a question or do not understand it, don't try to answer based on what you think the question was. Instead, simply ask opposing counsel to repeat, or rephrase, the question.

(4) ***Take your time*** - Use good judgment in answering questions. Consider every question and give it some thought, if necessary, but do not look like you're stalling for an answer.

(5) ***Speak loud enough for everyone to hear*** - Do not chew gum, and keep your hands away from your mouth. Remember that you must verbalize your answers, not just nod your head. The court reporter (if any) must write down everything you say. Remember that all proceedings in Family Court are videotaped, and presume that every gesture you make and every word you say, on the witness stand or off, is being recorded.

(6) ***Look at the judge*** - From time to time during your testimony, especially at important points, look the judge straight in the eye. Don't forget that the judge is the person who must be persuaded by what you have to say.

(7) ***Do not argue with opposing counsel*** - Keep your composure no matter what the other lawyer or your spouse does. Never lose your temper or let them provoke you. The judge may excuse a lawyer who misbehaves in the name of zealous advocacy, but if you act out, it will affect your credibility.

(8) ***Be courteous*** - Say "Yes, sir" or "Ma'am" to opposing counsel, and if you must address the judge, use "Your Honor."

(9) ***Do not make jokes or wisecracks*** - Remain a lady or gentleman at all times. Be honest, straightforward, and courteous, and remain as calm as possible.

(10) ***If you hear an objection*** - Stop answering immediately and say nothing until the judge rules on the objection. "Overruled" means you must answer, "sustained" means you must not. Don't worry about remembering the legal terminology. Either the judge or the lawyers will tell you what to do. Never interfere with dialogue between the judge and lawyers about objections or other matters.

(11) ***Do not answer a question with a question*** - Opposing counsel is not on trial. Any combativeness toward that lawyer will probably just irritate the judge.

(12) ***You must answer every question*** - Do not bother to ask your lawyer or the judge if you must answer a particular question; unless an objection is made and sustained, you must answer.

(13) ***On cross-examination*** - Answer as briefly as possible "yes" or "no" with a short explanation if necessary; do not volunteer information.

(14) ***Be positive and firm in your answers*** - You know you are telling the truth and you are well-prepared, so do not be intimidated by the other lawyer.

(15) ***It's OK to cry*** - Don't be surprised if during your testimony you become emotional and cry. It can be upsetting to talk about these personal matters in court. The judge will understand, and, in fact, it will add to, rather than detract from your credibility. If you need a tissue, a drink of water, or a break to compose yourself, just ask the judge for permission.

(16) ***Remember that the judge is watching you*** - not only during your testimony, but also at counsel table. Do not overreact during the testimony of other witnesses. This means do not grimace, moan, or whisper such things as "he's lying!" It does not make points with the court and usually lessens the judge's respect for you. Write down your comments and suggestions and pass them to your lawyer quietly.

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