

AGENDA

SOCIAL WORKERS AND OTHER PROFESSIONALS AS WITNESSES AT COURT

(add location/event)

(add date)

1. Welcome, Disclaimers, Learning Objectives, Experiences *(add name of presenter)*
2. I've been subpoenaed to testify in court. Do I have to testify? *(add name of presenter)*
 - You might not have to testify
 - Privilege and confidentiality
 - Special situations
 - The subpoena
 - Communicating with the attorney who subpoenaed you
3. I've never been to court before. What should I expect and do? *(add name of presenter)*
 - Homework before the hearing
 - Who might be there, how long it will take
 - What to wear, what to bring, security
 - What to do and what not to do while testifying
4. What will my role be? *(add name of presenter)*
 - Fact witnesses
 - Layperson opinions
 - Expert witnesses
5. Demonstration *(add name of presenter)*
 - Qualification of expert witness
 - Direct and cross-examination of expert witness
6. Questions & Answers *(add name of presenter)*

QUESTIONS TO ASK THE ATTORNEY WHO WANTS YOU TO TESTIFY

- Who is/are the other attorney(s)? (In case he or she contacts you.)
- What type of hearing is this?
- Why does the attorney want me to testify?
- What do I need to testify about?
- Does he or she want to try to qualify me as an expert? If so, in what specifically?
- Does he or she need to see my resume or curriculum vitae prior to the hearing? (If so, get email address and/or fax #.)
- Can we schedule a meeting to prepare for my testimony?
- Am I entitled to compensation for my time?
- What will the other attorney(s) likely ask me?
- If I will need accommodations or an interpreter, how do I make those arrangements?
- Where do I park?
- Where are the courthouse and courtroom?
- Is it okay to bring a silenced cell phone to the courthouse?
- How can I reach the attorney on the day of the court hearing if there is an emergency and I will be late or will completely miss the hearing? (Give the attorney your cell phone number in case he or she needs to reach you at the last minute. Let him or her know if it's a private number and/or should not be shared with your client.)
- Is the hearing specially set? If not, how long is the list of cases on the docket?
- Will the attorney let me testify first?
- If my office is near the courthouse, will the attorney just call me when it's close to time for me to testify?

COURT TESTIMONY TIPS

1. Accommodations
 - a. If you need accommodations due to a disability or safety concern, talk to the attorney who subpoenaed you and/or to the court clerk's office.
 - b. If you will need an interpreter, communicate that need to the attorney who subpoenaed you and/or to the court clerk's office.
2. What to Wear
 - a. Dress neatly and conservatively, as if you are going to a professional job interview, funeral, or a formal religious service.
 - b. Do not wear shorts.
 - c. Do not wear clothing with pictures or words on it.
 - d. Ladies, do not wear very high heels, very short skirts, low cut tops, a lot of jewelry, or a lot of makeup.
 - e. Men, do not wear hats and tuck in shirts.
 - f. Remove facial piercings.
 - g. Cover tattoos.
3. What to Bring
 - a. Anything listed on the subpoena (unless a judge says otherwise).
 - b. If you bring a cell phone, silence it as soon as you get to the courthouse. If it rings in the courtroom, it may be taken from you by the court officer. Some courts do not allow cell phones at all. Find out before you go.
 - c. You might be waiting to testify for a long time. It could be helpful to have something to read, snacks, and any medication that you might need before you get home.
 - d. Do not bring your child(ren) unless the child is the subject of the hearing and/or is testifying.
4. Courthouse Security
 - a. Types of security measures vary from courthouse to courthouse. You will probably go through a metal detector. Allow extra time for this, as there may be a line at the metal detector.
 - b. If possible, leave your purse and other bags in your car. Some courts will not allow them, and it'll delay you from getting to the courtroom if you have to return to your car.
 - c. Do not bring any pepper spray, mace, sharp objects, or weapons with you. They will be taken from you by courthouse security.
5. What to Do During Testimony
 - a. Always, always tell the truth.
 - b. Be polite to everyone.
 - c. Address the judge as "Your Honor."
 - d. Address the attorneys and/or parties who ask you questions as "sir" and "Mr. ____" or "m' am" and "Ms. _____."
 - e. Keep your hands away from your mouth and face while you are testifying.
 - f. Answer orally (not just with a nod or shake of the head) so that the court reporter and/or the voice recorder(s) can record your answer.
 - g. Speak loudly enough for everyone to hear you.

- h. If an attorney objects to a question, stop talking. If the judge overrules the objection, then you can finish your answer. If the judge sustains the objection, then you cannot answer the question (at least not how it was asked or not in the way you started to answer).
- i. If you feel upset or ill during your testimony, let the judge know that you need a moment or a break.
- j. Make sure you correctly heard and understood the question before answering it.
- k. If you don't hear a question, ask for it to be repeated.
- l. If you don't understand a question, request that it be asked a different way.
- m. If you don't know the answer to a question, just say that you don't know (rather than guessing).
- n. If you don't remember the answer to a question, just say that you don't remember (rather than guessing).
- o. If you are estimating a date, time, distance, number, etc, then say that it is an estimate.
- p. If you need to explain an answer, say so, and then give the explanation.
- q. Stop talking after you have fully answered a question, and wait for the next question (rather than volunteering information that was not requested).

6. What Not to Do

- a. Don't say anything that isn't true.
- b. Don't talk to other witnesses about the case.
- c. Don't memorize your testimony.
- d. If a hearing is going on, don't talk to anyone while you're in the audience.
- e. If you are in the audience or sitting at the attorney's table, don't nod or shake your head, or engage in other non-verbal communication, in response to something someone else says during a hearing.
- f. Don't take anything to the witness stand (like notes) that you don't want examined by the attorneys and judge.
- g. Don't mislead the judge and attorneys by saying something that is technically true but that you know will make them think you meant something that isn't true.
- h. Generally, don't volunteer information while testifying (just answer fully and then stop talking).
- i. Don't guess while testifying.
- j. Don't make jokes while testifying.
- k. Don't be sarcastic or flippant while testifying.
- l. Don't show anger, frustration, or irritation while testifying.
- m. Don't interrupt the attorneys or judge.
- n. Don't use pronouns (use names).
- o. Don't anticipate objections (e.g. "I can't answer that because it'd be hearsay.")
- p. Don't chew gum while testifying.
- q. Don't wear sunglasses while testifying.

Fact

Fact

Fact

Layperson Opinion

Layperson Opinion

Layperson Opinion

Expert Opinion

Expert Opinion

Expert Opinion

MY AREAS OF EXPERTISE

Education:

Professional Licenses:

Certifications:

Professional Experience:

I AM AN EXPERT IN:

CASE SCENARIO – EXPERT WITNESS DEMONSTRATION

Family Members:

1. Mary Smith (age 35), mother
2. John Smith (age 38), father
3. Billy Smith (age 14), son
4. Tommy Smith (age 10), son
5. Robby Smith (age 7), son

Attorneys:

1. _____, attorney for mother
2. _____, attorney for DCS

Situation:

Mary and John are married and have three sons, ages 7, 10, and 14. Mary and John have been in an intimate relationship since they were teens and married shortly after their oldest son was born. John is the primary income earner for the family. There has been significant domestic abuse (by John, against Mary)... physical, verbal, financial. The abuse began before the children were born and has increased over time. Mary has never reported the abuse, but a stranger witnessed an incident and reported it. John was arrested and entered into a diversion agreement. The conditions were satisfied, and he's back home with Mary and the children.

There's been another incident of serious physical abuse. The children witnessed it. The oldest child, Billy, tried to get between his parents and was accidentally, but seriously injured by John in the process. Billy and his parents lied to medical personnel about how it happened. Billy later confided in school personnel, who in turn reported the domestic violence and Billy's injury to DCS. DCS investigated the report and has filed a petition to have the children found to be dependent and neglected (on basis of injury to Billy by John and failure to protect by Mary), and has asked for non-custodial dispositional orders.

_____ is calling an expert witness to the stand to testify about the dynamics of domestic violence, as well as about the help that Mary has sought for herself and her children at the domestic violence program.

CHECKLIST – EXPERT WITNESS DEMONSTRATION

	WHAT TO DO		EXAMPLES
	Be polite		
	Speak loudly enough		
	Answer and then stop talking		
	Stop talking if objection made		
	Understand question before answering		
	Look at judge when answering judge		
	Look at attorney when answering attorney		

	NOT TO DO		EXAMPLES
	Answer with nod or shake		
	Guess		
	Make jokes		
	Give sarcastic or flippant answer		
	Show anger, frustration, or irritation		
	Interrupt attorney or judge		
	Put hands in front of mouth while talking		
	Chew gum		