

SUGGESTIONS FOR WITNESSES

To discharge his or her task as ably and effectively as possible, a witness should:

- Assume a fairly erect but comfortable position in the witness chair. This will enable you to sit without fidgeting. A witness who is constantly shifting about may seem to lack credibility, particularly during cross-examination.
- Remember that the arbitrator is the person who must be convinced – not the opposing counsel.
- Do not argue with the opposing counsel, or be sarcastic, or get angry, or try to outwit him.
- Tell the truth. If part of your testimony is not favorable to your party, it is the responsibility of your advocate to cope with that.
- Be alert and attentive. Keep your mind on the business at hand.
- Watch the arbitrator, particularly if this person is taking notes, and particularly if no stenographic record is being made. Remember that if you talk too fast the arbitrator may miss certain details that can be helpful to your case. Adjust your pace to the arbitrator's writing speed, if possible.
- If the arbitrator asks you questions, answer as directly as you can. Do not be overly friendly.
- Carefully consider every question. There is no need to answer immediately. Reflect for a moment. Do not let the other party's counsel set the pace for your responses.
- Do not be afraid to answer "I don't know." No one is presumed to have an answer to all questions.
- If you do not understand a question, ask the counsel to please repeat it. Do so as many times as are required for you to comprehend the question. If you answer without being certain what is sought, you may guess wrong and supply an answer that is misunderstood by the arbitrator, who has not interpreted the question the same way.
- Do not volunteer information to the other party's counsel. Answer the questions honestly but directly, and with a yes or no if possible. If there is something left unsaid by you which could be helpful to your case, it is the responsibility of your party's counsel to bring it out during re-direct examination.
- If the other party's counsel asks you if you have discussed your testimony with your counsel, reply that you have, since this of course is the truth. If asked whether you were told what to say, reply that you were not – that you were told simply to tell the truth.
- Be sure to tell your counsel all you know relevant to the case particularly anything that may be actually or potentially damaging to your side. Counsel cannot cope with damaging information unless counsel is informed of it. Counsel should not be surprised by it at the hearing.
- Be prepared to swear or affirm to tell the truth.
- While you are being cross-examined, if your counsel objects to a question, or a procedure, or a piece of evidence, keep silent. Do not insist on going ahead and answering. The objection may be valid; it may have been made to give you a breather and a chance to think about what you have been saying. Your counsel is in charge of the case, and you must follow his lead.
- Be neatly groomed.
- Use whatever notes, letters, memos, diaries, or receipts you may have to aid your memory and lend credibility to your testimony, but be sure to review them first with your counsel.
- Do not mumble. Speak clearly and forthrightly, but not aggressively. Keep your hands away from your mouth.
- If you need to visit the rest room, speak up and request a brief recess.
- If you hear testimony from someone else that reminds you of something you had forgotten, or if you know such other testimony to be false or misleading, pass a note quietly to your counsel advising him of this.