

Tips for Being an Effective Witness

When you get your case materials, well before the competition:

- Read and reread all your previous statements at least 6 times.
- Your testimony is based only on your own previous statements. Please disregard all other materials in the case package.
- Make sure to memorize your background - those will be the first questions on direct exam.
- Begin to think about what points will be emphasized during your direct to support your side's case.
- Begin to think about what points you will be confronted with during the opposition's cross exam.
- Practice telling your entire story in front of the mirror: background, what happened, etc...

On the day of the competition:

- Be on time Literally, not one second late.
- Be well rested. A hungover or tired witness is not a good witness, and it's not fair to the advocates.
- Dress professionally and be neatly groomed.

During witness prep:

- Introduce yourself and be friendly with your advocate
- Listen intently on the sequence they want to bring out the facts and how they want the facts emphasized.
- Make sure you understand the advocate's theory of the case and what your role in that is.
- Ask questions and clarify any instructions you don't understand.
- Give the answer you'll give on the stand to the advocate during the prep and ask if that's what they had in mind.
- Take notes if the act of taking notes will help you remember.
- Don't waste time. The advocate has only 15 minutes with you. Give them your full attention.

On the stand, during direct examination:

- Relax and act naturally. Be polite, sincere and courteous at all times.
- LISTEN to the exact words of the question and then answer the question as you had prepared; no more, no less.
- Speak up and speak clearly so that everyone in the courtroom can hear you.
- Make eye contact with the advocate questioning you as well as the jury members.
- Listen to the objections. As soon as you hear the word, "objection," stop speaking.
- Listen to the judge's ruling and only answer once the judge indicates that you should proceed, or if a question is asked of you.
- Do not guess.
- If you do not remember the fact being asked of you, tell the advocate that you do not remember and ask to look at your prior statement to help you remember.

- If you are given your prior statement to help you remember or “refresh your recollection,” read your statement silently to yourself and look up at the advocate once you’ve found what you are looking for. Please try to do this quickly. If you are adequately prepared, you won’t have to do it at all.
- NEVER BREAK CHARACTER.

On the stand, during cross examination:

- Relax and act naturally. Be polite, sincere and courteous at all times. Do not be adversarial.
- LISTEN to the exact words of the question, and then answer only that question.
- The best answer is either, “yes” or “no” and that is all, unless it is a question that you can’t answer yes or no. If you can’t, say so. But remember that you’ll have a chance to explain answers on redirect examination.
- Do not volunteer information.
- Do not guess. You may draw *neccessary* inferences from your statements, but you may not invent new material facts.
- If you do not understand the question, tell the advocate that you do not understand the question.
- Do not have an “attitude.”
- Be straightforward with opposing counsel. Any answers designed to be clever or cute in order to make counsel’s job more difficult will only reflect poorly on you and your case.
- Do not look to the judge or counsel for assistance on difficult questions.
- Do not make up any facts that are not specifically in your prior statements.
- Do not contradict any facts that are in your prior statements, unless those statements contradict each other. If they do, chose one and admit the other was a mistake.
- If you contradict a prior statement, intentionally or inadvertently, expect to be impeached. They will pull out your prior statements and confront you with either: that you’ve never said that before, or that you made an inconsistent statement before. You must admit that.
- If confronted with your prior statement during impeachment, answer directly, do not split hairs.
- For example, if asked, “Were you asked that question and did you give that answer?” The answer should be, “yes” if you spoke those words.
- If you are impeached by omission, meaning you said something (X) on the stand that was not in your prior statement and you are confronted with your prior statement and asked, “Isn’t it true that nowhere in your prior statement did you say X?”, you may NOT respond, “well, I wasn’t asked that question.” If true, you may not equivocate at all. You must simply concede the point and answer, “yes.”
- If you are asked, “did your attorney tell you to say that?” and they did tell you to say something that you don’t feel is in your materials, you must answer “yes.”
- The best way to avoid an impeachment is to adequately prepare and know your statements backwards and forwards. If counsel urges you to say something that you don’t feel comfortable is within your “knowledge,” as defined by your statements, tell counsel that.
- DO NOT INVENT FACTS.
- You are not an advocate, you are a witness. Do not fight with opposing counsel. Answer the question and if clarification is needed, rely upon your counsel to address that during re-direct.
- NEVER BREAK CHARACTER.

These law students have dedicated themselves to this problem for the past 8 weeks; nights, weekends, holidays. We owe it to them to provide them with sharp, prepared, articulate, considerate, thoughtful, professional witnesses who have a total mastery of their prior statements. That is you.

Thank you for all your time and effort.