TIPS FOR WITNESSES

- Be truthful.
- Never lose your temper.
- Be attentive.
- Think before you speak.
- Speak clearly.
- If you don't understand a question, ask that it be explained.
- Answer all questions directly.
- Stick to the facts.
- Be helpful, not funny,
- Always address the judge as "Your Honor".
- Be polite and calm.
- Wait your turn to speak; don't interrupt.
- Do not make assumptions.
- Limit your answer to only the question asked.
- If you do not know the answer to the question you should state that or reply "I do not remember".

THE HELP CENTER

CONTACT US:

41 N. Perry Street, Room 104, Dayton, OH 45422







- Clerkhelpcenter@mcohio.org
- Monday-Friday 8:30AM to 4:30PM

To view our outreach schedule or find out more information, please visit our website at **WWW.COURTHOUSETOYOU.COM**.



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BRIDGING THE JUSTICE GAP ONE CONSTITUENT AT A TIME.

BEING A WITNESS

MIKE FOLEY

MONTGOMERY COUNTY CLERK OF COURTS

WHAT IS A WITNESS?

In almost all civil or criminal litigation, persons other than parties to the lawsuit are called on to testify by one of the parties in the case. These persons are called witnesses. Of course, parties in the case also may testify on their own behalf, and, in that respect, they are witnesses, too. After swearing or affirming they will tell the truth, witnesses testify to what they know about facts relating to lawsuits between parties. Those with specific expertise also may be called as witnesses to give expert opinions about issues involved in a lawsuit.

CAN I BE FORCED TO BE A WITNESS?

A person called as a witness generally must give testimony when it is needed, whether it is convenient or not. In criminal cases, and sometimes in civil cases, witnesses can refuse to testify under the Fifth Amendment to the Constitution when doing so would implicate them in any type of criminal activity (not limited to the case at hand). The court can, order a witness to testify through a "subpoena." In such a case, the witness must honor a properly issued and served subpoena, or risk being held in contempt of court, an offense punishable by a fine, imprisonment or both. Since a party to a lawsuit usually must rely on other individuals to testify, it is very important for witnesses to testify when called.

HOW ARE WITNESSES QUESTIONED?

Since the trial's main purpose is to bring out the truth, both sides in a lawsuit must have a chance to question witnesses. This is done through "direct examination" and "cross- examination."

The lawyer who calls a witness to testify asks questions to bring out the facts (direct examination). Then, the opposing lawyer asks questions about that testimony (crossexamination). Both lawyers' questions should serve one purpose: to reveal the facts known by the witness.

Witnesses are sometimes concerned about being cross-examined, but they need not to fear this process. The opposing lawyer must test the accuracy of the witness's memory, determine how it compares with the memories of others, and examine whether the witness is biased (favors one side or the other in the law suite). It is natural for several persons to see and remember an event some what differently. A witness may remember some facts and forget others. A witness is expected to testify from memory as accurately as possible—no more and no less.



WHAT ARE MY RIGHTS AS A WITNESS?

You have the right to have an attorney present during most legal proceedings. If the answer to a particular question would tend to incriminate you (implicate you in the commission of a crime), you have a constitutional right to refuse to answer and should consult with your attorney before responding. Otherwise, you must respond to all questions truthfully. Witnesses who give false testimony may subject themselves to a criminal charge of perjury.

WHY IS BEING A WITNESS SO IMPORTANT?

Your obligation to serve as a witness is as essential to the equal administration of justice as your duty to serve as a juror. When called to be a witness, testify truthfully and fairly and leave with the satisfaction that you have helped to ensure that justice is done. Remember that you may have your own lawsuit or trial someday and will need and want witnesses to testify for you in a fair and impartial way.



Nothing in this pamphlet should be interpreted as legal advice. This pamphlet is meant only for informational purposes.