

Witnesses

A witness is a person you want to tell the judge something to consider when deciding your case.

1. Plan how long each witness will testify.
2. Budget ___ minutes per question.
3. At least ___ days before your hearing, make a written request to the court for a subpoena for each witness.
4. Have a process server or the sheriff serve the subpoena and the mileage fee on each witness (plan on 54 cents per mile round trip from the witness's home to the courthouse).
5. You must serve the subpoena at least two business days before the witness is required to attend
6. File the affidavit of service that you receive from the process server with the court and send a copy to the opposing party.
7. Before your trial, generally you should inform the court and opposing party of your witnesses' names, addresses, phone numbers, and a brief summary of his/her testimony.
8. Ask your witness to be at court approximately ten minutes before he/she is scheduled to testify and wait in the hallway outside the courtroom.
9. Obtain a three-ring binder to organize your witness questions.
10. Organize your witness questions with your first witness on top and your last witness on the bottom.
11. Organize your questions into "chapters." Each chapter has one topic and should fit on one page.

Direct Examination

1. Direct examination is the questions that you ask to the witnesses you have asked to attend.
2. Direct examination questions must be open-ended questions. These questions usually begin with "Who, What, When, Where, Why, or How."
3. Generally, you are not allowed to ask leading questions during direct examination. A leading question states or suggests the answer in the question.
4. After you ask the question, give the witness a chance to answer the question and finish his/her answer before asking your next question.
5. If you talk over the witness or at the same time as the witness the recording device in the courtroom will be recording both of you. This will make it very difficult or impossible for a court reporter/transcriptionist to prepare an accurate transcript if you need to request one.
6. Ask only one question at a time. Don't ask compound questions. An example of a compound question is, "What was your income and business expenses in 2012?"
7. If the witness does not give the answer you wanted or thought he/she was going to give, you are not able to tell him/her what to say.
8. If the witness forgets what his/her answer is and there is something that would refresh his/her memory, you can ask if something would refresh his/her memory. If yes, first show it to the opposing party, and then ask to approach the witness. When the court grants permission, show the witness the item that refreshes his/her memory and then take the item back.
9. Always be respectful toward the witness.

Re-Direct Examination

1. Re-Direct examination is the questions that you get to ask *after* the opposing party asks his/her cross-examination questions.
2. Nos 2-6 for Direct Examination still apply.
3. Your questions must be limited to addressing the topics raised in cross-examination.
4. You shouldn't use this time to ask your direct examination questions again.

Cross Examination

1. Cross examination is the questions that you ask the opposing party's witnesses.
2. You may use leading questions rather than open-ended questions. Leading questions state or suggest the answer in the question. Examples include:
 - a. "Your car is red, correct?"
 - b. "Your car is red, isn't it?"
 - c. "Yes or no, your car is red?"
 - d. "Your car is red?"
3. Cross examination is not an opportunity to argue with the witness.
4. After you ask the question, give the witness a chance to answer before asking your next question.
5. If you talk over the witness or at the same time as the witness, the recording device in the courtroom will be recording both of you. This will make it very difficult or impossible for a court reporter/transcriptionist to prepare an accurate transcript if you need to request one.
6. Ask one question at a time. Don't ask compound questions. An example of compound leading questions might be, "Your 1988 GMC Jimmy is white and has 180,000 miles, correct?"
7. Ask one fact per question.
 - a. "You have a GMC, right?"
 - b. "Your GMC is a Jimmy, correct?"
 - c. "It is white?"
 - d. "It has 180,000 miles, doesn't it?"
8. If the witness forgets what his/her answer is and there is something that would refresh his/her memory, you can ask if something would refresh his/her memory. If yes, first show it to the opposing party, and then ask to approach the witness. When the court grants permission, show the witness the item that refreshes her memory and then take the item back.
9. Always be respectful toward the witness.

Exhibits

Before Trial

1. An exhibit can be a document, photograph, recording, or object that you want to admit into evidence so the court can consider it.
2. Generally before trial you must inform the court and opposing party of your exhibits. This will usually involve providing the opposing party with a copy of your exhibit or making it available for the opposing party to see/copy.
3. Plan to leave the original copy of your exhibit with the court. You may not get it back for several months, or longer. If you do not want to leave the original with the court, you must decide if a picture or replica will do.
4. Plan to prepare the original plus 3 copies of each exhibit you want the court to consider (original to the court; and copies for the witness, opposing party, and you to refer to during the trial).
5. If you are the Petitioner/Plaintiff you will label your exhibits with numbers. If you are the Respondent/Defendant you will label your exhibits with letters (A-Z then AA-ZZ, then AAA-ZZZ, etc.)
6. Exhibits that can be organized in a three-ring binder should be (4 binders – court, witness, opposing party, and you). Complete this step and step 7 BEFORE making copies of your originals so that your labels and page numbers are copied.
7. Any exhibit that has multiple pages should be numbered with page numbers in the lower right-hand corner of the exhibit. For example, if your exhibit B is your March 2012 checking account statement and has five pages, you should label the first page with “Exhibit B” and the number “1” and the second, third, fourth, and fifth pages with their respective page numbers. Doing this will save a lot of time and make it much easier for your witness and

the court to find a page in a multi-page exhibit. Be sure to do this BEFORE making copies of your exhibits.

8. Create a table to put at the front of your exhibit notebook with the following columns: offered; agreed; objection; accepted; rejected. Include a row for each exhibit. This will help you keep track of which exhibits you have admitted into evidence.
9. Plan to have a witness for each exhibit who can testify that the exhibit is a fair and accurate copy of the original and/or that the original is what it claims to be. For example, you may need someone from the bank to testify that the opposing party’s March 2012 checking account statement is accurate or the person who wrote the email that you want the court to consider. Ask yourself – who created the content of this document? The answer to that question is likely the person you will need to personally attend court to testify about the exhibit for the court to consider it.

At Trial

1. To allow the judge to consider your exhibit when deciding your case, you must have that exhibit “admitted” as evidence.
2. To have a document admitted as evidence, you should generally do the following:
 - a. Ask the witness to turn to the exhibit in your exhibit notebook (“Please turn to exhibit A.”)
 - b. Ask the witness if he recognizes the document labeled as exhibit A.
 - c. Ask the witness to explain how/why he recognizes the exhibit.
 - d. Ask the witness to tell the court what exhibit A is.
 - e. Ask the court to accept exhibit A into evidence. THIS MUST BE DONE for the judge to consider your exhibit when deciding your case.
3. Ask the witness questions about the exhibit if necessary.

Presenting Evidence To The Court

This brochure is intended to help with basic steps for introducing evidence at a trial or hearing.

It does not cover every possible scenario. It also does *not* guarantee that your evidence is admitted. Every case is unique and this brochure is not able to anticipate every possible scenario.

Your evidence may also need special technical requirements such as a video player, interpreter for a foreign language speaker, etc. Contact the clerk of the court to ask about what equipment/assistance is available and what you will need to provide. You must comply with all statutes, rules, procedures, and orders that apply to your case.

If you have questions you should contact an attorney.

Presented By:

Weld County Legal Services
970-310-8367

weldctylegalsvcs@aol.com

