

## Taking the Stand

### FOUR RULES FOR TESTIMONY

1. Tell the truth.
2. Be consistent: same tone of voice, same demeanor no matter who is asking the question.
3. Listen to the question and answer only the question being asked.
4. Know your pieces to the puzzle.

### Your Preparation

- Do run-through(s) of your testimony until you're comfortable.
- Review your deposition and key documents to be familiar – don't memorize!

### Logistics

- Understand the physical set-up of the courtroom: where are you? The attorney? The judge?
  - Practice using this particular set-up.
- Legal 101: Get familiar with the order of the trial and the testimony (direct/cross/redirect/recross).
- Where will you be prior to testimony? What should you do after you're done testifying?
- Be aware of your image: dress appropriately for the forum, your occupation and role in the company.
  - Conservative colors and no expensive brands or flashy jewelry.
- Watch what your body is telling the jury:
  - Don't sway or rock excessively in the witness seat and don't play with glasses, pens, etc. during testimony.
  - Maintain a (human) poker face while you're en route to and from and in the courthouse.
  - Treat your testimony like a three-way conversation at a networking event. You're talking to your attorney, but the jury is a part of that conversation.
  - Sit up straight and speak slowly and clearly enough for the court reporter (and jury!) to understand you.
- Do not bring anything to court unless explicitly instructed to do so by the attorneys.
- Be rested, fed and caffeinated (if that is the norm).

### Cross Examination

- Understand the order of your testimony (direct/cross or adverse?)
- Keep the jurors involved in the conversations.
- Stick to some version of yes/no if possible.
  - If you can't answer the question with yes/no, use a short, up-front qualifier, *followed* by the yes or no. Use this to reframe a question in your words. E.g., "If you're talking about 2016, then no."
  - If you can't answer yes/no with the short qualifier, then start explaining and give the jury a feel for why you cannot answer yes/no.

### Additional Recommendations

- Do not try to guess where the attorney is going.
- If the question refers to a document, ask to see it, review it (briefly), and then answer.
- Objections: stop answering and wait for either a new question or instructions to continue.
- Side bars: just look at documents in front of you or the back of the courtroom (not the jury or the attorneys).
- If you don't understand the question, ask for clarity on that part of the question that is unclear.
- If you don't know, say that. If you don't remember, say that.
- Get out of your chair if it would help to explain a demonstrative, just get permission first!
- Avoid acronyms and terms of art or make sure they are explained.
- The jury will likely be taking notes. Just ignore it.
- Your reaction to a question means as much as your answer. Own your bad facts.
- Understand the scope of your testimony: 30(b)(6) or personal experience?