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How To Testify In Court And Be Your Own Best Witness

1. Tell the truth.
2. Testifying in court is not the same as normal conversation. It would be helpful to watch Court TV or preferably visit a court and listen to other witnesses testifying. If your case is pending in the Nassau, Suffolk or Queens County Supreme Court, you should visit that court when it is in session, sit in the back of one of the courtrooms and listen to other witnesses. The matrimonial cases in Nassau County are heard in the Supreme Court Matrimonial Center, 400 County Seat Drive, Mineola, New York. In Suffolk, the Supreme Court is located at 400 Carleton Avenue, Central Islip and in Queens, 88-11 Sutphin Boulevard, Jamaica, New York.
3. Get a good night's sleep before your court appearance.
4. Dress conservatively and wear clean clothes, as if you were going to an important business meeting. Do not chew gum. Turn off your cell phone when entering the courtroom. Once the judge enters the courtroom do not talk.
5. Before you testify you will be sworn in by the courtroom clerk. Give your attention to the clerk and after he or she asks you if you swear or affirm to tell the truth say "I do" in a firm, clear voice.
6. You should review your Statement of Net Worth and prior sworn statements and/or deposition testimony if applicable. However, you should not try to memorize what you are going to say. Your spouse's attorney will be reviewing the same documents for purposes of cross-examination, trying to find inconsistencies. You will be able to provide more truthful

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and accurate testimony if you are familiar with your own prior statements. However, do not try to think back to what was said in a statement you made. When a question is asked, visualize what you actually saw and answer from that. If your answers sound rehearsed, as if you were reading lines from a play, your testimony will lose its effectiveness even if perfectly true.

7. Cross examination can be frustrating because your spouse's attorney will be asking leading questions rather than open-ended questions. This is permissible on cross but not on direct examination. If your spouse's attorney asks an open-ended question that will allow you to explain with a full answer, (rather than just a "yes" or "no" answer), take the opportunity to explain. If the judge restricts you to a yes or no answer, do not worry about it; I will have the opportunity to re-direct you so you can complete your answer.
8. Be serious at all times. It is acceptable to smile at a humorous remark made by the judge or one of the attorneys, but you should not otherwise participate in the humor.
9. If I am asking questions on your direct testimony look at me or the judge when you give your answers. If the judge asks a question look at him or her and make eye contact. Do not put your hand in front of your mouth while answering. Be respectful to your spouse's attorney even if he or she is being disrespectful to you. If the other attorney engages in inappropriate behavior I will bring it to the attention of the court. When you are being cross-examined look at the judge or the other attorney but do not show anger toward or try to "stare down" the other attorney. When you are under cross-examination, I cannot help you with an answer, even if you feel the question is misleading, so do not look at me or the judge for an answer. I will help you explain your answer to the court by asking you questions on re-direct. If your spouse's attorney asks an inappropriate question I will object; however you cannot object to any question.
10. Pay attention to the question and not to the tone in which it is asked. For example, your spouse's attorney might say in a loud intimidating voice "Did you speak with your

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attorney about your testimony before taking the witness stand? Did you!" Well, of course you did. But if you pay attention to the tone of the question rather than its content, you might be tricked into denying that you spoke with me. This also applies to being questioned as to whether you spoke with any witnesses, friends, or relatives about your case.

11. It is perfectly acceptable to pause and think about your answer, although you should not take so much time that it looks as if you are making up an answer. When you are being cross-examined you should think about your answers carefully. This applies even if your spouse's attorney seems cordial or friendly because it is his or her goal to attack your credibility.
12. Sometimes the judge will tell you to answer yes or no and you must comply if you can. If you cannot truthfully answer the question with a "yes" or "no", you have the right to explain your answer. It is much better to explain the answer than to give a simple yes or no if the yes or no will be incorrect or untrue. If this should occur, tell the judge that you cannot answer the question with a "yes" or "no."
13. Wait until the whole question is asked before answering. Only answer the question that is asked of you. If your answer was wrong, correct it immediately. If your answer was not clear, clarify it immediately.
14. The court only wants facts; not hearsay, or your conclusions or opinions. You usually cannot testify about what someone else told you unless it was your spouse who said it. However, you may be allowed to testify to a child's statement regarding issues of custody or visitation. The hearsay rule regarding a child's statements is not entirely clear and even varies between different judges. If this applies to your case I will review it with you prior to trial.
15. Do not say, "That's all that was said," or "Nothing else happened." Say, instead, "That's all I recall," or "That's all I remember happening." It may be that after more thought or another question you will remember something

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important. Think carefully before using absolute words such as "never" or "always." In a court of law "never" means never even once, not just most of the time. A harmless mistake such as inadvertently stating that you "always" or "never" do or say something might impugn your credibility.

16. When you are being cross-examined your spouse's attorney may refer to something that his client or another witness said that disagrees with your testimony. Resist the temptation to give an emotional response such as "she's a liar!" It would be better to say "she is mistaken", or "he is incorrect."
17. Always be polite, even to the other attorney.
18. Do not be condescending or sarcastic.
19. If your direct testimony will require you to testify about many events on different dates, you may wish to prepare an outline. While it would be better to testify without referring to the outline, you may ask permission of the judge to refer to your notes if necessary to refresh your recollection. However, if you do so, your spouse's attorney will have the right to review your notes. Thus, if you decide to bring notes to the court to help you remember what you will be testifying to, prepare your notes as if they will be reviewed by your spouse's attorney.
20. Do not exaggerate.
21. Stop instantly when the judge interrupts you, or if there is an objection. Do not try to sneak in your answer. Do not interrupt. Wait until each question is fully completed before answering.
22. Give positive, definite answers when at all possible. Avoid saying "I think", "I believe", "In my opinion", "maybe", or "perhaps." If you do not know, say so; do not make up an answer. You can be positive about the important things that you naturally would remember. If asked about little details that a person naturally would not remember, it is best to just say that you do not remember. But do not let the cross-examiner get you in the trap of answering

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question after question with "I don't know."

23. Try not to act nervously. Remember that I will have reviewed your testimony with you before you take the witness stand and that you will be telling the truth.
24. Avoid phrases such as "frankly", "honestly" and "to tell you the truth." While these are common phrases in normal speech, they can be used against you in court.
25. Do not lose your temper. Testifying for a length of time is tiring. It causes fatigue. You will be able to recognize if you are becoming fatigued by certain symptoms: (a) tiredness, (b) crossness, (c) nervousness, (d) anger, (e) careless answers, and (f) the willingness to say almost anything in order to leave the witness stand. When you feel these symptoms, recognize them and strive to overcome fatigue. Remember that some attorneys on cross-examination will try to wear you out until you lose your temper and say things that are incorrect. Do not let this happen.
26. If you do not want to answer a question, do not ask the judge whether you must answer it. Do not ask the judge for advice. Do not look at me or at the judge for help in answering a question. If the question is improper, I will object. If the judge then says to answer it, do so.
27. Do not be argumentative, insulting, or sarcastic, to your spouse's attorney even if you think he or she deserves it.
28. Do not nod your head for a "yes" or "no" answer. The court reporter must hear your answer.
29. When you leave the witness stand after testifying, wear a confident expression. Do not smirk or stare at your spouse or his or her lawyer.
30. The above suggestions should be reviewed so that you understand them, but not memorized. Ask me about anything you do not understand. It is normal for most people to be apprehensive about testifying. However, it is my experience that after just a few questions the apprehension will abate and you will feel comfortable on the stand knowing that you are prepared and are telling the truth.

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