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Testifying Under Oath: How to Be an Effective Witness

James M. Vukelic
Volcano Press (June 2005)
Unknown $18.95 (121pp)
978-1-884244-26-1

“Tell the truth. A liar needs a good memory,” wrote Roman theoretician Quintilian.

Living in the most litigious nation in the world, millions of Americans each year find themselves involved with the judicial system. Nearly anyone can suddenly be thrust into court, from simply fighting a traffic violation to testifying as a litigant or a witness in an important criminal or civil case.

There is no shortage of books and seminars available that discuss how lawyers can improve their courtroom skills, but rarely has anyone offered advice to the most important components of any case—the witnesses. The author seeks to increase the odds that a witness who reads his book will have his or her testimony well received by a judge or jury. After all, the credibility of each witness is crucial; appearing confident and calm when answering questions while under the scrutiny of the judge, strangers in the jury box, the litigants, and their attorneys can be extremely challenging. This book gives any witness the tools to squelch their butterflies and to be an unflappable, compelling witness.

The section on how to survive cross-examination alone is worth the price of this volume. Witnesses tend to be comfortable when the attorney on “their” side is questioning them on direct examination, but they can totally come apart under “hostile” cross-examination. Often, a case that appears to be proceeding well is suddenly destroyed when a key witness or a party to the litigation is “demolished” by a rigorous cross-examination. Many cases are won or lost during such tough questioning. The author’s forty-one tips on testifying, ranging from clothing choice to how to examine documents put in front of a witness, are invaluable to a witness who may be subject to hostile cross-examination.

The author is a former trial court judge who now serves as the Chief Prosecutor for the Standing Rock Sioux Tribe in North Dakota. With more twenty-five years of courtroom experience as a prosecutor, judge and civil litigator, he is a frequent lecturer and trainer in the areas of courtroom testimony and domestic violence. His background as a high school teacher also serves him well, as the book avoids “legalese” and is easy for any lay person to read and comprehend.

This book is written as much for the courtroom litigator as it is for the witness who may testify at deposition or trial. Even skilled trial lawyers can learn some pointers from the author’s vast experience. Attorneys will want to keep extra copies of this book on their shelves to hand out to clients and key witnesses well in advance of trial, when they will be sworn to tell the truth.
(August 18, 2009)

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