

# TEN TIPS AND TRICKS FOR TESTIFYING IN A TERMINATION TRIAL

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# I. PREPARATION: TALK TO THE PERSON WHO ISSUED THE SUBPOENA OR WITNESS LIST.

- Most likely it will be the Assistant Attorney General
- Information to obtain from the AAG
  - Logistics of testifying
    - When will you be testifying?
    - How will you be testifying? In person? Via Zoom?
  - Theme
    - What is the theme of the Department's case?
  - Outline
    - Does the AG have an outline of your testimony or a list of questions they intend to ask?
  - Anticipated areas of cross examination
    - Does the AG have an idea of what are the potential areas of cross-examination by the parents' attorneys?

## 2. PREPARATION: REVIEW YOUR FILE.

- Review *everything* in your file
  - Your notes, reports, emails, Family Time notes, provider reports, UAs, etc.
- As you review your file, make an outline or cheat sheet for yourself regarding the case
  - No more than 3 pages
  - You must be comfortable allowing the judge and attorneys to review this outline
  - Often a timeline is the best way to organize things
- Prepare your Advocate resume
  - Include your education, training, and experience
- Some social workers also maintain an outline
  - They may be willing to share their outline with you

**TELL THE TRUTH!**

### 3. TESTIFYING: TALKING IN COURT.

- Things that will help the Court Reporter = Things that will help an electronic record via Zoom
  - Speak loudly, clearly, and slowly
  - Give verbal responses
  - Don't talk over the person asking questions
- Objections
  - If you hear the word "objection," STOP TALKING!
  - Let the attorneys and the judge work out the issues
    - If the objection is "sustained," you will move on to a new question
    - If the objection is "overruled," you will answer the question posed
    - If you aren't sure, ask!

## 4. TESTIFYING: LISTENING TO THE QUESTION.

- Listen to the question that is asked and ***answer that question***
  - If the attorney needs additional information from you, they will ask a follow-up question
  - If the truthful answer is that you (a) don't know or (b) don't remember, those are acceptable answers!
    - No one wants you to guess or speculate if you don't know the answer
- If you don't understand the question, ask to have the question repeated or rephrased for you

## 5. TESTIFYING: YOUR DEMEANOR ON THE STAND.

- You will be nervous
  - You know this case better than anyone in the courtroom
- Limit distractions for yourself
- You are a professional and an Officer of the Court
- Be confident, articulate, straightforward, and honest
- Don't be rattled by the attorneys
- You must answer the question, unless the Court instructs you otherwise
- Think before you answer the question
  - It is ok to take a second to gather your thoughts

## 6. TESTIFYING: EXHIBITS AND NOTES.

- Suggestion: Do not bring your file to the stand with you
  - This is why you've prepared your independent outline
  - You've also reviewed your file recently, so you know what is in it
  - If you have your entire file, the Court or the attorneys can ask to view everything in it
- If you need to refer to your notes, ask permission to do so
- If an attorney has documents they want you to look at, they will hand it to you
  - This is the official exhibit and belongs to the Court
  - When you are finished testifying, give the exhibits back to the attorney who used them



## 7. TESTIFYING: WHAT DOES DIRECT EXAMINATION LOOK LIKE?

- Most often will consist of a yes or no question, with a follow-up question that leaves room for you to give more details or a narrative
- General Outline
  - Background Information about you
    - Name, Years as CASA/GAL, Training, Experience, Job Duties, GAL Rules
  - Your experience with this case
    - When assigned, What have you done in this case, Who have you talked to
  - General questions about the case
  - Your recommendations
    - What is in the best interest of this child?

## 8. TESTIFYING: WHAT DOES CROSS EXAMINATION LOOK LIKE?

- Questions will often be a statement preceded by “Isn’t it true” or “Were you aware”
  - Questions will generally require more yes or no answers than explanatory answers
- Cross-Examination is *supposed* to focus on the same subject areas that were addressed in direct examination
- Attorney may try to rile you up, question your credibility, twist your earlier testimony, and make you frustrated
  - This is not a personal attack on you!
  - Keep calm and answer the question

## 9. TESTIFYING: REDIRECT, RECROSS, AND JUDGE'S QUESTIONS.

- Redirect is when the AAG gets to ask you additional questions, after cross-examination, if they have any
  - Redirect is usually a very short process
- Recross is when the parents' attorney gets to ask you additional questions, after redirect, if they have any
  - Recross is usually a very short process
- The judge is also allowed to ask questions if she or he has any

## 10. WRAP UP: AFTER YOU FINISH TESTIFYING.

- You will spend time after you testify analyzing your testimony
  - Put a timer on it
    - Take the amount of time you were testifying, multiply it by two, and that's how long you get to retroactively analyze your testimony
  - If there was something *extremely* significant about your testimony that you are concerned about, let the Attorney General know as soon as possible, ideally during a break
    - The Attorney General can decide if they would like to recall you to the stand for additional testimony
- Remember: You are not making the decision to terminate parental rights. The Court is. You are simply providing the Court with information and a professional recommendation to help the Court.

REMEMBER: YOU ARE NOT MAKING THE  
DECISION TO TERMINATE PARENTAL RIGHTS.

The Court is.

You are simply providing the Court with information and a professional recommendation to help the Court make an informed decision.

# QUESTIONS?

- If you receive a subpoena:
  - Contact your supervisor
  - Your supervisor will work to help you prepare
- Morgan Chaput, Attorney - Child Advocate Program of Pierce County
  - [morgan.chaput@piercecountywa.gov](mailto:morgan.chaput@piercecountywa.gov)
  - 253.370.4891