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Tips for Expert Testimony

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- 1) **REMAIN PROFESSIONAL.** Be courteous. Keep an even tone. Do not brag, do not condescend, do not argue and do not be sarcastic. Always tell the truth! The more poised and professional your demeanor, the greater credibility your opinion will carry.
- 2) **K.I.S.S.: AVOID JARGON.** Remember that your ultimate audience is a judge or jury who likely will not have technical expertise. Explain technical concepts in everyday language so that the judge or jury may easily relate to the concepts you are describing. This is also important in depositions as the opposing attorney is not only assessing the substance of your testimony but as well they are assessing the manner in which you are likely to come across to a judge or jury.
- 3) **STOP IMMEDIATELY WHEN AN OBJECTION IS RAISED.** Even if you are in the middle of a sentence, stop. DO NOT proceed further until the objection has been resolved and until you have been either instructed to answer or you have been asked a new question.
- 4) **DO NOT GUESS.** There is a 50% chance of being wrong if you guess. If you do not remember something, simply state so but do not try to guess from memory. If you do not know something, simply state so. That makes you more credible than someone who is clearly guessing.
- 5) **REMAIN POISED AND FOCUSED DURING BREAKS,** either while attorneys are discussing a point or if there are long pauses between an attorney's questions. Do not fidget, do not look away and do not jump in and say something just to fill the gap. Some attorneys purposely

pause between questions just to see if the witness will get nervous and volunteer something. Don't take the bait.

6) **BEWARE OF COMPOUND QUESTIONS!** Often a several-part question has some parts to which you could easily agree but there may be one or two parts wrapped up in the question with which you cannot agree and/or which mis-characterize your testimony or opinion. Listen very carefully to compound questions and, in responding, it is perfectly permissible and proper to break out the parts with which you do agree and to indicate the parts with which you disagree and/or which mis-characterized what you were trying to say.

7) **DON'T LET AN ATTORNEY GRAB YOUR PAINTBRUSH!** Be aware if an attorney re-phrases your testimony and opinion. If you do not agree with the manner in which it was re-phrased, correct the characterization first before answering the substance of the question.

8) **REVIEW IT FIRST.** If you are asked a question about a document, you may ask to review it first before answering. If you are asked to identify a document, **DO NOT** do so until you have reviewed the entire document to make sure it has not been altered in any manner from the last time you saw the document.

9) **DON'T FIGHT.** In most cases, there will be an expert opinion which disagrees with your opinion in whole or in part. If asked about an opposing opinion, do not accuse the opposing expert of lying, of being unqualified, etc. Simply state that you are trying to do the best that you can with the information available to you. If you have not seen the opposing expert's report, then also mention that you could not express an opinion on that report until and unless you have had the time to study the report and compare it to the information you reviewed in forming your report.

10) **ANSWER QUESTIONS AS NARROWLY AS POSSIBLE!** Never offer more than what exactly is being asked of you otherwise you risk providing information your attorney does not want provided or information the opposing party may have not thought to inquire about. Additionally, once you venture beyond what exactly was asked if you, you open the door to the opposing asking additional questions beyond what was just asked which means you have to be testifying even longer. Do you really enjoy spending additional time having to answer attorneys' questions?

11) **DRESS LIKE A PROFESSIONAL.** This means conservative business attire, both for deposition and for court or administrative hearings. Men should wear suit and tie with dress shoes. Women should wear a conservative business suit.

12) **RESPECT YOURSELF.** In a deposition, if you need a break or if you need an opportunity, ask politely for it. However this should be a rare occasion and not a regularly-occurring event.

Culin, Sharp, Autry & Day, P.L.C., an AV rated firm in Fairfax, Virginia and in Warrenton, Virginia, is a small, general practice law firm which maintains a strong focus on serving the needs of its clients and the needs of the community at large. The firm is comprised of six Members: Robert G. Culin, Jr., Mark E. Sharp, James E. Autry, Julie Hottle Day, David A. Hirsch and James A. Yergin, Jr.; two Associate Attorneys: John C. Cowherd and Jordan S. Jackson; and one Of Counsel: Joseph M. Wilson. Although the firm was founded in 1998, the name Members have practiced law together for longer than fifteen years.

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- Commercial Real Estate, Commercial Law, Commercial Arbitration & Mediation
- Eminent Domain
- Creditor's Rights
- Family Law, Divorce, Child Custody, Child Support and Equitable Distribution
- Criminal and Traffic Defense including Driving While Intoxicated, Driving on a Suspended License, Reckless Driving, Assault, Narcotic Violations, Fraud Violations, White Collar Crime and Sex Offense Violations
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- Trusts and Estate Litigation
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The firm is committed to providing excellent service to businesses and individuals alike while maintaining the highest ethical standards.

HIRSCH'S TOP TEN COMMANDMENTS FOR TESTIFYING

BY DAVID A. HIRSCH, ESQ.

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1) TELL THE TRUTH



VIRGINIA CODE § 18.2-434: PERJURY IS 1-10 YEARS OR 0-12 MONTHS AND/OR A FINE OF UP TO \$2500. ALSO A LIFETIME BAN ON “HOLDING ANY OFFICE OF HONOR, PROFIT OR TRUST UNDER THE CONSTITUTION OF VIRGINIA [AND ON] SERVING AS A JUROR.”

18 U.S. CODE § 1623: PERJURY IS UP TO 5 YEARS

2) DON'T KEEP SECRETS FROM YOUR ATTORNEY



A SURPRISED ATTORNEY \neq A GOOD RESULT

3) DON'T GUESS



**50% CHANCE OF GETTING IT
WRONG!**

4) DON'T LET ANYONE GRAB YOUR PAINTBRUSH

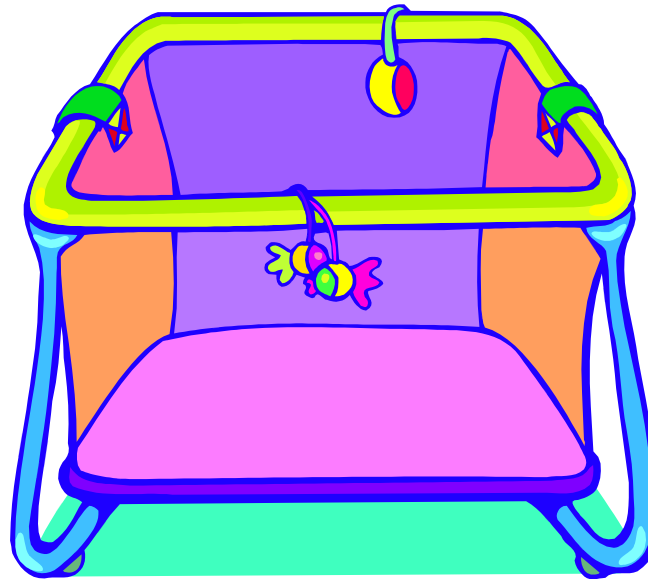


5) ***DON'T USE JARGON***



REMEMBER K.I.S.S. !

6) DON'T GET IN THE PLAYPEN WITH THE CHILDREN



7) DON'T RUN STOP SIGNS



8) NEVER OFFER BONUSES



9) DON'T FIDGET OR LOOK AWAY



10) DON'T EVER TRY TO IMITATE TV

