**Court Testimony: Preparation and Appearance**

**PREPARATION**

No one in the world likely looks forward to testifying in court. There are certainly those who make a living testifying and do it often enough that they don’t mind testifying, but even those people may not actually look forward to doing so. However, with preparation and practice, testifying in court does not have to be anxiety-producing. Every evaluator and many case managers (but never mediators—all their work is confidential) will have the opportunity to testify in court. Evaluators may testify at least several times a month depending on the number of cases they have, how conflicted the cases are, and what the evaluator’s reputation is with the courts and attorneys involved. As a beginning evaluator, you should plan on testifying in at least half your cases. As you become more seasoned and build a reputation as a reasoned and professional evaluator, you will probably testify in only a quarter of your cases. As time goes on and judges and attorneys know you better and develop professional relationships with you, expect to eventually testify in only about 1 in 20 cases. Regardless, at times you will have to testify about your recommendations to the court. This chapter will help you prepare for court testimony. The better prepared you are, the better you will feel about testifying, and the better your testimony will go.

**Attorney Consultation Prior to Court**

You will be notified to testify about your recommendations by one of the attorneys, generally the attorney representing the client who agrees with your recommendations. Often this notification is done by a simple phone call from the attorney to you; sometimes, however, you will be served with a subpoena. As soon as you are notified, start preparing for court. When you talk to the attorney, find out the date of the testimony and what time you are expected to be called to the stand. Write that down in your calendar. If the date is weeks away, make an appointment to talk with the attorney about the testimony before court. Do not spend time talking about your testimony at the time of the original call. There is always a chance that the case will settle and your testimony will not be necessary, so don’t spend your time preparing with the attorney until it seems a certainty that you will testify.

As the time grows near, contact the attorney to verify the court date and that you still need to testify. Sometimes you will find out that the court date has been changed—and everyone knew but you. Don’t take it personally: It happens sometimes—put the new date in your calendar and move on. If the date is still correct, verify that the appointment you set up to consult with the attorney is still good. This appointment does not have to be long, nor face-to-face. Plan on talking 15 to 30 minutes by telephone.

Before preparing with the attorney for the testimony, reread your notes and recommendations. Reflect on why you came to the conclusions you did. What compelling reasons led to the recommendations you submitted to the court? As you reread your notes, the case will come back to you in detail. Make notes to yourself about what you think needs to be brought up by the attorney in court to help the judge fully understand your reasoning. This conversation with the attorney is ex parte. It is the only conversation you will have during the case or have about the case that does not take place with both attorneys.

During the conversation, let the attorney know what to ask you during questioning to illuminate the rationale behind your recommendations. Sequence the questions in such a way as to lead the court through your line of reasoning. Be on the same page when it comes to what needs to be asked and brought forth during the court testimony. The attorney will appreciate the input if it will better establish the client’s case. But don’t presume to tell the attorney how to run his or her case. It is your job to be collaborative and helpful in establishing to the court that your recommendations are in the best interest of the child. Also ask the attorney what questions might come from the opposing attorney so that you can be prepared to answer them. Remember, the more prepared you feel before testimony, the more comfortable you will be on the stand.

Finally, establish with the attorney when he or she wants you at the court to testify, verifying both the date and the time. The attorney should be able to give you a close approximation of when you will be called to testify. You do not need to come earlier to court, but you must be on time. Remind the attorney that you will be billing his or her office for the cost of the testimony. Tell him or her again what your hourly rate is for testimony and what your travel costs will be (if any). Make a reasonable approximation of what the cost of your testimony will be and suggest that the attorney collect the monies from the client before court so that he or she can pay you in a timely fashion. Your costs start when you walk in the courthouse, whether you are sitting in the corridor outside the courtroom, inside the courtroom, or in the stand. It is to everyone’s advantage financially for the attorney to get you on the stand when you arrive at the courthouse and then off the stand as timely as may be.

The attorney may ask whether you need a subpoena in order to testify. If you need a subpoena to get away from work, then ask for the subpoena; if you do not, then assure the attorney that you will be there on the date and at the time agreed upon. At the end of the conversation, provide the attorney with a way to contact you if, for whatever reason, you do not need to go to court. You need to be available in the evening before court, in the early morning before court, and even during the day as the court session is occurring. Often, the case will settle just before beginning, the judge will postpone the hearing, or some other unforeseen event will preclude your testifying. Be sure you are in the loop so that you know not to go to court (wasting your time if you aren’t needed) or know that you definitely need to appear.

At the beginning of your testimony, you will be asked about your professional training, licensure, and experience as an evaluator. If you are known to the court, usually both attorneys will agree about your expertise and allow the court to consider you an expert. If you are not known to the court, be prepared to talk about your educational background (giving dates), about how you obtained your training as an evaluator, and about how many cases you have completed as an evaluator. Often you will be asked to provide a curriculum vitae (CV) to the court. Have a current CV available to hand over to the court to document your professional background and experience. Either create a current CV or dust off an old one—and update it. Do not provide the court an old and noncurrent CV for inspection: This does not enhance your professional credibility.

The night before or the morning of your testimony, review your notes and recommendations once more. If you make notes or an outline to better organize yourself, include this in your case file. Gather your case notes (including a copy of the recommendations) and a copy of your CV and get ready to go to court. You may also want to bring some tissue, some throat lozenges, and reading glasses if you use them.

**Going to Court: Professional Dress**

Before you go to court, consider what to wear. The court has rules about what court officers can and cannot wear to court. Some jurisdictions are more relaxed than others, but generally men are expected to wear coats and ties and women to dress professionally. What exactly does this mean? For those of you who work in more casual clothes (as is the case for many play therapists) or those of you who wear funky, clingy, or out-of-the-ordinary clothes—you get to go shopping for “court clothes.” The court atmosphere is relatively conservative, so you need to look the part of the expert professional and fit into that environment. You don’t have to like it; you just have to do it.

Men wear suits or sports jackets, ties, and slacks. There may be courts that allow jeans with a jacket, but they are few and far between. Go buy a well-fitting suit, a dress shirt, and a conservative tie. Buy shoes to match the suit, then shine them. You need to dress at least as well as everyone else in court, and ideally just a little better. You may not like it, and it may not be right, but wearing professional clothes makes others believe that you are in fact the professional you claim to be. Wearing professional clothes can also make you feel more professional, putting you in the correct mindset, ready to testify professionally and with conviction.

Originally, women were expected to wear a conservative suit with a matching skirt. Jewelry and makeup were to be kept to a minimum and hair was to be styled conservatively (for example, in a bun). Today, although women are still expected to wear professional clothes, this can include a suit with a jacket, a matching skirt or pants, and a fairly conservative blouse. Jewelry gets more leeway nowadays, but jewelry that makes noise is generally frowned upon. Hairstyles are left to the woman, but anything too radical (a colored mohawk?) is not encouraged. A female evaluator may like her colored jeans, flowing gypsy skirts, see-through blouses, wedge sandals, bangle bracelets, and flower headband, but the court does not. You may need to purchase clothes that you only ever wear to court—a suit with a matching skirt or pants, a sharp-looking blouse without a lot of frills or patterns, nylons without designs, shoes conservative in both color and style, and jewelry that is not flashy or noisy—and decide on a reasonable hairstyle to go with it. You must match the others in court by your professional dress. You may not like it, but you must look the part of a “court professional.” What you look like to others will inform their mindset about your professional abilities as an evaluator. Finally, courtrooms tend to be on the chilly side, so dress warmly if you get cold easily. Asking the judge mid-testimony to turn off the air conditioning is something you should avoid if possible.

So: You are at court at the agreed-upon time, you have reviewed your notes and recommendations, you have familiarized yourself with the case, you have consulted with the attorney who asked you to testify, you are dressed as the professional you are, and you are ready for testimony. Now the “fun” begins.

**APPEARANCE**

Now comes the moment of your actual testimony. Even evaluators who have testified many times feel a bit nervous and anxious before testifying. However, if you have thoroughly reviewed your notes and understand and can articulate your rationale for making your recommendations, then you are ready to tell the court why you recommended what you did. Before you step up to the witness stand, be aware of some general guidelines for testifying as an expert.

**General Guidelines for Testimony**

1.You need to be able to explain your work and the rationale behind your recommendations in layman’s terms. Do not try to dazzle the court with counseling terms that only you understand—don’t end up explaining terms rather than talking about your recommendations. Avoiding using jargon; instead, use terminology understandable by everyone in the courtroom.

2.Do not go beyond your level of expertise. If you want to impress the court with your infinite wisdom, then you had better have infinite wisdom. Don’t attempt to extend your testimony beyond what you yourself did for the court. Being a know-it-all will destroy your credibility with the court.