

Antippa Lawyers

since 1961

TALKING IN COURT

Foreword:

This brochure is a basic guide as to how you should talk in Court at a final hearing.



INTERIM HEARING

Usually, you will not have to talk in Court at any of the interim, interlocutory or directions hearings or call-overs. Your Barrister will do the talking for you.

You may only be required to talk at the final hearing, if the proceeding does not settle before the final hearing.

GETTING READY

If you have signed an Affidavit, then you should read your Affidavit at least 5 times the day before the hearing and summarise your Affidavit. The dates are really important.

WHAT TO WEAR

The court is a formal place and you should dress in formal clothes to show respect. Dress-up. Do not wear your usual casual day - clothes. If you have any questions about what to wear, ask one of our friendly staff.

ARRIVING AT COURT

We want you to bring a family member or friend (who is over the age of 18) to sit with you and provide support. Your support person cannot speak on your behalf.

WHAT TO BRING WITH YOU

- Your Affidavit (but you will not usually be allowed to look at it whilst you are being asked questions in court);
- Any special Holy Book which you may want to use;
- Bottle of water (with lid).



INSIDE THE COURT-ROOM

When the judge enters or leaves the court, you stand and bow.

WHERE TO SIT IN COURT

You should sit behind your lawyer, as close as possible. Sit as close to the front of the room as you can.

Act as respectfully as you can.

ORDER OF SPEAKING

All of the Plaintiff or Applicant's witnesses speak first, then all of the Defendant or Respondent's witnesses speak.

TAKING THE STAND

You will be asked to walk into the witness box or to 'take the stand'.

CHOICE OF OATH OR AFFIRMATION

You must remain standing when you are asked to tell the truth.

A court clerk will ask you whether you want to swear on the Bible or on another Holy Book or to take an affirmation (no Holy Book).

The Court will have only the 2 or 3 of the most common types of Holy Books. If you believe in an unusual type of Holy Book, you can bring the Book with you.

If you choose to 'take' an Oath, you will be asked to repeat the words, 'I swear by Almighty God that the evidence I shall give shall be the truth, the whole truth and nothing but the truth.'

EXAMINATION-IN-CHIEF

Your Barrister will ask you:

- To state your name;
- To state your address;
- To state your occupation;
- If you have recently read your affidavit(s) – (answer 'yes' or 'no' only to this question);\
- If you want to amend anything in your affidavit;
- If you want to add anything to your affidavit which is not written in your affidavit.

The judge will have read your affidavit. The judge does not need you to read your affidavit to the court.

Your Barrister will then offer your affidavit to the Court and sit down.



CROSS-EXAMINATION

Your opponent's Barrister will ask you questions about your recollection of events.

You should expect the Barrister to ask you questions about almost every paragraph in your affidavit.

Wait a short moment before answering each question to ensure that you properly understand the point of the question.

Talk to the judge and not to the person who is asking you questions. Refer to the judge as 'Your Honour'.

The judge will not look at you much. Still talk to the judge anyway and not to the opposing Barrister.

This is your opportunity to explain to the judge what really happened and that you were really involved with the incidents which you described in your affidavit.

If you think a question is unfair, your job is to answer the question the best way you can.

Your Barrister will object to questions which are not allowed to be asked of you. Your Barrister cannot object to difficult questions being asked of you.

If you must take a break and you absolutely cannot wait until the court takes a recess or break, you can ask the judge for a 2-minute break. However, do not ask in the middle of a series of difficult questions because it will reflect poorly on you.

You may ask the judge permission to sit. You may ask the judge permission to be able to refer to your affidavit but only if this is absolutely necessary to understand any particular question. However, you should try to answer questions without looking at your affidavit as this will make you appear much more convincing.

DIFFICULT QUESTIONS

ANTIPPA LAWYERS is not allowed to smile or give you a signal to encourage you to say that you are doing well or that you are answering the questions correctly. This is called 'coaching the witness'.

If you are asked difficult questions, ANTIPPA LAWYERS cannot tell you how to answer difficult questions whilst you are on the witness stand.

CONDUCT OF A WITNESS

Speak clearly and politely to the judge. Do not:

- Reply to comments made by other people in the court-room;
- Point your finger or use abusive language;
- Raise your voice or shout or
- Use rhetorical language, e.g. "Well, if that were true, then how do you explain ..." this or that?

JUDGE QUESTIONS

If the judge asks you a question, listen extremely carefully. Judges do not usually fully explain their questions. Judges never ask obvious questions. You are left guessing as to what the judge really wants to know.

You must not interrupt the judge or another person.

DISCUSSIONS WITH YOUR LEGAL TEAM

You are 'on oath' from the time you take the oath or affirmation on the witness stand until the time the judge allows you to step down. You could be 'on oath' for days.

During this period of time, ANTIPPA LAWYERS and your Barrister are not allowed to speak with you. We cannot talk to you during breaks or at the end of the day. We cannot communicate with you by any electronic message, e-mail or telephone either.

We will not be able to offer you support at the time when you may want support the most.

WHEN WILL THE DECISION BE MADE?

It could take months for a decision to be made. You may have to return to court to hear the decision on another day.

WATCH VIDEOS:

<https://www.youtube.com/watch?v=lvMst4ASyq0>

<https://victimsandwitnesses.opp.vic.gov.au/court-process/going-to-court>



FURTHER READING

<http://www.antippa.com.au>

<https://www.fcfcga.gov.au>

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