



Court Is In Session

Five lessons I learned from being an expert witness

By Addie Greco-Sanchez, RRP, RVP, CVP

If the thought of being called as an expert witness gives you the jitters because you've watched too many *Law and Order* episodes and read too many John Grisham novels, it may help to remember that no one else in the courtroom possesses your expertise. Having had only one experience testifying 20 years ago, I was recently requested to testify in Superior Court regarding a vocational assessment that I completed three years ago. Like so many other subpoenas previously received, I anticipated the case would settle. This one didn't. When it became evident that I would be called as an expert witness, I realized the best approach would be to stop recalling all the courtroom dramas I had ever seen and start preparing. I dug up the file in question, reviewed academic literature on the topic of expert testimony and connected with expert colleagues.

Here is what I learned from my experience:

1. Request a pre-trial conference. Meet or teleconference with the lawyer who has retained your services to determine what the key issues are and how they relate to your vocational assessment report. Review all questions the lawyer will be asking you in court as well as your responses. Lawyers aren't trained on vocational issues; therefore, you should feel free to make suggestions regarding the line of questioning. If you

are asked whether the case was previously discussed with the lawyer who retained you, respond truthfully that, yes, a pre-trial conference was held to ensure information would be clearly presented to the jury.

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2. Be prepared. Review your CV thoroughly and be prepared to discuss your knowledge, skills and experiences that qualify you to be an expert witness in court. Bring your file and four copies of your CV—one for the judge, two for the lawyers and a copy for yourself. Have your file organized and tabulated for easy access to vital details when questioned.

Although I had spent countless hours reviewing countless documents, I found this was not necessary: the only document I needed to virtually memorize was my own report. As the lawyer said

to me, "Study your report as if you were writing an exam on it."

The key issues in the case will determine what additional research is required. For example, if one of the contentious issues is whether

or not the client is 'competitively employable,' be sure to know the definition of competitively employable. If your report was written two or three years ago (as mine was), review current wage information and be prepared to present it if asked. Look up any terms that you are not completely familiar with.

Know the National Occupational Classification (NOC) and review NOC information on the employment options suggested in your report. Print this information and take it with you. Understand the purpose and limitations of the measures utilized in your report and be prepared to explain them.

3. Be thoroughly professional. From the moment you park your car, act as if you are on the stand. Avoid discussing the case with anyone as you never know who might be listening. Dress conservatively and impeccably. I was tempted to wear a hot pink jacket that a colleague said looked smashing on me. Thankfully I changed my mind at the last minute. If I had shown up in a hot pink jacket, I would have stood out like a perky petunia in a courtroom canvas of sombre grey and black

and would have been taken just as seriously as a talking flower. Demonstrate your professionalism in both the substance and style of your testimony.

4. Pause before you answer. Did I mention that being on the witness stand can be stressful? Your instinct may be to blurt out your responses in order to bring a speedy resolution to your misery. Don't jump the gun. Avoid answering questions until they have been fully presented. Answer only what has been asked of you. Be definitive in your responses and avoid wishy-washy non-expert language such as "I suppose" or "I think."

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The vocational field is acronym-heavy. Speak plain English rather than Vocationese. If you use an acronym, be prepared to explain it. Expect to explain the basics, such as the definition of a vocational assessment. Be sure to speak clearly and audibly. If questioned as to the basis of your opinion, say it is based on reasonable professional probability or a reasonable degree of vocational certainty.

5. Don't take it personally. The opposing lawyer may question your competency and your opinion. Respond in a matter-of-fact manner remembering that everyone in the courtroom is just doing their job. It isn't personal. You are there to present a professional opinion and the opposing lawyer is there to question it. Be polite, maintain good eye contact and stay cool.

Testifying is not to be taken lightly, nor is it to be feared. Preparation is the key to confident expert testimony. After taking the stand for

the first time as a vocational assessor, qualifying as an expert witness has given me a better understanding of what it means to provide an independent vocational opinion. And I can now confidently state that, in my professional opinion, fashion statements should be made outside of the courtroom.



About the Author

Addie Greco-Sanchez, RRP, RVP, CVP, has been in the field of vocational rehabilitation since 1989. She has completed many vocational assessments for insurers and lawyers over the years. Currently, she is the President of AGS Rehab Solutions Inc., which she has owned and operated since 1999. She manages a team of rehabilitation professionals across Ontario from the Mississauga Head Office.