

# Effective Witness Interviews and Getting Your Witnesses Ready for Deposition/Trial

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“Witnesses who lack strong communication skills and necessary confidence can unintentionally harm the case.” Dr. Kevin Bouilly, a Litigation Consultant with Persuasion Strategies spoke at the RMPA Membership Luncheon held on November 17, 2009 at Holland & Hart LLP about tips for effective witness interviews, deposition preparation and trial preparation. Dr. Bouilly, has been active in litigation consulting for the past 8 years and his teaching experience has included legal communication, conflict resolution, public speaking, persuasive speaking and persuasion theory. In addition, Dr. Bouilly is a member of several professional organization and has authored several articles related to legal communications.

Dr. Bouilly stated that goals of a good witness include: 1) staying within the area(s) of expertise; 2) staying within areas of knowledge; and 3) providing useful information. Some of the issues that stop good witnesses include: 1) fear of imperfection; 2) fear of exposure; 3) fear of the legal process; 4) emotional involvement; and 5) guilt or misplaced responsibility.



Dr. Kevin Bouilly

Tips on empowering your witness include the “witness bill of rights”, being: 1) work with the witness to be well prepared; 2) understanding why the witness is being deposed; and 3) refresh recollection of the issues. Dr. Bouilly suggested to make the witness feel comfortable advise them to 1) tell the truth; 2) stay focused on the questions; 3) listen carefully to the questions; 4) maintain control – don’t display negative emotions; and 5) communicate clearly. Dr. Bouilly also suggested working with the witness twice or more before the testimony is to be elicited at a deposition or at trial. He suggested to consider videotaping the mock deposition/trial testimony for the witness to see how they will be viewed by opposing counsel or by a jury.

There are 3 channels of non-verbal communication – 50% are visual cues, 20% are verbal cues and 30% are vocal clues. Suggest to the witness during a deposition to lean forward and place hands on the table, dress appropriately, avoid drinking during a deposition – wait until a break. If a witness does not know the answer or appears to be confused about a question – suggest to them they can state, “I don’t know or I don’t remember or request clarification of the request.”

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