

33rd District Court Instructions to Witnesses

Counsel will instruct each witness on the following matters.

These instructions are intended to assist witnesses in understanding something of their role as a witness along with some of the limitations that must of necessity govern their testimony. Counsel **SHALL** utilize these instructions along with other instructions that might aid witnesses in testifying effectively.

- When you speak, **speak slowly and distinctly**.
- Give a **verbal answer** – nods and shakes of the head cannot be recorded accurately.
- If the question requires a **‘yes’ or ‘no’** answer, use those words. The guttural sounds of ‘uh huh’ and ‘unh uh’ are not words in the English language.
- **Speak up**. Sometimes you will hear your own voice back over the speaker. That may make you think you are speaking too loudly and cause you to lower your voice. Don’t do it. If you are too loud then the judge will let you know.
- **Listen carefully to the question** and make sure that you understand it before you try to answer it. If needed, you may ask the lawyer to repeat, to rephrase or to clarify the question, and if you don’t understand the question, you may state that. The attorney will attempt to phrase it in a way that you will clearly understand it. Contrary to television, few if any lawyers purposefully try to confuse a witness with the question.
- **Wait until the lawyer has fully stated the question** before you try to answer. The court reporter has to write down the question and answer and if two people are talking at once it becomes difficult if not impossible to have an accurate record.
- An objection may be lodged by the attorney – either the other attorney or the very one who is asking you a question. **Immediately upon seeing that an objection is being made (the attorney will stand and start off with “objection”) stop your answer** in mid-syllable. Do not attempt to speak over the attorney. The judge will then rule on the objection. If it is sustained then you may not continue your answer. If it is overruled, you will normally be permitted to continue your answer.
- When answering, **answer just the question asked**. Don’t elaborate. Your job is to answer questions, not to make speeches or to try to get every word in that you think may be important. If the opposing lawyer has asked a question that begs for an additional question but is not asking it, the lawyer advancing your testimony will ask that question if it is necessary and proper. Stick to your chore: just answer the question! You will hear an objection of “nonresponsive” if you stray from the topic.
- You are **not required to guess** at an answer such as about times or distances. However, you **may be called upon to make an estimate**. If your response is an estimate you may say so.
- **About “hearsay”** evidence: Basically, anything said to you outside of the courtroom, even if you heard it with your own ears, is hearsay. You can't talk about hearsay, i.e. what someone else told you, except in certain circumstances.

The “Rule”

There is a procedural rule which is referred to as simply “The Rule” which you are hereby **ORDERED** to comply with as follows:

- You are required to **remain outside of the courtroom** and outside of the hearing of the proceedings in the courtroom until it is your turn to testify. (Note: This part of the rule does not apply to parties, the spouse of a party or the designated representative of a corporation or other entity type party.)
- You will be called to the courtroom when it is time for you to testify.
- You are **not to discuss your testimony** with anyone, either ahead of time or after you testify, except for one of the attorneys in the case, until the case is entirely over.
- You are **required to remain in attendance** until specifically excused by the judge.
- If you are released from The Rule remember that other witnesses may still be subject to it and you are not to discuss the case with them.
- If you are excused but to remain subject to recall, you must wait either in the witness holding room or, if permitted by the judge, to remain available by telephone to be within 30 minutes of the courthouse if called back.
- **You must continue to obey the requirements of The Rule until specifically excused from it by the judge presiding over the case.**
- A violation of The Rule is punishable by contempt of court which carries with it a fine up to \$500 and confinement in the county jail for up to six months.