

WV ESPN: TRAUMA INFORMED TESTIMONY



THE IMPORTANCE OF TESTAMONY IN ADVANCING THE BEST INTEREST OF THE CHILD

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WEST VIRGINIA POWER OF PLAY THERAPY



What Bring Us Here –INTEGRITY & COMPETENCE:

1. NO one, absolutely no one likes testifying in Court.
2. Advocating for the best interest of the child often involves the “rubber meeting the road” in Court.
3. We can take away that fear by understanding the Court system and what is expected in terms of testimony
4. ... and by proper preparation... which includes prior contact with the GAL.





WHAT DO JUDGES and ATTORNEYS LOOK FOR IN YOUR TESTIMONY:

1. Professional and Prepared! So often we are not prepared for court – not part of training.
2. If an expert opinion is going to be offered and you are not known to the court, know that education matters. Have a C.V. (not simply a “RESUME”)
3. Should your preparation include talking to GAL and/or counsel?
4. Don't read your report into the record. What should be in your report?
5. What records do you bring with you to court?
6. When can I give an opinion, When am I a fact witness?



ABOUT MY C.V.

You want your CV to be accurate and you want to make yourself look good. However, any exaggerations, any mistakes, any puffery, any stuff like that can be absolutely devastating on cross examination. . . . and the lawyer will have a field day and the Judge won't give you the credibility you deserve. C.V. mistakes are avoidable.

Share yours with trusted professional friends, supervisors, etc. first before sending it out to someone to share in court.



ARE YOU A *FACT WITNESS* OR AN *EXPERT WITNESS*?

WV R. Evid. 702 – Expert Testimony

(a) If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify thereto in the form of an opinion or otherwise.



LAY WITNESS... WV R. Evid. 701

If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is:

- (a) rationally based on the witness's perception;
- (b) helpful to clearly understanding the witness's testimony or to determining a fact in issue; and
- (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.



TRAITS OF THE IMPECCABLE EXPERT WITNESS

1. **Is Likeable (but not strained).**
2. **Expert who has experience in court, but not “paid gun” bogus expert**
3. **Great CV, credentials, not “puffed” experience**
4. **Makes the attorney really PREPARE before the cross-exam. (but then again the impeccable expert PREPARES)**



Impeccable Traits Continued:

5. **Has a lot of practice “in the field” – not a mere theory person, experience in the area they testify about.**
6. **Has done the research, knows the relevant facts – from both sides... has looked at the documents, depositions, reports, and talked with all relevant parties.**
7. **Not the person being paid \$800 per hour. If you are the COURT appointed evaluator, you have a distinct advantage.**



WITNESS QUALIFICATIONS TO FORM OPINION

Foundation for the Expert Opinion of the Witness can include the following:

1. Witness has acquired degrees from education institutions
2. W has had other specialized training in the field of expertise.
3. W has a LICENSE to practice in that field
4. W has practiced in that field a substantial amount of time.
5. W has taught in the field.
6. W has published in the field.
7. W belongs to professional organizations in the field.
8. W has previously testified as an expert on this subject.





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EXPERT WITNESS TIPS

1. Do not answer a question until you understand it, PAUSE- If the question is unclear, ask examining counsel to repeat it or phrase it in clearer language. The court reporter can also be asked to read back the question.
2. Think about each question before answering it. Do not supply information not requested by the question, even though you may think it is relevant. If examining counsel does not ask you all you know, do not volunteer information.
3. If you do not know the answer to a question, simply say, "I don't know." Do not feel that just because a question is asked, you are expected to know the answer to it. Do not guess or assume.
4. If an objection is made by your counsel, STOP STOP STOP speaking immediately and listen to the basis for the objection as it may assist you in answering the question. Unless your counsel instructs you not to answer, you must assume that you are bound to answer a question if you know the answer.
5. Avoid asking questions in your answers for a clarification of a question.
6. Do not try to memorize your answers. Give a factual, straightforward response to the questions, (BETH WILL EXPLAIN ABOUT WHEN TO TAKE YOUR FILE AND NOTES WITH YOU, and EXCEPTIONS TO "Not Memorizing.")
7. If a question of fact is asked, make it a practice to check it against any records you may have, even if you are sure of the answer, and then answer it briefly.
8. Exercise courtesy and good manners, (Bite your tongue, even when attorney is an ASS.)
9. Remember that opposing counsel will be evaluating you constantly, From the very moment you appear, you are under observation, You must, therefore, take great care in your appearance, manner and remarks at all times. This will show her/him that you would impress a jury.
10. Do not argue with opposing counsel. Never become angry or hostile. Remain calm and unemotional even if you feel that opposing counsel is deliberately trying to provoke you, which she may be. A person who gets emotionally upset loses the ability to think clearly and may give answers which will later be regretted,
11. You can be required to give a simple yes or no answer to a proper question, but you will always have an opportunity to explain your answer if it needs



What comes to mind when you think about coming to COURT?

1. Notify client (agency) when you receive a subpoena to testify.
2. Consult with other workers you know have testified – helps decrease anxiety
3. Possibly contact the Attorney who subpoenaed you... or GAL
4. Refresh your memory, but do NOT memorize answers. Just know your case
5. Appearance is important, be professional.



FACT WITNESSES : This is not a “conversation”



Sgt. Joe Friday

**Just
The
Facts,
Ma'am**



Differences Between EXPERT and FACT WITNESS

EXPERT TESTIMONY:

Attorneys ask all the questions about your experience, background, training, experience to qualify you as an expert witness.

Then the Judge will either qualify you or not as an expert.

FACT WITNESS:

STATES the facts of the case.

CANNOT offer an opinion. States only what you see or hear.



TIPS FOR TESTIFYING IN COURT – DO's

1. DO TELL THE TRUTH.

- Do not embellish or lie
- Consequences for lying

2. DO SPEAK CLEARLY

- It can be difficult for Judge or Jury to hear you.
- Speak and slowly into the microphone if one is present

3. DO CORRECT YOUR MISTAKES

- It's ok if you misstate something, just be sure to correct it.

4. DO LISTEN CAREFULLY TO THE QUESTION

- Attorneys may confuse you with multiple questions.
- Do not feel pressured to answer quickly
- Listen for any objections and STOP



TIPS FOR TESTIFYING IN COURT – DO's (Continued)

1. DO -Think before answering question.
2. Do not be pressured or rushed.
3. Carefully answer the question without being overly wordy.
4. DO give testimony only in your area of expertise, or if a FACT witness just based upon your observations.
5. DO only answer within your education and experience.
6. DO say you do not understand a question if it is not



TIPS for Testimony – The “Don’ts”

1. Don't be afraid to say you don't understand the question.
2. Do NOT exaggerate ... every word can be used against you, so don't ramble on.
 - If you can answer “YES” or “NO” – just use that one word.
3. Do NOT Volunteer information.
4. Do NOT Lose your temper.
5. Do NOT continue talking if you hear an objection!
6. Do NOT give opinions (if you are not an expert), just the facts.



With love and thanks
from the MomsRising.org team

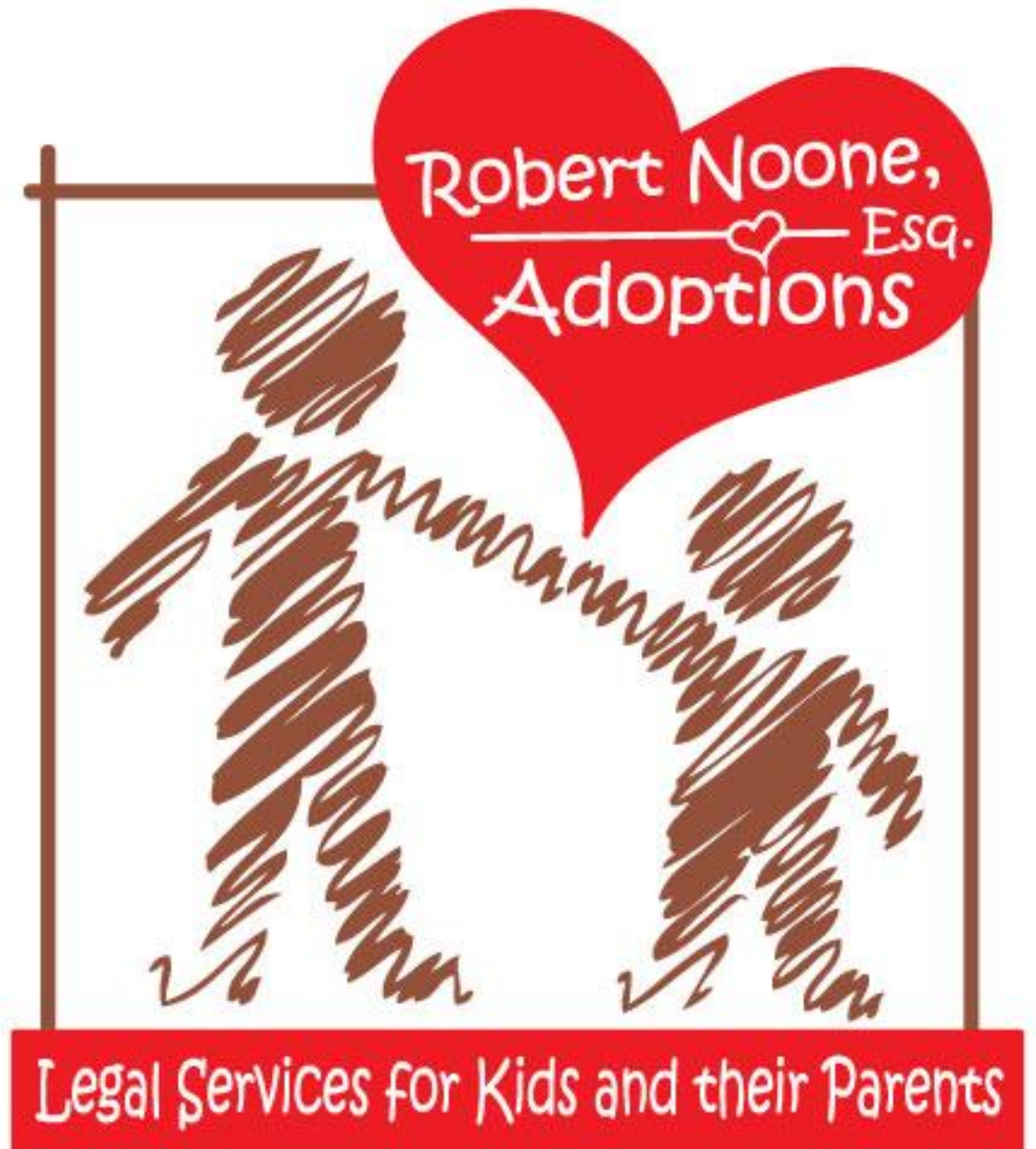
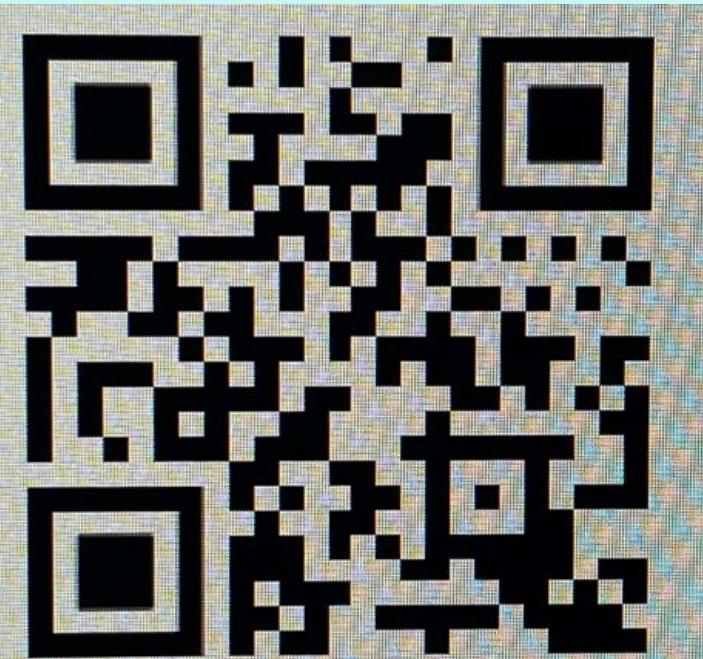


**"DO THE BEST YOU CAN
UNTIL YOU KNOW BETTER.
THEN WHEN YOU KNOW BETTER,
DO BETTER."** - Maya Angelou

*Anyone who is not a
little embarrassed of
the professional
they were 10 years
ago probably isn't
learning enough.*



Your Court Tips Handout Free online@ BobNoone.com





Handouts

A logo for a legal services firm. It features a red heart shape at the top containing the text "Robert Noone, Esq." and "Adoptions" in white. Below the heart is a stylized brown figure of a person with arms raised, made of horizontal brushstrokes. The entire logo is framed by a brown border. At the bottom, a red banner contains the text "Legal Services for Kids and their Parents" in white.

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Legal Services for Kids and their Parents