



Chapter 4

Telling Your Side of the Story

WHEN MAY I TALK AT A HEARING AND HOW DO I TELL MY SIDE OF THE STORY?

After the Opening Statements, if any, the person who filed the Petition (the “Petitioner”) or Motion (the “Movant”) that caused the Hearing to be scheduled will be able to tell the Judicial Officer his/her side of the story first.

If you would like to talk to the Judicial Officer to tell your side of the story (“testify”), ask the Court if you may “testify.” Simply ask, “Your Honor, may I begin my case by testifying?” When the Judicial Officer is ready, the Judicial Assistant will show you where you must sit when you tell your side of the story, at the “witness stand.”

You should **NOT** take your notes with you when you go to the “witness stand.” This is a reason why you should practice **BEFORE** your Court Hearing. Make sure you remember everything you want to tell the Judicial Officer and in what order you want to tell it.

A. Before Anyone May Tell The Court Information He/She Must Swear To Tell The Truth

Before you sit down, you must be “sworn in.” **Anyone who provides information (talks) to the Court during the Hearing must be “sworn in” before he/she can say anything.** Being “sworn in” means swearing “to tell the truth, the whole truth, and nothing but the truth.” Usually you would put your right hand on the Bible as you swear to tell the truth “so help you God.” If you prefer, you may ask the Court if you may “affirm,” in which case you would promise to tell the truth but neither the Bible nor any references to God will be used.

After you are “sworn in,” you may sit down and begin telling your side of the story. Remember to say **everything** you want to say. If you want to show

the Court any papers or other things that have to do with what you are talking about, show them at this time. However, before you show the Court anything, you must ask permission first. “Your Honor, may I show you this . . . [state what it is that you want to show the Court]?”

B. What If I Do Not Remember Something While I Am Telling The Judicial Officer My Side Of The Story?

If, for whatever reason, while you are telling the Judicial Officer your side of the “story” you truly cannot remember something and you need to look at your notes, you must ask the Judicial Officer for permission to look at your notes to “refresh your memory.” It is up to the Judicial Officer to decide if you should be allowed to look at your notes.

If you are allowed to look at your notes, you **FIRST** must show the other side the notes at which you are going to read **BEFORE** you may read them yourself. If there are more than 2 parties in the case, you first must show your notes to **EACH** of the other parties before you may read them. And at this point when you do read your notes, you must read them silently to yourself. You do NOT read your notes out loud to the Court. Because you do show these notes to the other side, before you go to the Hearing, make sure there is nothing in your notes that you do not want the other side(s) to see. If you are not allowed to look at your notes, do **NOT** argue with the Judicial Officer. Remain calm and continue telling your story to the best of your ability.

C. Will The Judicial Officer Listen To Everything I Want To Say Or Look At Everything I Want To Show?

No, not necessarily. The Court must follow what are called the **Rules of Evidence**. The purpose of the Rules of Evidence is to make sure that things that people say to the Court are true or things that people show the Court are actually

what they are supposed to be (i.e. a letter actually is written by the person who signed the paper as opposed to being forged.) The Rules of Evidence and the Court Hearing Procedure also are structured so that if someone wants to talk about what someone else has said, or what someone else, for example, has written, each party in a case will have the chance to ask questions about the things that are said or written to the person who said or wrote those things.

The Rules of Evidence are complicated and may stop you or someone else from being able to tell or show the Court something. If you are worried about whether the Rules of Evidence may stop you from being able to fully tell the Court your side of the story, you may hire an attorney to represent you at the Hearing or review the Rules of Evidence yourself prior to your hearing.

Although there may be exceptions, if you are going to talk about what someone else has seen, heard or said, you should have that person at the Hearing to talk about what he/she had seen, heard or said. If you are going to talk about what someone else has written, drawn, made, or photographed, you should have that person at the Hearing to talk about what he/she has written, drawn, made, or photographed. You also should have the paper, picture, thing or photograph that was written, drawn, made, or taken.

There is a chance that even if you bring these people, there may be a Rule of Evidence that will stop that person from being able to talk about something or show the Court something.

D. How Do I Go About Showing The Court Something Such As A Paper?

Assuming the Judicial Officer permits, whenever you want to give the Judicial Officer something, you must give it to the Judicial Assistant (“J.A.”). The

J.A. will give it to the Judicial Officer. However, before you give anything to the J.A., you first must follow the procedure below.

If you want to talk about a paper and/or to show that paper to the Court, bring the original of the paper and 3 copies (assuming you and the other side are the only parties in the case). **For every additional party** (i.e. if there is more than one Respondent or a Guardian *ad Litem*), **you must bring an additional copy**. Before you may give the paper to the J.A., you **FIRST** must show the original and one copy of the paper to each party in the case to allow each party to read the paper and to make sure that the copy is a true copy of the original. **Each party may keep a copy**.

After each party is finished looking at the original paper, you must give the original paper to the J.A. (the Judicial Assistant). The J.A. will give the original paper to the Judicial Officer. You should keep a copy of the paper too, so you can look at it while you talk about it.

Likewise, if it is a photograph that you are showing, you should have with you 4 originals of the photographs (assuming you and the other side are the only parties in the case). **For every additional party** (i.e. if there is more than one Respondent or a Guardian *ad Litem*), **you must bring an additional photograph**. Before you show the Court the photograph, show each party the original photographs to allow each party to make sure the photographs are identical. Then let each party keep one of the photographs and give one photograph to the J.A. You, too, should keep one photograph so you can look at it while you talk about it.

When the other side (or any other party) wants to show the Court something, the other side must let you see it first as well.

E. When I Finish Telling My Side Of The Story, May I Go Back To My Seat?

No. When you are finished telling your side of the story, the other side may ask you questions (“cross examine”) about things you have said or things you have shown the Court. If there is more than one party to the case, each party will have a turn to ask you questions. The Judge will determine the order of who may ask questions first and it generally is the same order followed when Opening Statements were made, if any.

If a party asks you something with which you do not agree, you must calmly explain why you do not agree. Do **NOT** argue with the person asking you questions. Although emotions may run high, you must remain calm, polite and courteous. Remember, your answers are providing information to the Court. It is not an opportunity to have arguments with someone in the case.

Only when each party is done asking you questions, if there is something that the one of the parties asked that you believe needs a further explanation, you may ask the Court if you may explain the answers you gave to that person/party. **ONLY IF** the Judicial Officer permits (which he/she does not have to do) may you explain your answers. **This is NOT the time to talk about anything new. Your chance to talk about anything you want the Court to know was during the first time you spoke, BEFORE each party was able to ask you questions.** (This is another reason why you should practice and be prepared before going to your Hearing.)

After you are finished explaining your answers, the Judicial Officer may (but does not have to) allow each party to “re-cross” which means to ask you questions **ONLY** about your explanations. If after “re-cross” **OR** if you were not allowed to say anything more, you may go back to where you originally were sitting when you first entered the courtroom.

There is a flowchart on page 17 that outlines the process of you telling your side of the story to the Court.

F. May I Have Other People Tell Things To The Court?

Yes, unless the Rules of Evidence does not permit it. If you have other people at the Hearing that you want to talk to the Court, ask the Judicial Officer if one of those people may now answer questions. “Your Honor, I would like to ask [state the person’s name] to now testify.” If the Judicial Officer allows that person to testify, the Judicial Officer will ask the J.A. to bring that person to the witness stand to be “sworn in” and to answer questions (“testify”). **This person only may answer questions.** They may not speak freely as you were allowed to do. Therefore, make sure you ask that person questions having answers that explain to the Court the information you want that person to provide.

Every Hearing is a different Hearing. Even if that person talked to the Court at a different Hearing, you should assume that the Court does not know anything about this person or what that person has to say. It is a good idea to have that person begin by answering questions about who he/she is, how that person knows the people in this case, and the reason why he/she is there.

If you want that person to talk about something that that person wrote, you must follow the following procedure:

- **FIRST, you MUST** ask the Court if you may show the person the paper you want the person to talk about. For example, “Your Honor, I would like to show and have [say the person’s name] talk about this paper. May I give this paper to [say the person’s name]?” If the Court **DOES NOT** let you show the paper to the person, then you may not

talk about the paper. However, if the Court **DOES** let you show the person the paper, go to the next step.

- **BEFORE** you show the person the paper, you must **FIRST** give a copy of the paper to each party in the case. This way, each party can see what the person is talking about.
- After you give a copy to each party, you may give the **original** to the person. It is a good idea for you to keep a copy for yourself when you give the original to that person so you can see what the person is talking about too.
- When you give the paper to the person, ask the person to state what the paper is. For example, if it is a letter that the person wrote, you should ask the following questions. **Ask the questions one at a time and wait for the person to answer the question before you ask the next question.** “I am showing you a paper. Do you recognize what it is? What is it? Is that your handwriting? Is that your signature at the bottom of the letter? etc.”
- After the person tells the Court what the paper is and that the person is the one who wrote it, you may begin asking questions about what the person wrote. Ask questions having answers that explain to the Court what you want the Court to know.
- When you are finished having the person talk about the paper, ask if you can “admit the paper into evidence.” By admitting something into evidence, you are asking the Court to look at the paper and to consider it when the Judicial Officer makes his/her decision.

- **If the Judicial Officer allows you to “admit the paper into evidence,” you must give the original to the J.A.** who will give the paper to the Judicial Officer. If the Judicial Officer does **NOT** allow you to “admit the paper” the Court will probably have you keep the original. The Court may **NOT** consider a paper in deciding a case unless it is admitted into evidence. And you **ONLY** may admit something into evidence after following this procedure.

G. If I Want The Court To Look At A Paper Or A Photograph, How Many Copies Of The Paper Or How Many Original Photographs Must I Bring To The Hearing?

As stated above, you give 1 copy of the paper or photograph to **EACH** party in the case and you keep 1 copy of the paper or photograph for yourself. You give the Court the original paper and photograph. And you should bring one additional copy just in case. For example, if it is just you and the other side in the case, you should bring the original paper and 3 copies or 4 original photographs.

Why might you need an extra copy later? Once you give the original to the Judicial Officer, you will not get the original back. Therefore, if you would like someone else to talk about the original, you will need an additional copy (if it is a paper) or additional photograph to give to that new person.

H. What Happens When I Am Finished Asking The Person Questions?

When you are finished asking that person questions, each party will have a chance to ask that person questions based on what that person told the Court. The order of who asks questions first will be the same order followed when the other parties asked you questions.

When each party is finished asking questions, if you think some of the person's answers to a party's questions should be explained, you may ask the Court if you may ask that person more questions about what that party asked ("re-direct examination"). It is up to the Judicial Officer to decide whether you may ask more questions.

If you are allowed to ask the person more questions, each party may ask if he/she may ask the person more questions ("re-cross examination"). Similarly, it is up to the Judicial Officer to decide whether to allow a party to have a second chance at asking the person questions. This second chance, if permitted, **ONLY** may be about answers the person gave to you during your second round of asking questions.

Once the person is finished answering questions, the Judicial Officer will tell the person if that person may go home, may sit in the back of the courtroom, or must wait outside the courtroom. There is a flowchart in chapter 8 that outlines this process of having other people at the Hearing to answer questions.

I. What Do I Do If I Want More Than One Person To Talk To The Court?

If you have someone else you would like to speak at the Hearing, you will begin the process over again of having other people answer questions. You must ask the Judicial Officer if you may now ask a different person to "testify." (See above Sections "E. *When I Finish Telling My Side of the Story, May I Go Back to My Seat?*" and "F. *May I Have Other People Tell Things to the Court?*")

J. *What Do I Do After I Have Had Everyone Speak That I Want To Speak At The Hearing?*

When you do not have anyone else to talk to the Court and you have finished telling the Court everything you wanted the Court to know about your side of the story, then you must tell the Judicial Officer that you are finished by saying “Your Honor, I rest my case.”

Be careful that you did not forget to tell the Court something before you say “I rest my case.” Otherwise, it may be too late for you to tell the Court new or more information