

Testifying in Court

I have represented hundreds of children in dependency matters and wanted to offer my opinion in the hopes that it might help bring about some discussion and preparation for one of the most anxiety-producing events: being called as a witness.

It is not unusual for the CASA to be the only person in the courtroom who is not entitled to an attorney. That can be a scary thought – until you realize why you are there. Your role as a CASA is to act as the eyes and ears of the judge. You are an “officer of the court,” and have been appointed by the judge to investigate and report back about your observations. The judge knows that you are, by design, **not** a professional child welfare employee; and that has tremendous value.

So, on your way to the courthouse, keep in mind:

- **The judge is going to have your back.** That does not mean that you’re not going to be asked difficult questions. But it does mean that the judge should be fairly intolerant of any attorney who wants to try to verbally beat you up.
- **Tell the truth, always.** Your opinion is an important element in the decision of the court. Telling the truth is not always easy when you are on the stand. The process of being asked difficult and often intentionally misleading questions can make anyone misstate their answers or be confused. So, just remember to answer the question, and if you need to explain something then let the attorney know that. Oftentimes, the most truthful answer is “I don’t know.”
- **Keep track of who is asking the questions.** If it is an attorney who is opposed to your recommendation, then you can anticipate that his or her question might be aimed at bringing out information that goes contra to your recommendations. That is fine, just tell the truth and let the judge figure out what to do – that’s the judge’s job.
- **Listen for objections.** Perhaps the best known parody of an attorney is the one who stands up and yells “OBJECTION, your honor!” If a question is asked, and someone objects, then wait and don’t answer unless the judge rules on the objection. If the objection is “sustained,” then that means that the objection was a good one and you should not answer. If the objection is “overruled,” then the judge wants you to answer.
- **Don’t feel pressured to give any attorney anything.** Of course the CASA should always cooperate and act as part of the team that is working to serve the child. However, when the case goes to trial, then the case can get adversarial. If the attorney shares your point of view, then why not give them any information that can help ensure the best outcome for your CASA child? If, however, the attorney is opposed to your position, then perhaps you should discuss the matter with your case supervisor and determine the best course of

action. If the attorney wants your resume don't give it to them unless you want to, or unless you are ordered to do so by the judge. Just always remember that there will be life after trial – so you do not want to ruin any relationships that are important to your advocacy for the child.

- **An attorney's power starts and stops at the courthouse steps.** Don't feel pressured by an attorney – there is simply no need – especially if the matter is going to trial anyway. The only reason to cooperate with an adversarial attorney is to avoid court. But as a CASA, the judge swore you in, you love court, and you're going to be there anyway. So, arm yourself with the knowledge that the worst thing an attorney can do to you is take the issue to the judge. Even if an attorney serves you with a subpoena, then that simply means you have to go to court when the subpoena says. If the attorney serves you with a "subpoena duces tecum" then, well, you have to bring the listed documents to court with you. It is still up to the judge whether anyone gets to look at the documents or not. There is a reason lawyers say, "I'll see you in court!" It's because they you don't have to listen to them outside of court.

An answer to the question: A CASA volunteer's resume is irrelevant to the case. Therefore, it is inadmissible. Also, a resume contains sensitive information – like the CASA's address and place of employment. The fact that an attorney wants to see it is just not enough of a reason to supply your resume.

This is all in addition to the fact that a CASA volunteer's personnel file, which no doubt includes a resume, is confidential and legally protected. **California Trial Court Rule 5.655(m)(4) states:** "The volunteer's personnel file is confidential. No one may have access to the personnel file except the volunteer, the CASA program director or a designee, or the presiding judge of the juvenile court." Good luck getting that past the judge.

Also, your personal life should not be subject to inspection or critique by an attorney unless it means that you might pose a safety risk to a child, (for example, it comes to light that a CASA volunteer took up heroin after being sworn) and even then, it is a matter best brought to the court's attention outside of trial. Your local CASA program recruited, trained, and recommended you for appointment, and the judge appointed you. You are – by definition – qualified to inform the court of your factual observations and common sense impressions. If the court wanted an expert witness, then the court could have ordered one of those, too.

I am assuming that an attorney who wants to see your resume is attempting to show that the CASA was unqualified to make their recommendation. This is unfortunate as it is a perfect example of poor lawyering – which, no doubt, we will all encounter until we, as a state, improve legal services to parents and children. Let me show you:

Attorney: “After looking at your resume, I don’t see anything that would qualify you to make a recommendation for placement. Isn’t it true that you are totally unqualified to make a recommendation?”

CASA: “I don’t have any special qualifications other than my CASA training, my duty as an officer of the court, my sworn duty to advocate for the child’s best interests, my close reading of the court file, and my intense biweekly involvement with the family. Which, again, leads me to feel that living with grandma will be the only thing that will make Vicky safe, happy, and stable. Besides, Vicky wants to live with her grandma, and has said so for as long as I’ve known her.”

Parent to Attorney: “You’re fired.”

In my humble opinion, this strategy only served to pull a CASA’s recommendation from the paper report, and project it to all in the room, thus making it very real for all to see, hear, and feel. Now the CASA’s recommendation is even more credible.

So, bottom line, it’s fine to be a little nervous about testifying as a witness. Also, though, stop for a moment and reflect on your role as a CASA and the help you can be to your child. Now go testify.

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