Section 3
Being a Witness

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EVIDENCE

There are many definitions of evidence. In general terms it is anything which establishes a fact or provides a reason for believing something. With this in mind, words and things are usually considered "evidence".

Words: The words of witnesses spoken in the witness box (or given by a sworn affidavit) are evidence.

Things: Any thing is capable of being evidence. The thing may be a limb, a knife, a document, a photograph, a computer, an audio recording etc. Things that are relied upon as evidence are produced in court as exhibits.

There are various types of evidence. They may be summarised as:

- real evidence – physical objects;
- documentary evidence – written statements and documents;
- personal evidence – what the parties or other witnesses say;
- expert evidence – specialist evidence based on opinion and views.

Every item of evidence must pass through five qualifying steps, namely:

- it must be evidence;
- the evidence must be directed to a relevant fact;
- the evidence must make that fact more likely or less likely;
- there must not be a special reason for excluding the evidence despite its relevance; and
- the evidence must be dealt with appropriately in Court.

Witnesses, like lawyers, judges, bailiffs, registrars, plaintiffs, defendants and members of the public, are part of the judicial process. The process relies on witnesses to produce evidence, which is assessed on the basis of its accuracy, credibility and truthfulness. The evidence informs a legal decision that takes into account the law, facts and relevant circumstances.

TYPES OF WITNESSES

A veterinarian may be called on as a witness of fact, and/or an expert witness. A key distinction between fact witnesses and expert witnesses is that an expert witness may provide an opinion. Fact witnesses must limit their testimonial to facts.

Witness of fact

A witness of fact is a person who gives evidence about facts that they have personally seen or heard.

Witnesses giving personal evidence are required to confine themselves to the facts. They must not express opinions on factual matters or surmise on hypothetical situations.

Expert witness

It is the responsibility of an expert witness to provide a skilled commentary on factual matters to allow the judge to better assess the probability that one or other of the various available inferences or conclusions is correct.

While assisting the court with its understanding of the facts, the expert witness does not make the judgement on behalf of the court. Despite the provisions of expert opinion, the court (the judge) remains the ultimate determiner of fact and applier of the law. The judge can accept or reject any expert's opinion and invariably prefers the evidence of one expert to another in a trial where both sides have engaged experts. Even if the expert evidence of a witness is not contradicted, a judge can

reject it if he or she thinks it is wrong. Whilst the expert opinion must be taken into account and considered, the judge is not required to adopt it.

Qualifications of experts

An expert witness must first "qualify himself or herself" by demonstrating to the Court that he or she is an expert.

Whether a person has the qualifications and competency to give expert opinion evidence is primarily a matter for the judge and is at his or her discretion. In practice, a judge must be satisfied that the expert is skilled and has adequate knowledge.

For example, a person may demonstrate they are an expert by explaining that they have undertaken a recognised course of special study and/or that he or she is so experienced in a particular area as to render him or her an expert in that matter.

As part of assessing the suitability of a person to function as an expert witness, lawyers may consider the individual's:

- willingness to get into the witness box;
- formal qualifications in the area of expertise;
- relevant and recent experience in the area;
- membership of relevant associations;
- reputation and standing;
- publications;
- independence and credibility;
- lack of conflicts or any personal interest, which might cause credibility problems;
- common sense and sound judgement;
- ability to express themselves simply and clearly and to think on their feet;
- experience in giving evidence;
- robustness and readiness to criticise the views of other experts – often their professional colleagues.

The credentials of a veterinarian giving evidence as an expert witness may be subject to challenge by the defence counsel during cross-examination.

An expert witness's duty is to the court rather than to the client who has engaged them and is paying their fee. Experts must resist the temptation to act as an advocate for their client; rather the expert should give the same evidence in the same way whichever party had engaged them. If experts advocate, argue and defend a position, they come across as a hired gun and their views will at best be ignored and at worst be criticised.

GIVING EVIDENCE

Usually evidence will be presented chronologically unless there is a more logical way of doing it. Judges are best able to understand a series of events or other information if those events are presented in the same chronological order as they actually occurred.

To support the prosecution, your notes/records must be clearly organised and indexed. All the material in the notes must be legible and easily interpreted. Further, every page must be dated and the timing of any meetings/events must be recorded on the page. Your records should support and document all calculations and statements made. It is particularly important that you document all of the steps that lead you to any diagnosis of suffering, pain or distress. Evidence of the process or considerations adopted in ruling out all other possible contributing factors (for example testing for intestinal parasites when establishing the cause of animal emaciation) before making or drawing any final conclusions, will assist the Court in assessing your credibility as a witness and therefore the force of your argument.

Any analysis or conclusions drawn in either correspondence or reports must also be supported by work papers. This is particularly important where, due to lack of information or lack of cooperation from an offender, assumptions have had to be made in order to arrive at conclusions in reports or correspondence.

Your brief of evidence

The format of your brief will depend on whether your evidence is to be given orally or read from a witness statement. If it is to be given orally you will not have your brief in front of you when giving evidence but the Crown Solicitor/Prosecutor will use it as a prompt in asking you questions and you will attempt to cover the content of your brief by way of your answers. These days it is more usual for written briefs to be exchanged prior to trial and witnesses to have them in the witness box to read from when giving evidence.

What do you give evidence about?

You should only express opinions on matters that are within your own field of expertise. Expressing opinions on things that you are not certain of may be exposed in cross-examination and may be ruled inadmissible. Doing so may also taint your good evidence. If someone else has done the legwork for you, you must have checked it to an extent which allows you to say that the facts upon which your opinion is based are within your own knowledge. Your credibility will be lessened if the cross-examination reveals that you are unfamiliar with the facts and are relying on information another veterinarian has provided.

While you must limit yourself to opinions or comments relating to your particular field of expertise, this may also include the giving of opinion evidence partly based on the writings and research of others. Where such material is intended to be relied upon, copies of this material must also be provided to the prosecution counsel and judge.

Within your role to assist the court it is useful to try and anticipate what questions the court (or potentially prosecution/ defence counsel) may have and address these in your evidence.

If possible (and having checked with the prosecutor) it may be helpful to have a professional colleague proof read your brief of evidence for consistency and clarity.

Are you happy with what you are saying?

You are ultimately responsible for your own evidence however much assistance you have received from the lawyer. It is you who will be cross-examined and it is your reputation that will be at issue.

When reading your brief from the witness box, as far as possible you should follow your brief exactly. This is because not only will it have been exchanged amongst the parties, but the Judge will not have his associate (typist) ready to transcribe your evidence as he would if you were giving it orally without your brief.

If you do have to add something orally, do not add it unless you have discussed it with the Crown Solicitor/ Prosecutor and he/she agrees it is appropriate. If you do need to add something orally, how you do this will be discussed between you and the lawyer.

Your written brief

Your written brief of evidence can be divided into two parts: first, establishing that you are qualified and competent to express your opinion; and, second, setting out your opinion, and the meaning of the relevant facts.

The first part of your brief of evidence will usually contain all or most of the following:

- your name, city of residence, personal background and the nature of your occupation, including an outline of your career;
- your education and degrees, diplomas, certificates or license held;
- any special training that you have in addition to your academic background;
- the professional associations to which you belong or have been admitted including offices held and honours obtained;
- other background such as any teaching positions or training functions you have been involved in;
- your experience as a witness; and
- an indication of the depth or breadth of your experience in the specialty subject of relevance to the particular trial, for example, the number of similar investigations conducted or the number and nature of investigations you have been involved in.

The second part of your brief will contain your main evidence. This may include all or most of the following:

- your involvement in the case, who instructed you and what matters you were asked to address;
- an outline of the context of the investigation;
- the purpose of your evidence and give a brief outline of the areas that you will cover;
- the factual basis for your conclusions, e.g.:
  - the nature of your research;
  - any other facts you rely on;
  - your methodology;
  - your assumptions;
  - your results.
- your opinion and your reasons for it (this is the most important part of your brief and the reasons why you are being called to give evidence);
- your conclusion. Especially in a lengthy brief, a conclusion pulling all the threads together is very useful and can be an executive summary of your opinions at the end of your written brief.

Express yourself as simply as you can and do not lose the judge with technical jargon and explanations. While the investigation may be complex, by the time you give evidence you should have reduced it to language and concepts that an average lay person can understand.

Here are some tips:

- Everyday conversation is made up of sentences which are 8–12 words long.
- Use simple, common words. If unfamiliar or technical words must be used, translate them into everyday language without talking down to the reader.
- Rephrase for clarity.
- Simple clear words do not have to be dull. Look for vivid and persuasive language that holds the attention and informs the mind of the reader.
- The important points of your evidence need to be prominent and not concealed in a mass of detail.
- Consider the use of visual aids. Illustrations, examples, analogies and comparisons may assist the court in understanding relevant facts.

Preparation of witnesses

A key element of putting a prosecution together is the preparation of witnesses (including expert witnesses). In the main, "preparation" is achieved by a lawyer producing a written statement of a witness's evidence for them to refer to. If you are appearing as a witness for a MPI prosecution, you will be properly prepared by MPI solicitors in terms of the content of what you are to say in the witness box and how to say it. During preparation for court you can expect your initial brief of evidence to be redrafted many times, often as the landscape of the trial and the lead up changes.

The lawyers may also take you to the courtroom before the trial so that you are familiar with the surroundings. Most witnesses, whether expert or otherwise, are nervous at the prospect of giving evidence – it is natural, but can be managed.

ATTENDING AT COURT

Timings

The Crown Solicitor or Prosecutor will tell you what day and time you are likely to be called to give evidence. On a day that it is expected that you will give evidence you should be available for the whole day in order to be at court and give evidence when required. As a rule of thumb, you should plan to be at court at least half an hour before the time the Crown Solicitor/Prosecutor expects you to give evidence. This will give you time to attend to personal grooming, relax and briefly scan through your evidence before you are expected in court.

The court breaks at specific times for morning, lunch and afternoon tea (these are known as adjournments). The length of time provided is usually set by the judge, although 15 minutes for morning (11am–11.15am) and afternoon tea (3.30pm–3.45pm) and an hour and fifteen minutes for lunch (12pm–1.15pm) are considered to be normal.

It is quite possible that during the course of you giving evidence in chief or being cross-examined the court will have an adjournment. The judge will signal when an adjournment is to take place, the registrar will ask all persons in the court to rise, and the judge will retire from the court. You are then able to leave the witness box and get a cup of coffee, get some fresh air or simply stretch your legs. If someone does not assist you, simply leave the witness box and go and have a break. However make sure you check before leaving the courtroom how long the adjournment is to be for. It is your responsibility to be back in court by the time court is scheduled to be resumed.

At the end of the adjournment, all counsel and persons involved in the proceedings are expected to be back in court. You should take your place in the witness box and wait for the judge to enter. The Registrar will ask all persons to rise and judge will enter the court.

In order for the proceedings to recommence after an adjournment, the legal counsel who was addressing you prior to the adjournment will stand at the invitation of the judge and continue to lead you either through your evidence in chief or continue with cross examination. Even if there is an adjournment, witnesses are considered to still be under oath. The Registrar or the judge may remind you of this point.

If you are being cross examined at the time of the adjournment, the rules of the court prohibit counsel from either side speaking with you during the break. The normal procedure to follow is to leave the witness box when the judge has left the court and take a break on your own (separate from your counsel).

While the court normally finishes at 5.00pm, the judge may extend a court sitting in order to conclude a witness' evidence if it is likely to finish within half an hour. This is particularly the case where witnesses travel from out of town to attend in court.

Independence of your evidence

Avoid discussing the case or your evidence with other witnesses. It is important that when you give your evidence you are able to say that the evidence is yours and not the view of somebody else or subject to the influence of some other person.

At all times it is advisable when discussing the case either with a colleague, your counsel or other parties, whether before or after you've given evidence, that you are sure that you can not be overheard and that your evidence is treated in a strictly confidential manner.

Cross-examination

Cross-examination can be a laborious process of probing and testing the basis of evidence that has been presented to the court and the accuracy, credibility and truthfulness of the witnesses.

Lawyers have a number of strategies that are customarily used when cross-examining. These include:

- subjecting the basis of opinion and the logic behind it to rigorous scrutiny;
- suggesting that the views expressed are the result of a lack of partiality and objectivity;
- impeaching the quality of the work conducted by the witness;

- confining or widening the witness' testimony to suit their own theory of the case;
- eliciting important concessions from the witness to reduce the harmful impact of the examination in chief; and
- propelling the witness into confusion so as to diminish the likelihood of the evidence being relied on by the Judge.

Due to the fact that the prosecution shares the brief of evidence with the defence before the trial you can expect cross-examination to be more surgical than shotgun. You can assume that the other side has had an expert take your brief apart and put it back together in order to formulate the approach to and questions in cross-examination.

Things to remember under cross-examination

- When you are asked a question, think about it and take your time when you answer. If you do not understand it, then say so. Ask for it to be repeated. A hurried response is never wise and if it is a question that is really two questions, or is ambiguous, or contains an unstated assumption, say so. For instance, you might respond saying:
  - "The answer to the question as you put it is yes but only if you assume……."
  - "In answer to the first part of your question, I consider…….As for the second part of the question of accepted practice, my view is…."
- If documents are referred to in cross-examination, you should ask to see them before you answer.
- Do not enter into a debate with the lawyer or judge. Be courteous.
- Always try and answer the question directly. It is better to answer "yes" or "no" and then qualify your answer.
- Sometimes a lawyer may press you to answer a question by directing you to answer "yes" or "no" (without further qualification of the answer). It is often difficult and stressful to repeatedly say that such a simple answer does not exist. In situations such as this, all you need to do is turn to the judge and explain that such an answer would mislead the Court. The judge will then give you permission to give a fuller and more adequate answer allowing you to explain the qualifications that you wish to put on a bald assertion of yes or no.
- Admit mistakes – mathematical errors can be acknowledged and a correct calculation can be given when you are in the witness box. If a line of questioning leads to a particular conclusion which is different from your own, acknowledge the point. Do not attempt to defend or deny an obvious inconsistency or mistake - you may be able to admit the mistake or inconsistency but go on to demonstrate that it has no impact on your final analysis. On the other hand, do not back-down merely to avoid confrontation. You may be able to acknowledge the validity of another expert's opinion without sacrificing your own but in the end you must stand by your opinion.
- Don't get emotionally involved. Avoid anger, defensiveness or arrogance. If you are defensive, it shows and you will be less effective. You must give the impression of professional impartiality. Body language is important. Do not slouch, fidget, click your pen, touch your hair or indulge in whatever habit you have when sitting at your desk. Establish eye contact with the judge and with the lawyer. Watch to see whether the judge understands your answers and pause or slow down if it appears he or she if not keeping up with you. If you are in the middle of a long answer and the court is looking interested, make the most of it and build on it. Throughout your cross-examination, try to face the judge when you respond.
- Don't be put off by the defence lawyers' antics. Rustling of papers, wiping of glasses and other agitated behaviour is best ignored, as it is likely to mean that he/she is not getting the desired answers.
- If the Crown Solicitor/Prosecutor rise to his/her feet during cross-examination they will be objecting on some legal basis to a particular question which he or she may not wish you to answer. Pause and allow the lawyers and judge to complete their exchange.

Re-examination

After cross-examination there will be what is called re-examination where your lawyer may ask you questions. Re-examination allows your lawyer to address matters that have arisen in cross-examination and to seek clarification or amplification of your responses. Normally a question in re-examination will signal to you that perhaps you did not give a complete answer or you said something that is contrary to your own written evidence so you must think to yourself what the Prosecutor/Crown Solicitor is trying to get you to say.

Only those matters raised in cross-examination can be dealt with in re-examination and it is usually short.

A typical question in re-examination from your own lawyer/prosecutor is:

- "Could you explain what you meant by……." Or "you say that….. could you further explain what you mean…"

You may also get questions from a judge after re-examination. If the questions show a lack of understanding about a particular point, try to briefly clarify that point. Often questions from the judge will give you a very good idea where he or she is in his or her thinking. Again, make the most of a direct exchange with him or her to re-emphasise and have him or her understand your message.

Order of Business

The usual order of a proceeding is as follows:

1. **The Crown Solicitor/Prosecutor delivers an opening address**

This may be anything from a short introduction to a lengthy written statement. It outlines MPI's case, identifies that the counsel proposes to call witnesses and sets the scene for the proceeding.

2. **MPIs witnesses are then called and asked to give evidence**

Usually, witnesses appear in a logical order setting the scene for the court so that the events that unfold through the witnesses' evidence are logical and consistent.

As a witness you give your evidence in chief and then may be cross-examined by the defence counsel. Following cross-examination, the Crown Solicitor/Prosecutor may ask some further questions of you to clarify any part of your evidence that might be confusing or that left an unfavourable impression due to the way that a particular question was asked of you. Questions given in re-examination can only be in relation to the evidence that has been given in response to matters arising out of cross examination.

3. **Counsel for the defence present their opening address**

Once the Crown's/MPI's witnesses have all been heard and cross-examined, counsel for the defendant presents their opening address. This address signals the rebuttal arguments that the defence team will raise on their client's behalf.

4. **Defence witnesses are then called and asked to give evidence**

The defendant's witnesses follow the same evidential process as the witness for the plaintiff.

5. **Closing Address Prosecution**

At the conclusion of the cross-examination of the defendant's witnesses, counsel for the Crown/MPI gives their closing address. This summarises the case from the Crown/MPI position and highlights the key points in evidence that the Crown/MPI has raised rebutting the arguments put forward by the defence. The closing address also refers to specific case law where it is applicable and points the court to references supporting the position put forward by the Crown/MPI.

6. **Closing Address Defence**

Following the Crown's/MPI's closing address, counsel for the defence presents a similar address. This is linked to the arguments that the defence made at the beginning of the trial and sets out to present in summary form to the court the arguments that the defence has made in regard to their case.

7. **Judge's Decision**

In most cases, a judge will reserve his/her decision rather than give an oral decision at a trial. This allows a judge to research any particular issues of law that he/she may consider pertinent. In addition, the judge will wish to reflect upon the quality of the evidence presented before the court and in particular which argument is to be preferred (that of MPI or that of the defendant). The judge will deliver a written opinion some time after the conclusion of the trial. In the case of the High Court or District Court these become a matter of public record.

CONTROLLING NERVES

Some nervous tension is both natural and good for you: it will add vitality to your delivery and your body and mind will be alert. A too casual approach results in slapdash delivery and muddled thinking. However, you should still be confident in the evidence you are presenting. It is YOUR evidence and you are doing this because you were good enough to be appointed to the position.

Here are some tips to gain your confidence:

- Concentrate on presenting the facts of the case.
- Know your case thoroughly and have clearly prepared notes (and visual aids).

Preparing to speak

- Breathe deeply and slowly.
- Relax the muscles in your hands, arms, neck, shoulders and face.
- Organise yourself and your notes.
- Pause before speaking.
- Look at the judge before speaking.

While talking

- Look at, and talk to, the judge.
- At the end pause slightly.
- Look confident, maintain your composure.

ADDRESSING PERSONS IN COURT

There are rules that require persons in court to be addressed in a particular manner:

- The Judge is referred to as "Your Honour", "Sir/Ma'am" (pronounced Marm)
- The Associate Judge is referred to as "Associate Judge, Sir, Ma'am".
- Justices of the Peace are referred to as "Your Worships".
- The Police Prosecutor is referred to as "The Prosecutor".
- The Defendant is referred to as "The Defendant or Mr/Mrs/Miss/Ms".
- The Registrar is referred to as "Mr. Registrar or Madam Registrar".
- Other Counsel are referred to simply as "Mr/Mrs/Miss/Ms"
- The person taking down evidence in the trial or defended hearing is "His/Her Honour's Associate" in the High Court, and "Stenographer" in the District Court.
- The place from which evidence is given is called the "Witness Box".
- The written transcript of evidence is referred to as "His/Her Honour's notes".

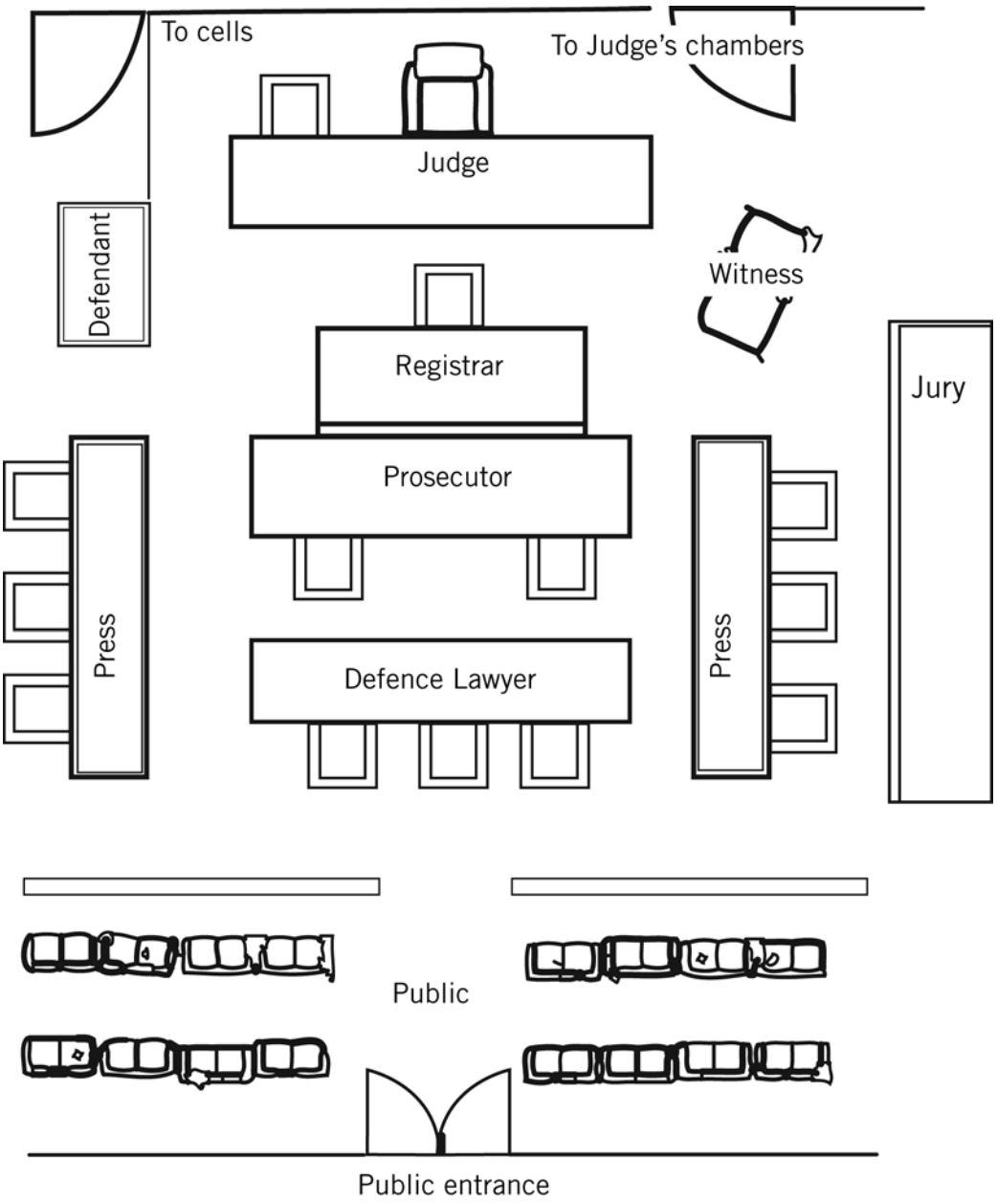
Never call a Judge 'you'. If you wish to address a Judge directly about something he/she has said you cannot say "as you said a moment ago". The correct expression is "as Your Honour said" or "Your Honour said". This preserves the impersonal impartiality of the court. In the same way, if you want to direct the Judge's attention to a particular document, you do not say "would you look at page 5 of Mr Smith's letter…". The correct way of making that request is something along the lines of, "if I can direct Your Honour's attention to page 5 of Mr Smith's letter, there Your Honour will see…"

LEGAL JARGON EXPLAINED

Affidavit	An affidavit is a signed written statement sworn on oath (or taken by affirmation) before a Justice of the Peace, Solicitor of the High Court, or a Registrar of the Court. Affidavits are factual in nature and do not contain hearsay or opinion, unless the person signing the affidavit is an expert who has been called upon to give an opinion. Persons who give evidence by way of affidavit are subject to cross-examination on the content of their affidavit. If a person knowingly makes a statement that is untrue in an affidavit, a court may hold that the person has perjured him/herself.
Brief of evidence	This is a term that is applied to evidence that may be presented to the court. In a criminal proceeding the Crown (the prosecution) is required to disclose its brief of evidence to the other side (the defence). The defence does not have to disclose its rebuttal evidence until the case goes to trial. Witnesses should not "hold back" information to attempt to release that information in court, when the release of the information earlier may have assisted in an early resolution of the trial or dispute.
Cross-examination	Cross-examination is when the opposing legal counsel asks questions regarding evidence in chief that has been presented by a witness. The purpose of cross-examination is to test the truth or veracity of the evidence given by a witness. It also allows the court to determine whether all of the evidence possible has been presented or whether a witness has chosen to present only selective evidence in their evidence in chief. A further purpose of cross-examination is throw doubt upon the evidence submitted by a witness. This is often achieved by the cross-examiner asking questions in such a way that the witness either contradicts or introduces qualifications with regard to their earlier evidence, which may throw doubt upon the witness's reliability. Opposing counsel may decide not to cross-examine a witness (when evidence is presented in a written format, or evidence is of a purely administrative nature) and in such cases the court will assume that the evidence given by the witness is taken as being correct and reliable by opposing counsel.
Court Bailiff	The court bailiff is in charge of calling witnesses, swearing them in and distributing copies of printed evidence prepared by the judge's associate, to both counsels. Neither the defence or prosecution counsel is permitted to approach a witness in court. Should counsel wish a witness to review a particular document, they pass the document to the bailiff who will then pass it to the witness.
Deposition	A deposition is a written statement of evidence submitted at a preliminary hearing of an indictable offence. This is a statement made under oath (or by affirmation) and, while it may be presented in written form at a proceeding, it is often read by the person giving (or deposing) the evidence. A depositions hearing may be heard in front of a judge, a Registrar of the Court or two or more Justices of the Peace. Evidence given at a depositions hearing will form part of the substantive evidence considered at a full trial and persons giving evidence in a depositions hearing may be cross-examined.
Evidence in Chief	Evidence in chief is the evidence prepared or presented by a witness as their evidence. In the High Court and District Court evidence in chief may be presented in either a written or oral form (or in both forms, with oral evidence supplementing a written brief). It is usual to have a written brief of evidence which a witness can then read in court. At a deposition hearing, evidence in chief consists of the reading of a written brief of evidence and any additional oral evidence that may be given. Witnesses are then asked to sign their brief of evidence and this forms part of the written record.
Exhibit	An exhibit is an item produced as evidence in court; it may be a document, an inanimate object or an animate object. The recording of exhibits presented in court is the responsibility of the Court Registrar who, once an exhibit has been submitted, takes charge of and secures the exhibit until the conclusion of the proceeding and subject to the ruling of the judge.

Hearsay	Hearsay is when a witness repeats comments made to him/her which are not able to be verified by an independent third party or by some other form of corroborative evidence. While hearsay may form part of personal evidence, due to the lack of ability of the court to assess the circumstances and context in which hearsay evidence was received or interpreted by the witness, it may carry little weight with the court.
Indictable offence	Indictable offences are of a more serious nature and which may be tried before a judge and jury in the High Court.
Injunction	An injunction is an order of a court requiring a person or persons to carry out an action or alternatively cease and desist from carrying out an action.
Jurisdiction	The extent of the authority of a court or tribunal is referred to as jurisdiction (usually determined by statue or regulation). From time to time references made be made to "other jurisdictions", which refers to other bodies who have authority and control beyond the immediate authority and control of the court dealing with a proceeding at the time.
Jury	A jury is a group of persons selected by ballot from a larger number of citizens called to hear evidence given in a trial. Jurors are selected at random from the electoral roles and are subject to challenge by both counsel for the prosecution and the defence, before a final jury is selected. A jury usually consists of 12 persons who have no relationship with the plaintiff, defendant, any witnesses or any persons associated with any part of the proceedings before the court. The jury will elect one person to be their spokesperson, who is referred to as the Foreman of the Jury.
Perjury	Perjury is a criminal offence and related to knowingly making a false statement under oath (either written or oral). If a person makes a statement that is false but believes it to be true at the time, this is not an act of perjury. It only becomes perjury when a person makes a statement knowing it is false or seriously doubting its truth.
Registrar	The registrar's responsibility is to administer records and documents throughout the trial. This includes allocating exhibit numbers to exhibits and ensuring that all exhibits produced in evidence are properly recorded and noted for the particular trial. The registrar will also pass all copies of exhibits (if the judge does not already hold a separate file) to the judge to look at during the presentation of evidence. Registrars also manage the judge's diary, scheduling dates for future court appearances, appeals and the like. The registrar's bench sits in front of and below the judge's bench and may be slightly higher than floor level.
Summary proceedings	This is a term applied to criminal actions of a less serious nature which are often heard in the District Court.
Summons	A summons is a document issued by the office of a court ordering a party to appear in court on a specified date. Failure to adhere to a summons could attract severe consequences.
Witness box	The witness box is where a witness stands (or sits) to give their evidence, as is positioned so that the judge is able to hear the witness' answer to questions put to the witness. The witness box may or may not contain a chair. Under court protocol, witnesses should stand when giving their evidence, unless invited to sit by the judge or registrar. Where a long period of giving evidence is expected a witness may sit even if the judge forgets to invite the witness to do so. Usually if a witness has been standing for 30 or more minutes it would not be considered unreasonable for a witness to sit.

COURTROOM LAYOUT



CODE OF CONDUCT FOR EXPERT WITNESSES

Schedule 4, High Court Rules CODE OF CONDUCT FOR EXPERT WITNESSES

Duty to the Court

1. An expert witness has an overriding duty to assist the Court impartially on relevant matters within the expert's area of expertise.

2. An expert witness is not an advocate for the party who engages the witness.

Evidence of expert witness

3. In any evidence given by an expert witness, the expert witness must –

   (a) acknowledge that the expert witness has read this Code of Conduct and agrees to comply with it:

   (b) state the expert witness' qualifications as an expert:

   (c) state the issues the evidence of the expert witness addresses and that the evidence is within the expert's area of expertise:

   (d) state the facts and assumptions on which the opinions of the expert witness are based:

   (e) state the reasons for the opinions given by the expert witness:

   (f) specify any literature or other material used or relied on in support of the opinions expresses by the expert witness:

   (g) describe any examinations, tests, or other investigations on which the expert witness has relied and identify and give details of the qualifications of, any person who carried them out.

4. If an expert witness believes that his or her evidence or any part of it may be incomplete or inaccurate without some qualification, that qualification must be stated in his or her evidence.

5. If an expert witness believes that his or her opinion is not a concluded opinion because of insufficient research or data or for any other reason, this must be stated in his or her evidence.

Duty to confer

6. An expert witness must comply with any direction of the Court to –

   (a) confer with another expert witness:

   (b) try to reach agreement with the other expert witness on matters within the field of expertise of the expert witness:

   (c) prepare and sign a joint witness statement stating the matters on which the expert witnesses agree and the matters on which they do not agree, including the reasons for their disagreement.

7. In conferring with another expert witness, the expert witness must exercise independent and professional judgement and must not act on the instructions or directions of any person to withhold or avoid agreement.