



CLIMATE DEFENSE PROJECT

Expert Witness Preparation Guide*

Editor's note: This guide was prepared for expert witnesses scheduled to testify at particular trials in which CDP attorneys were serving as defense counsel. However, since it contains information that may be useful to other prospective experts, defense attorneys, and other groups, we've made it available to the public on our website.

The Basics

- Testifying as an expert witness is a form of storytelling. Effective testimony weaves a narrative for the jury that is easy to follow and emotionally resonant.
- Coming across as relatable will have as much of an effect on the jury, if not more, as the content of your testimony.
- Try to make some eye contact with the jury. Even though an attorney (most likely one of us) will be asking you the questions, it's a good idea to address your answers to the jury as well.
- Your testimony will be most effective if it sounds neutral. Experts who sound too much like advocates for one side lose credibility, so your testimony should be the same no matter whether we're asking the questions or the prosecutor is asking them.

Steps in the Process

- We'll call you to the witness stand, where you may be asked to take an oath.
- We'll ask you some questions about your professional background to establish your credentials as an expert. (Sometimes this stage takes place separately, but usually it happens at the beginning of your testimony.)
- We'll ask you substantive questions about issues related to the case – this will be the main portion of your testimony.
- The prosecutor will have an opportunity to cross-examine you, which they may or may not exercise.
- If the prosecutor cross-examines you and we'd like to ask you additional questions afterward, we'll do that next.
- Occasionally, if the issues are contentious, there are further rounds of examination by the prosecution and defense counsel.

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Your Testimony

- If you don't feel comfortable answering any of our questions, please let us know in advance. Our goal is to stay within the realm of your expertise while also painting a compelling picture to bolster the defendant's case.
- Try to take a few seconds to think about each answer before responding, the way people do in ordinary conversation. Waiting a few beats also allows the prosecutor to lodge any objections to the question without interrupting you.
- Don't worry about explaining the data or sources you must rely upon for your answers. We may ask you a question or two about methods to establish credibility, but other than that, you are not required to disclose or explain the underlying data or sources unless specifically asked to do so by the prosecutor.
- **Answer only the question asked.** Ideally, your answer to each question should be a few sentences long at most.
 - If there is additional information you'd like to communicate in your response, it's best for us to elicit that information from you through follow-up questions rather than having you speak for long, uninterrupted stretches. Let us know if you'd like to change the content or structure of the questions.
- **Speak in the simplest and most concise way possible.**
- **Avoid using specialized or technical terms that will be unfamiliar to the jury.** Also avoid using specialized legal terminology (we won't ask you any questions containing such terminology).
- We encourage you to use a visual aid or two if you have clear research findings that can be effectively communicated visually.
 - If you would like assistance printing an exhibit for use as a visual aid, let us know.
 - A powerpoint or other digital presentation may be possible. If you'd like to go that route, let us know so that we can ask the court for permission. We recommend keeping the length to a minimum so as not to confuse the jury or overwhelm them with information.
 - So that we can organize the evidence for the court, **please send us any exhibits or visual aids as soon as possible.**
- If the prosecutor asks an unexpected question and you need to think about the answer, it's ok to pause for a bit before responding.
- Don't worry if the prosecutor asks you a question and you felt you didn't answer it well. We will have a chance to ask you follow-up questions and rebut any lines of argument developed by the prosecutor.