



HOW MANAGEMENT INSTRUCTS WITNESSES: A REPRINT OF A COMPANY PUBLICATION

1. REASON FOR THE HEARING

The union claims that the Company has violated the Collective Bargaining Agreement. The grievance not having been resolved to the Union's satisfaction has been appealed to the fourth stage of the grievance procedure, which is a hearing before the impartial Umpire. His decision will be final and binding. The Company believes it has not violated the Agreement and will try to prove this before the Umpire.

You may be called as a witness for the Company, and you have a very important job to do. At the hearing it will be your job to answer questions asked by the Company (Arbitration Proceedings) representative, the Union representative and the Umpire regarding the facts which are relevant to the dispute.

2. NATURE OF PROCEEDING

The Umpire acts as both judge and jury, determining the facts and interpreting the Collective Bargaining Agreement or other relevant agreements. It is our responsibility to see that the facts supporting the Company's position are put before him and that he fully understands them. It is the union's responsibility to prove its contentions.

The hearing usually begins with an opening statement and the testimony of witnesses called by the Union. After all of the Union's witnesses have testified and the Company has had the opportunity to cross-examine them, the Company's case is presented. In disciplinary cases the procedure is





usually reversed and the Company proceeds first. As a witness you will first be asked questions (direct examination) by the Company representative. Then the Union representative will ask questions (cross-examination). There may be further redirect or recross-examination; and during your testimony, the Umpire may pose questions to you. The hearing usually ends with a closing statement by the Company and Union representatives. This probably appears to you to be like a legal court proceeding. Actually, the Umpire hearing is a much less formal proceeding.

3. PREPARATION FOR THE HEARING

As soon as the plant labor relations office is notified that a hearing has been scheduled, you will be interviewed by your labor relations representative and furnished with a copy of these instructions. Shortly in advance of the hearing date you will be interviewed by the Company representative who will be in charge of presenting the Company's case. He/she will review with you the record of the case, statements given by you and other persons, and any other matters pertinent to the case. He/she will discuss with you the Company and Union contentions in the case and the matters to be covered in your testimony. These will be matters in which you have personal knowledge which is deemed necessary to the presentation of the case. He/she will tell you what you can expect in the way of questions or tactics from the Union's representative.

And finally, any questions you may have both as to your testimony and other matters concerning the arbitration will be answered.

But it will be up to you to review your knowledge of the facts and to refresh your memory so that you can testify unhesitatingly, forthrightly and accurately.





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4. APPEARANCE AND MANNER AS A WITNESS

- a. Dress neatly.
- b. Speak distinctly and loud enough so that all in the room may hear.
- c. Be alert.
- d. Direct your testimony to the Arbitrator. After all, he's the one who must be convinced.
- e. Be courteous always.
- f. Be natural and sincere.
- g. Be serious. Normal pleasantries are expected, but decorum must be observed both in the hearing room and during recesses.
- h. In your conduct, remember you are a Company representative and, as such, you are expected to display respect for the Arbitrator, a friendly attitude toward all persons present in the proceedings, and both fairness and truthfulness.
- i. Do not use provocative words or epithets when testifying.

5. IN ANSWERING QUESTIONS

- a. **THINK** before answering, particularly on cross-examination and when answering the Umpire's questions. Take your time; first make sure you understand the question, then think back to the event in issue--and relate it as accurately as possible. If you do not understand the question, say so.
- b. **DO NOT VOLUNTEER INFORMATION.** Simply

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answer the question asked you and then stop. If explanation is needed, you will be asked to explain. If a question can't be truthfully answered with a "Yes" or "No," you have a right to explain the answer.

- c. **DO NOT HEDGE OR BECOME EVASIVE.** If you are not sure of a fact, if you don't recall a situation or cannot remember the details of an event or don't know the answer, say so.

If you are sure of a fact, do not say "I think . . ." or "I believe . . ." Say "I remember . . ." This is particularly important.

Do not say "That's all of the conversation" or "That's all that happened" unless you are positive there was nothing else. You may have forgotten some detail. If not positive--say, "That is everything I can remember." It may be that after some thought or another question you will remember something important.

If you give a wrong answer by mistake, say so and correct your answer.

- d. **BE UNDERSTOOD.** Do not exaggerate or be dramatic. Simple answers to the point, positively stated, without "window dressing," are much more persuasive.

Avoid, if possible, the use of technical shop terms. Remember that the Arbitrator may not know the details of your work. However, if you must use technical shop terms to clarify a certain point, be sure to briefly define what you mean.

6. SPECIAL NOTES FOR CROSS-EXAMINATION

The purpose of cross-examination is to test your honesty and your ability to observe, recall and report





facts accurately.

In addition, the Union endeavors to draw out additional data which it hopes will support its position. Cross-examiners will try to shake your testimony -- this is their job -- but if your answers have been truthful, they will be unable to do it. Therefore:

- a. Above all, do not lose your temper or become excited, even if the cross-examiner becomes obnoxious and is obviously baiting you to do so. Testifying for a length of time is tiring. Some cross-examiners will try to wear you out so you will lose your temper or give careless answers. Do not let this happen. And remember, your job is to testify only to facts. Any arguments to be made will be made by the Company representative.
- b. In answering a question, you are mostly on your own. If the question is improper, the Company representative will object. But he/she can't answer the question for you or tell you what to say.
- c. Think, understand, and then answer the question deliberately. If there is an objection to the question raised by the Company representative, stop immediately and remain silent until the Company representative tells you to continue.
- d. Do not be misled. If you are asked "Didn't you say . . ." or "You testified that . . .," do not answer "yes" or agree that this was your testimony unless the question contains your exact words. Your usual answer should be "What I said was . . ."
- e. If asked if you "talked to anyone" about your testimony, say "yes" if you have. (Usually you have, or you would not be appearing as a





witness.) If asked to whom--answer truthfully--and name him. If asked what you were "told to say"--the only truthful answer is--you were told to TELL THE TRUTH.

- f. When you leave the witness stand after testifying, wear a confident expression, return to your seat and remain until excused by the Company representative.
- g. Arrangements will be made for you to be present for the entire proceeding. This will permit you to hear the testimony of all of the witnesses and the Union's arguments and assure your availability in the event it is necessary that you be recalled as a witness.

Go back and reread these suggestions. When you are interviewed by the Company representative, ask him about anything you do not understand.

