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The Art of Witness Preparation: Why Being Prepared Never Mattered More
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By this time last year, the summer of 2019 was coming to a close and my fellow managing partners and I were finishing off the final leg our witness training campaign which took us across the country. Thousands of miles later, we found ourselves tired in the fall but feeling like we were able to make quite a difference for our clients. One of the most memorable takeaways I had from my experience ‘on the road’ was the feeling of being able to teach many how to prepare as a witness.

We began our witness trainings with an inclusive event held at the USFN headquarters in Dallas Texas in May 2019. It was exciting to speak to over 50 various client attendees with virtually every mortgage servicer in attendance. The training provided a summary of what to expect in a deposition, testifying at trial, handling mediations, how to handle difficult questions, how to interact with your counsel during testimony and how to prepare for testifying before your big day. We offered a mock deposition and mock trial to provide real life exposure to help potential witnesses gain comfort on what to expect. Many clients had testified in numerous matters and were considered highly experienced witnesses whereas some of our attendees never had the opportunity to be deposed or testify at trial.

My focus was on depositions. Most counsel have their horror stories from a certain deposition that stood out to them. Mine involved a highly contested mortgage foreclosure that had been pending for several years. I ended up having to cancel a deposition due to a flaw in the manner which my witness signed off on something; which I was able to discover at our deposition preparation call.

One of the initial comments I offered to our clients during our witness training was that we know you are busy, but we need your time to prepare you ahead of the deposition. Typically, a deposition preparation call will take about an hour, but it could certainly require more time. It depends on the complexity of the case and issues raised, but the point was – witnesses must make time to speak to their counsel and counsel should be contacting witnesses to prepare well in advance of the deposition. Approximately half of our audience in Dallas raised their hands when I asked how many of them had the type of preparation with their counsel as we had just provided them in our training. Many witnesses in attendance told us that they frequently didn’t speak to their counsel until their arrival at the courthouse having spent zero time preparing for their big day. These results were shocking to me, but as we continued traveling the country visiting various servicers, the feedback we obtained was that our witness training was invaluable and well received.



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The art of witness preparation is fine-tuned through experience and hard work. Take the time to prepare ahead of time and make sure to be in constant communication with your counsel. If you do this, you should have a much better experience in providing your testimony. As always, MRLP is just a phone call away if you need any help.

Marcos Posada