



Kiamalu Consulting & Investigations LLC

Serving All The Islands Of Hawaii And Worldwide

THE KIAMALU REPORT VOLUME 2, ISSUE 5 MAY 2015

Welcome to this month's issue of the Kiamalu Report.
In this issue we will discuss what makes a good witness and what makes a bad witness and how you can be a great witness.



How To Be A Great Witness

The prospect of testifying in court as a witness is a daunting one- even for seasoned trial lawyers. It is an uncomfortable feeling knowing that, however truthful your testimony may be, there will be a lawyer on the other side asking you questions on cross-examination intended to make it appear that you do not know what you are talking about- or worse, that you are lying. Over the course of, perhaps, five hundred criminal jury trials I have examined, and cross-examined, thousands of witnesses. Having done that one cannot help but learn what makes a good witness and what makes a bad witness.

I have distilled this experience to four simple rules that anyone can follow. If you follow these rules while testifying you be a great witness and, for all intents and purposes, you will be "cross-examination proof."

1. Tell the truth. It may obvious that, while testifying in court under oath, one should tell the truth. However, there are many ways one may fail to tell the truth without making up a complete cock-and-bull story. For example, exaggeration is one way to fail to tell the truth. Claiming not to remember something that we all know you should remember is another example. Offering good faith speculation as to what the truth might be, even though you do not know for sure, is probably the most common example.

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Nathan Moores
Director of Operations
CEO

Please take a moment to remember the sacrifices of the brave men and women who have valiantly fought to make America the greatest nation on Earth.



Memorial Day
Monday May 25, 2015

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How To Be A Great Witness cont.

Each of these examples sets you up to look like a fool on cross-examination and must be scrupulously avoided. Do not attempt to make your testimony more compelling by exaggerating. Do not attempt to be "helpful" to the attorney calling you as a witness by forgetting the bad facts or, where you really do not remember the answer, by guessing what the answer should be.

2. Listen to the question and answer only the question. Whenever I see a trial on television or in the movies the witnesses tend to go off on an eloquent speech that moves the jury to tears. This is fiction. This is fiction. And, I repeat, this is fiction. One witness will almost never win a case with their eloquence. On the other hand, I have seen cases lost with one verbose answer to a question. You must listen to the question and answer only the question. The lawyer has been through many trials and he is the expert. The lawyer has a theory of the case before he enters the courtroom and he will only present enough evidence to permit him to make the arguments he has developed. He controls the evidence by the questions he asks. In other words, the questions are the steering wheel. If the witness does not answer the question then the witness now controls the evidence. You should no more wrest control of the evidence away from the trial lawyer than you should wrest the steering wheel away from an experienced airplane pilot in the middle of a thunderstorm.

3. Say it like you know it. Most people, other than lawyers, do not like to sound like know-it-alls in everyday conversation. Consequently, they "qualify" everything they say. For example, "In my opinion Joe Doe is a jerk", or "If I remember correctly, the Packers lost to the Giants in the NFC Championship game," or, "Geez, this was six months ago, but I think Bob went to Dallas for business." Leave out the qualifiers. You say, "Joe Doe is a jerk." You say, "The Packers lost to the Giants in the NFC Championship game", and, "In October Bob went to Dallas for business." A skilled cross-examiner will seize on any qualifiers- even if you used it only as a figure of speech.

4. Pretend you are telling the story to your great aunt Margaret. When police officers testify in court they use a stilted, officious version of the English language that one will hear nowhere else. In "police-talk", no one ever just drives her car down the street. Rather, her "vehicle proceeds east-bound in the 4500 block of west North Avenue." Likewise, many lay witnesses have their own version of the language that only they and their friends can understand. For example, in describing a small party with neighbors where the police are called, one will hear, "We was kickin' it in the hood and then po-po came." The jury will have trouble understanding both of these witnesses. The jury is truly a collection of many different sorts of people. It is critical that the witness describe the events in words that everyone can understand. Tell your story in a way that great aunt Margaret could understand.

*“Do you solemnly swear to tell the truth,
the whole truth, and nothing but the truth.
So help you God?”*



The service members we remember and honor this Memorial Day came from all walks of life, but they shared several fundamental qualities. They possessed courage, pride, determination, selflessness, dedication to duty and integrity; all the qualities needed to serve a cause larger than one's self.

Since the first shots at Lexington and Concord were fired and our Revolutionary War began, American men and women have been answering the nation's call to duty.

Millions of Americans have fought and died on battlefields here and abroad to defend our freedoms and way of life. Today our troops continue to make the ultimate sacrifices, and even as we lose troops, more Americans step forward to say, I'm ready to serve. They follow in the footsteps of generations of fine Americans.

From the Soldiers who shivered and starved through the winter at Valley Forge to the doughboys crouched in the muddy trenches of France to the platoon who patrolled the hazy jungles of Vietnam and the young man or woman patrolling the mountains of Afghanistan, we remember and honor them all.

Found After More Than 40 Years!

Just wanted to share an awesome story about a case we had the pleasure to work up recently.

A few weeks ago Kiamalu Consulting & Investigations received a call from a Vietnam Veteran, US Army Medic. After speaking with this Veteran we quickly realized that he needed our assistance.

In 1971 this Veteran had been assigned to a Psychiatric ward in Okinawa, Japan. He relayed to us that every day was a challenge, working with military personnel and dealing with their issues. Part of this Veteran's duties was to safe guard the keys to the pharmacy and the restricted drugs. One day while on-duty he was violently assaulted by another military person working in the ward. The person that assaulted him was after those keys and wanted the drugs locked away in the pharmacy. The assailant was caught but not much was done to him, as was usual in those days.

Now let's fast forward to the present. As the years passed the Veteran, who called us, didn't think much on the incident, until approximately 10 years ago when he began to have vision problems. After having it checked out by a prestigious facility he was told that his problems were directly related to the 1971 assault, specifically brain trauma. The Veteran then thinking that he would be able to go the Veterans Administration for help was promptly denied and told that there was no record of the assault and they would not be able to help him find any witnesses because of the length of time that had passed.

As it turns out this Veteran has been searching for the past 10 years for a person that could validate the assault to the VA. All his attempts to locate anybody was met in frustration and failure. Finally, desperate, he decide to call us at Kiamalu. After consulting with this Veteran, even we were hesitant that anybody could be found however, we took his case. The only information the Veteran had on a possible witness was a name, with no middle initial, an approximate age and a few details that he remembered from lunch time conversations at work in 1971.

Our investigators began the search. Unfortunately, the name given was a common Latino name, which made it even more difficult to narrow down possible likely individuals. After searching for 24 hours hopes of finding this person began to fade, until a break in finding information and expertly comparing it to known information and speaking with sources we believed we had found our man. A call was made and 8 hours later we had found the person that our client had been looking for. After more than 40 years since they had last seen or heard from one another they were reconnected. The person found does remember the incident (assault) and is willing to help our client with the VA.



As an added interesting note, the person that we located lived in the same state as the client and not that many miles away. He also is a retired Police Chief. This case was completed within 48 hours, the client was shocked to say the least.

We at Kiamalu are truly committed to our Veterans and this case was a pleasure for us to work.



In today's economic climate Kiamalu Consulting & Investigations realizes how important it is to get the most from your budget, without sacrificing on the quality of the services you need. With Kiamalu you can rest assured that we take pride in our work and because of our high skill level and extensive experience, we are able to offer services that are customized to your budget and your needs, resulting in a successful relationship.

Contact Kiamalu Consulting & Investigations to discuss the facts and circumstances of your particular case with an experienced investigator.

Kiamalu Consulting & Investigations LLC offers free initial 30-minute consultations. However, no advice beyond that initial consultation can be provided without a signed engagement letter and payment of KCI fees. Please call our offices or visit us online at: Kiamalu-ci.us



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