

WHAT IS AN EXAMINATION BEFORE TRIAL?

An examination before trial (EBT) is your testimony under oath. You will be asked questions about how the accident happened by the opposing attorney(s). In some cases, your own attorney will ask you questions. An examination before trial is less formal than a trial. The judge is not present. It may be held in an office or a courthouse. The questions and your answers will be recorded by a court reporter. A court reporter is a person who records what was said with a transcribing machine.

The law requires that all parties to a case can be deposed. This way we all find out everyone's version of how this accident happened. The attorneys look for any discrepancies, regardless of their significance, to be used at the time of trial.

If you have photos of the cars or a copy of any form you submitted to the DMV, please bring it with you. Do not bring to the EBT any notes you made or statement you gave or review them before your EBT. Your attorney will bring any document you may need.

Your attorney will meet with you before you testify and discuss the case in detail. You will get general instructions on testifying.

When testifying, answer questions directly. Do not volunteer any information. Answer the questions truthfully. Do not guess, but you may give an estimate. Opinion questions are sometimes valid, e.g., How fast was the other vehicle traveling?

Answer the questions with as few words as possible. Some questions only call for a yes or no answer. Don't anticipate any questions. Let the attorney complete the question before you answer it. Only testify to facts that you know. Never testify to facts that you think you should know.

Don't answer the question if you did not understand it. If you do not understand a question, please say so. Don't answer the question if you did not hear all of it. The opposing attorney will repeat any question that you did not understand and/or hear.

Do not guess if you do not know the answer. You may estimate, but that is not the same as guessing. For example, if you are asked how fast a car was going and you saw it before the accident, you could estimate its speed. But if you did not see it, you would be guessing.

Do not turn to either your attorney or another person for answers to questions that you do not know. Do not promise to provide information that you do not readily have at hand. Also do not promise to look up anything in the future to supplement your answer. Let your attorney answer those requests

Do not reach into your pockets for a social security card, driver's license or other documents unless your attorney advises you to do so. The purpose of an EBT is not to produce documents, but rather to ask what happened at the time of the accident.

Sometimes the opposing attorney will try to get a witness excited while he is testifying hoping that he will give thoughtless testimony that will be used against him at trial. Do not let the opposing attorney get you angry or excited. This may well destroy the total effect of your testimony. If you feel that you are getting too angry to answer questions carefully, then ask for a break.

If your attorney begins to speak, then stop answering the question to permit your attorney to make a statement. If your attorney objects to a question that is being asked of you, then do not answer the question until he advises you to do so. If your attorney advises you not to answer the question, then you should refuse to do so. Take your time in answering each question. Be sure to answer all questions in a direct and forward manner.

Never joke during your EBT. Your attempt at humor may not be apparent on the cold transcript and may make you look crude or cavalier about the truth.

Do not chat with your opponents or their attorneys at the EBT. Do not let their friendly manner cause you to drop your guard.

After you have read this, please note any questions that you might have and discuss them with your attorney before your EBT starts. Your attorney will meet with you before your EBT to go over your testimony and answer any questions that you might have.

If you still have any papers, such as notes, or photos of the cars, please send copies now to your attorneys.