

# Letting Your Client Rant & Rave May Help Your Case

By Deborah Johnson



Yes, this probably sounds like an off-the-wall idea, but there's science behind letting your client rant and rave that can help you – and your client – be much more successful.

## Picture This

You're on the eve of a trial, deposition or a hearing. You're preparing your witness, carefully going over all the right things to do to be successful. It looks like the client is listening. Then, wham! Under oath, they act like they never heard a word you said about listening to the whole question, keeping their answers short or not being defensive.

"It can be devastating to my case," says John Clayman of Frederic Dorwart, Lawyers, a preeminent Tulsa law firm. "A bad witness is the worst of all worlds."

This can happen because *listening* isn't enough. It's only the first part. What your client hears has to actually get into their memory.

## The Science Behind the Headline

Neuroscience is discovering amazing things about our brains, such as how stress affects us. The short version is simply that stress prevents memory storage. When your client is stressed, the wiring in their brain is disturbed. There's a small

part of our brain, about the size of two almonds, called the amygdala. Its primary role is in the processing of memory, decision-making and emotional reactions. Under stress, the amygdala becomes over activated, which means that any new sensory information – like telling them how to behave on the stand – cannot pass through to access memory. Think of it like the difference between RAM and the hard drive on your computer. They can't access the hard drive to store or access memories.

So, you were right in thinking your witness was listening, but their brain wasn't processing it for later retrieval. Voila! Under oath, all that information about listening to the whole question, keeping their answers short or not being defensive is simply not there.

## What Can You Do?

Attorneys engage me when they have a particularly difficult witness. This generally indicates a high level of stress. In order for me to help them, I have to get their stress level down. Before we launch into any training, I will ask a softball question like, "What's on your mind today?" or "How are you doing?" Then I let them unload, rant and rave if they need to. Typically this operates as a pressure relief valve.

Flynn Carey of Mitchell Stein Carey says, "I orient my witnesses to give them a level of comfort. I help them understand that their role is to provide information, not to be perfect." By relieving stress, you can work more effectively with your client.

In addition, the neuroscience findings show that positive feedback also relieves stress. Make sure your witness knows what they are doing right. That's why I videotape my clients and play back clips for them. This way they can see for themselves what they're doing well, practice it and repeat it during testimony.

## ROI

In the crush of litigation, it can be frustrating to sit and listen your client rant and rave. There are so many other things for you to accomplish. However, investing 10 minutes to relieve your client's stress could mean the difference between winning and losing.

Deborah has consulted on a variety of cases, including business disputes, contracts, SEC fraud, mortgage fraud, mail fraud, civic rights, workers' compensation, medical malpractice, personal injury, employment, rape, sexual assault, manslaughter and divorce. One recent client won a multimillion-dollar divorce settlement and another won a \$5.3 million award in a civil rights case. She is a six-time Emmy Award-winning writer and producer. She has a master's degree in cognitive psychology and television production from the University of Washington. Her one-on-one approach teaches skills to help witnesses and professionals become confident communicators in the courtroom, boardroom or in front of the media.

