

THE DO'S AND DONT'S DRAFTING AFFIDAVITS

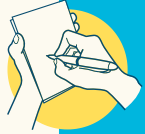
Engage with Witnesses

- ✗ **DON'T** ask leading questions or pose suggestions about how events might have occurred.
- ✓ **DO** ask open ended questions and prompt for further detail to be provided.



The Drafting Process

- ✗ **DON'T** rush through the drafting stage or avoid consultation with witnesses.
- ✓ **DO** ask questions for further clarity, and confirm affidavit wording with witnesses before filing.



Consider Language Choices

- ✗ **DON'T** present witness testimony as persuasive legal writing, and cross-check witness statements for identical or copied language.
- ✓ **DO** neatly structure the witness' genuine recollection of events, using their own words.



Adhere to Evidence Standards

- ✗ **DON'T** default to direct speech form. Instead, clarify the witness' level of certainty in recalling a conversation with "the exact words used were", "in words to the following effect" or without quotations (in gist form).
- ✓ **DO** annex any contemporaneous documentation from the witness that supports their recollection.



Refer to Court Guidelines

- ✗ **DON'T** ignore jurisdiction-specific guidelines about drafting (for example, any guidelines regarding the use of generative AI).
- ✓ **DO** keep up to date with practice notes and recent rulings for best practices specific to that court.

