

# Deposition Preparation Guide for Clients



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## DEPOSITION PREPARATION FOR CLIENT

You are scheduled to have your deposition taken in this case, we wanted to give you some general information about what a deposition is, and what your role is as a witness at the deposition.

## PURPOSE OF A DEPOSITION

The purpose of the deposition is to allow a party the opportunity to take your testimony under penalty of perjury, to determine the facts of the case prior to trial. All parties to a case are required to present for deposition upon notice. Your failure to show up for the deposition on time could result in you facing severe monetary sanctions by the court, and possibly having your case terminated. You must appear.

## WHY ARE YOU REQUIRED TO LET THEM TAKE YOUR DEPOSITION?

CCP section 2025.010, et seq., allows each side in a civil case, to question a party or witness, in front of a certified court reporter, day to day for a total of up to 7 hours, up to 75 miles from their residence, or up to 150 miles from their residence if the deposition location is in the same county where you live.

Since the pandemic in 2020, the vast majority of depositions are taken remotely by Zoom or some other type of remote video system, but in rare circumstances, they can still require you appear in person.

We will let you know whether or not you have to appear in person or whether your deposition will be taken remotely.

They can also make you bring documents and things to the deposition. Again, we will let you know what is required.

### **EMERGENCY EXCUSES FOR NOT ATTENDING YOUR DEPOSITION**

Valid excuses for having your deposition rescheduled are; you are sick, a close family member is sick, and you are attending to them, you are in the hospital, a death in the family, or something along these lines. Having to go to work is not a valid excuse.

You must give us as much advance notice as possible to try to get them to reschedule your deposition without a penalty to you. If you wait until the day of the deposition to tell us you cannot attend, you may be forced to pay a cancellation fee, or worse, they could do a motion to compel and seek monetary sanctions against you. Do not miss your deposition and if you must, make sure you have a valid provable, if necessary, excuse.

### **PREPARATION FOR A REMOTE ZOOM OR OTHER SYSTEM DEPOSITION**

If you are given notice that your deposition will be taken remotely by Zoom or some other method, you need to either have a desktop computer, laptop computer, tablet, or a cell phone that you can use to do your remote deposition.

The device must have a camera because the party taking your deposition will want to see you on a camera. Most cell phones and tablets have cameras. If you are on a desktop or a tablet, make sure you have a Webcam that works.

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It is a luxury to be able to take the deposition remotely as opposed to having to travel to the opposing counsel's office in person. So, the trade-off for you not having to drive to the deposition to be there in person is that you are required to have a device that shows you on camera for the remote deposition.

We strongly suggest that at least a few days before the deposition you get on the device that you will use for the zoom deposition and install zoom software on your device which is free. If you want, you can uninstall it after the deposition.

If you are on an Apple or android tablet or phone, you can get the zoom software for free at the Apple Store or the Google play store and install it on your phone.

You are going to need a connection that is good enough to be able to do video and voice. We strongly suggest that you connect your phone to Wi-Fi to make sure you have enough bandwidth to do video and voice.

If you are going to use a desktop or laptop that uses Microsoft Windows or the Apple operating system, you can also get the zoom software for free simply by opening up a browser on your computer and searching for zoom software and a link will come up to allow you to install the software on your computer for free.

We suggest that you look around the software to learn how to turn your camera on and off while you're in the software, as well as muting the microphone on and off.

On the day of the deposition when we take breaks, you may want to speak with attorney Fernandez or another attorney from our office, you will need to be able to turn your camera off and mute the mic to make sure the other side does not hear you or see you while you're taking a break, talking to anybody at sure location, or attorney Fernandez.

You need to learn the software in advance of the depo because if you try to do it on the day of the deposition it will delay the process and cause it to take much longer than it should need to take. Remember it's a privilege to be able to get the deposition taken remotely.

## **THINGS THAT YOU SHOULD DO AND NOT DO DURING THE DEPOSITION**

## Deposition Preparation Guide for Clients

1. Do not have anybody in the room with you while the deposition is taking place.
2. Do not have any papers in front of you during the deposition. If the party taking your deposition finds out that you have papers in front of you, they are going to not only want you to identify everything that you have, but they will try to force us later on to produce a copy of those papers. You are supposed to be testifying from your independent recollection, not from a bunch of papers that you may have in front of you.
3. Do not volunteer to get a piece of paper or an item, or to look something up, that you do not have in front of you during the deposition. It is okay to say I may be able to find it, but you are not required to do it during the deposition unless attorney Fernandez and the other attorney give permission to do so. Ordinarily they may leave a blank in the transcripts of the could fill it in later on.
4. **Do not guess.** The worst possible thing you could do as a party or witness is to make up something up that you don't know the answer to. A guess is simply not based on fact, and you are basically making up a story. It's like attorney Fernandez asking you what his nickname in high school was. You have no clue what his nickname was in high school so why would you give an answer to that question. The questioner may try to get you to say something that you absolutely do not remember. You do not have an obligation to give an answer that you don't know the answer to. Do not guess an answer, because it'll mess up your case. Always tell the truth. If you do not know the answer to a question, say I do not know the answer to the question. If you do not remember it's okay to say I do not remember.
5. The other side is entitled to your best estimate. An estimate is based upon human experience. We talked about a guess above. An estimate is based upon human experience, but you may not have an exact answer. For instance, someone may ask you how wide is the table in front of you? You may be able to, based upon your human experience, give an estimate without actually measuring it. You may say well I will give an estimate of approximately 2 to 3 feet. Always tell the questioner that you are giving an estimate when you give an estimate, but there is a fine line between an estimate and a guess. Do not guess, just to satisfy the questioner. If you cannot give an estimate, tell them I cannot give you an estimate.
6. Do not ever volunteer communications between your attorney and yourself. All communications between the law office and you are confidential and do not have to be disclosed. If you blurt something out about your communications between you and the attorney, you will waive attorney-client privilege and open you up to more questioning about your communications with the law office. Remember these conversations are privileged and are never disclosed. Furthermore, along these lines, don't blurt all



12. Always ask for a five-minute break every hour. If you need to take a break sooner do not be afraid to ask. If you have to go to the restroom, we do not want your testimony affected by the fact that you have to go to the restroom. If you have to take a break for any reason, ask to take a break. The reason we want you to take a break every hour is because people under questioning for an hour or more do not do as well as somebody who takes a short break to clear their head. Do not forget, ask to take the break.
13. Always wait until the person asking you a question is finished asking the question before you start talking. Normal human communication usually involves people interrupting each other as they are talking. The trouble with this is that in a deposition the court reporter cannot take everything down if two people are talking at the same time, your attorney will not have a chance to object to a question, before you give it you can adversely affect your case. This is not a speed race this is testimony that will affect the outcome of your case. It is important for you to make a good showing.

## RULES OF THE DEPOSITION

Although a deposition is an informal proceeding taken out of court, it has the force and effect as though you are testifying in a court of law

Because a deposition is taken under oath (under penalty of perjury) and can be used at trial, it is important that a witness be certain of their answers, not volunteer information and not speculate on matters about which they have no information about.

Due to the fact that there is a possibility your deposition testimony will be presented to a jury or a judge at trial, it is also important that you do not act hostile towards the questioner or argue with the questioner because it will make you look bad.

## Deposition Preparation Guide for Clients

Something that is said which may appear innocent when said, can be devastating when it is read at that time of the trial. A judge or jury does not have the ability to judge the demeanor of the witness at the deposition. Keep it professional. Do not get mad at the person asking questions, they are only doing their job.

Your deposition is being taken down by a court reporter (a court reporter is a person who types down everything that is being said during the deposition) who cannot type two people talking at the same time, it is important that you make sure that the questioner has completely finished their question before you respond to the question.

This avoids the possibility of an erroneous answer to a question because you misunderstood the question by cutting off the questioner. For example, if the questioner says, “Are you dead or are you alive?”, and not you not waiting the second part of the question, you answer “Yes”, when the complete question and answer are typed it will appear as though you stated you were dead.

It is also important to wait a second or two after the question has been asked so that we may object to the question if necessary. If you answer too fast it cuts off our ability to make an objection.

Another reason your deposition will be taken by the opposing party will be to freeze your story. In the event that you were to testify at the time of trial in any way that was different from your testimony during this deposition, opposing party’s attorney would be able to use the deposition testimony to contradict and embarrass you by showing that you changed your story. When you change your story, it looks like you are not telling the truth. This is what lawyers call impeachment. It is very effective in front of a judge or jury as a jury is generally inclined not to believe a witness that changes their story.

## Deposition Preparation Guide for Clients

In order to help you prepare for your deposition, you need to understand that there is a big difference between a deposition and a trial.

This deposition is informal and is a one-sided affair. It will seem that it favors the opposing party. The reason is that the Opposing party's attorney is asking all the questions.

As the deponent, you are under a general obligation to answer all questions. Some of his questions will not be permissible at the courthouse during trial, but they are allowed during the deposition.

The opposing attorney can go on a fishing expedition and ask questions that you may not think are relevant to the case. The opposing attorney has wide latitude in asking such questions. This is to permit adequate discovery and pre-trial preparation by both sides. The other attorney is allowed to go on a fishing expedition for any evidence that may tend to lead to admissible evidence.

No judge will be present to rule on any objections at our deposition. I will be playing a limited role. It is crucial that you remember this. I will be listening to each and every question that you are asked. If any of them are improper, I will object. However, I do not anticipate a large number of objections. It may be that there are none. I do not want you to misconstrue my silence as a failure to protect your interests. You never know sometimes and opposing counsel may go overboard which may require me to make many objections. We will both see how it goes.

In our many years of practice, we have never had to end a deposition to do what is called a motion for a protective order with the court.

## Deposition Preparation Guide for Clients

Next, we want to give you some information that will assist you in knowing what the opposing party's attorney is attempting to do while they are asking you questions. As we mentioned above, they have more than one reason for taking this deposition.

The form of his questions may reveal to you their major interest. When they are asking you questions primarily for discovery purposes, just to obtain information, the questions are going to be broad and the subject far-reaching. They are trying to encourage you to give rambling answers that might reveal new facts. If they are attempting to elicit from you admissible evidence, things that they can read directly to the jury at the time of trial, their questions are going to be more sharply focused. When they are doing this, they are attempting to “freeze” your testimony.

They are going to repeatedly ask you “was there anything else?” or “is that everything you remember?” They are forcing you to commit yourself to a position that you cannot amend or correct at the time of the trial without risking impeachment.

They will probably ask you many leading questions. A leading question is one that suggests the answer to you in the question. It is really just a question with a statement of fact which only asks you to agree or disagree.

They are going to be asking you things to which they want a “yes” or “no” answer.

They are going to try to put words in your mouth through this process.

## Deposition Preparation Guide for Clients

If any part of their leading question is incorrect, do not answer “Yes” or “no,” and give the answer you want to give. Do not be forced into a yes or no answer when the answer is not yes or no.

They will probably ask you why, and then restate it including the correct fact you just gave, and again ask you to agree or disagree. Remember, they are trying to freeze every detail of your testimony. Make sure it is correct before you agree with their statement.

They are going to be attempting to always get responsive answers from you. In other words, he is going to want a clear “Yes” or “No.” They will probably ask you the question in several different ways to get a response. They are going to be after accuracy to the limit that you can provide it. They will want to know everything that you remember. Additionally, they are going to be watchful for prior inconsistent statements from you. However, if they notice one, they will more than likely not mention it during the deposition but save it for trial. It is important for you to be consistent throughout your entire story.

It is probable that the opposing attorney's first step in the deposition will be to create a record that he can use during the trial to show that you understood the full nature of the deposition and all of the uses to which it can be put.

What they are trying to do is to protect themselves if, at trial, you insist that a contradictory statement was caused by your failure to understand what was going on at the deposition.

## Deposition Preparation Guide for Clients

Your testimony during a deposition is subject to the same penalties of perjury as testimony at trial, they will probably proceed with incidental questions. Typically, they will ask a lot of demographic questions - name, address, age, family background, where you are from, what high school did you go to, names of spouse and other family members, etc. These questions are to get you in the habit of answering and to get you to think. However, do NOT let your guard down! They will probably proceed in a chronological fashion - oldest to latest.

We expect them to go into great detail on your education, training, and previous employment. With regard to questions which they you about the specific incident in question that gave rise to the lawsuit, these questions are going to be meticulous, often redundant, and exhaustive.

Not all questions will seem relevant, not all questions will be relevant, and not all of these questions are even going to be relevant. Lawyers often think ahead while they are posing their questions and may get lost in the weeds with a rambling, seemingly incoherent question.

We will object to the form of the question, if necessary, but do not hesitate to point out to opposing counsel that you do not understand the question, and to please have them rephrase the question.

We are enclosing a list of pointers below for deposition witnesses such as you, which may give you some helpful general information.

A jury can easily be influenced by their emotional reactions to a witness, and it is in your best interest, that the jury hearing your testimony would find you a person who is credible, sympathetic, and someone with whom they can relate to as a human being.

Remember that “pauses” will not show up on a written transcript. Therefore, take time to think before you answer. If a question is unclear or you do not understand it, ask that it be repeated. If a question is really a compound question, (a compound question is two questions in one) we will object as to the form of the question, but in case we do not, please make sure you ask him to rephrase into two separate questions.

## **BASIC RULES FOR DEPOSITION WITNESSES**

### **1. Tell the truth**

Always tell the truth. The truth is much easier to remember than a lie. Further, if you are found to be willfully not telling the truth by court, you can face perjury charges.

You will undoubtedly encounter questions that we have not covered here today. When that occurs, do not get upset. Focus on the question and, if you can, answer it. You may be asked if we met to prepare for the deposition. Never answer any question that involves your attorney or our conversations with each other. Any conversations between us and you are protected by attorney-client privilege. Do not volunteer any information related to your communications with us. All lawyers know better than to ask about our conversations, but if they do ask, I will instruct you to not answer.

### **2. Listen to the question**

Concentrate on every word. Wait until you hear the last word of the question before you start your answer and pause a little bit to give us time to object to the question if necessary. If you listen closely to ordinary conversation, you will see that we cut one another off quite frequently - not to be rude but to keep the conversation moving. Listening is hard work. If you listen as you should, not only will you give better answers, but you will give us time to object.

### **3. Make sure you hear the question**

If the lawyer drops his voice or someone coughs and you miss a word or two, say that you did not hear the question, and ask them to repeat it. Do this even if you are almost certain that you know what the word is that you missed.

### **4. Make sure you understand the question**

Sometimes the question will be so long or so convoluted that you do not know what you are being asked except that it concerns subject "A".

You may be tempted to answer by saying something about subject "A" in the hope that the lawyer will then go on to some other subject. Do not do that. Just say that you do not understand. If you do not understand, do not help the other lawyer in asking the question. Do not say, "If you mean this, then my answer would be such and such; if you mean that, my answer would be so and so." You may very well give the other lawyer ideas that they never had themselves. Every word in your answer could lead to a new question. Say only that you do not understand.

### **5. Answer the question**



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Try to answer a question with “yes” or “no” when you can. If the answer is not “yes” or “no” then give the answer you want to give. Usually common sense. Do not volunteer information that is not asked, only answer the questions that are asked. You have no duty to volunteer information that is not requested. If you do not know the answer to a question, say that you do not know the answer to the question. If you do not remember, say you do not remember. If you do not understand the question, tell them that you do not understand the question. Above all do not guess the answer to a question.

Generally, you should keep your answer short and to the point. Remember, every word in your answer could be the seed for a new question.

You must answer your question with English audible responses, for instance “Yes”, or “No”, our normal English words whereas “Uh-huh” or “Uh-unh” or nodding or shaking your head are not.

The court reporter cannot take down hand gestures nodding of the head, or non-words, may misinterpret your answer.

Do not volunteer information. Be straight and precise with your answer. Once it has been said, it cannot be unsaid. If you do not know or do not remember, say that. You do not get extra points by guessing.

If you are pretty sure of the answer but not 100 percent certain, say that. It is fine to answer a question with “I don’t know the answer to that question”, or “I don’t remember exactly – it all happened such a long time ago.” It is perfectly natural to forget minor details.

Just do not guess or make something up.

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Be careful of making absolute statements such as “Nothing else happened” unless you are 100% sure that the statement is correct. If it is a time or distance question, and you are not sure, tell them that.

If they ask you to approximate, make sure that you preface your answer with “I don’t know exactly, but the time was between 8:30 and 9:00.” Only answer a question with facts from your personal knowledge – what you yourself saw or heard – not what somebody else told you.

What you learned in taking tests in high school or college applies here. Answer the question you are asked. If the question begins “Who,” your answer should be a name; if “Where,” a place; if “When,” a date or time; and so on.

If you do not know or remember, say that, and then keep quiet.

Do not volunteer a reference to a document, such as, “I don't know; I would have to check my desk calendar.” You may be asked the same question later in the deposition but phrased in different words. Be consistent with your answers. You do not get extra points for giving perfectly clear and complete answers. Normally if there is some ambiguity in your answer, that will be a problem for the opposing party, not for you. Sometimes, after you give your answer there will be silence.

The other lawyer may be thinking how to word his next question. Silence sometimes makes the witness uncomfortable. You may be tempted to fill the silence with words, or volunteer information. Do not do that. Keep quiet and wait for the next question. If a question irritates you or makes you angry, resist the temptation to argue with the other lawyer. If you get into an argument with a lawyer, you will lose. It is not a personal attack but be careful of the lawyer baiting you into losing your temper. Stay cool and collected. Just give whatever facts you know are responsive to the question and then keep quiet. If you feel like you are losing control or your temper, ask to take a break.

### **6 If you are asked a question that requires a long answer, give it.**

Use your common sense. If you are in doubt, keep your answer short, or ask the other lawyer to break down the question into subparts.

Do not make speeches. Remember that every word you say is another target for opposing counsel.

In dealing with the other lawyer, your manner should be courteous and open, but mentally you should be on guard at all times. Even if something is said “off the record,” the other lawyer can ask you about it when you are back on the record.

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I may object to certain questions. When you hear my voice – STOP TALKING! Try not to be distracted by my objection. Listen to the objection. It may point out some hidden trap in the question. I may just be interrupting opposing counsel's rhythm. The objection is also a reminder to you to keep concentrating. I may go further and instruct you not to answer the question. If I do, follow my instructions.

You may hear the same question more than once. If your original answer was accurate, stick to it. The fact that the other lawyer keeps coming back to the question does not mean that you are answering incorrectly.

You must give the facts as you know them. If you gave the facts right the first time, stick to your answer. Of course, the other lawyer is an experienced and skillful questioner, and through his questions he may try to create doubt in your mind even about facts that you know very well.

Take this example - which has nothing to do with any case. Suppose they show you a coffee cup and ask you what it is. You say a coffee cup. They then pause, gaze at the cup, and let you squirm. Then, after letting you wonder what they know that you do not, they lean forward and say, "Now, Mr. Witness, is it your testimony here today--under oath--that this is a coffee cup? Do you really mean to say that?" There is a natural tendency to back off and say, "Well, I thought it was a coffee cup." That small change in your testimony may be crucial.

Suppose a witness says the first time that they had the green light and then says that he thought he had it. That would be a devastating change. So, if your answer was true, stick to it and say, "Yes, it is a coffee cup." What does the other lawyer do then? He will go on to another subject quickly when he sees that you cannot be shaken.

Of course, if you realize that your earlier answer was in error or incomplete, you should correct or supplement it. Obviously, you should not say that an earlier answer is true if you become aware that it is not. Follow these suggestions, do not be in a hurry to answer, and you will be a good witness.

### **Quick tips to remember**

Tell the truth. Never vary from this rule. You can be truthful and tell the truth in a way that helps. You can be truthful and say it in a way that hurts. Think through your answers to the issues in the lawsuit thoroughly. Do it beforehand. As a witness you are sworn to tell the truth, and you must do so. No one, nor your attorney, is telling you otherwise.

Resist the temptation to be helpful to volunteer information or to become a teacher. Remember this is not the time or place for putting on your case. Just answer the question that is asked! Then stop and wait until the next question. The most frequent mistake made is volunteering information. Do not! Just answer the question and then stop!

Remember your personal behavior and personality will be scrutinized by the opposing attorney. Speak clearly and slowly.

Dress appropriately and get adequate rest beforehand. A good night's sleep is vital. Have your lawyer answer your questions about the deposition before it begins and when you have privacy.

Be confident, not cocky. Make sure your attorney has answered any important questions in your mind about the deposition procedure before it begins.

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Be precise. If you cannot be reasonably precise, just admit you do not know the answer. Do not guess. It is okay to say, “I don’t know the answer,” to the question.

Be polite but firm. Relax. Do not feel compelled to speak just because there is a long silence.

Do not attempt to persuade the opposing lawyer that you are right, and his client is wrong. He just wants to win his case. The more information you volunteer to him, the better informed he is.

Do not anticipate the questions. Do not interrupt the question or improve the question so as to remove problems with the question.

Listen to the question, not the tone with which it is asked. The opposing attorney may attempt to provoke you deliberately as a tactic. He may hide a particularly nasty or tricky question in a soft voice and a soothing manner.

Listen to any objection by your lawyer but understand your lawyer cannot use objections to “coach” you how to answer the question.

Be sure you understand the question. Do not answer the question if it purports to summarize your opinions or your earlier testimony but is inaccurate, even if only slightly so. Do not answer the question if you do not understand it. Tell him you do not understand the question. State that the summary of your testimony contained in the question is wrong. The attorney can ask you “loaded” inaccurate questions. You have to be alert to the misstatements in the questions. Pay particular attention to questions that begin with “don’t you agree” or “isn’t it true”.

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Take time to think about the question and your answer. Do not fix his question. If it is poorly worded, do not say: “are you asking me this” and then proceed to fix his question. If the question is “broke”, do not fix it.

If you are given a document, always read it entirely before answering. Continue to refer to it when answering any question about a document. You are entitled to a copy when answering. Do not answer a question about a document without the “complete” document in front of you.

Complete your answers even if the attorney interrupts you.

Do not make promises or offer to make drawings, do calculations, collect documents, or conduct research or pledge to do so. If requested, tell the opposing attorney that you want to take a break, and off the record informally discuss this with your attorney.

Correct any prior answers if you decide your previous statement was incorrect or inaccurate.

Never lose your temper even if provoked. This may well be a “test”. Do not lash out.

Do not assume false facts. If it is not so, insist it is not so.

Do not play lawyer.

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Do not argue. Just stand on your position. If you are asked essentially the same question several times, give exactly the same answer each time. Often this is a tactic to get you to change the answer you gave which the attorney does not like. Instead, if you are asked the very same question, you just answered. Just say: “same question, same answer.” When he asks the same question again, give him the same answer again.

Testify from your own knowledge.

Never guess, but you may estimate. If you do not know the answer, the correct response is “I don’t know.” Do not constantly use hedge words such as “it’s just my opinion” or “I’m, not sure.” Overuse of hedge words gives the impression you do not know what you are talking about.

There may be times when you cannot remember an answer. Do not be afraid to say that you do not remember the answer at this time.

Speak clearly and avoid non-verbal answers (such as head nods) so the court reporter can accurately record your response.

If one of the lawyers makes an objection, stop, and wait until the lawyers are finished. Do not be distracted by their arguments with each other but listen to what they say. Be aware that your lawyer has very limited authority to instruct you not to answer a question.



Do not hesitate to ask for a break if you need one, or if you wish to seek legal advice from your counsel. No matter what, do not tell the other attorney that you want to speak to your attorney. Any comments you made during the break heard by the opposing attorney likely will result in you being questioned about the comment after the break. If he asks you after the break if your lawyer told you how to answer the question, tell him no! Do not go too long without a break. Try to take a short walk during the break. Splash water in your face in the restroom.

Do not think that you can end or shorten the ordeal of the deposition by making concessions to the attorney questioning you. That will prolong the deposition. He will see you are willing to agree to “anything” in the mistaken belief that this will end the questioning.

Do not bring any notes or other materials to the deposition without the knowledge and advice of your attorney. Show your attorney what you have brought while you are out of the presence of others. Do it before the deposition begins.

You are entitled to a complete copy, not a partial copy, of any document. If presented with a surprise document, you can take all the time you need to study before you answer any questions.

### **Additional Quick Tips to Remember for Deposition**

1. A Witness' primary goal is to Tell the truth, but do not volunteer information
2. If you do not know the answer to a question, say so.
3. If you do not understand the question, say so.

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4. Think before you answer.
5. If you do not know exactly, estimate dates, times, distances, amounts, etc. and tell the questioner that you are estimating.
6. Do not ask for help in answering a question.
7. Testify only from your own personal knowledge.
8. Do not joke.
9. Do not try to outguess the attorney.
10. Do not argue with the attorney or lose your temper.
11. Do not assume.
12. If your attorney objects, do not answer; listen to the objection; and then answer if so instructed.
13. Do not ever talk about your conversations with your attorney, what you have given your attorney, what your attorney has given you, etc.
14. Do not drop your guard; opposing counsel is your legal enemy.
15. Do not refer to notes or documents until you show the documents to your attorney.
16. Speak slowly and clearly.
17. Do not answer a question before opposing counsel finishes asking it.

## Deposition Preparation Guide for Clients

18. Just answer the question. Overcome the urge to explain or justify your actions in response to allusions of wrongdoing on your part.

19. Be sure you hear the question. If the lawyer drops his voice, or there is a disturbance and you miss a word or two, have the question repeated.

20. Understand the question before you attempt to give an answer. You cannot possibly give a truthful and accurate answer unless you understand the question. If you do not understand, ask the lawyer to repeat it. Keep a sharp lookout for questions with a double meaning and questions that assume you have testified to a fact when you have not. Make sure the question is exact. If the opposing lawyer asks, "What about the house?" ask him to explain what he means. If you are not certain about the meaning of a word, do not be embarrassed, say so. The lawyer could be showing off. Make him explain. If you do not understand, do not help the questioner by saying only that you do not understand.

21. Do not worry about silence. The other lawyer may be thinking of the next question. Do not be tempted to fill the silence with words. Keep quiet and wait.

22. Repetitious questions. You may hear the same question more than once. If your original answer was accurate, stick to it. Even if you are challenged, stick to it. Do not let the other lawyer shake you.

23. Beware of compound questions that ask two questions in one. Have the questions repeated - one at a time.

## Deposition Preparation Guide for Clients

24. Never attempt to explain or justify your answer. You are there to give the facts as you know them. You are not supposed to apologize or attempt to justify those facts, and any attempt to do so would make it appear as if you doubt the accurateness or authenticity of your own testimony.

25. You are only to give the information that you have readily available. If you do not know certain information, do not turn to your counsel, and ask for the information, and do not turn to another witness, if one should be present, and ask for the information. Do not promise to get information that you do not have readily at hand unless your attorney advises you to. If you know an answer to a question at the time that it is being asked, answer it. Do not agree to look up anything in the future and then supplement the answer you are giving unless your counsel advises you to do so.

26. Do not, without your counsel's request, reach in your pocket for a social security card or other documents. A discovery deposition is to elicit facts that you know and have in your mind and not for the production of documents. If the opposing side is interested in obtaining documents from you, there are other legal procedures to obtain them. Do not ask your counsel to produce anything that is in his file at the time because generally the same rule applies to those items that may be in your pocket.

27. After the deposition is over, do not chat with the opponents or their attorneys. Remember, the other attorney is your legal enemy. Do not let his friendly manner cause you to drop your guard and become chatty.

28. This is not a marathon, if you need to take a break for any reason ask to take a break.

Good Luck in Your Deposition.