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The Goddess of the Deposition

By Katherine Gallo

A few months back I received an e-mail from a court reporter regarding a very unpleasant incident that occurred in a deposition. It went like this:

"So...during questioning the attorneys were apparently getting to a very sensitive area of inquiry -- and [Attorney #1] had already argued with all of the other attorneys -- so, he stared me straight in the eye and said, "God damn it, when you're asked to read a question back, you don't just read a question, you read the answer also, do you hear me? Now I've got to object and say it's asked and answered when if you would just do your fucking job I wouldn't have to do so. When it happens again, you better read it the right way."

I was in shock. I just looked at him, and I didn't say anything because then [Attorney #2] said..."[Court Reporter], let's go on." And he asked another question. We went on for a few more minutes, and the witness said she didn't understand. She asked me to read the question back for her. So, I did. And immediately after I started reading, [Attorney #1] said... "You fucking idiot. Didn't I tell you that when you read the question back you are to read the answer too. You aren't going to do anything until you do exactly what I said." I couldn't believe he was talking to me like this, and I was getting more and more livid with every word. I looked at the attorneys and they were just sitting there stunned too. [Attorney #2] said, "[Court Reporter], don't worry about him, let's just...", and then [Attorney #1] said again..."No. You're not telling her to do anything. She's going to sit there and do exactly what I told her to do, and we're not going any further until she does. You either read it my way or..." -- and he went on and on.

The court reporter advised me that she admonished the attorney for speaking her that way and left the room. She eventually went back in and finished the deposition.

Besides the breach of Section 9 of the [California State Bar Attorney Guidelines of Civility and Professionalism \(pdf\)](#), this was just plain stupid on the part of the attorney. His final outburst had come after he had constantly interrupted the witness, interjected himself while other attorneys were asking their questions and argued at the top of his lungs with numerous counsel. The transcript was a disaster. It would have been utterly useless in any motion for summary judgment and probably at trial. If it was used at trial, the words by

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Attorney #1 would come back to haunt him as you can bet opposing counsel made sure that the Judge assigned to the case would know what happened. Also, you know that opposing counsel would make every attempt to have that portion of the deposition read in front of the jury.

The moral of the story is that court reporters are the caretakers of the deposition. Their job is to accurately record all statements made in the deposition for later review by attorneys, judges and appeals courts. It does nobody any good if the court reporter can't get down an accurate rendition of the deposition. So, at the beginning of the deposition, advise the court reporter and all parties in the room that the court reporter is the "Goddess of the Transcript" and she is to immediately tell you all when she can no longer get an accurate rendition of the deposition. If the yelling, hostility and abuse continues, then recess the deposition and go to court and get a protective order and/or request a referee be appointed to sit on the continued deposition. See C.C.P. §§2025.420 and 639(a)(5). Do it sooner than later because *your goal is an accurate transcript.*