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ATTORNEYS NOTICING A DEPOSITION FOR VIDEO AND REALTIME COURT REPORTER – CALIFORNIA

**Problem:** An attorney decides to videotape a witness at a deposition after the initial deposition notice is sent out. The attorney contracts with a legal videographer to be at the deposition for videotaping services. The opposing counsel walks into the conference room, sees the videographer set up and says, "No, this deposition was not noticed for video, and we are not going forward unless the videographer leaves." Typically an argument ensues, and the deposition is either canceled or the videographer goes home. The attorney gets a bill for an appearance fee from the videographer.

**Solution:** Always provide language regarding videotaping of a deposition in your deposition notice.

**Problem:** An attorney makes the decision to use realtime at the next deposition, but doesn't put the language in their notice. The other side shows up with no computer and doesn't want the deposition to go forward if the noticing attorney has realtime and the opposing attorney does not.

**Solution:** Put in every notice you send out language that the instant visual display of the testimony will be provided by the court reporter.

The California Code of Civil Procedure that talks about the notice reads as follows:

2025.220 (5) Any intention by the party noticing the deposition to record the testimony by audio or video technology, in addition to recording the testimony by the stenographic method as required by Section 2025.330 and any intention to record the testimony by stenographic method through the instant visual display of the testimony. If the deposition will be conducted using instant visual display, a copy of the deposition notice shall also be given to the deposition officer.

