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**"OBJECTION" -- There's this case that says...  
By Katherine Gallo**

Have you ever been in a middle of a deposition and found yourself saying "**OBJECTION!! There's this case that says . . .**" but you can't quite remember what the name was, where you saw it or even where you might find it? And, yet, it is right on point. Well, the following is a list of cases and statutes for depositions that you should keep in the back of your legal pad as they may come in handy.

**SCOPE OF DEPOSITION**

**Discovery is permissible** if the information sought is relevant to the subject matter involved and it is admissible or reasonably calculated to lead to discovery of admissible evidence. C.C.P. §2017.010

**Admissibility is not the test.** Weil and Brown, *California Practice Guide: Civil Procedure Before Trial* (TRG 2010) ¶8:68 (citing C.C.P. §2017.010 citing *Davies v. Superior Court* (1984) 36 C3d 291, 301).

**Fishing expeditions are permissible.** Weil and Brown, *California Practice Guide: Civil Procedure Before Trial* (TRG 2010) ¶8:728 (citing C.C.P. §2017.010 citing *Greyhound Corp. v. Superior Court* (1961) 56 C2d 355, 384).

**Identity and location of witnesses are discoverable.** C.C.P. §2017.010

**Existence, description, nature, custody, condition and location of any document, tangible thing, or land or other property is discoverable.** C.C.P. §2017.010

"**Show me**" questions (requesting a deponent to demonstrate an action) at a videotaped deposition are allowed. *Emerson Electric Co. v. Superior Court* (1997) 16 C4th 1101, 1111.

**Improper to ask a party to state their legal contentions.** *Rifkind v. Superior Court* (1994) 22 CA 4th 1255, 1259. This is because legal contentions are developed by the lawyer. The proper discovery device to find out about legal contentions are interrogatories.

**Documents reviewed to prepare for deposition are discoverable.** *International Insurance Co. v. Montrose Chemical Corp. of California* (1991) 231 CA3d 1367, 1372-73.

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However, privileged documents do not lose their privileged status (*Sullivan v. Superior Court* (1972) 29 CA3d 64, 68), unless the witness claims no present memory of the events recorded in the statement given to his or her attorney and uses that statement to testify. *Kerns Const. Co. v Superior Court* (1968) 266 CA2d 405, 410.

## **CONDUCT DURING DEPOSITION**

**Team questioning not *per se* abusive.** *Rockwell International Inc. v. Pos-A traction Industries* (9th Circuit 1983) 712 F2d 1324, 1325—applying California Law. See Weil and Brown, *California Practice Guide: Civil Procedure Before Trial* (TRG 2010) ¶8:718.1

**Coaching the witness during deposition not prohibited.** Weil and Brown, *California Practice Guide: Civil Procedure Before Trial* (TRG 2010) ¶8:721. However, *Hall v. Clifton Precision* (ED PA 1993) 150 FRD 525, 528 (decided under Federal Rules) states that "[o]nce a deposition begins, the deponent must be left "on his or her own."

**Deposition officer may not suspend taking testimony** unless there is a stipulation of all counsel or the deposition is suspended for a party to seek a protective order. C.C.P. §2025.470.

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