

## **A GUIDE TO DEPOSITIONS:**

*What it is, what to expect, and how to act.*

*By*

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Many people who have been notified or subpoenaed to attend a deposition in a lawsuit do not even know what a deposition is. Simply put, a deposition is your giving of a statement, under an oath to tell the truth, regarding your knowledge, if any, of the subject matter of a lawsuit.

A deposition may also be described as a meeting, usually in the office of one of the attorneys involved, that you are required to attend by a court order. There will be no judge or jury present. The proceeding is generally an informal, or relaxed, one but still serious in nature.

At the beginning of the meeting, the court reporter (the person hired by one of the attorneys to type up everything that is said) will ask you whether you agree to tell the truth, the whole truth, and nothing but the truth.

You will then be questioned by the opposing attorney or attorneys about your knowledge, if any, regarding the subject matter of the lawsuit. If you are represented by an attorney, your attorney will be sitting next to you during the deposition.

Prior to the deposition being completed, you will usually have an opportunity to meet with your attorney to go over the ground rules of a deposition. Some of the ground rules, or tips, for a deposition are, as follows:

### **1. TELL THE TRUTH.**

The number one rule of a deposition is to tell the truth. At the beginning of the deposition, the witness being questioned will be put under oath by the court reporter. The oath is the same as the oath that one may take before testifying in a courtroom. If you tell the truth and tell it accurately, you should have no fears in terms of responding to the attorney's questions.

### **2. UNDERSTAND THE QUESTION.**

If you do not hear or understand the question, politely tell the attorney that and ask him to repeat or rephrase the question. Attorneys are wordy and are routinely asked by witnesses to repeat or clarify the questions they ask. As such, the questioning attorney almost always will not be offended by your request for a rephrasing or repeating of the question. If you answer a question, it will be assumed that you heard it properly and understood the question so it is important to speak up if that is not the case.

### **3. LISTEN TO THE QUESTION AND ANSWER ONLY THAT QUESTION.**

You should closely listen to the question and answer only the question presented. Answer the question and then stop. The quicker and to the point your answers are, the quicker the deposition will be concluded and you will be on your way.

**4. DO NOT VOLUNTEER INFORMATION.**

To repeat, listen to the question and answer only that question. The attorney will likely be asking every question under the sun regarding the subject matter. Let his questions elicit information rather than you volunteering information to the attorney. There is no need to assist the opposing attorney in doing his or her job. Remember, as nice and as polite the other attorney is to you, he is representing your opponent in this lawsuit. Trust that it is the other attorney's intention to use whatever information he gathers from you against you during his representation of the opposing party.

**5. DON'T GUESS.**

If you do not know the answer to a question presented or can not remember the answer, and that is the truth, simply say, "I don't know," or "I can't remember." Even the opposing counsel does not want you to guess at any question. Rather, he or she only wants to know what you know as you sit there at the deposition. You may be asked to provide specific information regarding times or distances. If you can provide a fair estimate as opposed to a guess, do so. If you can only guess in terms of a response, do not and simply say you are unable to provide an estimate in response to the question.

**6. TAKE YOUR TIME.**

Make sure you understand the question, think about your response, and present it in a concise fashion.

**7. ONE PERSON SPEAKING AT A TIME.**

For the benefit of the court reporter, who is typing every spoken word, it is requested that only one person at a time be speaking at a deposition. This also allows for a clear typewritten transcription of the testimony by the court reporter of questions by the attorney and answers by the witnesses, without overlapping testimony. Therefore, even if you anticipate where the attorney is going with his questions, please let him or her get the question out entirely before you begin your answer. The attorney will almost always extend the same courtesy of allowing you to complete your answer before moving onto the next question. The court reporter will appreciate this courtesy as well.

**8. SPEAK UP AND SPEAK CLEARLY.**

Speak loud enough and clearly so that everyone in the deposition room can understand your testimony.

## **9. EXPECT OBJECTIONS BY THE ATTORNEYS**

Expect the attorneys to object during the course of the deposition. If an attorney begins to assert an objection while you are speaking, stop speaking and wait for instructions to recommence your testimony.

## **10. BE COURTEOUS AND RESPECTFUL**

Treat others how you wish to be treated. Do not lose your temper. Do not respond to the attorney's questions with questions of your own. Remember, a main purpose of the deposition is for the other attorney to assess your demeanor and behavior so that he or she can assess whether or not you will be a good witness at trial that a jury will like and believe. As much as you may be upset about being involved in a lawsuit, being courteous, polite, and respectful is the best way to make a favorable impression on the opposing attorney, which will only serve to benefit your case. Avoid jokes and wise cracks as a lawsuit is considered to be a serious matter. Also keep in mind to be on your best behavior when you are in the presence of the opposing attorney even when you are not testifying as the attorney will be still assessing how you act when you are not the center of attention. Your overall behavior at a deposition can affect your case just as much as your testimony.