

DEPOSITIONS DO'S AND DON'TS

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AND

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DEPOSITIONS

- WHAT IS A SUBPOENA? WHAT IS A SUBPOENA DUCES TECUM?
- WHAT TO EXPECT AT A DEPOSITION
- THE PURPOSE IS TO ALLOW THE OTHER SIDE TO FIND OUT AS MUCH AS THEY CAN ABOUT YOUR OPINIONS ABOUT THE LAW SUIT.
- YOU HAVE THE RIGHT TO REVIEW YOUR DEPOSITION
- THE COURT REPORTER WILL ASK YOU TO RAISE YOUR HAND AND SWEAR TO TELL THE TRUTH.

BE PREPARED !

- PREPARATION
- ASK FOR A TIME TO MEET WITH THE ASSIGNED ATTORNEY BY PHONE OR IN PERSON AND REVIEW YOUR RECORDS AND DOCUMENTS WHICH ARE BEING EXAMINED BY OPPOSING COUNSEL.
- DETERMINE WHAT ISSUES, RECORDS AND REPORTS ARE MOST IMPORTANT.

HOW TO ACT

- BE CALM, TAKE TIME IN ANSWERING QUESTIONS
- ANSWER QUESTIONS CONCISELY AND DO NOT VOLUNTEER MORE THAN WHAT IS ASKED.
- “I DO NOT KNOW” CAN BE AN ACCEPTABLE ANSWER
- YOUR ANSWERS CAN BE USED AT TRIAL AND THE DEPOSITION TRANSCRIPT CAN BE READ TO YOU AT TRIAL.

HOW TO REACT

- TREAT THE OPPOSING ATTORNEY WITH THE SAME COURTESY AS YOU TREAT THE RETAINING ATTORNEY.
- DON'T GET ANGRY OR BECOME SARCASTIC OR LOOSE YOUR TEMPER.
- THINK BEFORE ANSWERING AND IF YOU ARE NOT CLEAR OF THE QUESTION POSED, ASK FOR CLARIFICATION. "I DO NOT UNDERSTAND YOUR QUESTION, CAN YOU PLEASE REPHRASE?"

RECORDS AND EVIDENCE

- NOT ALL RECORDS IN POSSESSIONS MAY BE GIVEN WEIGHT FOR YOUR OPINIONS
- ALL WRITTEN MATERIALS ARE CONSIDERED AT DEPOSITION AS DISCOVERABLE. DO NOT PULL REPORTS OR RECORDS YOU THINK WILL BE DETRIMENTAL. THESE INCLUDE HAND WRITTEN NOTES OR FORMAL REPORTS.
- TAG IMPORTANT REPORTS BEFORE THE DEPOSITION SO YOU DO NOT SPEND TIME LOOKING IF ASKED ABOUT SPECIFIC FACTS, OPINIONS, OR REPORTS.

DEMEANOR

- BEWARE OF QUESTIONS WITH IN ACCURATE FACTS
- DO NOT EXPRESS ANGER
- THE EXAMINING ATTORNEY IS NOT YOUR FRIEND. THEY ARE SEEKING INFORMATION TO DAMAGE YOUR CASE OR WHICH IS HELPFUL TO HIS/HER CASE.
- AVOID LEVITY AND DEROGATORY STATEMENTS.
- IF YOU WERE INTERRUPTED, ASK COURTESY TO FINISH YOUR ANSWER.

MISTAKES

- RELY ON YOUR RECORDS AND FACTS NOT HYPOTHETICALS
- MANY WILL MAKE MISTAKES DURING DEPOSITIONS; RE-CROSS CAN REHABILITATE YOUR FORMER ANSWERS
- DO NOT EXPECT THAT THE OTHER SIDE WILL “SCORE POINTS”. SOME OF YOUR TESTIMONY OFTEN HELPS THE OTHER SIDE.
- IF YOU ARE TIRED OR NEED A BREAK, ASK FOR ONE.
- TELL ONLY WHAT YOU KNOW; IF GIVEN A HYPOTHETICAL, MAKE SURE YOU STATE “I ASSUME THIS IS HYPOTHETICAL”

DO'S

- LISTEN TO THE QUESTION AND ANSWER CONCISELY
- REVIEW YOUR FILE IN DETAIL BEFORE THE DEPO
- DISCUSS THE RECORDS AND OPINIONS WITH THE RETAINING ATTORNEY BEFORE A DEPOSITION
- ARRIVE ON TIME AND TAKE TWO COPIES OF YOUR RESUME OR CV. TURN OFF YOUR SMART PHONE!
- ALLOW ENOUGH TIME BETWEEN QUESTIONS FOR THE ATTORNEYS TO POSE OBJECTIONS TO QUESTIONS.

MORE DON'TS

- DO NOT BE AN ADVOCATE, BE UNBIASED
- DO NOT REMOVE RECORDS FROM THE FILE(S)
- TELL THE TRUTH AND DO NOT SPECULATE ON ANSWERS OR ANSWER OUTSIDE YOUR EXPERTISE
- BE CONSISTENT; ALL STATEMENTS CAN BE USED AT TRIAL SO BE CONSISTENT IN YOUR ANSWERS
- DRESS PROFESSIONALLY; THE OPPOSING ATTORNEY IS CHECKING YOU OUT FOR FACTS AND CREDIBILITY

WHAT IS THE LAWYER ASKING ME?



DRIVE HOME SAFELY



GOODBYE, THANKS FOR LISTENING



ENJOY YOUR EVENING

