

10 Critical Reminders for Being a Successful Deposition Witness

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1. Tell The Truth

Period. No exceptions.

2. Relax and Be Yourself

Easy for me to say, right! Well, look at it this way. You would not have been asked to participate as an expert witness in this case if you were not a well-credentialed, experienced professional. Even if you are not particularly accustomed to public speaking, just think of your deposition experience as an opportunity to speak with a person who has sufficient knowledge to follow along in understanding what you are saying.

3. Listen to The Question

Listen to the actual, verbatim, question that is being asked. Do not try to interpret what you think the lawyer wants to know. If you do not understand the question, for any reason, state that you don't understand the question and that you want the question re-phrased, or repeated. Do not ask the lawyer questions such as, "... well, do you mean, x,y, or z ...". Avoid getting into a dialogue with the lawyer.

4. Answer The Question

Don't answer your question, answer the one that is being asked!

5. Short Answers are Better Than Long Answers

The more wordy you are in your response the more details the lawyer can question you on. Keep it short; keep it simple. If the lawyer wants to know more, rest assured he will ask more questions.

6. Do Not Volunteer Information

The opposing lawyer is sufficiently well skilled to prepare himself for the deposition and your deposition will last long enough without your becoming "chatty." He doesn't need your help, and we don't need to give it.

7. Do Not Be An Advocate For or Against Anyone

Though we appreciate your help, and you are being compensated for your time, no one is benefited by your being an advocate. However, being steadfast in your opinions and an

advocate for yourself is entirely different. Do not allow your attitude to make you appear as though you are “taking sides.”

8. Do Not Be Argumentative

Avoid getting into arguments with the lawyer. While you are dramatically more knowledgeable on substantive matters, you’re probably no match for the lawyer in an argument. State your opinions, along with supporting data, explain where necessary, and stop.

9. “I Do Not Know/I Do Not Recall”

Perfectly legitimate response. Do not be afraid to say these words.

10. Be Prepared

The sagest of all advice. If you’ve been asked to review others’ deposition transcripts, be sufficiently familiar with the text that you can at least identify generally what the witness said, whether by topic, page/line, etc. This is not trial; there is no jury. If you need your notes, the calculator, or additional data just say so. However, do not make specific reference in your response to a question to the materials; take a recess and we’ll discuss.