

JURYSCOPE

How to Be a Deponent

FOUR RULES FOR DEPOSITION

1. Tell the truth.
2. Be consistent: same tone of voice, same demeanor no matter who is asking the question.
3. Listen to the question and answer only the question being asked.
4. Understand how your deposition testimony will be used in preparation for and at trial as part of the larger case.

Your Substantive Preparation

- Understand what topics and what areas on which you will be examined.
- Review any designated documents to be familiar – don't try to memorize!
- Understand why you are testifying and where you fit in the case.

Logistics

- Understand the set-up:
 - If in person: physical set-up of the room; where are: You? Attorneys? Court reporter? Videographer?
 - If by zoom: have you checked audio, your internet, and your background? Who will be on the line? Will anyone be in person with you?
 - If you are consistently looking off-camera (documents on screen or table) let the viewer know.
 - (Have someone) watch your in-camera framing.
- Being recorded:
 - This can be played back to the jurors, behave as if you are on the stand.
 - Maintain a polite, neutral demeanor in answering questions: Your reaction to a question means as much as your answer. Own your bad facts.
 - Don't look at the camera. Find a place to consistently look in answering responses (the attorney asking questions).
 - Watch your body language: Don't sway, fidget, or rock excessively in your seat and don't play with glasses, pens, etc. while on camera.
- Be consistent.
- Dress appropriately for your occupation and role in the company as if you were going to court.
- Sit up straight and speak slowly and clearly for the record.
- Do not bring anything to the deposition unless explicitly instructed to do so by the attorneys.
- Be rested, fed and caffeinated (if that is your norm).
 - This is a *marathon*, breaks will happen every 1-1.5 hours, take this time to refocus, regroup.
 - Remember: it has to end sometime!
- What can you discuss with your attorney during the deposition?

Additional Recommendations

- Be thoughtful in your responses and take the time you need to answer.
 - If you don't understand the question, politely ask for clarity on what is unclear.
 - If you don't know, say that. If you don't remember, say that. Whenever possible, limit your use of these answers.
- Do not volunteer additional information: politely answer what is asked and wait for a follow-up.
- Use your own language where you disagree with how something is phrased.
- Do not try to guess where the attorney is going.
- If the question refers to a document, ask to see it, review it, and then answer. Longer documents will take a longer time to review.
- Objections:
 - Know the different types of objections and generally what they mean.
 - Understand that unless your attorney tells you *not* to answer, you will respond to the question.
- Do not take notes for yourself during the deposition; make a note to your attorney and pass it to him/her.
- Do not volunteer any information you learned as part of conversations with your attorney. You can say: "I can only answer that based on my discussion with my attorney."
- Avoid acronyms and terms of art or make sure they are explained.
- Be prepared for questions used to throw you off: salary, stock ownership, etc.

A FINAL REMINDER: Stay on your game! It's easy to get into a lull in the Q&A. Conduct yourself as if you were taking the stand.