

## **5 Tips for Preparing Your Client for Deposition.**

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Just ask any lawyer who has been deposed and she will tell you that, notwithstanding the fact that she is intimately familiar with the deposition process, it is highly stressful. Although it is obviously important to prepare your client for the topics that will be the subject of questioning, too often attorneys overlook the need to spend quality time explaining various aspects of the deposition process to their clients so that they can focus on the questions, and not be distracted by the procedural or process aspects of the deposition.

### **1. Prepare your Client for the Deposition “Stage”**

Prior to the deposition, the client should understand the role of the court reporter and the possibility that she will be asked to spell certain terms or asked to repeat answers to ensure the transcript is accurate and that this is not an indication that the client gave a “wrong” answer. In addition, the client should understand where everyone will sit (e.g., that opposing counsel will sit across from her) and who will be present. Moreover, video depositions are becoming more prevalent and can make a powerful impact on a jury. It is highly advisable to prepare your client to deal with this aspect – perhaps, if appropriate, by viewing other video depositions.

### **2. Prepare your Client for “Intrusive” Questions**

As attorneys, we recognize that certain questions are appropriate background information or otherwise relevant. A client, however, may view questions about their spouse or children for example, as intrusive and inappropriate and be disconcerted by such questions. Similarly, some attorneys routinely ask deponents whether they have taken any medication or when they last had an alcoholic beverage on the basis that this may affect the witness’s responses. Your client should be prepared for all such questions.

### **3. Prepare your Client for what You, their Lawyer, Can and Cannot Do**

Your client is highly likely to rely on you to “protect” or “guide” them during a deposition, the same way you do throughout the litigation. It is important for you to explain what you can do (e.g., object to questions) and what you cannot do (e.g., make speaking objections or instruct the client not to answer except in very limited circumstances).

### **4. Prepare your Client for Opposing Counsel**

By the time depositions begin, you will have a good sense of opposing counsel’s style, as well as her strengths and theory of the case. It is much less likely that your client will have a similar understanding of opposing counsel. Moreover, too often, clients are dismissive of opposing counsel simply because your client disagrees with the opposing party’s position. It is important for your client to be oriented to opposing counsel’s style,

e.g., soft-spoken and understated in order to engage the witness in a discussion, or confrontational and demonstrative to intimidate the witness.

## **5. Prepare your Client for “Breaks”**

Your client needs to understand what discussions you are permitted to have with them during breaks and the fact that opposing counsel may ask questions about these discussions. Moreover, client needs to be prepared for the discussions that can take place during breaks with opposing counsel and/or others, including what is appropriate and what is not and how the client should deal with discussions during breaks.

Appropriate preparation of your client for the deposition “process” will allow her to focus on the substance of the deposition – answering questions.