

Litigation Academy – Deposition Skills

Admonitions

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Agenda

- *Goals of a Deposition*
- *Admonition Topics*
- *Frame of Mind Admonitions*
- *Clean Transcript Admonitions*
- *Prevent Excuses Admonitions*





Goals of a Deposition

1. *Discover information*
2. *Obtain factual admissions to support a motion for summary judgment*
3. *Lock in testimony so you can impeach at trial if it changes*

Admonition Topics

1. *Discover information: “Frame of Mind” admonitions*
2. *Use for summary judgment: “Clean Transcript” instructions*
3. *Use for impeachment: “Prevent Excuses” directions*

Frame of Mind Admonitions

- 1. Do you understand that the oath you just took is the same as that which you would take if you were testifying in court?*
- 2. Do you understand that the oath requires truthful, accurate, and complete answers?*
- 3. Are we clear that the expectation of you for this deposition is that you will answer the questions with whatever recollection you have, even if that is vague or incomplete?*
- 4. Do you get that if your testimony changes at trial from what you said during this deposition, one of the lawyers might use the transcript from this deposition to point out the inconsistency?*

Frame of Mind Admonitions – Zoom Depositions

5. *Do you understand that the questions today are focused on what you know, as opposed to what someone else might know?*
6. *To that end, will you tell me at any point in the deposition if there is someone in the room with you?*
7. *Will you tell me if anyone is communicating with you during the deposition?*
8. *Do you have any documents with you?*
9. *Will you agree to put them away and not reference them unless I ask?*

Clean Transcript Admonitions

1. *You are aware that the court reporter is transcribing everything we say today, right?*
2. *Do you understand that you need to answer my questions verbally as opposed to nodding or shaking your head?*
3. *And do you know that the court reporter cannot transcribe more than one person talking at a time? (This is especially important on Zoom.)*
4. *So will you agree to let me finish asking my questions before you start answering?*

Clean Transcript Admonitions

5. *This gives a chance for the other lawyer(s) to object to any question too, OK?*
6. *If there is an objection, do you understand that you still need to answer?*
7. *When you stop talking, I will assume you are through with your answer OK?*
8. *(Zoom only): I need you to tell me if you are having any connectivity problems, OK?*

Prevent Excuses Admonitions

- 1. Are you aware of any reason why you cannot testify truthfully today?*
- 2. Have you ingested any medication or substances that would affect your memory or clarity of mind?*
- 3. Are you aware of any problems with your memory?*
- 4. If you do not understand a question, I want you to let me know, OK?*
- 5. Otherwise, if you answer me, I will assume that you understood my question, agreed?*
- 6. If at any point, you want to take a break, for whatever reason, that is allowed, OK?*

Prevent Excuses Admonitions

7. *If at any point, you want to take a break, for whatever reason, that is also allowed, OK?*
8. *The only exception is if a question is still pending. If you haven't yet answered my most recent question, I'm going to need you to answer it before we break, understood?*
9. *Will you agree to tell me if you feel you need to clarify anything you said earlier?*
10. *Before we get started, do you understand everything we have just discussed?*
11. *Do you have any questions?*

QUESTIONS

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