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# DEPOSITION ETHICS

**Chief Judge John J. McConnell, Jr.**  
***Nicole J. Benjamin, Adler, Pollock & Sheehan***

**United State District Court**  
***Litigation Academy***  
***May 17, 2023***



# Overview

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- **State** – *Kelvey v. Coughlin*
- **Federal** – Fed. R. Civ. P. 30 (c) and (d)



# *Kelvey v. Coughlin*

## **FACTS**

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- **Medical negligence case; involving allegations of negligent treatment of Ms. Kelvey's newborn son, Benjamin**
- **Deposition of Defendant ObGyn, Dr. John Coughlin;**
- **Defendant's counsel:**
  - **offered gratuitous comments,**
  - **directed the deponent's answers through suggestive objections,**
  - **instructed the deponent not to answer certain non-privileged questions.**



# RI Supreme Court Ruling

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- **Affirmed the discretion of the trial justice to impose appropriate sanctions for discovery abuse pursuant to Rule 37(a)**
- **Rules 26 and 30 are so clear and direct that there should be no question about their meaning**
- **Issued 5 conditions for depositions in RI**



# *Kelvey v. Coughlin*

## **RULE #1**



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Counsel for the deponent shall refrain from gratuitous comments and directing the deponent in regard to times, dates, documents, testimony, and the like.





1 A They were full, full privileges in obstetrics and  
2 gynecology.

3 Q Are you also a gynecological surgeon?

4 A Yes, sir.

5 Q So you do not only obstetrics, but also surgery in  
6 gynecology?

7 A Yes, sir.

8 Q Do you remember Joyce Kelvey?

9 A No, sir.

10 Q You have no recollection of what she looked like, or  
11 anything of that sort?

12 A No, sir.

13 Q Prior to coming here, did you read the deposition given  
14 of Dr. McGoldrick?

15 A I have not read Dr. McGoldrick's deposition, I don't  
16 think.

17 (Mr. Carroll shakes head in the negative)

18 Q Have you had any portions of the deposition read to  
19 you?

20 A No.

21 Q Have you reviewed any documents before coming here?

22 A I reviewed the hospital record of Joyce Kelvey.

23 Q Did you review your answers to interrogatories?

24 A Not today, but I have looked at them in the past.

25 Q And have you looked at the answers to interrogatories



1 Q It does not say how it was reported to you. Maybe we  
2 should go to those records, that part of the record  
3 first.

4 MR. CARROLL: The nurse's notes at  
5 one o'clock, Doctor.

6 A Right.

7 Q Do you have any recollection of any status being  
8 reported to you at that time?

9 A I do not.

10 Q Would it have been likely that you were in the hospital  
11 at that time?

12 A It would have been likely. Probably not.

13 Q So that, most probably, then, this status would have  
14 been reported to you at home by telephone?

15 A Yes, sir.

16 Q The next mention of you in the record, Doctor, the  
17 nurse's record, that is, at 4:50 a.m., when you are  
18 again notified of something?

19 A Yes.

20 Q And apparently you ordered medication at that time?

21 A Yes, sir.

22 Q Would that have been most probably by telephone?

23 A Most probably.

24 Q And then the record indicates that you conducted a  
25 vaginal examination at 8:45 a.m. on the morning of



January 10th?

MR. CARROLL: No. There's a 7:30 contact,

7:30 a.m.

Q Okay. 7:30 a.m., Doctor, do your records indicate what you might have done in relation to Joyce Kelvey?

MR. CARROLL: Go to the delivery record,

Doctor.

A Delivery, labor. At 1/10 at 7:30 a.m. I examined

Joyce Kelvey.

Q You did a vaginal examination?

A Yes, sir.

Q Did you do another one at 8:45?

MR. CARROLL: Look at the nurse's notes for 8:45, Doctor, please.

A Yes. The nurse's notes stated I did.

Q And were the findings at all different?

MR. CARROLL: I'm going to object to the question. Go ahead, Doctor.

Q Well, I'm looking at the vaginal examination of the nurse's -- in the nurse's notes, which indicates five centimeters plus one station.

A Mmm.

Q Was that the result of your 7:30 examination, also?

A 7:30 examination there was five centimeters one plus station. 8:45 exam says again five centimeters zero





# *Kelvey v. Coughlin*

## **RULE #2**

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Counsel shall refrain from cueing the deponent by objecting in any manner other than stating an objection for the record followed by a word or two describing the legal basis for the objection.



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### ALLOWED

- ***“Objection, to the form of the question.”***
- ***“Objection, compound question.”***
- ***“Objection, misstates the facts.”***

### NOT ALLOWED

- ***“Objection, the question asks her to talk about a meeting she did not attend.”***
- ***“Objection, you have misstated the standard of care.”***
- ***“Objection, the light was red when the defendant went through the intersection, not green.”***



1 A Milliuunits.

2 Q Milliuunits?

3 MR. CARROLL: I'm sorry.

4 A See it right here?

5 MR. CARROLL: Okay. That's at 7:33 note?

6 THE DEPONENT: Mmm.

7 MR. CARROLL: Okay. Go ahead.

8 Q And that's less of a dosage than she was receiving  
9 earlier, is that correct?

10 A Yes, sir.

11 Q She had been receiving 60 milliuunits earlier?

12 A Yes, sir.

13 Q Do you know why you restarted at 20 milliuunits and not  
14 at 60 milliuunits?

15 A I do not recall my thought process at that time.

16 Q When did you next see Joyce Kelvey?

17 MR. CARROLL: The 8:55 nurse's note.

18 A 8:55? At 8:55 the nurse's notes state: Dr. Coughlin  
19 in, report given.

20 Q Was there any communication that you were aware of  
21 between the nursing staff and/or the resident staff and  
22 yourself between seven o'clock and 8:55?

23 MR. CARROLL: Check the nurse's notes.

24 A Yes. The nurse's notes state that -- where is it here?  
25 -- report of patient's progress given to Dr. Coughlin





1 at 8:30 p.m.

2 Q That was at 8:30; that's now an hour and a half after  
3 you've left, is that correct?

4 MR. CARROLL: Objection.

5 A I don't --

6 Q Well, would it -- let me ask you this, Doctor. Could  
7 you have been there during that period of time?

8 A Yes, I could have been.

9 Q You could have been in the hospital?

10 A Yes, sir.

11 Q And you could have been in the labor room?

12 A I could have been around the labor room.

13 Q Or around the labor room?

14 A In the hospital.

15 Q The nurse's notes indicate that it's at 7:33, after the  
16 Pitocin was restarted at 20 milliunits that there were  
17 late decelerations, very subtle with a lowering of the  
18 fetal heart rate to ten to fifteen beats per minute?

19 MR. CARROLL: Objection.

20 MR. GIDLEY: Objection.

21 MR. CARROLL: It's not to ten to fifteen  
22 beats per minute. It's a lowering to decrease of about  
23 ten to fifteen beats per minute.

24 Q Of about ten to fifteen beats per minute. Do you have  
25 any recollection as to whether that was reported to





# *Kelvey v. Coughlin*

## **RULE #3**

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Counsel shall refrain from directing the deponent not to answer any question submitted unless the question calls for privileged information.



*Kelvey*, 625 A.2d at 776

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“The only instance, we repeat, the only instance in which an attorney is justified in instructing a deponent not to answer is when the question calls for information that is privileged.”



1 There is a note on the chart at that -- I felt a  
2 C section should be done. However, there is no time  
3 next to that note.

4 Q And is it your normal practice to order an  
5 adominal preparation and the cross-matching when you  
6 have made that decision?

7 A When you're thinking of it. Not necessarily have made  
8 it.

9 Q So that, you could have made this decision at any time  
10 between 8:30 and ten o'clock, is that fair?

11 MR. CARROLL: Objection as to form. Don't  
12 bother answering it, Doctor.

13 THE DEPONENT: Let me see something, anyway.

14 MR. GRIMM: Why?

15 MR. CARROLL: I think it's speculation. I  
16 think you're asking the doctor to speculate as to when  
17 he made it.

18 MR. GRIMM: A decision was made between  
19 8:30 and 10:00, and the doctor's agreed it would have  
20 been his decision.

21 MR. CARROLL: Right.

22 MR. GRIMM: And he's also stated he doesn't  
23 remember when he made the decision.

24 MR. CARROLL: Right.

25 MR. GRIMM: My question was, would you have

EXHIBIT C  
S E T



# Post-Kelvey Rulings

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- ***Cunningham v. Heard (1995)***: Deponent asked to draw a diagram and was instructed not to draw. RI Supreme Court ruled: improper.
- ***Menard v. Blazar (1996)***: Defendant doctor deponent was asked about the “standard of care” and was instructed not to answer. RI Supreme Court ruled: improper.
- ***Irvine v. Inn at Castle Hill (1996)***: Deponent asked about what he said to the defendant’s insurance carrier investigator and was instructed not to answer on a work product objection. RI Supreme Court ruled: improper.
- ***Soares v. Prospect CharterCare (2018)***: Judge McConnell adopted Kelvey for practice before him in USDC





# *Plante v. Stack*

109 A.3d 846 (Feb. 6, 2015)

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- Auto collision case – defense att’y asked injured Pltf’s mother the reason for her divorce – Pltf counsel instructed her not to answer
- RI Supreme Ct: “Although plaintiff’s counsel did not comply with our holding in *Kelvey*, we nevertheless conclude that the hearing justice did not err in denying defendant’ motion to reopen discovery.”
- “Although we do not retreat from our holding I *Kelvey*, we are not convinced that the hearing justice erred in her denial of the motion to compel, especially in light of the length of both depositions, and the point at which they concluded. We find the grounds for the hearing justice’s denial of the motion to compel to be reasonable given the extent of the deposition, and we affirm that portion of the ruling.”



*Kelvey v. Coughlin*

**RULE #4**

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**Counsel shall refrain from dialogue on the record during the course of the deposition.**



# *Kelvey v. Coughlin*

## **RULE #5**



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If counsel for any party or person given notice of the deposition believes that these conditions are not being adhered to, that counsel may call for suspension of the deposition and then immediately apply to the court in which the case is pending, or the court in which the case will be brought, for an immediate ruling and remedy. Where appropriate, sanctions should be considered.



# *Unanswered Question*

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What if the questioner engages in harassment or oppressive questioning of the deponent?

- Rule 30(d)(3): At any time during a deposition, the deponent or a party may move to terminate or limit it on the ground that it is being conducted in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses the deponent or party. The motion may be filed in the court where the action is pending or the deposition is being taken. If the objecting deponent or party so demands, the deposition must be suspended for the time necessary to obtain an order.





## *Rule 30(c) (2)*

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- An objection must be stated concisely in a nonargumentative and nonsuggestive manner.
- A person may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation ordered by the court, or to present a motion under Rule 30(d)(3)



## *Rule 30(d) (3)*

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### **(3) *Motion to Terminate or Limit.***

**(A) *Grounds.*** At any time during a deposition, the deponent or a party may move to terminate or limit it on the ground that it is being conducted in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses the deponent or party. The motion may be filed in the court where the action is pending or the deposition is being taken. If the objecting deponent or party so demands, the deposition must be suspended for the time necessary to obtain an order.



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**ETHICALLY  
PREPARING WITNESSES TO  
TESTIFY AT DEPOSITION**



# Preparing Witnesses

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- **Restatement (Third) of the Law Governing Lawyers § 116**

“A lawyer may interview a witness for the purpose of preparing the witness to testify.”

“A prospective witness is generally under no obligation to submit to such an interview.”





# Preparing Witnesses

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- Restatement (Third) of the Law Governing Lawyers § 116

Preparation may include:

- discussing the witness's role and effective courtroom demeanor;

*Permissible:* Advising the witness to remain calm.

*Impermissible:* Advising the witness to fake cry.

- discussing the witness's recollection and probable testimony;

*Permissible:* Advising the witness to state if he/she does not recall.

*Impermissible:* Advising the witness who recalls facts that are unfavorable to state that he/she does not recall.



# Preparing Witnesses

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- **Restatement (Third) of the Law Governing Lawyers § 116**

Preparation may include:

- **revealing to the witness other testimony or evidence that will be presented and asking the witness to reconsider the witness's recollection or recounting of events in that light;**

***Permissible:*** Refreshing the witness's recollection in an effort to have a witness recall events more favorably to the attorney's client.

***Impermissible:*** Creating a new set of memories on which the witness relies in testifying.



# Preparing Witnesses

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- **Restatement (Third) of the Law Governing Lawyers § 116**

Preparation may include:

- **discussing the applicability of law to the events in issue;**

***Permissible:*** *Explaining the law.*

***Impermissible:*** *Explaining the law in a suggestive way to alter or shape the witness's testimony.*



# Preparing Witnesses

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- **Restatement (Third) of the Law Governing Lawyers § 116**

Preparation may include:

- reviewing the factual context into which the witness's observations or opinions will fit;
- reviewing documents or other physical evidence that may be introduced;
- discussing probable lines of hostile cross-examination that the witness should be prepared to meet; and
- rehearsal of testimony.





# Preparing Witnesses

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- **Restatement (Third) of the Law Governing Lawyers § 116**

***Permissible***: A lawyer may suggest choice of words that might be employed to make the witness's meaning clear.

***Impermissible***: A lawyer may not assist the witness to testify falsely as to a material fact.



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# **COMPENSATING FACT WITNESSES TO TESTIFY**



# Compensating Fact Witnesses

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- **Restatement (Third) of the Law Governing Lawyers § 117**
- A lawyer may not offer or pay to a witness any consideration:
  - (1) in excess of the reasonable expenses of the witness incurred and the reasonable value of the witness's time spent in providing evidence, except that an expert witness may be offered and paid a noncontingent fee;
  - (2) contingent on the content of the witness's testimony or the outcome of the litigation; or
  - (3) otherwise prohibited by law.



# Compensating Fact Witnesses

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- **Rule 3.4. Fairness to opposing counsel.**

A lawyer shall not:

- (b) falsify evidence, counsel or assist a witness to testify falsely, ***or offer an inducement to a witness that is prohibited by law;***

R.I. R. Prof. Resp. 3.4(b)(emphasis added).





# Compensating Fact Witnesses

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- **ABA Comm. On Ethics and Prof'l Responsibility, Formal Opinion 96-402 (Aug. 2, 1996):**
- “A lawyer, acting on her client’s behalf, may compensate a non-expert witness for time spent in attending a deposition or trial or in meeting with the lawyer preparatory to such testimony, provided that the payment is not conditioned on the content of the testimony and provided further that the payment does not violate the law of the jurisdiction.”



# Compensating Fact Witnesses

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- **Reasonableness:** “The amount of such compensation must be reasonable, so as to avoid affecting, even unintentionally, the content of the witness’s testimony.”
- **Direct Loss of Income:** When the witness suffers a direct loss of income because of his time away from work, compensation in that amount is reasonable.
- **No Direct Loss of Income:** When the witness has not suffered a direct loss of income (retired or unemployed) the lawyer must determine the reasonable value of the witness’s time based on all relevant circumstances.



# Compensating Fact Witnesses

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- ***United States v. Davis*, 261 F.3d 1, 39 n.33 (1st Cir. 2001):**
- Payments made to fact witnesses as “actual expenses” as permitted by law will not be disturbed or set aside.
- Court distinguished between the situation of a lawyer paying a fact witness for actual expenses and a circumstance where a lawyer paid one witness over \$400,000 and another over \$100,000 to influence their testimony.



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# **SPECIAL ISSUES RELATED TO REMOTE DEPOSITIONS**





# Treatment of Exhibits

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- Options
  - Screen share
  - Mail hard copies in sealed envelope and open during deposition
  - Comply with protocol set by the Court (if there is one)



# Treatment of Exhibits

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- *State v. Purdue Pharma L.P., et al.*, No. PC-2018-4555 (Aug. 20, 2020).
  - Established protocol for remote depositions.
  - Hard copies of exhibits should be provided to other deponents and other participants 48 hours before the start of the deposition.
  - “Given the difficulties with using documents during a remote deposition additional time to prepare and review exhibits is beneficial to all parties.”

# Where Does a Remote Deposition Take Place?

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- Fed. R. Civ. P. 30(b)(4): “The parties may stipulate—or the court may on motion order—that a deposition be taken by telephone or other remote means. ***For the purpose of this rule and Rules 28(a), 37(a)(2), and 37(b)(1), the deposition takes place where the deponent answers the questions.***”
- Court reporter must be licensed where the deponent is answering the questions.

# Communications with Clients During Remote Depositions

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- ***State v. Purdue Pharma L.P., et al.*, No. PC-2018-4555 (Aug. 20, 2020).**
  - “While the deposition is on the record, attorneys are prohibited from communicating with the deponent in any way other than through the videoconference or remote technology that may be heard by all Participants to the deposition. This prohibition includes private messages of any kind, including instant messages and text messages.”
  - “Such prohibition shall not affect the right of the deponent and her/his lawyer(s) to communicate in private off the record to the extent otherwise permitted under the applicable rules.”



# Communications with Clients During Remote Depositions

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- ***State v. Purdue Pharma L.P., et al.*, No. PC-2018-4555 (Aug. 20, 2020).**
  - “In instances where counsel for the deponent is in the same room with the deponent but the questioning attorney is not, the noticing party may provide for a second video camera to record the actions of the deponent’s attorney and/or any other Participants present in the same room as the deponent during times that the deponent is on the record.”

# Text Messaging During Remote Depositions

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- ***Salazar v. City of Phoenix*, No. CV-19-01188, 2021 U.S. Dist. LEXIS 98100 (D. Ariz. 2021).**
  - Deponent: Christopher Doran
  - Represented by: James Cool
  - Opposing counsel: Lori Berke

# Text Messaging During Remote Depositions



## Attorney Cool

## Deponent Doran

1 p.m.

Lori Berke's a [derogatory name].  
The only reason I asked her for the authority to support her objections is to embarrass her. At a minimum, it will ruin her lunch.

Ha, ha

2:06 p.m.

Derogatory text about Lori Berke

3:56 p.m.

Derogatory text about Lori Berke

4:08 p.m.

Derogatory text about Lori Berke

*Text messages are representative (based on publicly available information) and not exact quotes as actual messages are filed under seal.*

# Text Messaging During Remote Depositions



11 Q. Did you have any other conversations with  
12 Mr. Rundall or Mr. Cool during the deposition or during  
13 any break?

14 A. Mr. Cool sent me a text message during the  
15 deposition as well.

16 Q. Was it while you were testifying?

17 A. No, ma'am.

18 Q. It was during a break?

19 A. I don't know. I haven't really been looking at  
20 my phone while I've been testifying, so I can't tell you  
21 exactly like what the timing of it was.

22 Q. What does the -- what does the text message say?

23 A. Would you like me to get my phone?

24 Q. Yes.



# Text Messaging During Remote Depositions



11 Q. Did you have any other conversations with  
12 Mr. Rundall or Mr. Cool during the deposition or during  
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20 my phone while I've been testifying, so I can't tell you  
21 exactly like what the timing of it was.

22 Q. What does the -- what does the text message say?

23 A. Would you like me to get my phone?

24 Q. Yes.

# Text Messaging During Remote Depositions



## Sent Via Email Only

Lori Berke  
Berke Law Firm, P.C.  
[Lori@berkelawfirm.com](mailto:Lori@berkelawfirm.com)

Dear Ms. Berke:

I have been informed that text messages I sent to Chris Doran on Tuesday were made part of the deposition record. I apologize for my coarse language and my commentary about you. I regret my intemperate behavior and the embarrassment it has caused my colleagues. Please know that my partner, Ben, was not aware of my messages and does not support my actions. I understand he also expressed his disapproval of my conduct during the deposition. My behavior was inconsistent with the values and standards of Honor Law Group. It also does not reflect my personal values and standards of conduct.

Out of respect for you and the others involved, I will step away from day-to-day involvement in the Salazar case going forward.

Sincerely,

  
James M. Cool

# Text Messaging During Remote Depositions

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- Mr. Cool's text messages to Mr. Doran constitute bad faith conduct that warrants imposition of monetary sanctions.
- Sanctions included:
  - (1) Defendants' attorneys' fees incurred as a result of the legal research Attorney Berke and her colleague performed during the lunch break and
  - (2) Defendants' attorneys' fees incurred as a result of bringing the Motion for Sanctions.

# Text Messaging During Remote Depositions

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- “[A] witness being deposed may not confer with his counsel during a deposition unless the conference is for the purpose of determining whether an applicable privilege should be asserted.”
- “The same basic standards of civility and decency that govern in-person depositions apply to remote video depositions.”
- “A deposition is a judicial proceeding that should be conducted with the solemnity and decorum befitting its importance. . . . When lawyers behave otherwise, it reflects poorly on the entire judicial process.”



# Text Messaging During Remote Depositions

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- “Counsel should never forget that even though the deposition may be taking place far from a real courtroom, with no black-robed overseer peering down upon them, as long as the deposition is conducted under the caption of this court and proceeding under the authority of the rules of this court, counsel are operating as officers of this court. They should comport themselves accordingly.”

# Text Messaging During Remote Depositions

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- ***Fla. Bar v. James*, 329 So.3d 108 (Fla. 2021):**
- Derek James represented the employer in a worker's compensation case.
- Renee Gray, the adjuster who worked for the employer, was deposed.
- Toni Villaverde took the deposition.
- The deposition was conducted by telephone, not video.

# Text Messaging During Remote Depositions

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**Attorney James**

**Deponent Gray**

10:19 am

You don't

10:20 am

As to settlement checks expiration

10:20 am

You remember the deposition but not discussing checks

10:20 am

yes

10:21 am

Just review notes from 02/20/2018 forward

# Text Messaging During Remote Depositions

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**Attorney James**

**Deponent Gray**

10:23 am

Be careful just say

10:23 am

You may not see today

10:25 am

Take a break in 15 minutes?

Up to you.



# Text Messaging During Remote Depositions

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- Opposing counsel could hear typing and asked Gray and James whether they were texting. James denied texting Gray and said he was only receiving a text from his daughter.
- James represented to opposing counsel that he had concluded texting.
- However, he not only proceeded to text, he inadvertently sent the texts intended for the deponent to opposing counsel.

# Text Messaging During Remote Depositions

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**Attorney James**

**Attorney Villaverde**

11:53 am

Just say it anyway

11:53 am

Just say 03/28

11:54 am

In addition to the 03/28/18 email containing the signed release I show...

11:55 am

Don't give an absolute answer

# Text Messaging During Remote Depositions

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**Attorney James**

**Attorney Villaverde**

11:55 am

All I can see at this time but I cannot rule out existence

11:55 am

It's a trap

11:56 am

Then say that is my best answer at this time.

# Text Messaging During Remote Depositions

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- Derek James's license was suspended for 90 days for having coached a witness via text message during a remote deposition.





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# **THE VERACITY OF OTHER WITNESSES**

# Questioning a Witness on Whether Another Witness Lied Under Oath

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- ***United States v. Pereira*, 848 F.3d 17 (1st Cir. 2017).**  
***Impermissible***: Counsel may not ask one witness to comment on the veracity of the testimony of another witness.
- ***United States v. DeSimone*, 699 F.3d 113 (1st Cir. 2012).**  
***Permissible***: “It is not improper to ask one witness whether another was ‘wrong’ or ‘mistaken,’ since such questions do not force a witness to choose between conceding the point or branding another witness as a liar. There is no error in simply asking a witness if he agreed with or disputed another witness's testimony.”



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# USE OF FALSE FACTS

# Questioning a Witness Using False Facts

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- ***In re Cossen*, 880 N.E.2d 352 (Mass. 2008):**
- An attorney cannot question a witness using false facts.
- Attorney who conspicuously displayed and suggestively labeled audio tape recordings in order to mislead the deponent to believe that the tape recordings contained conversations that could impeach and personally embarrass the witness violated the Rules.





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# ERRATA SHEETS

# Errata Sheets



**MAGNA**  
LEGAL SERVICES

1 -----  
2 ERRATA  
3 -----

4 PAGE LINE	CHANGE FROM	CHANGE TO	REASON
5 50 19/14	Gaggle	Gagle	spelling
6 56 13-14	"a product"	"as a product"	clarity
7 56 13-14	"a service"	"as a service"	clarity
8 63 22	grading	rating	wrong word
9 65 4	CORE	KORE	spelling
10 79 19	calculation	calculated	clarity
11 83 10	strained	strain	clarity
12 85 18	Technology's	Technologies	clarity
13 108 45	optical	optimal	clarity
14 124 21	expertize	expertise	spelling
15 132 3	functions	<del>remove word</del>	extraneous
16 148 12	CRB	TRB	spelling
17 170 10	during	as	clarity
18 240 24	RIM	WIM	spelling
19 249 19-20	microstrains	microstrain	spelling
20 252 6	microstrength	microstrain	spelling
21 256 13	TRD	TRB	spelling
22	_____	_____	_____
23	_____	_____	_____
24	_____	_____	_____

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866-624-6221

Seven Penn Center  
1635 Market Street - 8th Floor  
Philadelphia, PA 19103



# Errata Sheets



- ***Pina v. Children’s Place*, 740 F.3d 785 (1st Cir. 2014)**
- “Rule 30(e) does not limit a party to the correction of stenographic errors; it permits changes ‘in form or substance.’”
- “When witnesses make substantive changes to their deposition testimony, the district court certainly has the discretion to order the depositions reopened so that the revised answers may be followed up on and the reasons for the corrections explored.”
- *See also Bennett v. Kent Cty. Mem’l Hosp.*, No. 07-163ML, 2009 U.S. Dist LEXIS 2683 (D.R.I. Jan. 14, 2009).





# Errata Sheets

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- ***TP Plastics Trading Co. v. Toray Plastics (America), Inc.*, No. 09-336M, 2013 U.S. Dist. LEXIS 10930 (D.R.I. Jan. 28, 2013):**
- Concluding that although witness's errata sheet sought to contradict or substantially revise some of the witness's original responses, there was no basis to conclude that the changes were made in bad faith or otherwise in violation of Rule 30(e).