

questions politely no matter how annoying they may seem.

**Sympathy.** In a personal injury case, you may be tempted to try to win sympathy when describing injuries you have suffered. Complaining, particularly in a whining tone, can cost you respect. However, do not go to the other extreme and "tough it out" by not admitting your real pain and injury. Answer the questions about your injury fully, completely, and truthfully.

**Give your full attention throughout the deposition.** During the course of the proceedings your attorney may object to something the other attorney has said. When this happens, stop talking and pay very close attention. Your attorney may be concerned about an unclear or improper question that has been asked.

**Videotape.** It's becoming more and more common to videotape a deposition. Your attorney should be able to tell you whether this will occur and give you any special instructions you may need.

**Documents.** If you have documents concerning your case, your attorney will tell you what to bring to the deposition. Never bring any documents to a deposition without first consulting your attorney because anything you bring will be open to discovery by the opposing attorney.

## THINGS YOUR ATTORNEY WILL DISCUSS WITH YOU.

1. How did the injury happen?
2. What injuries were caused?
3. Who are the doctors you have seen for your injuries?
4. Who are the doctors you have seen before you were injured?
5. What harms and losses were caused by your injury?
6. What are the strengths and weaknesses of your case?
7. What are the difficult legal issues in this case?
8. What can you not do now that you could do before this injury?
9. How will the defense attorney come after you....what questions will the defense attorney ask you?

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**For more information on personal injury, check out my website....**

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**Giving your Deposition**

## WHAT IS A DEPOSITION?

A deposition is the taking of testimony under oath. Most depositions are held out of Court at a convenient location agreed upon by your lawyer. You'll be asked detailed questions about your case, and your answers will be typed up by a court reporter or recorded on videotape. All sides of the case receive a copy. Another copy goes to the Court for the judge to review. Portions of the deposition may be read aloud in Court, especially when the opposing attorney is trying to show contradictions between your deposition and your testimony in Court.

A deposition gathers facts and information about a case. An attorney has an ethical responsibility to learn all the facts about a case, and a deposition is one useful method. Just as the opposing attorney will be asking you many questions, your own attorney may be questioning any witness from the other side. The deposition is a chance for both attorneys to listen to what is said and how it is said. This helps determine whether a witness is believable. Your deposition gives the opposing attorney a chance to look through your testimony for admissions or statements or facts that might weaken your own case and strengthen the opposing party's case.

## WHO WILL BE THERE?

Your role will be to answer questions truthfully. At least three other people will be in the room when your deposition is taken: (1) your own attorney, who will be there to make sure your rights are protected; (2) the opposing attorney, who

will ask the questions and who is there to learn as much as possible to benefit his or her own client; and (3) the court reporter, who will administer the oath and make a written document of your statement. It is possible that others will be present.

## WHAT DO YOU HAVE TO DO?

**Dress.** Dress neatly and carefully as you would for a business meeting or church social. Avoid anything flashy or uncomfortable.

**Attitude.** Be polite to everyone but not overly friendly. Try to relax but don't get too relaxed. You'll need to be attentive to the proceedings. If you find that you are getting too tired to listen and respond carefully, ask for a break.

**Responsibilities.** **THE NUMBER ONE THING TO DO IS TELL THE TRUTH.** You tell the truth by (1) listening carefully to the question asked, (2) understanding what is being asked of you, and (3) answering carefully. You will answer the questions well if you take your time and don't let yourself feel pressured.

## AVOIDING COMMON MISTAKES

Stay within the limits of the question. Give a complete answer to a question, but don't volunteer additional information or elaborate unnecessarily. Remember, you're talking to the opposing attorney, and any extra information you reveal may be used against you.

Be forthright and truthful. Even if you think your answer may harm your case, don't be evasive. The facts will come out anyway, and a forthright answer will make you look better than an answer that hides or softens the facts. Remember, a deposition is not only a chance to gather facts, it's also a time to establish your credibility as a witness. Often, an

opposing attorney will ask you whether or not you have discussed your testimony with your attorney before the deposition. There is nothing wrong with discussing your case with your attorney, so don't let the opposing attorney make you feel uncomfortable about admitting that you did.

**Avoid guessing the facts.** If you let the opposing attorney lead you into guessing at an answer, it may be inconsistent and can be used against you in Court. You are not expected to know the answer to every question. Your job is to answer each question to the best of your ability, and sometimes the best answer is "I don't know." Never guess an answer to a question, and you should never guess the meaning of a question. Always ask the meaning of any words you don't know. Sometimes, attorneys will use legal language that is unfamiliar to most of us. Ask the attorney to rephrase the question if you don't understand its meaning.

**Don't advocate your case (trust your attorney).** Sometimes, the opposing attorney will ask questions to make you look like the suspicious party. The natural response is to become angry and try to defend yourself. Remember, if you do, you'll probably end up making many of the mistakes we've already discussed. Angry, defensive behavior doesn't make a good impression and it also may reveal a weakness that the opposing attorney may use to make you look bad in Court if your case goes to trial. So stay calm, listen carefully, and answer the