

10 Best Practices for Conducting a Deposition

There's a saying that "you never get a second chance to make a first impression." You also never (or at least rarely) get a second chance to accomplish your goals in a deposition. Here are 10 best practices for conducting a deposition.

- 1. Collaborate actively.** Document review and deposition preparation can involve many different individuals. Having tools that allow you to effectively collect the insights gathered throughout the process not only helps create the most cohesive understanding of events, it can help you catch what you might have missed. When preparing for a deposition, leverage tools such as collaborative drafting and timeline-building capabilities where multiple individuals can add dates, labels, and annotations to documents and testimony. When conducting a deposition, features like chat can be used to quickly communicate information, such as which exhibits to introduce next.
- 2. Act composed and confident.** It's easier to maintain control over the proceedings if you appear self-assured. If you're nervous and don't feel composed and confident, fake it until you make it!
- 3. Be professional and courteous to all parties involved.** This is especially important when examining the witness, as the more at ease they are, the more likely you will get cooperation and candid answers.
- 4. Don't blindly agree to the "usual stipulations."** There's no such thing, at least from a judicial standpoint. You should either decline to do so or clarify on the record what is meant by that term.
- 5. Prioritize.** Some goals (and the questions designed to accomplish those goals) are more important than others. FRCP Rule 30(d) limits depositions to "1 day of 7 hours," unless otherwise stipulated or ordered by the court. Devote the majority of your time to the most important goals and questions.
- 6. Ask simple, short questions with one subject.** Complex questions lead to convoluted and unhelpful answers. Be direct.
- 7. Don't ask any unnecessary questions.** Each deposition question should be aimed at accomplishing a desired result.
- 8. Actively listen.** If you are too focused on following your script of questions or on taking notes, you may miss an opportunity to follow up on important information obtained from a witness's answer.
- 9. Follow up.** Make sure that the question was fully answered on the record. Don't accept answers that are unresponsive, vague, ambiguous, or incomplete. Follow up until the question is sufficiently answered.
- 10. Don't take victory laps.** If you win on a particular point, resist the temptation to let the other side know. There is plenty of time to follow up after the deposition with a motion for summary judgment or other motion to address the issue.



Everlaw unlocks capabilities that couldn't have existed before.
It gives us a peek into what lawyering could look like in the future.

Katie Jones

Partner, Sher Edling LLP

Transform your
approach to litigation
and investigations
with Everlaw.

[→ SEE HOW](#)