

DEPOSITION INSTRUCTIONS

Under the law, the other lawyer has a right to take your "discovery deposition." This means that you will be put under oath and the lawyer will ask you questions relating to this case. The lawyer's questions and your answers will be taken down by a court reporter. One of your lawyers will be present at all times.

There will be no judge or jury present. However, after the deposition is over, the court reporter may type out all the questions and answers, and both your lawyer and the other lawyer will receive copies. The original may be filed in court.

If your case goes to trial, your deposition may be used in court, particularly in cross-examination of you by the other lawyer should your testimony at trial be different than your testimony at the time of the deposition. The lawyer will want to indicate that you told two different stories. For this reason it is extremely important that you have everything in mind concerning the cause and nature of your injuries, and the facts of the case at the time of the deposition. It would be helpful if you try to refresh your recollection before you have your deposition taken.

The other lawyer at the deposition can ask you questions that may seem as if they are none of his/her business and that, actually, would not be admissible in court. However, the courts allow discovery in these depositions, and the lawyer may ask you for hearsay and other things that will enable him/her to make further investigation of the case.

For this reason, do not be surprised if we do not object to questions that seem to you to be out of line. If the other lawyer questions you on any subject that is not proper, we will object to the question. If we object to the question and instruct you not to answer it, then you should **REFUSE TO ANSWER THE QUESTION**. Please answer all other questions. Sometimes we will object for the record, but may still permit you to answer. The only time you should not answer the question is when we instruct you not to answer.

REASONS FOR TAKING THIS DEPOSITION:

The deposition will assist the opposition in evaluating your case for settlement purposes. This is often the first and only opportunity for the other lawyer to see you before the case comes to trial. Therefore, you should be clean and neatly dressed, and courteous and respectful to the other lawyer, and all others in the room. Be prepared to exhibit any injuries that might be visible, so wear the right clothes. Discuss what to wear with us if you have any questions.

You should answer all questions in an honest and straightforward manner.

HOW TO CONDUCT YOURSELF IN THE DEPOSITION:

We know that you would not deliberately lie, but it is important that you do not testify to something that is inaccurate or exaggerated. For this reason, **LISTEN TO EACH QUESTION CAREFULLY AND BE SURE THAT YOU UNDERSTAND IT BEFORE ANSWERING.** If you do not understand it, ask the other lawyer to rephrase it so you do understand the question, then answer it honestly and in a straightforward manner. If you do not know the answer, do not be afraid to say that you don't know or don't recall. No one can remember every small detail. However, you will remember the important things and should give an honest and full answer to questions on these points.

The other lawyer will probably be friendly and will not "bully" you in any manner. His/her theory will probably be that the more he/she can get you to say, the more likely you are to put your "foot in your mouth." Therefore:

--UNDERSTAND THE QUESTION. You don't have to hurry to answer.

--ANSWER THAT QUESTION TRUTHFULLY.

--STOP!

Do not volunteer anything. Give a full and complete answer to the question asked, but do not anticipate any other question or attempt to answer it. If the other attorney overlooks any relevant or important questions, that is his/her worry, not yours.

If the other lawyer should be rough in any manner, do not lose your temper. We will be there with you and be certain he/she acts properly.

Speak loudly and clearly enough that everyone can hear and understand you. You must answer out loud, saying "yes" or "no," as a nod of your head cannot be recorded by the court reporter transcribing your testimony.

PAST INJURIES: (if applicable)

The other lawyer will undoubtedly ask you about injuries you may have sustained in the past. Insurance companies and railroads have central index bureaus where they can get information on all injuries that persons have sustained, where persons have been paid workers' compensation, and where they have filed suit or recovered from any employer or insurance company. Also, it is common for the other side to check on treatments you have had--medical

doctors, osteopaths, chiropractors and hospitals--wherever you have lived and in adjoining areas.

Therefore, it is extremely important that you answer every question truthfully.

Also, answer only the question you are asked. In other words, if you are asked what injuries you have had to the same part of your body that was injured this time, then limit your answer to that part of your body. Or, if you are asked what injuries you have sustained on a certain job or in automobile accidents, then limit your answer to the questions asked. If, however, you are asked generally about any injuries you have had, give the other attorney the information requested concerning any and all injuries of any type and to any part of your body that you have had at any time.

ACTIVITIES SINCE INJURY: (if applicable)

Before the trial, perhaps before the deposition, the other side may have investigated what you do at work, at home, in your neighborhood, and any other place you go. It is quite common for them to hire photographers to hide a block or so away, out of sight, and take movies or pictures with a telephoto lens of a person working around the house, on the job, or out fishing, or engaged in other recreational activities.

Fishing, mowing the lawn, working or doing anything else you feel able to do (and that your doctor allows you to do), will not hurt your case in and of itself. However, if you forget that you have engaged in a certain activity and testify at your deposition that you are unable to do so because of your injuries, the other lawyer can seriously damage your case with pictures, movies or witnesses directly contradicting your testimony.

SUMMARY

1. You should be clean, and wear clean, neat clothing.
2. Treat all persons in the deposition room with respect. Consider this an important and solemn occasion.
3. Come prepared to exhibit any and all injuries, which you have suffered.
4. Have with you the facts and figures with respect to your time lost from work, amount of wages lost, doctor bills, hospital bills and all other facts with respect to the damages caused as a result of your injury. Review these items before coming to the deposition.
5. Tell the truth.
6. Never lose your temper.
7. Don't be afraid of the lawyers.
8. Speak slowly and clearly.
9. Answer all questions directly, giving concise answers to the questions, and **STOP TALKING.**

10. NEVER VOLUNTEER any information. Wait until the question is asked; answer it and STOP. If you can answer “yes” or “no,” do so and STOP.
11. Do not magnify your injuries or losses.
12. If you don’t know, admit it. Some witnesses think they should have an answer for every question asked. You cannot know all the facts and you do yourself a disservice if you attempt to testify to facts with which you are not acquainted. It is IMPERATIVE that you be HONEST and STRAIGHTFORWARD in your testimony.
13. Do not try to memorize your story. Justice requires only that a witness tell his/her story to the best of his/her ability.
14. Do not answer a question unless you have heard it and clearly understand it. If you have to, ask that it be explained or repeated.
15. Do not guess or estimate time, speed or distance unless you are sure that the estimate is correct, and then make certain that when you answer, you state that this is your estimate. Go over these estimates with us before your deposition is taken.
16. Many of the questions you will be asked will not be admissible at the trial, but the opposition is entitled to an answer in order to help them prepare their case. Many cases are lost because the witness tries to hide something. Many of the questions can be used at the trial to discredit you.
17. If we object to a question, stop talking, and we will instruct you after we object to either answer the question or not to answer it.
18. After the deposition is over, do not discuss anything in the presence of the opposing lawyers or the reporter. If you want to discuss something after the deposition, wait until we are alone.

REMEMBER, perhaps the most important aspect of your lawsuit is YOU AND THE APPEARANCE YOU MAKE. If you give the appearance of earnestness, fairness and honesty, and if in giving your discovery deposition you keep in mind the suggestions we have made, you will be taking a great stride toward successful completion of the litigation in which you are involved.

Because the testimony you give will be your own, there is NO NEED FOR YOU TO TAKE THESE INSTRUCTIONS WITH YOU TO THE DEPOSITION. Your testimony will be more natural if you are not relying too heavily upon instructions.

WORDS & PHRASES

We understand that most people have never been involved in a lawsuit. Some of the words

and phrases you will hear are not familiar; therefore they are defined here for you, so you can have a better understanding of the legal process. If you hear any other words or phrases you do not understand, do not hesitate to ask your lawyer to explain them to you.

ALLEGE:	To claim that something is true.
ANSWER:	The paper filed in the court by the defendant's lawyers stating their defense to your claims.
ATTORNEY:	Another word for lawyer.
DAMAGES:	The loss, in money, that the plaintiff claims he or she should be awarded. Only after we prove that the defendant is liable are we entitled to ask for money damages.
DEFENDANT:	The person or company against whom a lawsuit is filed.
DEPOSITION:	Sworn testimony given during the course of the lawsuit. Anyone, a plaintiff, a defendant or a witness, may be deposed. It allows one side to find out exactly what the other side intends to prove.
TO FILE/FILING:	The physical act of taking or mailing the pleadings to the courthouse and depositing them with the clerk of courts.
INTERROGATORIES:	Questions submitted by one side to the other, filed with the court, which must be answered under oath. Interrogatories usually ask specific questions on the facts of the case.
JUDGMENT:	The final decree which ends a part, or all of a lawsuit.
LIABILITY:	Legal responsibility. What must be proved against a defendant before the plaintiff is entitled to an award of money damages.
MOTION:	A paper, filed with the court, which asks the court to make an order during the lawsuit. The motion may ask for final judgment, a ruling on the admissibility in court of certain evidence, or many more things.
ORDER:	Any ruling by the judge on any issue brought up by the parties. An order is signed and filed with the clerk of courts to be placed in the court's file.
PLAINTIFF:	The person who asks the court to award him/her a remedy (e.g. money damages, an injunction, a declaration of rights or responsibilities, etc.)

PLEADINGS:

All the papers filed with the clerk of courts during the lawsuit.

**STATUTE OF
LIMITATIONS:**

The law which puts an absolute time limit on filing a Complaint. There are different statutes of limitations for different areas of law. For example, in a case involving bodily injury from negligence occurring in Florida, this date is **four years** after the date of your injury. There are some exceptions to this law, which may allow the filing more than two years after the injury. Always consult an attorney **immediately** if you believe that you have a claim, and are uncertain as to the statute of limitations for your claim. You may have **less** than one year from the date of an injury for circumstances to bring your case in court for medical malpractice or other types of claims, so **never delay**.