

PREPARING FOR AND TAKING DEPOSITIONS

- I. Get your facts straight
 - From client
 - From witnesses
 - From non-party sources
 - From public sources
- II. Get your law straight
 - Research elements of claims and defenses
 - Look at pattern jury charges
 - Look for cases involving similar fact patterns
- III. Make preliminary assessment of the case from the standpoint of liability and damages
 - Prepare Argument Outline
- IV. Get your paper discovery rolling
 - Interrogatories
 - Requests for production
- V. Identify the necessary deponents and what you want to prove or disprove through each
- VI. Design the Deposition
 - Do not simply shoot from the hip

- Prepare a detailed questionnaire to assure you reach your goals with the deponent
- Every question should have a purpose
- Prepare your exhibits
- Prepare summary of what you want to prove through that witness

VII. Other Do's and Don'ts

- Do not tell the deponent who you represent unless you know he/she is a friendly witness
- When deposing a non-party witness, ask them to state on the record whether they waive reading and signing the deposition
- Use the early part of the deposition to train the deponent
 - Yes or No, not uhha and uhuh, or head nods
 - Wait for the entire question before trying to answer
- If you have concerns about the deponent's mental state, ask if he/she is taking medications or ill
- Ask your question until you get an answer to that question
- Seek admissions
- "Close out" the witness
- See attached article

- At end of deposition, review the summary you prepared to verify you have met your goals

VIII. Update your argument outline

IX. Update your list of necessary deponents