



Remote Deposition Tips for Attorneys

Contrary to popular belief, remote depositions are not a new thing. What is new is the temporary suspension of the requirement that the deposition officer, a/k/a certified shorthand reporter, be in the physical presence of the witness. As COVID-19 keeps us all at home, here are some important tips to remember when conducting a remote deposition.

- Sound is EVERYTHING!! If we can't hear you, we can't take it down. Most applications allow for attending via audio and video. It is highly recommended that you use your computer or other device to connect for the video and call in with your phone for the audio. It produces better sound and reduces the bandwidth needed. That is important now because everyone in every industry is working remotely and using valuable, much-needed bandwidth.

You will obviously need to use a speakerphone or a headset with a built-in microphone. Even though other attendees can see you, you are not being "videotaped," so don't worry about what it looks like! If you choose to use a speakerphone and are using your smartphone while, say, at home, please consider purchasing a Bluetooth wireless speaker with built-in mic. The sound is superior to just talking through your phone's speaker. There are several options out there; for example, Bose and Jabra are two popular brands. Make sure to

get one with a USB cable so it can be plugged in and stay charged throughout the proceeding.

Make sure to have the speakers on your computer muted! There will be feedback if you don't. And don't forget to put your phone on DO NOT DISTURB so you aren't interrupted with text messages and phone calls. Also mute your phone when you are not speaking. This will prevent disruptions due to paper being rustled, coughs, typing on keyboards, etc.

- Internet connection – This is just as important as sound. This is written with the assumption you are attending from home. Check your broadband speed – you can do this by going to www.speedtest.net. If it's not fast enough, call your provider and upgrade your service. If you have the capability to connect with an Ethernet cable, that will provide the best quality.
- Check your surroundings! If you're attending from home, find a quiet place where you won't be interrupted and check what is behind you. Remember, everyone can see it! Some applications allow you to use a virtual background which is a great way to "camouflage" any clutter or distractions. Also dress professionally. This is still a formal legal proceeding. If you're in your pajamas or shorts from the waist down and stand up during a break, everyone will see you unless you stop your video feed!
- Exhibits – everyone is wondering what to do! There are several ways to manage this. Obviously, the exhibits will have to be scanned in ahead of time. In the deposition setting, you must decide in advance whether to send a set to the reporter only or the reporter and all other counsel who will be attending.

Ideally for the court reporter, premarking the exhibits is best. It makes it easier for everyone to keep track of what exhibits are being used, even if you don't use all of the exhibits that you premarked. But this is not a requirement.

If you send PDF files to the reporter and nothing is premarked, you will need to give the reporter time during the proceedings to at least rename the PDF file to the correct exhibit number so he/she can keep track of the exhibits. Some reporters can place an electronic exhibit sticker on a PDF document, but it takes time during the proceedings to do this. Ultimately, everyone must agree that the set of exhibits that the reporter has is the official set.

Talk to your favorite court reporter and/or court reporting firm about options.

- Starting the deposition and swearing in the witness. When you log in to the remote session, when prompted to enter your name, please fill in your full name. The reporter will use this to more easily identify you when you are speaking. This can reduce the number of times the reporter may need to stop for clarification.

Before the witness is sworn, the reporter will likely ask everyone present to identify themselves. Please remember to speak one at a time!

The reporter should verify a witness' identity prior to beginning the deposition by either asking to see a driver's license or having counsel confirm the witness' identity. The reporter will then likely read a statement into the record referring to the First Emergency Order Regarding the COVID-19 State of Disaster, paragraphs 2.b and c.

The deposition will then proceed as most depositions do. We all know the instruction given to witnesses about not talking at the same time and not interrupting. This is extremely crucial in a remote setting. Many times when two people speak simultaneously in a remote setting, one voice is completely lost and the words are gone forever. Please be patient when the reporter interrupts during these times. He/she is merely trying to protect **your** record. There will likely be a request for something to be repeated. It's just the nature of the beast.

- Security. If you have any virtual assistant device like an Echo for Alexa or a Google Home Hub, either unplug or mute those devices so they can't pick up any of the proceedings as they occur. We know they are listening!

Also, once everyone has joined in on the meeting, have the host lock the meeting to prevent any unwanted guests from joining.

- Lastly, test everything BEFORE the deposition. Reporting firms are more than happy to do a test run and will help you work out the kinks. Please contact the firm at least several days prior to the scheduled date of the deposition to test everything and become comfortable with this new setting.

We are here for you! Together we can keep legal proceedings moving forward.