

MASS TORT DEPOSITION TACTICS ALWAYS HAVE A PLAN

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A FEW GENERAL RULES*

1. Depositions are not a discovery tool (not intended to learn about your case)
2. Depositions are trial testimony and need to be treated as such (Cross-Examination)
3. Be Prepared: Failing to Prepare is Preparing to Fail
4. There is no “one size fits all” deposition tactic/strategy – Every Deposition is Different

* ALL RULES HAVE EXCEPTIONS (except #3)

Who Is Your Witness



- General Rule: Each Witness Is a Piece of the Puzzle Not the Whole Puzzle
- Which Piece of the Puzzle Does This Witness Provide
- Don't Let One Puzzle Piece Destroy the Established Pieces

WHAT KIND OF DEPOSITION ARE YOU TAKING



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Who is Your Witness



VS.



It's Your Deposition



- Can you “control” the witness
- General Rule: these are cross examination – Ask Leading Questions
- The question can be more important than the answer
- Is your goal to “box them in” for future testimony

Exhibits

- Why are you using this exhibit – every exhibit must have a purpose
- What are your “Set-Up” questions BEFORE showing the exhibit
- Set-Up questions are based on the content of the exhibit (the answer may not matter)
- Don’t let the witness off the hook – “What did you mean when you wrote X”



HOW SHOULD YOU START?



- Is where the witness went to school important to your case?
 - If not, why ask it first (or at all)
- After the first break expect a less cooperative witness
- Who is your witness and what is your plan?
 - What type of deposition are you taking – what is the “tone” you want to set

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