PROGRAM MATERIALS
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November 3, 2026

Discovery:
Practical Tips for Better Results

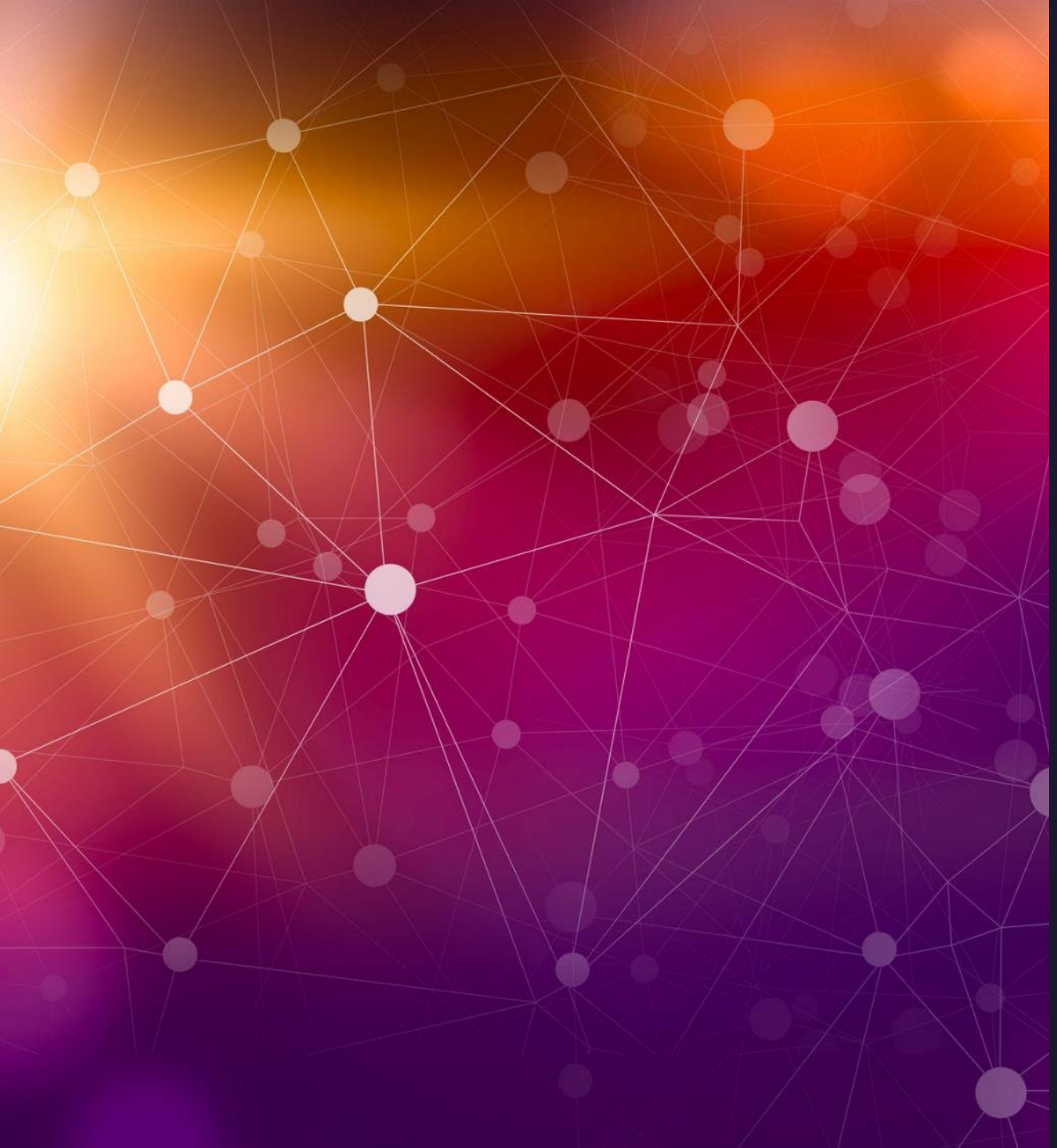
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Discovery: Practical Tips for Better Results

Agenda

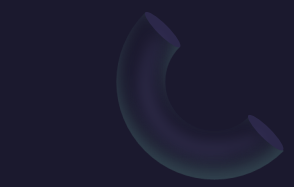
Introduction

Purpose of Discovery

Depositions

Written Discovery

Discovery Enforcement





The power of discovery

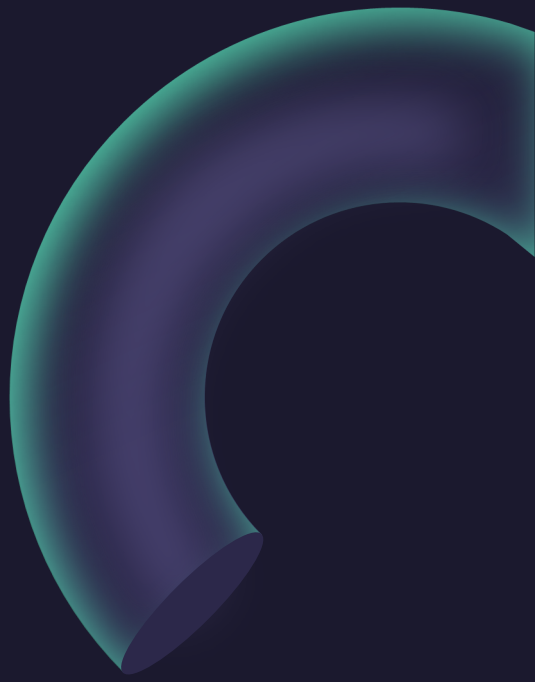
Efforts and courage are not enough without purpose and direction.

John F. Kennedy

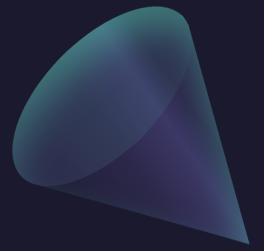


Purpose of Discovery

- Gather and preserve evidence
- Identify key issues, strengths, and weaknesses
- Ensure transparency and promote fairness
- Facilitate settlement
- Prepare for trial







Depositions

A few strong instincts and a few plain rules suffice us.

William Wordsworth

Planning and Notice

When considering the timing of depositions, consider the following:

- Is written discovery complete?
- Have you reviewed all the written discovery?
- What are the pretrial scheduling deadlines?
- Have you built in time to prepare your client/the witness (if they are your witness)?
- Have you coordinated with counsel and witnesses?

Notice Requirements:

- You must provide a written notice of deposition to the opposing party/counsel and file the notice with the court.
- Notice is usually required 7-14 days in advance, but check the relevant rules, as well as any orders or agreements between the parties.
- The notice should include the witness' name, date/time/location of the deposition, and whether a videographer will be used.
- Coordinating with opposing counsel before issuing a notice of deposition is an expected professional courtesy.

Client Deposition

- Make sure they understand the process
- Clarify the role of the deposition
- Ensure consistency in testimony
- Teach proper communication
- Encourage control of emotional responses
- Review case facts
- Address potential weaknesses
- Handle objections
- Build confidence

Oh the nerves, the nerves; the mysteries of this machine called Man! Oh the little that unhinges it: poor creature that we are!

Charles Dickens

Expert Depositions

Key Topics:

Background and Qualifications: The expert's education, training, experience, and other credentials are usually examined to establish their expertise.

Methodology: The attorney will ask about the methods and techniques the expert used to form their opinions.

Opinion and Conclusions: The attorney will delve into the expert’s opinions, how they arrived at them, and whether they have any supporting evidence.

Possible Biases or Conflicts of Interest: Attorneys will often ask about any relationships or financial arrangements that might affect the expert’s objectivity.

Prior Testimony: Lawyers may inquire about the expert's past experiences testifying in similar cases, including previous depositions or trials.



Preparing for an Expert Witness Deposition

- Preparation is key
- Know the subject material thoroughly and review it with your expert by playing devil's advocate
- Ensure your expert has all relevant information and documents; make sure it is organized, bookmarked, highlighted, and annotated for ease of reference.
- Research all experts thoroughly; look for deposition and trial transcripts where they have testified in similar cases; research how much they earn for expert witness services

How Expert Witness Depositions are Used

- Trial preparation
- Identify strengths and weaknesses of both sides
- Trial impeachment
- Expert exclusion
- Settlement



Corporate Designee Depositions

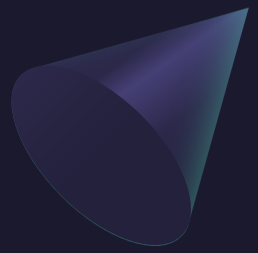
- Requesting party must provide a list of specific topics or areas of inquiry
- Corporation must identify a representative who has the knowledge, authority, and expertise to answer questions about the designated topics
- Testimony is binding on the company
- Company should ensure designee has access to relevant documents/records ahead of deposition
- If designee is unprepared or fails to adequately cover designated topics, opposing party may challenge sufficiency of testimony and court may order company to produce another designee

Post-Deposition Reminders

It's not over until it's over.

- Request the transcript
- Review the transcript
- Assist client with errata sheet
- Preserve any notes or exhibits









Using All the Tools in the Toolbox

You can’t always get what you want,

But if you try sometimes,

Well you just might find

You get what you need.

The Rolling Stones

Preservation Letters

- Ensure evidence is not lost, altered or destroyed
- Puts opposing party on notice of their duty to preserve
- Critical for preserving digital information that often has limited storage life
- Failure to preserve can lead to sanctions



FOIA Requests

FOIA: Freedom of Information Act

Common agencies to FOIA in personal injury case:

- Local sheriff/police department
- State police
- DMV
- VDOT

Key documents, information, and things to obtain by FOIA in a personal injury case:

- Accident report
- Investigation notes
- CAD sheets
- Audio/visual recordings (911 calls, dashcam footage, body cam footage)
- Vehicle information
- DMV records
- Criminal case information

Interrogatories

Written Format: Interrogatories are always written questions that require written responses.

Under Oath: The answers must be truthful and sworn under penalty of perjury, making them legally binding.

Scope: The questions can cover a wide range of topics relevant to the case, such as facts, witnesses, and documents.

Limitations: There are usually rules about how many interrogatories can be asked and how many subparts can be included, depending on the jurisdiction and the complexity of the case.



Requests for Production

- Scope and relevance
- Specificity and clarity
- Privilege and confidentiality
- Possession, custody, and control
- Responses
- Document format and organization
- Supplementation

The historian, essentially, wants more documents than he can really use . . . .

Henry James

Requests for Admission

- Admission or Denial: The party receiving the request must respond by either admitting or denying the specific statements made in the request.

- Effect of Admissions: If a party admits to a request, that admission is considered binding in the case, and the opposing party does not have to prove that fact in court. Denials or lack of response can leave those issues in dispute, requiring further evidence or testimony. If a party denies and the fact is later proven in trial, the denying party may be responsible for the other party's costs expended to prove the denied fact.

- Purpose: RFAs are used to streamline litigation by establishing certain facts as true or eliminating points of disagreement. They can also be used to challenge the credibility of the other party or to establish the foundation for evidence at trial.

- Limitations: There are usually limits to the number of RFAs a party can send, and they must be relevant to the issues in the case. In some jurisdictions, a party has 30 days to respond to a request for admission.

Discovery Objections

- Overly broad, unduly burdensome, vague, irrelevant, duplicative, privileged, not reasonably calculated to lead to the discovery of admissible evidence
- Keep objections specific and narrow
- Avoid general objections entirely
- Use all objections sparingly



Subpoena Duces Tecum (SDT)

- Obtain documents from a third party
- Must be served and filed with court
- Check relevant rules and statute for deadlines to serve and response times
- Be strategic with response deadline
- Be detailed in document description
- Common documents/things requested through SDTs: medical records and bills, employment records, wage information, cell phone records, incident scene surveillance footage

Document/Information Management

- Summarize discovery received
- Flag key information and documents
- Bates stamp documents
- Customize a document management spreadsheet



Discovery Enforcement

- Deficiency analysis—use a chart, you'll need it later
- Meet and confer
- Make concessions if you can
- File motion to compel as last resort, but pay attention to deadlines
- Use your deficiency chart as an exhibit
- Attach all discovery to motion as exhibits (except responsive documents themselves)
- Keep motion simple and clear, not argumentative

Thank you

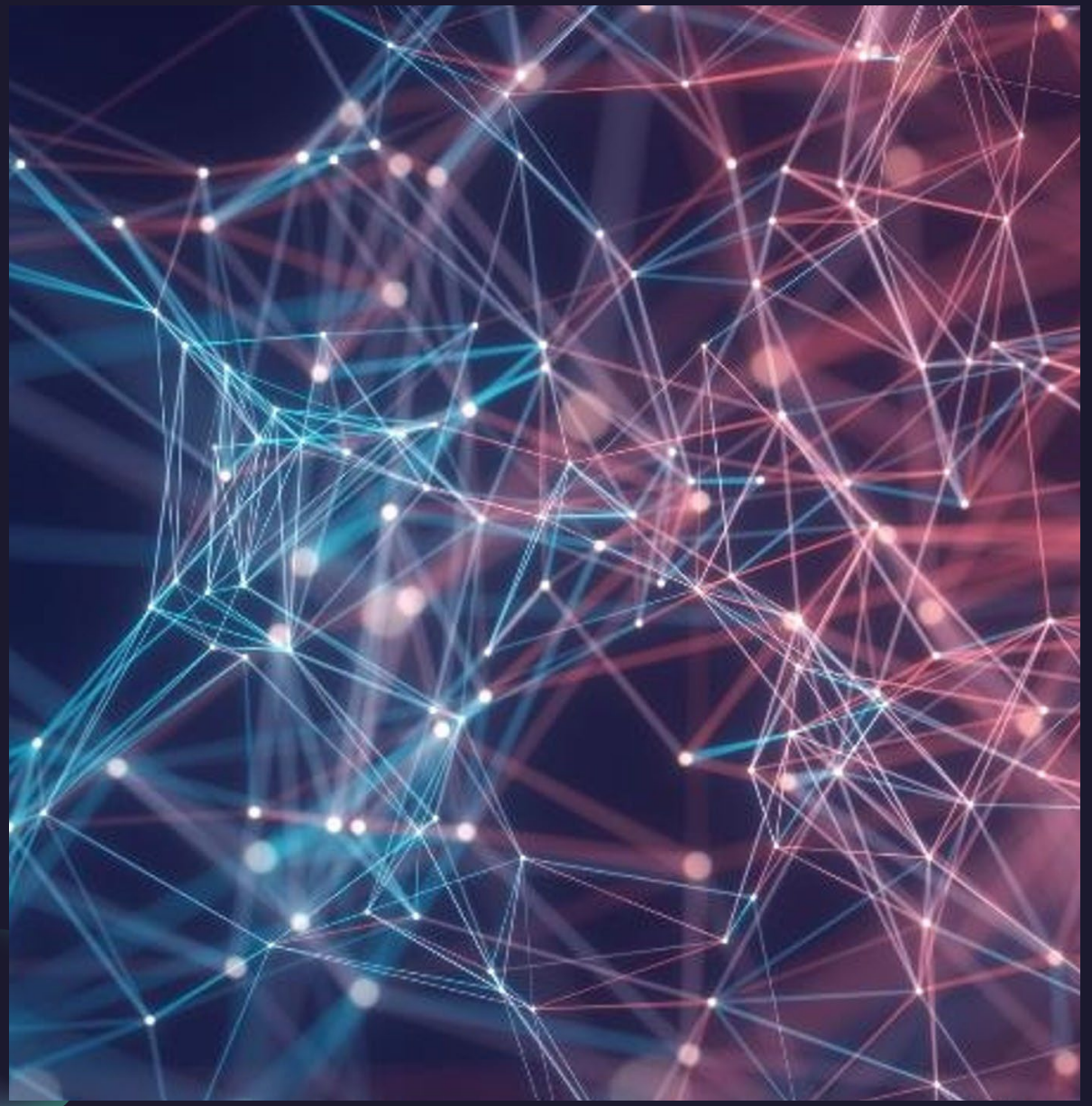
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DISCOVERY TOUCHSTONES

A. Introduction

In a civil case, discovery is the process through which each party gathers information and evidence from the other party or third parties before trial. The purpose of discovery is to:

Ensure Transparency: Discovery allows both sides to learn about the other party's claims, evidence, and legal positions. This helps to prevent "trial by surprise" where one party could be caught off guard by evidence presented at trial that they weren't aware of beforehand.

Promote Fairness: By sharing information early on, discovery helps ensure that both parties have a fair chance to prepare their case. It gives them the opportunity to assess the strengths and weaknesses of their opponent's arguments, which can lead to more informed negotiations, settlement discussions, or trial strategies.

Facilitate Settlement: With a clearer understanding of the facts and evidence, the parties can better evaluate the potential outcomes of the case. Discovery can encourage settlement negotiations, as each party can make a more informed decision about whether to settle or proceed to trial.

Identify Key Issues: Discovery helps both sides narrow down the key issues in dispute. This process can clarify which facts are contested, which are undisputed, and what legal issues are central to the case.

Gather Evidence: Discovery allows each party to obtain evidence that supports their case, including documents, physical evidence, and testimony. This could involve written responses to questions (interrogatories), requests for documents, and depositions (testimony under oath).

Preserve Evidence: It also helps ensure that important evidence is not lost or destroyed before trial. Parties can request preservation of evidence or inspect documents and physical objects that may be relevant to the case.

In short, discovery is designed to level the playing field by providing both sides with the necessary information to litigate the case effectively, helping to prevent surprises at trial and fostering a more efficient and just resolution of disputes.

B. Deposition Control Checklist

a. Planning and notice

Timing in Litigation Process: The timing of a deposition is often strategic, depending on the stage of litigation. Depositions are typically scheduled after initial discovery (interrogatories, document requests) and before dispositive motions are filed. However, they may also be used for impeachment purposes or to lock down testimony ahead of trial. Most courts have pretrial scheduling orders that impose deadlines for when depositions must be completed. Courts may have different deadlines for discovery depositions as opposed to depositions taken in lieu of trial testimony.

When planning depositions, it's crucial to allocate sufficient time to review relevant documents and evidence that may be referenced during the deposition. This can include interrogatories, prior deposition testimony, expert reports, or exhibits to be introduced. If there are issues with scheduling or document production before the deposition, you may need time to file motions or resolve disputes.

It's also important to build in time to prepare the deponent. This includes explaining the deposition process, reviewing relevant documents, discussing potential lines of questioning, and ensuring the deponent understands their rights and obligations during the deposition.

Notice Requirement: Most jurisdictions require advance notice to the opposing party before scheduling a deposition. Typically, this notice is 7–14 days, but the specific rules depend on local and state court rules, as well as any agreements between the parties. Some jurisdictions require specific notice if a videographer will be used or if the deposition will be taken via videoconference. Be sure to check local rules for notice requirements.

Coordination with Counsel and Witnesses: Make sure the deponent (the person being deposed) is available and that there is sufficient time for preparation. This may require coordinating schedules for attorneys, the deponent, and a court reporter.

Location and Time of Day: Deposition times should accommodate everyone involved, but often, depositions are scheduled during business hours. Longer depositions may require a start time earlier in the day (e.g., 9:00 AM) to avoid running late into the evening.

b. Client depositions

Preparing your client for a deposition is important because it ensures they are clear on what to expect, how to respond, and how to present themselves in a way that strengthens their case. The deposition process can be stressful, and without proper preparation, a client might inadvertently say something that harms their credibility or weakens their case. Use the following points as a guide for preparing your client for a deposition:

1. Make sure they understand the Process

A deposition is a formal, sworn statement given under oath. Clients may be unfamiliar with legal procedures, and it's essential to help them understand the purpose of the deposition, how it fits into the overall case, and what to expect in terms of questioning. Clear expectations help reduce anxiety and confusion during the session.

2. Clarify the Role of the Deposition

Clients should understand that a deposition is not a trial. The questions asked are typically aimed at gathering information, locking in testimony, and identifying weaknesses in the case. Preparing the client ensures they don't take the deposition as an opportunity to argue or explain their position but to provide clear, truthful answers.

3. Ensure Consistency in Testimony

A deposition is often used to lock in a witness's testimony before trial. If there are inconsistencies in a client's statements during the deposition, it could be used to challenge their credibility later. Preparing your client helps ensure that their story is consistent with their earlier statements, their documents, and any other testimony in the case.

4. Teach Proper Communication

Depositions involve answering questions clearly and concisely. Clients need to be trained to avoid over-explaining, guessing, or giving long-winded responses. Simple, direct answers are usually preferred. Preparation helps clients understand the importance of "yes" or "no" answers when appropriate, and when it's acceptable to clarify or qualify their answers.

5. Encourage Control of Emotional Responses

Depositions can sometimes be intense, with opposing counsel trying to challenge or provoke the witness. Clients need to be prepared emotionally to handle aggressive questioning or difficult topics. Preparing them to stay calm, composed, and professional is essential to maintaining credibility and avoiding the appearance of defensiveness.

6. Review the Case Facts

The client needs to be thoroughly familiar with all relevant facts of the case, including any documents, prior statements, or discovery responses. During the deposition, they may be asked about specifics, and being unprepared could result in confusion or inaccurate answers. Reviewing key facts and documents helps ensure they are consistent and accurate in their responses.

7. Address Potential Weaknesses

A good part of preparation involves addressing potential weaknesses in the case. Clients need to be aware of areas where their testimony might be challenged or where they could be vulnerable. This helps them prepare mentally for difficult questions and provides an opportunity to discuss how best to address such issues in their answers.

8. Handle Objections

Although objections in a deposition are usually limited to preserving issues for trial, it's important for clients to understand that they may hear objections from their attorney or opposing counsel. Understanding the types of objections and what they mean (e.g., relevance, form of the question) helps the client remain focused and avoid confusion during questioning.

9. Build Confidence

Proper preparation boosts the client’s confidence. Feeling ready and equipped to handle the deposition process reduces anxiety and helps the client to respond more clearly and effectively. Confidence also translates into better communication and a more professional demeanor during questioning.

10. Minimize Risk of Missteps

A deposition is a high-stakes situation, and one misstep can lead to significant consequences, such as damaging the client's credibility or making statements that could be used against them later. Preparation minimizes the risk of these errors, ensuring the client knows how to handle tricky questions and respond appropriately.

c. Expert depositions

Key Topics Discussed in Expert Depositions

Background and Qualifications: The expert's education, training, experience, and other credentials are usually examined to establish their expertise.

Methodology: The attorney will ask about the methods and techniques the expert used to form their opinions.

Opinion and Conclusions: The attorney will delve into the expert's opinions, how they arrived at them, and whether they have any supporting evidence.

Possible Biases or Conflicts of Interest: Attorneys will often ask about any relationships or financial arrangements that might affect the expert's objectivity.

Prior Testimony: Lawyers may inquire about the expert's past experiences testifying in similar cases, including previous depositions or trials.

How Expert Witness Depositions are Used

Preparation for Trial: Lawyers use expert depositions to understand the expert's testimony in detail. If necessary, they can refine their arguments or even seek to exclude the expert's testimony if it's deemed unreliable or irrelevant.

Impeachment at Trial: In court, attorneys can use deposition testimony to challenge the expert's credibility or to point out inconsistencies between what the expert said in their deposition and what they say on the stand.

Settlements: Sometimes, depositions can lead to a case settlement if one party realizes their expert witness's opinions are weak or could be effectively challenged.

Preparing for an Expert Witness Deposition

For the Expert Witness: Preparation is key. The expert should be well-versed in their report and be ready to explain their opinions clearly and confidently. They must also anticipate and be prepared for challenging or combative questioning by the opposing lawyer.

For Attorneys: Lawyers need to prepare their expert witnesses carefully. This involves reviewing the expert's report, anticipating areas of cross-examination, and ensuring that the expert is comfortable with the deposition process. Make sure the expert has reviewed all relevant documents and information before your preparation meeting.

d. Corporate designee depositions

In litigation, a corporate designee deposition refers to the process where a company designates one or more of its employees or representatives to testify on its behalf regarding certain matters related to the case. The designated person is expected to provide information about the corporation's policies, practices, knowledge, and operations, as well as specific facts related to the dispute.

This concept is important in cases where the corporation itself is a party or where the corporation’s actions, policies, or knowledge are central to the legal dispute. Corporate designee depositions allow attorneys to obtain testimony from an individual who can speak on behalf of the company, providing insights into areas that might not be accessible through individual employees without corporate knowledge.

Legal Framework:

Under the Federal Rules of Civil Procedure (FRCP), specifically Rule 30(b)(6), a corporation or other organizational entity can be required to provide testimony through a designated representative. This rule allows for a more efficient and structured method of obtaining corporate knowledge, as opposed to deposing several employees.

Similar rules exist in most state jurisdictions, often with variations in the procedures.

Designation Process:

The party requesting the deposition typically provides a list of specific topics or areas of inquiry, which may include historical records, policies, procedures, actions, and communications relevant to the case.

The corporation must identify the individuals who will represent it at the deposition. The company is required to select someone who has the knowledge, authority, and expertise to answer questions about the designated topics.

Scope of Testimony:

The designated representative must testify about the corporation’s knowledge or activities concerning the specified topics. This testimony is considered binding on the company, meaning the answers given by the designee reflect the company's position.

The scope of the designee's testimony can be wide-ranging, covering everything from corporate culture, internal communications, financial records, to specific events that led to the lawsuit.

Preparation for Corporate Designee Depositions:

Preparing for a corporate designee deposition requires careful planning. The designee must be thoroughly familiar with the topics in question, and often a company’s legal team will conduct a detailed internal review to ensure the designee can answer with accuracy and confidence.

The company should also ensure the designee has access to relevant documents and records ahead of the deposition.

Obligations of the Corporate Designee:

The designee is expected to answer the questions based on the company's collective knowledge, not their personal opinion or perspective. They may not refuse to answer a question simply because they are unaware of the details, as the company is presumed to have knowledge or the ability to gather information.

If the designee does not know the answer to a specific question, they must state so. The opposing party can then choose to seek further clarification or potentially depose additional individuals.

Impeachment and Challenges:

Since the testimony of the corporate designee is binding on the company, if the designee provides incorrect or inconsistent answers, opposing counsel can use that testimony for impeachment during trial or in motions.

If the designee is unprepared or fails to adequately cover the designated topics, the opposing party might challenge the sufficiency of the testimony, and courts can potentially order the company to produce a more knowledgeable designee.

e. Post-deposition reminders

1. Review the Transcript

Request the Transcript: If you haven't already, request a copy of the transcript from the court reporter. Be aware that it can take several days to be prepared, even on a rush basis. Standard turnaround time is two weeks.

Review for Accuracy: Review the deposition transcript carefully for any errors or inconsistencies. If there are mistakes or things that need clarification, you may need to submit a correction or errata sheet to the court reporter.

2. Prepare an Errata Sheet (if necessary)

If there are significant errors in the transcript or something was misstated, you may need to submit an errata sheet to correct the record. This should be done in accordance with the applicable rules in your jurisdiction.

The errata sheet typically addresses factual inaccuracies, grammatical errors, or misspellings that may have occurred during the deposition. In Virginia, the deponent can also make substantive corrections on the errata sheet.

3. Preserve Any Notes or Exhibits

Organize Exhibits: Make sure that any exhibits used during the deposition are properly cataloged, and make copies for your own records. Ensure the opposing party receives copies if required.

Take Notes for Follow-Up: Review your deposition notes and consider any follow-up actions needed—such as sending additional discovery requests, preparing further motions, or strategizing next steps in the case.

C. Using All the Tools in the Toolbox

a. Preservation letters

Preservation letters are important in litigation because they help ensure that evidence is not lost, altered, or destroyed during the legal process. Spoliation refers to the destruction, alteration, or failure to preserve evidence that is relevant to a lawsuit. A preservation letter formally notifies the opposing party (or third parties) of their obligation to preserve specific evidence. This helps prevent the unintentional or intentional destruction of critical materials, which could negatively impact the litigation process.

Once a party reasonably anticipates litigation, they have a duty to preserve evidence that may be relevant to the case. A preservation letter provides notice of this duty and helps to establish that the party was aware of the requirement to maintain certain records or data. Failing to send such a letter may expose a party to claims of negligence or bad faith, and may weaken their case if important evidence is lost.

Courts may impose sanctions for spoliation of evidence, including adverse inferences, fines, or even dismissal of claims. By sending a preservation letter, the sender is demonstrating that they took reasonable steps to ensure the evidence was preserved, which can help protect against sanctions if something goes wrong in the preservation process.

In modern litigation, a large amount of relevant evidence is often digital, including emails, text messages, social media posts, and data stored on electronic devices. A preservation letter is crucial in the context of e-discovery, as it alerts parties to preserve not only physical documents but also electronic records that may be easily deleted or altered.

b. FOIA requests

A FOIA request refers to a formal request made under the Freedom of Information Act (FOIA), a U.S. federal law (that states have also adopted) that allows individuals to request access to records from federal, state, and local government agencies.

Who can request: Any person—U.S. citizen, resident, or foreign national—can file a FOIA request.

What can be requested: The request can cover a wide range of records, including documents, emails, reports, and more, as long as the information is held by a federal, state, or local government agency and isn't classified or exempt from disclosure.

Exemptions: While the FOIA promotes transparency, it includes nine exemptions where information can be withheld, such as national security, law enforcement, trade secrets, and personal privacy concerns. In personal injury cases, information related to the defendant’s criminal investigation or prosecution related to the incident may be withheld while the criminal case is pending. A preservation letter should be sent to preserve this information until it can be obtained by FOIA.

Where to submit: FOIA requests must be directed to the specific federal agency that holds the records you're seeking. Each agency typically has a FOIA office or officer who handles such requests.

Response time: Agencies are required to respond to FOIA requests within 5 business days, though they can take longer if the request is complex or if an exemption applies. Some agencies may charge fees for processing large or complicated requests.

FOIA requests are useful because you can get information without notice to the other party. This is helpful when you're not sure if the information will be favorable or not. However, be aware of document requests issued to your client asking for copies of any documents received in response to a FOIA request.

c. Interrogatories

Interrogatories are a formal set of written questions used in the discovery process of a lawsuit to gather information from the opposing party. These questions are directed at the other party and must be answered in writing, under oath, within a specified period.

Interrogatories are a common tool in litigation, and they help lawyers gather facts, clarify issues, and identify the other party's position before trial. The answers to interrogatories can be used as evidence in court or to shape legal strategy.

Key features of interrogatories include:

Written Format: Interrogatories are always written questions that require written responses.

Under Oath: The answers must be truthful and sworn under penalty of perjury, making them legally binding.

Scope: The questions can cover a wide range of topics relevant to the case, such as facts, witnesses, and documents.

Limitations: There are usually rules about how many interrogatories can be asked and how many subparts can be included, depending on the jurisdiction and the complexity of the case.

d. Requests for Production

Requests for production are an important part of the discovery process, aimed at obtaining relevant documents or tangible things that are in the possession, custody, or control of the opposing party. Here's a breakdown of what to consider:

1. Scope and Relevance

Relevance: The documents or things requested must be relevant to the claims or defenses in the case. You want to avoid overly broad or vague requests. Each request should be tied to a specific issue or factual matter in dispute.

Proportionality: The request should be proportionate to the needs of the case. This means considering the importance of the documents, the amount of discovery already provided, and the resources available to both parties.

Burden vs. Benefit: A request should not impose an undue burden on the producing party, particularly if the documents are readily available to the requesting party or if obtaining the documents would be excessively costly or time-consuming.

2. Specificity and Clarity

Clear Descriptions: Requests for production should be specific, so the receiving party understands what is being asked for. Avoid general phrases like “all documents related to” and instead request specific categories, like “emails between the defendant and the plaintiff from January to March 2023 regarding the contract dispute.”

Time Frames: Be clear about the time period for the documents you are requesting, and avoid overly broad date ranges unless absolutely necessary. Specific time periods help narrow the request and make it more manageable.

3. Privilege and Confidentiality

Privilege: The receiving party may withhold documents that are protected by attorney-client privilege, work-product doctrine, or other legal protections. Requests should be crafted in a way that does not inadvertently seek privileged material.

Confidential Information: If a document contains sensitive or confidential information, consider including a request for a protective order to ensure confidentiality during the discovery process.

4. Possession, Custody, and Control

Possession and Control: A party is required to produce documents in its possession, custody, or control. "Control" can be a broader concept, meaning that the documents don't necessarily have to be physically in the party’s possession, but they must be accessible. For example, a party may have control over documents stored with a third party, such as an email provider or contractor.

5. Responses

Timely Responses: The responding party is typically required to respond within a set period (usually 21 or 30 days, depending on the jurisdiction). Failure to respond can lead to sanctions or waiver of objections.

Partial Production: If some documents are responsive, but others are protected or not available, the responding party should produce the relevant documents and explain any withholding based on objections (e.g., privilege claims).

6. Document Format and Organization

Production Format: The request should specify how the documents should be produced (e.g., hard copies, electronic format like PDFs, or native formats). Electronic discovery (e-discovery)

is increasingly common, so specifying the format and organization of electronic files can avoid disputes later.

Indexing and Searchability: In complex cases involving large volumes of documents, you may want to request that documents be produced in a searchable format, such as with metadata or with a list of Bates numbers for easier reference.

7. Supplementation of Responses: Parties are required to supplement or amend their responses if new documents or information becomes available or if previous responses were incomplete or incorrect.

e. Requests for Admissions

Requests for admissions (RFAs) are a type of discovery tool used in legal proceedings, typically during the pretrial phase. In a request for admission, one party asks the other party to admit or deny the truth of certain statements or the authenticity of specific documents. The purpose is to narrow the issues in dispute, simplify the case, and clarify what facts are uncontested.

Here's how they work:

Admission or Denial: The party receiving the request must respond by either admitting or denying the specific statements made in the request. If the statement is true, the party will admit it. If it is false or they do not have enough information to admit or deny, they will deny it or state that they lack sufficient knowledge to respond.

Effect of Admissions: If a party admits to a request, that admission is considered binding in the case, and the opposing party does not have to prove that fact in court. Denials or lack of response can leave those issues in dispute, requiring further evidence or testimony.

Purpose: RFAs are used to streamline litigation by establishing certain facts as true or eliminating points of disagreement. They can also be used to challenge the credibility of the other party or to establish the foundation for evidence at trial.

Limitations: There are usually limits to the number of RFAs a party can send, and they must be relevant to the issues in the case. In some jurisdictions, a party has 30 days to respond to a request for admission.

For example:

Request for Admission: "Admit that you were present at the scene of the accident on January 5, 2023."

Response: "Admit" or "Deny" or "Lack sufficient information to admit or deny."

If you don't respond to a request for admission within the time frame allowed, the court may deem the fact admitted.

f. Discovery objections

If a request for production is overly broad, burdensome, vague, irrelevant, duplicative, or privileged the responding party may object. However, these objections need to be specific, and the responding party must still produce any responsive documents that are not subject to valid objections.

Common bases for interrogatory objections include irrelevance, overbreadth, vagueness, or privilege.

Keep objections narrow and minimal if possible. Judges despise few things more than discovery disputes. If you can reasonably respond to the discovery while protecting your client's interests, do so, even if you have a technical objection you can raise.

g. Subpoena duces tecum to third parties

If you need documents that are in the possession of a third party, you can issue a subpoena duces tecum (SDT). Defendants will often use SDTs to obtain a plaintiff's medical records and bills and lost wage documentation. SDTs can be issued for cell phone records, video footage from the incident scene, and employment records.

h. Document/information management

Discovery is only useful if you have reviewed it and can find information when you need it. Summarize discovery received and flag key information and documents. Bates stamp documents provided so that you can easily reference them in discussions, motions, depositions, and trial. Customize a document management spreadsheet so that you can locate documents quickly and easily.

i. Discovery enforcement

Before filing motions to compel, parties are often required to meet and confer in good faith to resolve disputes about discovery. Be sure to exhaust all your efforts to resolve discovery disputes before resorting to judicial intervention. If you are the compelling party, review your discovery critically and make concessions if needed. Sometimes you won't have the luxury of time, but always make at least one effort to resolve any disputes, then explain to the judge that the time constraints forced you to file the motion.

If you have to file a motion to compel, make it clear and easy to follow. Use a chart to show the deficiencies (some courts require this). Do not be argumentative. Make sure you attach the discovery itself as exhibits, excluding responsive documents.

D. Sample Materials

a. Deposition Checklist
b. Notice of deposition, generic
c. Notice of deposition for corporate designee
d. Deposition preparation guide
e. Common deposition objections
f. General expert deposition topics
g. Lists of expert deposition questions

h. Errata sheet
i. Preservation letter
j. Document management chart
k. Motion to compel
l. Motion to compel chart