



STEVEN J. LANE

**SAMPLE - INSTRUCTIONS TO A CLIENT
IN PREPARATION FOR A DEPOSITION**

1. Purposes of a deposition
Impeachment; discovery of facts; witness demeanor
2. Witness' primary goal
Tell the truth, but do not volunteer information
3. If you don't know the answer to a question, say so.
4. If you do not understand the question, say so.
5. Think before you answer.
6. Estimate dates, times, distances, amounts, etc.
7. Do not ask for help in answering a question.
8. Testify only from your own personal knowledge.
9. Do not joke.
10. Do not try to outguess the attorney.
11. Do not argue with the attorney or lose your temper.
12. Do not assume.
13. If your attorney objects, do not answer; listen to the objection; and then answer if so instructed.
14. Admissions of having talked with your attorney prior to a deposition are normal.
15. Do not drop your guard; opposing counsel is your legal enemy.

16. Do not refer to notes or documents until you show the documents to your attorney.
17. Speak slowly and clearly.
18. Do not answer a question before opposing counsel finishes asking it.
19. Just answer the question. Overcome the urge to explain or justify your actions in response to allusions of wrongdoing on your part.
20. Be sure you hear the question. If the lawyer drops his voice, or there is a disturbance and you miss a word or two, have the question repeated.
21. Understand the question before you attempt to give an answer. You can't possibly give a truthful and accurate answer unless you understand the question. If you don't understand, ask the lawyer to repeat it. Keep a sharp lookout for questions with a double meaning and questions that assume you have testified to a fact when you have not. Make sure the question is exact. If the opposing lawyer asks "What about the house?" ask him to explain what he means. If you are not certain about the meaning of a word, do not be embarrassed, say so. The lawyer could be showing off. Make him explain. If you don't understand, don't help the questioner by saying only that you don't understand.
22. Don't worry about silence. The other lawyer may be thinking of the next question. Don't be tempted to fill the silence with words. Keep quiet and wait.
23. Repetitious questions. You may hear the same question more than once. If your original answer was accurate, stick to it. Even if you are challenged, stick to it. Don't let the other lawyer shake you.
24. Beware of compound questions that ask two questions in one. Have the questions repeated - one at a time.
25. Never attempt to explain or justify your answer. You are there to give the facts as you know them. You are not supposed to apologize or attempt to justify those facts, and any attempt to do so would make it appear as if you doubt the accurateness or authenticity of your own testimony.
26. You are only to give the information that you have readily available. If you don't know certain information, don't turn to your counsel and ask for the information, and don't turn to another witness, if one should be present, and ask for the information. Don't promise to get information that you do not have readily at hand unless your attorney advises you to. If you know an answer to a question at the time that it is being asked, answer it. Don't agree to look up anything in the future and then supplement the answer you are giving unless your counsel advises you to do so.
27. Do not, without your counsel's request, reach in your pocket for a social security card or

other documents. A discovery deposition is to elicit facts that you know and have in your mind and not for the production of documents. If the opposing side is interested in obtaining documents from you, there are other legal procedures to obtain them. Don't ask your counsel to produce anything that is in his file at the time because generally the same rule applies to those items that applies to items that may be in your pocket.

28. After the deposition is over, don't chat with the opponents or their attorneys. Remember, the other attorney is your legal enemy. Don't let his friendly manner cause you to drop your guard and become chatty.