

What is a Deposition?



Depositions happen during the “discovery” phase of legal proceedings. A deposition is an oral statement made by a witness, under oath, before the trial.

The witness giving the deposition is asked questions and gives oral responses with the attorneys of all relevant parties present.



A close-up photograph of a person's hands writing on a white document with a black pen. The person is wearing a light blue shirt. The background is blurred. A black oval shape is overlaid on the left side of the image.

Why Are Depositions Used in Legal Proceedings?

The purpose of a deposition is to preserve and protect the statements made by a witness and to compile an overview of information that is relevant to the case. Depositions keep witnesses honest and ensure details get recorded when they're still fresh in a witness's mind.

Depositions are also used so all parties become aware of what a witness knows (or doesn't know) before the trial begins.



Does the Person Being Interviewed Also Have to Testify During the Trial?

Sometimes a witness will not be asked to testify after giving a deposition, especially if the prosecution or defense determines their testimony is not helpful to the case.



How Are Depositions Recorded?

- The deposition is recorded word-for-word by a court reporter
- Depositions may also be video taped

Transcripts made by the court reporter are then available to all parties involved in the case. There are criminal and civil penalties if any statements made are untrue or discovered to be untrue at a later time.



How Are Depositions Different from Testimony on the Stand During Trial?

- Depositions are not made in court, but more typically in a lawyer's office
- The judge is not usually present (there are exceptions)
- Questions can be broader than the line of questioning in trials



How Depositions Start

Many of the **preliminary questions** you will be asked when giving a deposition are about the deposition itself and the process.

They are used to make the witness feel at ease, establish the procedure and keep the witness honest at trial.

Example Questions: You understand that you are under oath?
Have you ever given a deposition in the past?



Basic Background Questions

You will also be asked basic questions about your background information, such as your:

- Name
- Age
- Date of birth
- Known aliases, previously used names or nicknames
- Occupation

A person wearing a blue suit jacket and dark pants is walking, carrying a brown leather briefcase. The image is split vertically, with the left side showing the person and the right side being a solid yellow background with text.

Questions to Establish Who You Are and Your Credibility

In addition to basic background information, some of the questions may be a little more prying. Some of the questions that come up could be used to develop strategies for the trial:

- Marital status
- Spouse or partner's occupation
- Education
- Whether you have children
- Employment history
- Legal history
- Deposition preparation

The opposing attorney can ask questions regarding how you and your attorney prepared for the deposition, including who you may have spoken to about the case outside of counsel.



Your Side of Events in Your Injury Case

Once the basics have been established, the last phase of questioning are specific to your case.

The deposing attorney will ask you a series of questions, which you must answer unless for whatever reason you are eligible to use your Fifth Amendment right. (If your answer could implicate you in illegal activity and you plead the Fifth, you will not be able to testify on those matters at trial.)

Your attorney should have an idea ahead of time of what these questions may be and prepare you for these questions.

The length and extent of these questions varies on a case by case basis, depending on the witness's involvement.