

Most Popular Ways to Start a Remote Deposition

Do you have questions about the effectiveness of remote depositions?

Here are a few ways that attorneys are changing their approach to alleviate the concern of: witness coaching or external communication • presenting exhibits • acknowledging remote technology

Best Practices and Acknowledging Remote Technology

Acknowledging Remote Technology

1 Q. I want to confirm that we're taking
2 your deposition today remotely due to the
3 COVID-19 national emergency in order to
4 maintain social distancing. Is that also your
5 understanding?

6 A. Yes.

7 Q. Before I go any further, I want to make
8 sure -- are you comfortable with the way
9 we're proceeding with the deposition today?

10 A. Yes.

11 Q. Great. And can you hear me okay?

13 A. Yes.

14 Q. If at any point during the deposition
15 you have any trouble hearing me or anyone
16 else -- if we're breaking up or there are any
17 other technological problems, can we count
18 on you to let us know and we will address
19 that problem before we continue with
20 questioning?

21 A. Yes.

22 Q. I want to make sure that whatever
23 answer you provide to us today is an
24 answer to a question that you fully heard
25 and understood.

Setting Ground Rules

7 Q. Let me give you a few ground rules
8 -- and it's all a little different by the fact that
9 we're attending this deposition through
10 the web -- and there may be some lag in
11 the internet and so we'll just have to work
12 with each other try to get through the
13 deposition as smoothly as we can. I'm
14 going to ask you questions and if you'll do
15 your best to wait until I'm done asking the
16 question before you begin answering and I
17 will do my best to wait until you're done
18 answering the question before I ask my
19 next question. That way the court reporter
20 can take down a clear and accurate record
21 of what everyone says. Is that fair?

22 A. Yes.

Acknowledging Remote Court Reporter

1 Q. They are not in the room with you,
2 but there's a court reporter taking down
3 everything being said during the deposition.
4 There's also a videographer who is filming
5 your testimony here today. If at any time I
6 ask a question and you don't understand it,
7 will you agree that you will ask me to clarify
8 it in a way that you can respond to it?

9 A. Yes.

Exhibit Presentation

8 Q. I don't know if you've ever done a
9 deposition virtually, I've done a few this way,
10 and it's fairly similar to when we do it in
11 person. The biggest difference is I will be
12 showing you documents on the screen. There
13 could be a few hiccups providing you with
14 documents to look at, so if at any point you
15 cannot properly see a document, just let me
16 know and I will make adjustments so that you
17 can. I want to make sure you can see what
18 you need to see to answer my questions.
19 Okay?
20 A. Yes.
21 Q. If you don't say that you're having some
22 kind of
23 technical difficulty, we're just going to assume
24 that everything is working on your end. Okay?

11 Q. Can you see on the screen that there
12 is the first exhibit to your deposition today,
13 a document up on your screen?
14 A. Yes, I can.
15 Q. And do you see that it says Exhibit 1?
16 A. Yes, it does.
17 Q. And we'll be going through some
18 documents on your screen, and at certain
19 points if I'm asking you about a section of
20 the document and you can't see it or you
21 need me to move it, please just let me
22 know. I want to make sure you can see
23 what you need to see to answer my
24 questions. Okay?

Witness Coaching and External Communication

Physically Alone in a Room

15 Q. Where are you attending this
16 deposition from –in your home or your
17 office?
17 A. In my home.
18 Q. Is there anyone with you in the room?
19 A. No
20 Q. Thank you. I want you to know, I do
21 believe you are alone, but just so I can get a
22 sense of where you are, is it possible for you
23 to turn your computer a little bit?

Use of Cell Phone While on the Record

5 Q. In connection with the deposition
6 today, do you have a cell phone on your
7 possession with you in the room?
8 A. Yes. It's on my desk.
9 Q. Will you agree with me that during the
10 course of the deposition, other than on a
11 break, you won't communicate with anyone
12 by text or instant messaging on your phone?
13 A. Yes.

Attending Deposition on iPad

12 Q. I understand that you're appearing
13 today via your iPad; is that correct?
14 A. Yes.
15 Q. Would you agree not to send or
16 receive any electronic messages on that
17 iPad or any other electronic device during
18 the course of this deposition today?
19 A. Yes.
20 Q. You absolutely are allowed to have
21 communications with your attorney when
22 we're not on the record. Is that understood?
23 A. Yes.