



Representing your Company at a Deposition

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Deposition Experience?

- Have you been deposed?
- Thought you might be deposed, but got out of it?
- Dreading the day you do get deposed?



DEPOSITION BASICS



What is a Deposition?

- Outside the courtroom
- Answering attorney's questions
- Under oath
- Discovery phase
- Attorney collects information – prepares case
- Testimony may be used at trial



Who gets deposed?

- Employees with knowledge of the case
- Employees with knowledge of a company's policies / procedures relevant to the case
- Not necessary to be a party to the action
- Types of witnesses:
 - 30(b)(6) – company representative
 - Fact witness – specific knowledge of case



How long?

- Typically, no more than 8 hours for fact witnesses
 - 30(b)(6) depositions may include multiple witnesses over a period of several days
- As short as 30 minutes



People Present at Deposition

- Deponent
- Attorneys
- Court reporter
- Videographer



Company's Goals

- Accurate, truthful responses
- Not more info than asked for
 - Be cooperative but not generous with information
 - A deposition is *not* a conversation



Depositions are important!

- Win (or lose) case without a trial
- Can be used against you and other company witnesses
- Important for settlement
- YOU are the FACE OF THE COMPANY
- You are being evaluated on more than your testimony alone



Videotaped Depositions

- When videotaped - when not videotaped
- What to wear?
 - Professional
 - Confident
 - Be careful with
 - Controversial clothing
 - Colors that are too dark or too light



FACTS OF OUR CASE



Facts of Our Case

- Widow Wanda took out policy with ABC Insurance in January 2001 at age 68
- ABC requested medical records
- Mayberry Internal Medicine
 - Wanda saw 8 physicians over the years
- Andy Agent assisted Wanda with filling out application



Facts of Our Case

- Ursula Underwriter examined Wanda's application
 - 1,292 pages of medical records
- Ursula recommended policy be issued
- ABC issued policy in 2001



Facts of Our Case

- February 2002:
 - Wanda makes claim
 - Moderate Alzheimer's Disease
 - Wanda needs to live in assisted living



Facts of Our Case

- Carl Claims reviewed Wanda's file
- Found early signs of Alzheimer's in 1999 and 2000
- Wanda answered [memory loss questions] "no"
- Determined that policy should have never been issued



Facts of Our Case

- ABC denied claim and offered to refund premiums
- Wanda brought claim against ABC for bad faith



DEPOSITION OF URSULA UNDERWRITER



Lessons from Ursula Underwriter

- No apologies necessary
- No voluntary explanations necessary
- Answer only questions asked
- Testify only from personal knowledge
- Don't be insensitive



DEPOSITION OF CARL CLAIMS



Lessons from Carl Claims

- Avoid making conclusions
 - Ex: Wanda was clearly lying
- Don't try to be too helpful
 - Nice person does not mean good witness
- Avoid talking too much
- Avoid sarcasm and jokes



DEPOSITION OF ANDY AGENT



Lessons from Andy Agent

- Intangibles are just as important as your knowledge
- Will the jury believe him?
- You are talking to the jury, not the attorney
- “I don’t recall”
 - Okay when you really don’t recall
 - Not okay if you are just avoiding the question



THANK YOU!