

# **5. Client Preparation for Deposition & Trial Testimony**

# **“Client Preparation for Deposition & Trial Testimony (*The Keenan Firm’s Method of Client Preparation*)”**

## **WELCOME TO THE REVOLUTION**

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Your client, too, has a Reptile within. So client preparation is a Reptilian issue. This is because for your client, giving a deposition is a once-in-a-lifetime, public, and demanding high-stakes performance controlled by a powerful interrogator trying to do as much harm as possible.

To your client, there’s something even worse than the possibility of his testimony hurting the case: No matter how sophisticated, your client’s immediate terror while testifying will be the fear of looking bad. Humiliation is among the greatest of Reptilian fears.

So during testimony, the Reptile’s primary motivation will be to find the fastest way out of the fearsome situation, no matter what harm it might do to the case. That can easily mean your client will give answers the opposition lawyer wants – just to be left alone. To avoid humiliation and other deposition terrors, your client will admit to starting the Chicago fire, creating the economic melt-down, and shooting Bambi’s mom.

### **Keenan’s Method**

Until now this method has been proprietary, but Don feels it is too much of a Reptilian asset to omit from this book.

To use this method, shed the skin of legal counsel and replace it with the skin of psychological counsel. (Be honest with yourself about whether you are the best lawyer in your firm to do this.)

To move into the skin of psychological counsel, start by understanding that the strict question-answer format of deposition, as familiar as it is to you, is strange to your client: awkward at best, most often frightening. So your primary job is to reduce fear.

A client preparation of just ten or 15 minutes telling your client to listen to the question, tell the truth, not to volunteer anything, and “don’t screw up or you’ll lose the case for us!!” is torture, not preparation. And it is irresponsible. Preparation takes

several days – even with a smart or experienced or educated or adept client. Every client has major Reptilian issues to deal with in being deposed, and even more in testifying in front of a jury. Even if he has testified many times before, his terror from the first time has likely hardened into a number of terror-covering bad habits that will hurt his testimony. In fact, it can be harder to prepare clients who feel they are already experienced.

It can also be difficult to get some clients to agree to take the time to prepare with you. Explain that no matter what he has done before, no matter how confident he is, the client preparation process is important for you, not just him. It is the only way you can learn how to work with him in deposition and later in trial. (Do not say, “If you don’t come we’re screwed!” You want to diminish pressure, not create it.)

### **DAY ONE**

Start by telling your client that if he doesn’t feel ready by the morning of the deposition, you will postpone it – no regrets, no apologies. In this and every other way, get the pressure off and keep it off.

Phase One. Do nothing but ask questions. Do not tell your client anything. Just ask open-ended, non-leading questions to get at three things:

A. Your client’s preconceptions of what will happen in deposition.

Tell me what you think happens in a deposition?

Thoroughly follow up:

“Tell me about that.”

“Tell me more about that.”

“Tell me more about that.”

“What else do you think might happen in a deposition?”

When this topic is exhausted, withhold feedback. You will find it hard to resist jumping in with advice, but resisting is mandatory.

B. Your client’s fears about what will happen in deposition. Continue asking open-ended, non-leading questions, this time to get at what your client is afraid of. This treads on Reptilian territory. Clients don’t easily reveal their fears, so this takes time. Shortcut it at your peril.

“Of the things we’ve talked about, which ones cause you some concern?”

Do not ask, “What are you most scared of?” Don’t use the word “fear.” “What concerns you” gets at the same thing, if you follow up carefully.

“Tell me about that.”

“Let’s try to get closer to that.”

“Can you say that another way?”

“I get it. Tell me what makes that a concern.”

And when following up what he says, don’t ask “why.” “Why” makes a responder analyze rather than think deeper.

When he seems to have told you all his fears, ask him about other “concerns” he might have: will they like him? Will they think he looks funny? And any other concerns you think he might have that have not come up.

Do this carefully so you don’t create new fears. Instead of, “I bet you are secretly worried about the size of your ears!” say, “Sometimes folks are concerned about how they’ll look, even when there’s no reason to. Talk to me about that.” Don’t ask him to confirm or deny the concern; just ask him to talk about it.

Most importantly: Do not jump the gun. At this point it is still too early for you to explain anything about content, wording, presentation “style” or anything else, no matter how important. That comes later. When you say at this point, “Wait! I want to make sure you don’t go on with that misconception,” you’ll feel good because you’ll think you’ve said something useful. But you’ll derail the primary process – the psychologist’s process.

Do not rush this. Take frequent breaks. Schedule a relaxed lunch, not necessarily with each other. Give the client time alone, people often think of new fears and misconceptions in the bathroom.

During the session, take no notes. Have someone else take bullet-point notes of the client’s misconceptions and fears. You just ask the questions and listen. People are less forthcoming when the questioner is writing down their answers. People also notice what you do and do not write down, and that can drastically affect what they choose to tell you.

### **Dealing with the fears and preconceptions.**

Once you have gathered every possible bit of information about the client's fears and misconceptions, you should comfortingly assure him that you understand all he's told you, and that you understand how he feels. Reassure him that he'll see that all his preconceptions and fears are unfounded.

Many fears will be deep and firmly held, so you can't just say, "Oh, don't worry about it; you'll be fine." That makes things worse. And throughout this first phase, do not make him feel silly for having any such fears. The only way to help someone through his fears is to respect those fears.

Never wait until deposition is imminent to remove fears. By then, the cumulative worry can be ineradicable.

After you've gathered all the fears, address them. For example, most clients fear that the defense lawyer will not let them fully answer questions, that answers must be 'yes' or 'no.' So explain, "You will always be able to provide a full answer." Later in the process (see below), when you are giving him practice, give him experience doing just that.

Many clients fear that the defense lawyer will cut them off and put words in their mouth. Dispel this by explaining that you will be there to stop anything like that from happening. Explain how you will do that.

Virtually every client is afraid he won't remember all the facts, or that he'll get a date wrong. Explain, "If you'd feel better bringing a fact sheet to the deposition, no problem." And explain that no one expects him to have a photographic memory of every detail – in fact, that would make him less believable. The deposition is not a memory test. This gives the client permission to be okay with not remembering all the details. Point out that, "The defense attorney herself will be looking at notes, so you can too, if you want."

However, do not position yourself as your client's sole protector. You want to transform the client into being confident that he will be able to protect himself. Explain that this transformation will happen in the next phase of preparation: the Major Truths phase. The Major Truths will arm your client to protect himself from all his fears.

Development of the Major Truths is where the preparation process becomes Reptilian by replacing fear with the comfort that derives from confidence.

C. Your client's feelings of guilt. Embedded deep within virtually everyone who has been badly hurt will be some strong, Reptilian-level guilt. Plaintiffs feel – usually absurdly – that they should have done something different to avoid what happened. This guilt is real. It can get stronger as time goes on. It almost never diminishes on its own. And whether or not the guilt is justified or logical, it can kill your case.

This kind of guilt is one way the Reptile tries to prevent similar harm in the future. The plaintiff will secretly think, “I should have reacted faster,” or, “I should have asked the doctor more questions,” or, “I should have bought a different brand of lawn mower,” etc. – all meaning the same thing: “I should have done this or that differently, I could have prevented it. And if there's ever a next time, I will.”

This guilt, misplaced or not, is etched into the Reptilian part of the brain. It is so strong that most people who have been badly injured make bad plaintiff's jurors. They usually feel that the plaintiff could have taken those same kinds of “safer” measures.

Do not minimize this problem. Defense attorneys know all about these secret guilts. They probe for them. So if you do not take care of them in advance, the defense will find them in deposition and highlight them in trial. Result: jurors think your client was to blame.

To deal with this, during preparation get your client to pour it all out. You cannot do this as a lawyer expecting quick answers to questions such as, “So Jack, deep down inside, what're you feeling guilty about, eh?”

Instead, explain how normal it is for injured people or wrongful death survivors to develop thoughts about what they did wrong, even when all the fault was someone else's. This is natural and everyone does it. You yourself may have done it; tell the story. And ask the client about the ways in which he has done it.

Explain that when a loved one dies – even from a disease or pure accident, much less someone else's negligence – it is natural for us all to “know” things we should have done. “I should've worked harder to make him quit smoking,” or “If only I'd taken the trouble to be there,” etc. Explain that when a person is hurt, even when it's 0% his own

fault, the brain is hard-wired to make him think he should have done something differently. No one can avoid or block that kind of thought.

Do not argue with or deride any feelings of guilt. The instant you feel moved to “correct” a feeling of guilt, keep your mouth shut! Don’t even hint – verbally or visually – that you think “oh, don’t worry about that.” If you do, you will keep other feelings of guilt from coming out, and stop the preparation process dead in its tracks. Just validate the fact that he has those feelings. This lets him pour them all out. And you will hear things you never imagined.

Once you get it started, it flows like a river. To keep it flowing, everything you say and do should be intended solely to keep him talking. Examples:

Nod. News reporters know that nodding keeps a person talking. Nodding says that you honestly want more, that what the person is saying is important, and that you need more of it. (But be careful. There are two kinds of nod – the short, quick, sharp nod that says “okay, that’s all I need – shut up now”; or the slow, contemplative nod that says, “more, please.”)

Whenever the client stops talking, show that you have been listening carefully by repeating the last thing he said, and looking to him to say more. He will feel that his words are important and that you have opened the door to more.

### **Silence.**

Apparently, almost everyone who went to law school is terrified of silence, so they rarely allow any. Whenever anyone stops talking (and even before), the lawyer leaps in with something to say. Stop doing this in real life – and don’t do it in this preparation session. Just sit and wait while your client thinks and feels his way through to the next thing he has to say. Your silence tells him he’s the speaker here, that his words are the important ones, that this session is about him, not you.

When your client stops talking and looks down, he’s subconsciously telling you he wants to stop. You will feel a desperate urge to ask another question or make a comment. Don’t. The only response to the bowed head is your silence. Eventually he will raise his head, see you listening, and go on with what he has to say. With many clients this will happen a number of times. If you stay silent, he will sit there, dig deeper, and give you more.

During this part of the preparation process, you will touch strong feelings – which usually the client has never before spoken aloud. The raw emotions will flow – exactly as you want them to. Don't stop them. Don't make light of them. And while it may be a little cruel, don't even have a tissue in the room to hand the crying client. Don't let anyone go get one. Handing the client a tissue gives him the opportunity to gather himself, regroup, and pull back his emotions – right when that's the last thing you want.

Once it's all out, you have Reptilian guilt on the table. As with your client's fears and misperceptions of what will happen in deposition or testimony, those feelings of guilt will soon be supplanted by the truth of the case. This happens because Phase Two of the preparation process is, as you will see, so basic, emotional, and gut-level, and gets to the case truths in so fundamental a way, that your client will be left with no guilt.

In fact, even if the case were to end right at that point, you will have done a great service. To be able to relieve a person's guilt and mental suffering over a death or catastrophic injury is life-changing. So by removing the guilt, as you will do in Phase Two of preparation, you will have passed a milestone not only in the life of the case but in the life of your client.

Phase Two: establish the Major Truths. You will find yourself wanting to short cut this section and save some time. If you do that, the preparation will fail.

A "Major Truth" is the client's side of each of five to seven points the defense will try to establish in deposition. You do not give the client his Major Truths. You get him to develop them himself, in his own words, not yours. This usually takes the second part of day one.

Limit the number of Major Truths: five to seven. The most complex cases need seven. Fewer is better. Too many means your client can't juggle them all.

To develop the Major Truths, you need to know the five to seven major points the defense will try to establish. They will provide the impetus for each Major Truth.

For example: Your client's deceased husband had owned a business and was skimming the books until he died. Defense claim: His wife (your client) participated in the skimming. But in fact, she knew nothing about the skimming. So her Major Truth would be, "I was a housewife, I took care of the home, he took care of the business." If

you let her develop that Major Truth (as explained below) instead of handing it to her, it will be solidly hers.

As a result, your client will not have a random, scattered bunch of stuff in her head, and she will not be vulnerable to the defense. She will use each Major Truth as a funnel for all her supporting evidence about that truth. She will be comfortably certain that each Major Truth is true, and she will be confident giving the evidence that supports it.

The method by which you develop each Major Truth is crucial – and easy. Ask your client “Devil’s Advocate” questions. For example: “You were up to your eyeballs, weren’t you, in your husband’s business, and you helped skim, you knew everything?”

This will provoke her into shooting back a Major Truth in her own words: “No! I was a housewife and I ran the home. He was a businessman and he ran the business.” She’ll go on to tell you the facts that support her Major Truth: 1) We had a rule that he would not discuss business at home. 2) I had no access to the books; they were in the office. I never went there. 3) Unlike our clothing store years ago, I had no role in this business. 4) I didn’t even know where to find the books.

In other words, in response to your Devil’s Advocate accusatory question, she will do the work herself: she’ll tell you the Major Truth, and she’ll connect the appropriate evidence to the Major Truth. All you have to do is hurl the accusation that will provoke her into coming back at you with the Major Truth.

Let’s say your client is a recent immigrant. The defense may try to show he’s a freeloader. So hurl a Devil’s Advocate question: “You left your own country to come here and freeload?” Your client won’t need prompting to shoot back with a Major Truth “I’m a proud American and worked hard to get here.” Then he’ll launch into the facts: 1) I learned the language. 2) I never took a nickel of government benefits. 3) I live in a diverse neighborhood. 4) I’m working a lower-paying job than I had in my country. 5) I’m sacrificing to be here for my children. He’ll do that on his own or with minimal prodding. The Devil’s Advocate question provokes him into it.

As your client develops each Major Truth, help her keep it brief and in simple wording. Don’t do this for her. To make the Major Truth her own, the words have to be

her own. Then have her write each Major Truth in her own handwriting. No computer. Handwriting.

Then ask:

“Is this true?”

“Is it your truth? “

“Are you absolutely 100 percent sure?”

This cements the Major Truth in place, making it part of your client. So by the end of the first day of preparation, your client will have her own Major Truths in her own handwriting. That’s a good day’s work. And you are well en route to keeping the Reptile from panicking and ruining the deposition.

At this point, you may be thinking: “I’m a lawyer! I don’t have time for all this stuff!” Sorry, but if you don’t have time for this, you should not have taken the case. Or you may be thinking, “I’m not comfortable doing this kind of stuff.” That leaves you two alternatives: find someone who is to do it for you, or decide for yourself that no one promised “comfortable,” and get on with it.

Once your client has developed her Major Truths, explain that they will encompass 100 percent of her important testimony. Explain that they will be her truths, because they are her story, what happened to her. Nothing else will matter. Explain that throughout deposition and trial testimony, she will be able to establish her Major Truths time and again – and that this will make her absolutely successful.

As a result, she will not be using you for protection. She will use her own Major Truths. There is something magical about the word “truth” which clients cling to. Tell your client that her Major Truths are her safety net, so if she gets a question she doesn’t know how to answer, she can just go back to her Major Truths and one of them will save her. She’ll see this happen later in the preparation process.

Many clients will be afraid of repeating and re-repeating their Major Truths in testimony. Explain that if the defense lawyer asks the same question over and over, there is nothing wrong with responding with a Major Truth over and over. “You can sound like a repeating parrot as long as the parrot is repeating a Major Truth.” Explain that the defense often asks the same question five or six times to get a different answer – but that getting back a Major Truth foils them every time. Clients in depositions have repeated

the same Major Truth a dozen times to a dozen questions in the face of a frustrated defense lawyer – until the defense lawyer has to give up.

The bullet proof vest of the Major Truths derives from three things:

- 1) Making the client develop the Major Truths on her own and as her own instead of getting them from the lawyer.
- 2) Collectively, the Major Truths answer every important defense point.
- 3) Repetition, repetition, repetition. Once the client is fully prepared on the Major Truths, run a multitude of drills. “Tell me what Major Truth No. 6 is.” “What’s Major Truth No. 2?” Do it backwards, forwards, and upside down – until the client knows her Major Truths in her sleep.

## **DAY TWO**

Keep a flip chart listing the client’s Major Truths in sight all day.

Phase Three: Begin with a mild direct exam. This will get the client comfortable with a question-answer format.

Do not break out of the format to discuss an answer or to instruct. If you want more information than an answer provides, ask the question that will elicit it. Try not to lead too much. Keep things relaxed. And don’t rush. This is the non-threatening part of the process, during which your client’s answers, stemming from his Major Truths, become part of him not merely intellectually but viscerally.

This part of the process should take anywhere from a half to a full day. You are allowing the client to train himself. You are allowing the Reptile to relax about the “dangers” of deposition or trial testimony. The client is layering in all the information. He is becoming experienced in turning the information into words, and in using his Major Truths as his bases for answers.

As the day goes on, your client will come to see that his Major Truths are his protection – his foolproof safety-net under the high wire. Lead him to see – by your direct questioning – that no matter what happens, the right answer is always within one of his Major Truths. And when the deposing lawyer attacks a Major Truth, the truth will provide total protection. This is why you spent all that time getting your client to develop it.

Phase Four: By late the second day or at the start of the third day, explain to your client that he will now begin answering the kinds of cross-exam questions the defense will ask: threatening questions, leading questions, unexpected questions, intimidating questions, trick questions, hostile or disbelieving implications, nasty tone, sarcasm, etc. If possible, do not do the cross yourself. No matter how often you tell a client it's "just practice," for the client it is real enough. And good cross-exam is wounding. So doing the cross yourself can create a permanent, even Reptilian rift between you and your client.

Continue the cross-exam until you see that the client can use his Major Truths even under heavy interrogation. With the Major Truths always in sight, your client discovers he can easily return to them, and that they are unassailable.

### **Examples.**

Follow these examples through to familiarize yourself with the concept of Major Truths and how they relate to the facts. Remember that it is your job to provide all of the important defense points and craft each into a provoking Devil's Advocate accusation.

Medical negligence wrongful death of a Jehovah's Witness who had been in a car wreck. Defense point one: No matter what the doctor could have done, the injuries from the wreck were so bad that the man would have died anyway. Defense point two: As a Jehovah's Witness, the man refused blood products and thus prevented the doctor from providing proper care.

The Devil's Advocate claim for point one: "The wreck would have killed him anyway!" That provokes your client into saying, "The auto wreck did not kill my husband," a Major Truth. And she'll give supporting facts such as these:

- 1) I was in the car with him and I received only superficial injuries.
- 2) He was stable when they got him to the hospital.
- 3) The doctors never told me or my family that my husband was in critical condition.

The Devil's Advocate claim for defense point two is, "Your husband kept the doctors from doing their job by his refusal of blood products because he was a Jehovah's Witness." That will provoke a Major Truth: "Being a Jehovah's Witness did not kill my husband." And there will be supporting facts:

- 1) He did not die from lack of blood products. He died because the doctors pulled his breathing tube and didn't do anything about his inability to breathe.
- 2) A Jehovah's Witness representative was right there to advise about the blood substitute to be used if the doctors thought blood was necessary. They did not.
- 3) The doctors never told us that this hospital actually distributes that blood substitute to other hospitals.

**Plaintiff did his job.**

In many cases, especially medical negligence cases, you must establish that unlike the defendant, the patient did his job. Devil's Advocate claim: "You didn't do your part of the job!" That will provoke this kind of response: "Yes we did, we did do our job." So the Major Truth is "We did our job." It will have supporting facts like these:

- 1) We went to all of the scheduled doctor visits.
- 2) I ate a proper diet.
- 3) I got the proper amount of sleep.
- 4) We even asked for and paid for an extra ultrasound.
- 5) We asked all the right questions.
- 6) We read all the books and handouts.
- 7) We took all the Lamaze classes.

**They did not tell us.**

Often, defense blame of a failure on the part of the plaintiff can be overcome by showing that the defendant did not provide necessary information. The Major Truth becomes, "They did not tell us what we needed to know." Continuing the obstetrics example, the supporting facts might be:

- 1) They never told us about the difference in due dates.
- 2) They never explained the importance of maternal temperature on admission to the hospital.
- 3) When the nurses rushed to put me onto my knees and gave me oxygen, no one told me why.
- 4) They never told us that there were things we needed to know that we did not know.

### **Preexisting problems.**

In every kind of case, a common damages defense is that preexisting problems, not the defendant, caused the plaintiff's current harm. Devil's Advocate claim: "You've always had bulging disks in your back!" The plaintiff's Major Truth: "I could always function, work, play, and be a mother and homemaker until X." Here are some supporting facts:

- 1) I always worked eight to ten hours daily and never missed a day.
- 2) I always was able to do everything I had to in order to cook all the meals, do all the laundry, take care of the kids – all with no problems.
- 3) I tossed the football with my son, played soccer with my daughter, and did the yard work, all with no problems.
- 4) Until X happened, I could do anything I wanted to do.

### **Complex cases.**

Let's look at a complex securities legal malpractice case. A number of affluent people were solicited to invest millions in the Chicago Board of Exchange. The soliciting representative placed their funds with a broker-dealer in Chicago. Ultimately the broker-dealer stole the money. He went to prison and became bankrupt. The clients sued the securities lawyer who drafted the original funding documents. The documents had made it possible for the broker-dealer to steal the money by commingling it with his own account, instead of keeping it separate.

Obviously, this case can be dangerously confusing. For jurors, the easy way out of the confusion – and thus the one they would most likely take – would be to decide that the imprisoned broker-dealer was the problem, and not worry about all the difficult complexities involving the securities lawyer.

To deal with this, the clients developed seven Major Truths.

- 1) "The lawyer's number one job was to protect my money."
- 2) "The biggest risk was my money in a commingled account and the lawyer never told us about that." (A securities lawyer is required to explain all the risks.)
- 3) The third Major Truth was necessary because focus groups showed that people thought the Chicago Board of Exchange to be a risky form of investment. But the actual investments with the clients' money did well, so the third Major Truth was "My money

was not lost because of a risky investment, but because the lawyer did not do his job to protect my money.”

There were four other Major Truths. Each, as did the first three, helped penetrate the defense thicket, thus simplifying and clarifying the securities lawyer’s role. They also provided each of the clients with a secure, comfortable, and simple way to own their own evidence. There was no way a defense attorney would be able to rattle the clients’ Reptiles into a “let’s get out of here” mode.

Result: The depositions of each of the many Plaintiffs lasted more than six hours, and were filled with detailed defense questions. The clients’ testimony continually returned to one of the seven Major Truths. So the defense was faced with a brick wall and scored no points.

### **The Importance of Trust.**

In many cases, you face a two-edged sword: the negligence was outrageous. But to many jurors, outrageous negligence raises the question of “Why did the plaintiff trust anyone like that?”

This can happen in any kind of case: “I’d have known better than to trust a corporation in business to make money,” or “I’d have gotten a second medical opinion,” or “I’d never have gone back to a doctor like that,” etc. Even with no comparative negligence issue, this can fractionalize the dollar verdict and even result in a no-liability verdict.

The Major Truth for that problem is “I trusted ...” “We trusted the hotel to keep us safe.” “I trusted the hospital to keep me safe.” “I trusted the manufacturer to make a safe product.” Through this funnel the client can easily provide the supporting evidence that explains the grounds for the trust.

It is sometimes difficult to get at the “I trusted” Major Truth, because in retrospect the client feels stupid or guilty about having trusted. So you must help the client go back in time and see each reason she had for trusting. For example, the Major Truth “I trusted the doctor” is supported by such facts as:

- 1) He had all his diplomas on the wall.
- 2) He was on the hospital staff.
- 3) A friend of mine recommended him.

- 4) He was kind to me.
- 5) He seemed to be paying attention.

As the juror hears each of these and other supporting facts, he asks himself if he would have trusted based on those facts. So the more supporting facts, the more likely the juror will be convinced that he himself would have trusted. This means you have achieved a goal we have been teaching for many years: get the juror to see things through your client's eyes. This does not violate the Golden Rule. Instead, it does what you are required to do: provide evidence that leads the juror to see that your client acted 100% reasonably – instead of dangerously. This is a powerful Reptilian imperative.

The question of why the plaintiff trusted the defendant can arise even when you do not expect it. Focus groups will help you spot it. So will careful analysis of the case through defense lenses. Don't miss it. Jurors are often eager to fault your client.

Remember:

- 1) The Major Truths must come from your client, not you. You provoke the Major Truths (instead of providing them) by playing Devil's Advocate. This creates ownership, and ownership creates confidence and credibility.
- 2) Up until the deposition or trial testimony, you want repetition, repetition, repetition! The client must be able to repeat her Major Truths and the supporting facts in her sleep.

By deposition day, you want your client to deeply believe she's ready – that no one can rock her boat, that she will prevail, that she will come across well. The deposing lawyer may be a professional, but your client must (and will) feel that truth trumps professional.

Remind your client that at the start you promised you'd postpone the deposition if she wasn't ready. When she says she's ready, tell her, "I know you are and I'm proud of you." The client's chest rises, her head becomes erect, and she walks in to the deposition completely confident. Even eager. And no fear!

You'll know you've succeeded when you listen to the deposition – and when, afterwards, your client tells you that the preparation was far worse than the actual deposition.