

DEPOSITIONS

by: Mary Ann Ridenour



It may have been Bon Jovi guitarist, Richie Sambora, being interviewed by Howard Stern where the thought first struck a chord. Even as the lead guitarist in one of the world's most successful bands, he still takes guitar lessons. (I think it was Richie who said that.) How could someone so successful still need lessons on the basics? He probably doesn't "need" lessons, but he must realize the importance of continuously firming up the second-nature foundation of his skills.

Taking depositions is second nature to you, but you may benefit from a few lessons. The nerve of a court reporter telling an attorney how to conduct depositions! But, hey, we do have a front-row seat. And years of experience has taught us a few things about practices that result in the best transcript.

1. **The rules of a deposition.** Instructing a witness of the rules is so rote, you could probably do it in your sleep, right? That's the problem. Because it's so automatic, there are pitfalls. If you shoot out of the gate and rattle off the rules at lightning speed, the witness tends to interrupt with "okay" or "uh-huh," or asks for clarification. The result is choppy pages at the outset.
2. **Terminology/names.** If you know in advance there will be an unusual name or term that may be

difficult to pronounce, give it a practice run. Once you choose a pronunciation, commit to it. Stumbling and stammering through it will make a mess on paper. Take the word "umbilicus" as an example. Okay, it's not THAT unusual, but serves to make the point. You may say "um-BIL-i-cus" and the doctor you're deposing may say "um-bil-EYE-cus." They will both be spelled correctly in the transcript.

3. **More about pronunciation.** Limit the number of times you permit a witness to guess at the name of a prescription drug. Repeated jabs in the dark make for terrible reading, later. The same goes for repeated guesses on spellings. After one or two failed attempts, it's probably best to just let it go.
4. **Enough with the "okay," okay?** You probably don't even notice it. The constant "okay" or other verbal fillers by either you or your witness disrupts your flow. If you ask for their phone number, let them get it all out at once so it's easy to find in the transcript. You don't want to end up with this:

Q. Would you please state your phone number.

A. 843 --

Q. Okay.

A. 555 --

Q. Got it.

A. -- 1234.

5. **Interruptions.** Obviously, you don't want the Q&A to be cluttered with interruptions. But there are other times to be careful. If you can't locate a Bates number on a document counsel has just handed your witness, of course, ask. But once you've found it or been directed to it, and Q&A has resumed, you needn't continue on with how you were looking in the wrong spot, forgot your glasses, or there's a coffee stain covering the number on your copy. Just...shhh.

6. **If you're not the one questioning.** Don't overreact to the emails you're checking or the videos you're watching. If your phone rings, silence it. There's no need to go on about how you meant to shut it off when you came in, or to tell a funny courtroom story to the person sitting next to you, all while Q&A is continuing. You may think you're whispering; you're probably not. The same goes for cheering for yourself when your wadded-up lunch bag makes it into the trash can on your first shot. Congratulations. But it really should be a silent, personal victory.

7. **About whispering.** Whispering doesn't keep something off the record. If you want something on the record, say it. And say it clearly. If you don't want something on the record, simply keep it to yourself. (Note: Cupping your hand to your mouth does not keep something off the record.) That's not to say there can't be a bit of fun and light-hearted humor in depositions, but there is such a thing as too much.

8. **Help the witness.** For many of them, it's their first time in this setting. Remind them that letting you get the full question out is to their benefit. Also, don't let them "think out loud" or read to themselves. Prompt them that if what they have to say is important enough for the record, they need to say it clearly. If it's simply mental static, it's best to keep it quiet.

9. **Marking exhibits.** Don't make something simple difficult. The easiest thing to do is to let the court reporter mark the exhibits. That means - let them mark the exhibits! Don't push a piece of paper across the table and keep talking. Let the sticker hit the paper, then continue. By letting the reporter mark exhibits, you'll never have to worry about "What number are we on?" If you insist on marking them yourself, do yourself a favor and premark a few stickers so you don't lose track. Also, create a record for future reference. Say, I'm marking Exhibit Such-and-Such. If you just say, "Take a look at this exhibit," you'll never find what you're looking for in an index.

10. **The read for speed.** Just about everyone does it, attorneys and witnesses alike, and it's never a good idea. When reading from a document, speed is not your friend. It leads to mispronouncing words, omitting words, making two words into one: mumbo jumbo.

11. **The proper care and feeding of your court reporter.** It's pretty simple. If you're going all day, a couple of bathroom breaks would be great. If there's not going to be a lunch break, that's fine. We're used to that and are experienced enough to always have snacks in our bag. But we may need to extend a midday bathroom break by just a few minutes to slow time for refueling. Think of our job as playing classical piano without sheet music for hours on end. It looks like we're just sitting there, but it really is work.

We hope you've enjoyed this brief refresher on Depos 101. Sorry, we don't offer continuing education credits. But we do hope we've helped sharpen your depo-taking skills so you can watch your execution become nearly flawless and reap the benefits of easy-to-read transcripts. **Rock on.**



Mary Ann Ridenour, RPR, CVR-S, has been a freelance court reporter based in Charleston since 1991 and a firm owner since 1993. In 2018, she and long-time colleague and friend, Teri Sampson, RPR, joined forces to form their new firm, Magnolia Reporting.