

QUIZ: Your Deposition

1. It is a good idea to meet with your lawyer before the deposition to talk about the case and what to expect at the deposition.
 True False
2. Depositions aren't as important as trials.
 True False
3. A judge will be at the deposition to resolve disputes that may arise during the deposition.
 True False
4. The judge also will have you take an oath promising to tell the truth before you begin to answer questions.
 True False
5. You don't have to worry too much about how well you answer the questions; you'll be able to fix your answers later.
 True False
6. Your lawyer can advise you during the deposition.
 True False
7. Your lawyer may make objections during the deposition.
 True False
8. Your lawyer can instruct you not to answer a question.
 True False
9. You don't have to answer questions that seek confidential information.

_____ True _____ False

10. You don't have to tell the lawyer taking the deposition things you have told your lawyer or your lawyer has told you.

_____ True _____ False

11. You don't have to tell the lawyer taking the deposition about things your spouse has said or done.

_____ True _____ False

12. You can clarify your testimony while you are under oath.

_____ True _____ False

13. Your lawyer can make objections or other statements that suggest how you should answer.

_____ True _____ False

14. Your lawyer should prepare you to anticipate what kinds of questions will be asked.

_____ True _____ False

15. It's a good idea to provide the information the lawyer seems to want to know, even if he or she has not yet asked you a direct question.

_____ True _____ False

16. It never hurts to elaborate on your answer.

_____ True _____ False

17. It's a good idea to think about answers to difficult questions before the deposition.

_____ True _____ False

18. Before your deposition you should review the documents you have given to your lawyer and the documents your lawyer has obtained from your opponent and other sources.

_____ True _____ False

19. If you know about a document that the lawyer taking your deposition hasn't shown you, you should mention it.
- _____ True _____ False
20. You should reply promptly to the lawyer's questions.
- _____ True _____ False
21. If your lawyer objects, don't answer the question unless your lawyer tells you that you can answer.
- _____ True _____ False
22. If you don't understand a question, you should ask the lawyer to rephrase it.
- _____ True _____ False
23. If you don't remember something, you should just say so.
- _____ True _____ False
24. You should make a little joke from time to time to break up the tension.
- _____ True _____ False
25. You don't need to bother to read through the deposition transcript.
- _____ True _____ False

Answers

1. True.
2. False. Your deposition testimony may be the basis of a motion for summary judgment, in which a judge is asked to review the evidence and decide whether the case needs to go to trial. It is just as important as trial testimony.
3. False. The lawyers are responsible for conducting the deposition in a professional manner.
4. False. The court reporter will swear you in.

5. False. You should never be casual about how you answer a deposition question. You have the right to read through the deposition transcript later and make corrections, even corrections to the substance of your answer, but you must provide a written explanation why your original answer is not correct. The opposing party can object to your changes and may also take your deposition again.
6. False. You cannot ask your lawyer for advice before you answer a particular question.
7. True. However, in most situations you will still have to answer the question.
8. True. Your lawyer may do this when he or she has a serious disagreement with the lawyer taking the deposition about whether the lawyer is entitled to know the answer to the question. The most common situation is a question that requires you to divulge private or privileged information. Otherwise, lawyers can ask you pretty much whatever they want.
9. True. The lawyer taking the deposition should anticipate confidentiality issues. One ad hoc solution is that you will answer the question later, after a confidentiality agreement is in place. If the other lawyer believes that the information is not confidential, he or she may ask the court to order you to answer the question.
10. True. The substance of your conversations with your lawyer are “privileged.” There are some exceptions to this general principle. But if the opposing lawyer asks whether you spoke with your lawyer about your testimony, you should answer that question (yes or no is enough), because it does not ask you to divulge what your lawyer told you.
11. True. Conversations you have with your spouse and things you know about your spouse do not have to be disclosed.
12. True.
13. False. This is a common practice. A common “suggestive” statement is “if you know,” which signals you to answer, “I don’t remember.” The practice is completely improper, but it is the other lawyer’s problem, not yours, so let them hash it out.
14. True.
15. False. Don’t volunteer any information. It’s the lawyer’s job to ask questions that will elicit the information. If he or she doesn’t do it, it’s a lost opportunity. Too bad for the lawyer.
16. False. Elaborating on your answer is the same thing as volunteering information. Wait for a specific question instead.
17. True. If the other lawyer is savvy, your background may well have been investigated and he or she may ask you harmless-sounding questions about it. The point is to catch you in

a lie and make you look bad. You should be prepared with a truthful but unhelpful answers to questions about your past, and by all means talk to your lawyer about how to handle them.

18. True.
19. False. Again, don't volunteer information.
20. False. Do not reply until you have thought over the question. Take your time if you need to.
21. True. The objection may force the other lawyer to change the question or to drop the subject. Again, don't volunteer!
22. True. Make sure you clearly understand every question.
23. True. And don't speculate about what the answer might be. If you don't know, you don't know. If you don't remember, you don't remember. That's the truth.
24. False. First, your little jokes will be transcribed, without the benefit of your tone of voice, your expression, or your gestures. It will almost surely be misinterpreted or twisted to your disadvantage. Second, the other lawyer probably doesn't have a keen sense of humor during depositions. Third, the tension in the room is not your problem. Stay on task.
25. False. You have the right to review the transcript; if you don't and the transcript contains mistakes you probably will not be able to correct them later. Remember, your deposition testimony may determine whether or not you recover any damages or whether the case will go to trial. By all means seize the opportunity. You also should talk to your lawyer about this in advance.