

Help! I Have to Testify at a Deposition!

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Whether you're a plaintiff, defendant, or just someone who witnessed events which are the subject of a lawsuit, being called to testify at a deposition can be unsettling. Although it's natural to be nervous, all you really have to do is tell the truth and you'll be fine. This article explains what a deposition is, how depositions work, and what you can expect at a deposition.

A deposition, sometimes called an Examination Before Trial or "EBT", is a lawyer's opportunity to ask a witness questions under oath. The questioner (usually a lawyer but it can be a plaintiff or defendant if the party does not have a lawyer) asks the witness questions, the witness answers to the best of his/her ability, and the stenographer records the question and answer. Depositions are one of the most important forms of discovery in a lawsuit so if you are a party in a lawsuit, you should expect to be deposed. Lawyers use depositions for many reasons, including: to discover facts, to assess a witness's credibility and likeability, and to create a record of sworn testimony so that the lawyer can try to hurt the witness's credibility if he/she testifies differently at some other point in the litigation.

A deposition is usually held at a lawyer's office, typically the office of the lawyer who will be doing the questioning. But, depositions can be held almost anywhere including at a courthouse, a court reporting agency, or another lawyer's office. The people attending the deposition will likely be the questioning attorney, the witness, the witness's attorney (if he/she has one), and the stenographer. In Federal Courts in New York, any party to the lawsuit is allowed to attend the deposition so be prepared for that. A judge, however, will not be at the deposition.

The specific questions you will be asked at the deposition are beyond the scope of this article. Most lawyers will start by asking about your background and then they will get into the subject matter of the lawsuit. For example, if you witnessed a car accident, the lawyer will ask you what you saw. Most courts have adopted rules which allow lawyers to ask a wide range of questions. Generally, witnesses cannot avoid answering questions because they may be irrelevant. Because the judge is not at a deposition, objections are noted for the record and the judge may rule on them at another time. However, the questions must still be answered even if there is an objection. If you are concerned about any aspect of your testimony, you should consult with an attorney, but generally, if you answer the questions truthfully you will do fine. However, if you believe your testimony may implicate you in a crime, you should speak with a lawyer before the deposition.

If you have further questions about depositions, contact a lawyer from Famighetti & Weinick at 631-352-0050 or visit our website at <http://lincyemploymentlaw.com>.