

Deposition Arrangements

Most attorneys waste personal time or staff time scheduling depositions with opposing counsel. Until the usual telephone tag is completed, the attorney has to keep his calendar open for the days "our side" has told "their side" from which to choose an open date. Then often what happens is that after everything seems agreed, a date has been set, your notice of deposition has gone out, and you have arranged your next month's schedule accordingly, opposing counsel calls back to say they have an impossible conflict, and the whole cycle repeats.

I have found that a simple form cuts down the time waste. The form practically eliminates multiple changes of date by adverse counsel.

Fax this tab's form to the adverse attorney, call to let him know you are sending it, and ask him to fill in the blanks and fax it back to you. This quick call is a lot less time-consuming than asking, "What dates do you have open in September, George?" and waiting for George to review his appointment schedule while you stay on the phone.

How It Works

In item #3 of this DEPOSITION AVAILABILITY COORDINATION form, you fill in a couple of months during which you want to take the deposition. Then when you get the form back, your secretary can coordinate with your schedule and set up the deposition. It is difficult for the other side to blandly respond that he is busy every day in the months you have suggested. After he responds, he is committed in a writing which can be shown to the court.

If upon receipt you immediately fax your notice of deposition, the other side is not prone to suddenly have an excuse why the date should be changed. If opposing counsel later asks for a date change, you can say you have already extended one professional courtesy in setting the deposition on a date chosen by opposing counsel.

If a date change is insisted upon, give him a second chance by sending a new form. You will receive the second date in writing, and now you are in a good position not to change the date of the deposition if they pull the same stunt, saying the second date no longer works. Just say you are not changing to a third date because you have already provided two professional courtesies. Say you will be taking the deposition on the second scheduled date with or without him.

In 15 years of using this form and procedure, I never have seen an adverse attorney with enough courage to make a motion to the court to prevent a deposition on a date he said in writing was available for the deposition.

Deposition Availability Coordination

Re Case of: _____

Depositions are being scheduled for the following persons, at the following cities:

As a Professional Courtesy to you, we want to take the depositions on dates you know you have available. **Please answer the following questions to assist in scheduling these to meet your convenience.**

1. Name of attorney in your firm who will probably handle the depositions:

2. If different from #1 above, who is the person in your firm to contact regarding scheduling:

3. During the month(s) of _____,

I am **NOT available** on the following dates:

Not Available Dates

4. I want to participate in person at the deposition with the witness at his location **unless** indicated below.

_____ I want to participate in the deposition of _____ only by attending by phone conference call. The earliest I want to start a telephone deposition would be _____, our local time.

_____ I am undecided whether I want to participate by telephone call or in person, but I will advise you by fax at least five days before any deposition where I will be attending only by telephone conference call.

5. DATE and SIGN _____

6. PRINTED NAME OF SIGNING ATTORNEY: _____

Please return this form by FAX to the office of [our name] at [our fax number].