

What to Expect at Your Deposition

Preparing for Your Deposition

By: Frank J. Dito Jr.



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Printed in the United States of America

“The deposition is a very important part of your case. It is a major step forward in the discovery process and brings your case closer to settlement or eventual trial.”

What is a deposition? A deposition, or an examination before trial, is the opportunity for the defendant, through their attorney, to ask you questions about how your accident happened. The deposition is a very important part of your case. It is a major step forward in the discovery process and brings your case closer to settlement or eventual trial.

The deposition is usually held at a court reporting office. The attorneys view this location as a “neutral” location so neither side feels disadvantaged. The reporter’s offices are usually nothing more than many small rooms with a few chairs placed around a folding table. Sometimes, the depositions are held at our or another attorney’s office, which is usually much more comfortable for all involved. Please arrive approximately ½ hour earlier than the scheduled time. This will allow you time to relax and to discuss your testimony.

At the deposition, the defendant’s attorney will be present in the room, along with a court reporter, possibly the defendant or a witness for the defendant, and the attorney representing you. The court reporter will sit at the head of the table, closest to where you will be sitting and the attorney representing you will sit on the side closest to you. The defendant’s attorney and their witnesses will sit on the side of the table opposite of you.

The court reporter is the 2nd most important person in the room (after you, of course). Her job is to take down all of the questions asked and answers given at the deposition. These questions and answers will be typed out and entered into a document called a transcript, which will become a permanent record of your testimony in this case.

It is important that you are prepared for your deposition. You will need to review every prior statement you gave concerning your case. If your lawsuit is against the City of New York, you most likely appeared for a 50(h) hearing. If you have, I enclosed a copy of the transcript from that hearing with this letter. I ask that you

read the transcript, becoming familiar with your previous testimony. I have also enclosed a copy of the Bill of Particulars in your case. In this document, you will be reminded of the date, time and location of the accident, as well as your injuries and medical treatment.

The most important answer you can give at a deposition is the “truth.” At the beginning of the deposition you will be sworn in by the court reporter. Most accident cases don’t have witnesses to what happened, which means that your credibility will be at issue. If the judge or a jury feels that your answers are untruthful, it may hurt your chances at trial.

The deposition starts when you are sworn in. After that time, you cannot ask me questions unless we take a break, so it is important to be prepared. The attorney will first ask you your name and current address. The questions will normally center on your personal and educational background, so the defendant will have a chance to learn to know you and see if a jury would like you. The questioning will then move toward how the accident occurred, when and where it happened, and the injuries that you sustained and the medical treatment received. The attorney will then ask how this accident and your injuries have affected your life. This is a very important line of questioning and one that you should think about carefully. Your answers may range from simply being able to sit for long periods of time, playing with your children or being able to comb your own hair. The answers vary greatly from person to person and these are just a few of the common answers.

Some simple rules to remember:

- Don’t fight with the attorney asking you the questions. It is his job to ask questions about how the accident happened and to defend his client. Don’t argue – that is my responsibility as your attorney.
- If you are able to answer a question “yes” or “no”, please do so. Answers such as “yes, but . . .” lead to follow up questions that may reach into areas we are not prepared for.
- Please do not guess. Acceptable answers “I don’t know” or “I don’t remember”. Although a deposition is a dress rehearsal for your possible trial, you should try and remember as much as

- possible about your accident.
- All your answers must be spoken. The court reporter is unable to take down a nod of the head or a gesture or pointing. So that the transcript is clear, you must speak your answers.
- If you need to take a break during the deposition, please ask and we will arrange for you to do so.
- Please let the defendant's attorney finish asking the question before you answer. You may know the answer to some questions before the attorney finishes but please wait until they do. Sometimes, the question may be phrased in such a way that your "yes" answer should be a "no." It also is helpful for the court reporter as she is only able to take down one person speaking at a time.
- If I object to a question, please do not answer it until I tell you to do so. If I object, I may feel that the question is inappropriate and should not be answered by you. The attorneys may argue but this is unusual. Don't be nervous or upset about it and your attorney will either allow you to answer the question or to move on.
- Try to avoid the feeling that you need to say everything that has happened to you since your accident at your deposition. It is not the proper forum for you to "let them have it." If the other attorney does not ask you certain questions that you feel should have been asked, so be it. The other attorney will then have an incomplete record for trial, which will make it much more difficult for him to prepare.
- If you don't understand the question the attorney asks you, please say that you don't understand it. The attorney will rephrase the question to help you better understand. I don't want you to answer a question that you don't understand.
- Most importantly, listen to the question asked and answer only the question asked. It sounds very simple but it is very important.
- Try not to be nervous. Wear casual and comfortable clothes. Remember, you know all the answers already as this accident happened to you.

I hope this answers some of the questions that you may have had when you received the notice. If you have any more questions, please call and ask us. We will be more than happy to answer you. Remember, we will talk before your deposition to answer any last minute questions that you may have and we will also meet on the morning of your deposition.

**Decker, Decker, Dito
& Internicola, LLP**

With a 25 year long tradition and history of delivering exceptional legal services within the Staten Island community, New York and New Jersey, the Staten Island law firm of Decker, Decker, Dito & Internicola, LLP is committed to providing each and every one of their clients with legal representation and services that make a difference.

With a legacy of leadership, excellence and reliability, the attorneys at DDD&I understand that effective representation starts with listening and active communications with their clients. Only after extensive communication with a client to evaluate the client's potential case and to discuss the legal process and available options will the attorneys at DDD&I accept engagement in a new legal matter.

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About the Author

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Frank J. Dito, Jr. is a partner in the Staten Island, New York law firm of Decker, Decker, Dito & Internicola, LLP where he practices Personal injury Law. For over 11 years, Frank has been helping people who have been injured in car, truck and motorcycle accidents. He has experience negotiating with insurance companies and trying car accident injury and death cases. Frank also helps people who have been injured in slips and falls, by dangerous products, and because of medical malpractice. Frank also practices in the field of workers' compensation, helping injured workers recover financial and medical benefits for the work related injuries.

Frank is a member of the New York State Trial Lawyers Institute and the Association of Trial Lawyers of America, an organization devoted to protecting individual rights and preserving the civil jury system in America. Frank is a member of the Million Dollar Advocates Forum, an exclusive group of trial attorneys that have achieved a verdict, award or settlement in the amount of One Million Dollars or more.

Mr. Dito is licensed to practice law and regularly handles cases throughout New York State, practicing extensively in Staten Island and Brooklyn. He is a member of the Richmond County and Brooklyn Bar Associations.



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