

Understanding the Wolf Before You Meet:
**BE PREPARED FOR YOUR
RULE 30(b)(6) DEPOSITION**

MER Conference

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Rule 30(b)(6): Notice or Subpoena Directed to an Organization. In its notice or subpoena, a party may name as the deponent a public or private corporation, a partnership, an association, a governmental agency, or other entity and must describe with reasonable particularity the matters for examination. The named organization must then designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on its behalf; and it may set out the matters on which each person designated will testify.

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Rule 30(b)(6) cont.:

A subpoena must advise a nonparty organization of its duty to make this **designation**. The persons designated must testify about information known or reasonably available to the organization. This paragraph (6) does not preclude a deposition by any other procedure allowed by these rules.

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Four Reasons to Take a Deposition

1. To assess you as a witness
2. To discover information previously unknown or unconfirmed
3. To get admissions that help the deposing lawyer's case or hurt the opponent's case
4. To lock in the witness's testimony to help avoid later surprise

Three Key Deposition Fundamentals

1. Listen to the question.
2. Answer that question, in the fewest words appropriate for an accurate answer.
3. Listen to the producing lawyer.

Five Key Skills for Deposition Witnesses

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1. The Document Skill

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2. The Listing Skill

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3. The Name Tag Skill

Five Key Skills for Deposition Witnesses

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2. The Listing Skill
3. The Name Tag Skill
4. The “How Did You Prepare for this Deposition”
Skill

Five Key Skills for Deposition Witnesses

1. The Document Skill
2. The Listing Skill
3. The Name Tag Skill
4. The “How Did You Prepare for this Deposition” Skill
5. The Cool, Calm, and Collected Witness Skill

Rule 30(b)(6) Depositions on Electronic Data

Lawyer Preparation:

- Review the Topics
- Select the Witness(es)
- Apply the Privilege
- Do the Homework
- Prepare the Witness(es)

Rule 30(b)(6) Depositions on Electronic Data

Lawyer Homework:

- Records & Data Management Policies
- Records Retention Schedule
- Data & Practice Map
- Legal Hold Notices & Preservation Plan
- Interviews

The Deposing Lawyer's Objectives...

1. Learn about the organization's computer systems and records and data management practices in the ordinary course of business.
2. Learn what was done, when, by whom, to preserve relevant data.

... The Deposing Lawyer's Objectives

3. Establish an early trigger for the preservation duty.
4. Expand the scope of the preservation duty.
5. Identify preservation failures.
6. Expand the scope of discoverable data.
7. Gain ground on the issue of reasonable accessibility of the data, to bolster discoverability and also to support cost shifting.

LEG210 Litigation Claims

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