

Deposition Objections

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Lawyers should actively participate in the defense of the deposition by making objections when appropriate. The objections should not convey the legal meaning for the record, but should convey some meaning for the deponent. "Objection to the form," does neither! On the other hand, verbose statements and arguments by the defending attorney are probably improper, are definitely obstructive, and generally prolong the deposition. Because all objections to the form of the question are reserved, only objections to the form should be made.

Objections that can be cured must be made at the deposition or they are waived.

Proper objections to the form of the question include:

1. Question is compound.
2. Question is complex.
3. Question contains vague terms.
4. Question contains ambiguous terms.
5. Question calls for speculation (guessing).
6. Question asks for information beyond the qualifications of the witness (lack of foundation).
7. Question assumes facts not in evidence.
8. Question contains unfair characterization.
9. Question is argumentative.
10. Question asks for a legal conclusion.
11. Question asks for information protected by the doctrine of attorney work product. Witness is requested not to answer.
12. Question is duplicative and repetitious (asked and answered).
13. Question is misstating prior testimony.
14. Question assumes facts not in evidence.
15. Question is leading (if not an adverse or hostile witness).
16. Question is an unfair characterization.
17. There is no showing of personal knowledge.

18. Question contains improper standard of probability for expert opinion.
19. Question asks for unrelated information, which is privileged. Expert witness is requested not to answer.
20. Answer is not responsive (followed by a motion to strike by the interrogator).

Often the defending attorney need not object, but rather, can just say "don't guess," if the question calls for speculation. If a question is vague due to lack of a specific time frame, the attorney may simply state, "What time are you asking about now?" Obviously if the interrogating attorney refuses to correct the speculation or vagueness problem, then an objection should be made for the record.

See, Malone and Hoffman, *The Effective Deposition: Techniques and Strategies That Work*, 106 to 125 (NITA, 1993).