

Preparing Adjusters and Corporate Representatives for Deposition

Gordon K. Wright | 21st Annual Insurance Symposium | March 28, 2014

Cooper & Scully
A Professional Corporation

Should the Adjuster or Corporate Representative be Deposed?

- Is there a fact issue?
- Duty to defend?
- Underlying case tried or settled?
- Is there coverage?

Should the Adjuster or Corporate Representative be Deposed?

- Most important thing we can do
- Use the adjuster file as template
- Take the necessary time
- Use available tools
 - Video
 - Exhibits

- Strengths
- Weaknesses
- Inconsistencies

No surprises is the goal

- Fed. R. Civ. P. 30(b)(6)
 - Tex. R. Civ. P. 199.2(b)(1)
- Becomes the corporate position
 - A problem or opportunity
 - Can educate witness on the points described in notice
 - Be open to more than one witness

Witness's Mental Status?

Knows It All

Pliable

Terrified

Legal Context of Deposition

- What are legal issues in the case?
- What does witness know that affects the issue?
- Filter the questions carefully

Factual Context of Deposition

- File – what do the documents say?
- Previous testimony
- What is next in evidence?

Know Your Stuff

- Regulations

- Law

- Company Policies

- Don't just agree with platitudes

- Insurer's interest comes first
- Construe policy against insurer
- Company policies and standards

- Wandering off from areas you know

- Watch corporate representative depositions

Positions in Other Cases

- Counsel should be aware
- Witness needs to know
- Nothing is done in a vacuum

Theme of the Case

- Witness needs to support

- If not, you need a new theme

- What you wear

- Facial expression

- Be professional

- Open
- Not argumentative
- Polite
- Thoughtful and methodical

Objections

- Pay attention
- Let lawyer get involved
- Privileges

Gordon K. Wright

gordon.wright@cooperscully.com

(214) 712-9534

900 Jackson Street, Suite 100

Dallas, Texas 75202

Cooper & Scully
A Professional Corporation