

Divorce Deposition

A divorce deposition sounds like a scary legal process, doesn't it? There's good news in that divorce depositions are a lot less common than you'd imagine. This means that the likelihood of you having to experience one very low. However, it doesn't hurt to be informed and educated on the matter. Remember, the information presented here is very broad and generalized. Each divorce case is unique, so if you have specific questions as they relate to you, feel free to [contact us for a free consultation](#).

Divorce Deposition Notice and Objections in California

There are two types of depositions when it relates to divorce proceedings – “party” and “witness”. A party is someone who is either the petitioner, respondent, or was brought into the divorce case. A husband or wife is a typical “party”. Party divorce depositions in California are “noticed” in the form of a formal written request by one attorney to the other. It's also possible that a self-represented individual can also notice a deposition, but it's very rare.

If you're the individual who is having their deposition taken, it boils down to answering a lot of questions. Depositions usually take place in a conference room or office, oftentimes at the office of the attorney who noticed it. There is a court reporter present who provides the deponent with the oath, analogous to the common statement that we've all heard, “do you swear or affirm that everything you state will be the truth, the whole truth, and nothing but the truth?” The court reporter records everything that is said during the divorce deposition. It sounds exhausting, but depositions do include breaks. During these breaks, most people take the time to meet with their attorney or simply relax. There are exceptions, but California law limits the duration of the deposition to a maximum of 7 hours, not including breaks.

A divorce deposition doesn't have to necessarily involve a husband or wife. A witness can also be deposed, notified typically by a deposition subpoena (also with the possibility of a demand for production of relevant documents). As with any other production demand, the receiving attorney has the ability to serve an objection to the demand within a certain timeframe allowed by California law.

Expectations During the Divorce Deposition

If your family law attorney is taking the deposition, it's usually recommended that you attend. You can assist your attorney with the preparation phase, while also providing them with info related to issues that may arise during the deposition itself, i.e. you know for a fact that the person being deposed didn't answer a question truthfully.

Earlier we mentioned that the frequency of depositions is low, and there are two main reasons for

this: First, depositions can become costly. In addition to the attorney fees, there's also the court reporter who often charges per page for creation of the transcript. The reporter may also charge for the original and certified copies. The other reason is divorce depositions are often unnecessary in cases that are simple and don't have many contested issues that exist between the parties. There are more cost-effective methods toward getting answers and information that may be needed. Your family law attorney can go into detail about this, or you can contact us for further guidance based on your specific case.

Even though depositions can be rare, in certain cases they can be very beneficial toward reaching resolution in your divorce case. One of the biggest factors contributing to the overall success and effectiveness is the level of experience and preparation that your attorney holds. We have observed many attorneys waste their client's time and money by not being prepared for the process. This usually becomes apparent when they ask irrelevant questions, dwell on issues that have little influence on the big picture, or tackle the important issues with questions lacking depth which results in minimal information gathering.

Deposition Objections

Objections may be served to the actual deposition notice, or on a request to produce documents. Additionally, objections can also be made to questions that are asked during the deposition. In this regard, an experienced attorney is very important.

Recommendations When Your Attorney is Participating in a Deposition in California

We always suggest meeting with your attorney (phone or in person) before the deposition to assist in the preparation process. It's important to remember that they should contact you to set this up. If you have to initiate this meeting, it may be a sign that they are inexperienced, overwhelmed, or both. Depending upon the specifics of your case, it's recommended to be present while your attorney is performing the deposition. In some cases, your presence isn't necessary, or, may cause unnecessary distraction. Remember the bottom line goal: Divorce depositions aren't about seeking revenge, applying intimidation, or any tactic aside from fact gathering that will promote progression toward resolution.

Recommendations When You're Being Deposed in California

As mentioned, preparation is key. If you enter into the appointment unprepared and haven't discussed with your attorney, you'll both be facing an uphill battle. With increased complexity of a case comes an increased need for preparation, which will ultimately determine the level of success and progress. It's recommended to answer questions while avoiding tendencies to include emotion, which can oftentimes be difficult. Listen, understand, and take your time answering what

is being asked. If you don't understand what is being asked, be sure let them know. Finally, pay attention to your attorney and any objections he or she may request. You may feel that you understand a question, but they may request further detail or rephrasing that can lead to a different answer on your part.

We covered a lot of material in this article. It's not likely that you'll encounter a deposition in your case, but in the event that you do, be sure to have an experienced attorney on your side. If you have questions related to what you've just read, [please contact us!](#)