

Cross-Examining Plaintiffs in Employment Harassment and Discrimination Cases: Strategies for Depositions and Trials

WEDNESDAY, SEPTEMBER 4, 2024

1pm Eastern | 12pm Central | 11am Mountain | 10am Pacific

Today's faculty features:

Megan Cooney, Partner, **Gibson, Dunn & Crutcher**, Irvine, CA

Stephen E. Fox, Partner, **Sheppard Mullin**, Dallas, TX

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The audio portion of the conference may be accessed via the telephone or by using your computer's speakers. Please refer to the instructions emailed to registrants for additional information. If you have any questions, please contact **Customer Service at 1-800-926-7926 option 1.**

THE HOLY GRAIL OF DEPOSITION PREPARATION

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- **Document Review.**
 - Review Complaint, Interrogatory answers, and documents produced by defendant.
 - Review deposition testimony of co-employees, human resources, supervisors, etc.
 - Basics Review
 - Why were you terminated – Not, I don't know...
 - What are you seeking...
 - What did we do wrong...
 - Did you complain?
 - Why?
 - Why not?
 - Be mindful of *Farragher* and *Ellerth*
 - Review of the Elements of the claim.
 - LAD
 - CEPA
 - Retaliation
 - Breach of Contract
- **Dress for success.**
 - What to wear, what to wear?
- **Laser thin.**
 - Do you know what this is?
 - Just the question asked please.
 - Do you know what time it is?
 - Same question, same answer.
 - The Four Horsemen
 - Yes.
 - No.
 - I don't know.
 - I don't understand.

- **Confront the Pain.**
 - Go over who might be at deposition.
 - Purge anger at boss.
 - Don't be surprised about co-workers being there supporting company.
 - Ignore expressions of indignation.
 - Ignore what defendant is saying.
 - Ignore theatrics.
 - I'm hurt, I'm really really hurt.
- **Review of relevance.**
 - Most of deposition will seem irrelevant.
 - If it is not asked, it is okay.
 - Don't volunteer, you can say it later.
- **No need for help.**
 - If lawyers get into it, don't get contentious.
 - Client is there for one purpose.
- **Where to look.**
 - Opposing counsel.
 - Court reporter.
 - Counsel.
 - Corporate representative.
- **Surprise presents are no fun.**
 - I have a document in my purse that proves that...
- **It is okay not to remember.**
 - Client's asked about who said what 3 years ago.
 - Read document carefully before you acknowledge you remember seeing it.
 - Added documents to personnel record.
 - Never assume.
 - Client shown company handbook.
 - Review this issue.
 - Handbook compliance.
- **Paranoia may destroy ya.**
 - They are all out to get me.
 - Everyone at work did something wrong.
 - Everything that occurred at work reflected a concerted effort to get me.
- **However, watch out for the controlled unknown.**
 - My co-employee will testify in my favor.

- Co-employee is present employee of company.
- **Mitigation of Damages.**
 - Review job seeking efforts.
 - Go over this issue from day of intake.
 - Log book.
 - Pumping it up don't work.
 - The future is speculation.
- **Emotional Distress Damages.**
 - Client testimony is enough.
 - Review impact of event.
 - Be mindful of dates.
- **Things to know**
 - Prior job history.
 - Review of resume.
 - 100% accuracy.
 - Criminal history.
 - Mental history.