

Chapter 7 - Managing Litigation Information Using Technology

Preparing for Computerized Depositions - Standardization of Terms.

When you know beforehand that depositions will be transferred to full text software, there are certain terms and phrases that should be standardized. By doing this, you will greatly simplify the process of searching and retrieving vital information from a full text document and will allow yourself to create more complete reports.

Some examples of areas to be standardized are:

- *Peoples' Names* - During depositions, people may refer to other people by various titles and names that they are familiar with, such as "my husband" or "Frank." It is important that the lawyers taking the deposition, as well as the person giving the deposition, refer to the same name at all times. If possible, also try to avoid the use of pronouns such as "he," "her," "him," "she," or "they" during depositions. Remember, every instance where a person is referred to in a deposition may be important, so having a standard title for each person will ensure that no information is lost in the cracks when subsequent searches are performed.

For example, if Frank Smith is vice-president of company XYZ, you might want to refer to him as "Frank Smith." Therefore, friends of Mr. Smith should not call him "Frank" and employees should not refer to him as the "vice-president" during depositions.

- *Documents* - During a deposition, a witness may be called upon to identify various documents associated with a case. It is difficult to search and identify a document in a full text situation if the witness calls it a "contract" and the lawyers call it "Exhibit 10." It is, therefore, necessary to ensure that the same term or phrase is used throughout the deposition and any subsequent depositions refers to a single document or exhibit. In this case, you can refer to it as the "9th Street Map" or something more specific than exhibit.

For instance, Map #3 of a traffic scene may be marked as Exhibit #1 for purposes of a deposition. The lawyers and witnesses of the case should refer to it solely as preferably "Map #3" for the deposition. Avoid calling it just a "map" or referring to it as "it", and you will greatly reduce later coding of the full text document.

- *Issue Codes* - If you know beforehand what issues or topics will be discussed in a deposition, every effort should be made to refer to the same issue names throughout the deposition.

For example, if an event deals with someone who failed to pay for widgets, one phrase referring to the event should be used throughout the deposition. If "Non-Payment" is

used as the issue name, one should refrain from referring to this event as "Breach of Contract" or "Failure to Pay."

- *Medical Terminology* - During any deposition that deals with a medical condition or injury, a witness may refer to a condition by different terms than a doctor. It is obviously beneficial to have all deponents, doctors and attorneys use the same terms throughout a deposition to save search and report time later on.

For instance, a victim of a car accident may refer to a "broken arm," whereas another witness may refer to the victim's "fractured arm." One or the other is fine, just be consistent in the use of the term.

Coding. Many of the full text software programs permit you to insert "codes" or "cross references" at specific locations in the testimony. For example, in the event that other names or terms are used, simply imbed a cross-reference code or note of the standard term to ensure retrieval. Some common uses for codes or cross references are:

- *Locate All References to a Witness.* Enter a cross-reference or name code wherever a reference occurs to a specific witness by a non-standard name. For example, you would not put the cross-reference code "Smith" where "Bill Smith" occurs, but you would put "Smith" where "Bill" occurs without Smith.

- *Locate All References to Exhibits.* Enter a cross-reference code wherever a reference occurs to an exhibit by a non-standard name. For example, suppose "Exhibit 1" refers to a "map" in a deposition. Here, you would put the cross-reference code "Exhibit 1" where the word "map" occurs in the deposition.

- *Organize All Favorable and Unfavorable Admissions in a Case* - Key testimony made by witnesses during a deposition is important for pretrial preparation of witnesses. To generate a summary of all favorable and unfavorable admissions in a case enter an issue code wherever an unfavorable or favorable admission occurs. Start each issue code and note with either the phrase "FAV-" or "UNFAV-." You could use cut & paste to capture testimony within the context of the note.

- *Organize Material Relating to Motion for Summary Judgment* - To generate a summary of all material relating to a motion for summary judgment in a case, enter an issue code wherever any pertinent information occurs. Start each issue code and note with the phrase "SUMJG-."

- *Organizing Impeachment and Inconsistent Material.* Testimony that is contrary to other testimony by that same witness can be vital during a trial to impeach or prove allegations of perjury or incompetence. To create and then make a report summarizing all the inconsistent and impeachment material, enter an issue code wherever any pertinent quotes or information occur. Start each issue code and note with the phrase "IMPEACH-."