



# Deposition Evidence: Objections, Instructions Not to Answer, and Responses

*Anthony J. Bocchino, David A. Sonenshein*

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This book explores an attorney's role when dealing with evidentiary issues that arise when taking and defending depositions. Anthony J. Bocchino and David A. Sonenshein discuss making objections, giving instructions to the deponent not to answer questions, and responding to those events. Bocchino and Sonenshein provide experienced insights into typical issues confronting attorneys during depositions, as well as guidance on tactical and professional responsibility issues involved with this topic and how counsel can best prepare to deal with these issues. The book is designed to provide a quick and ready reference regarding a variety of evidentiary and practice related issues such as: \* the law of making and curing of objections \* the tactics of making and curing objections \* dealing with obstreperous objecting counsel \* preparation of witnesses regarding the meaning of objections \* instructions not to answer on privilege or trial preparation material grounds and how to respond to such instructions \* rule-by-rule practice guide (Federal Rules of Evidence) on how to make, respond to, and cure objections at deposition Table of Contents Part I. Objections That Must/May Be Made at Depositions \* Competency of Witnesses \* Competence, Relevance, and Materiality of Evidence \* Objections to the Form of the Question or Answer Part II. The Form of Objections and Instructions Not to Answer \* Form of Objections \* Instructions Not to Answer a Question Part III. The Tactics of Making and Meeting Objections \* Time, Place, and Manner of Recording \* Deponent Preparation \* To Object or Respond or Not \* When to Involve the Judge Part IV. Objections, Responses, and Curative Action Objections to the Form of Questions \* Objection to Form (Non-Specific) \* Leading Questions \* Ambiguous/Vague \* Argumentative \* Asked and Answered \* Assuming Facts Not in Evidence \* Compound Questions \* Misquoting the Witness Narratives \* Non-Responsive Answers Objections to the Competence of Evidence \* Character Evidence for Propensity Purposes \* Character Evidence for Non-Propensity Substantive \* Purposes \* Habit and Routine Practice \* Subsequent Remedial Measures \* Offers of Compromise \* Payment of Medical and Similar Expenses \* Insurance Against Liability \* Privileges \* Expert Opinions (Reliability of \* Theory/Methodology) \* Expert Opinions (Bases) \* Hearsay (Generally) \* Hearsay—Non-Hearsay Prior Statements \* Hearsay—Non-Hearsay Admissions \* Hearsay Exception—Present Sense Impression \* Hearsay Exception—Excited Utterances \* Hearsay Exception—Statements of Then Existing \* Physical Condition \* Hearsay Exception—Statements of Then Existing Mental Condition \* Hearsay Exception—Statements for Purposes of Medical Diagnosis or Treatment \* Hearsay Exception—Recorded Recollection \* Hearsay Exception—Records of Regularly Conducted Activity (Business Records) \* Hearsay Exception—Public Records and Reports \* Hearsay Exception—Learned Treatises \* Other Hearsay Exceptions in Rule 803 \* Hearsay Exceptions Requiring Unavailability— Generally \* Hearsay Exception—Former Testimony \* Hearsay Exception—Statement Under Belief of Impending Death \* Hearsay Exception—Statements Against Pecuniary or \* Proprietary Interest \* Hearsay Exception—Declarations Against Penal Interest \* Hearsay Exception—Forfeiture by Wrongdoing \* Hearsay Exception—Residual Exception \* Authentication of Instruments \* Authentication of Voices \* Original Document Rule (Best Evidence Rule) Appendix A. Selected Rules from the Federal Rules of Civil Procedure Appendix B. Federal Rules of Evidence

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