

# A Consolidated List of Proper Deposition Objections

written by PracticePanther | May 23, 2019



You're about to go into your first deposition and your opposing attorney is an "old hand" at lawyering and certainly at participating in depositions. Of course, you're a bit nervous that the more experienced lawyer will outgun you. [You've done your research though](#), so you're not completely defenseless. One of the things you've picked up on is that there are only so many proper deposition objections that are valid. You've also been clued in that more experienced or knowledgeable attorneys will try to throw you or your witness off by putting forth improper deposition objections that interrupt the flow of the deposition.

What is included as proper deposition objections? First, let's go over improper objections and get those out of the way. [Following is a list generated by Susan Minsberg](#) in her article "Proper Deposition Objections."

## 1. Hearsay

You're free to object to a question of hearsay during a trial. Hearsay questions are perfectly legitimate ways of obtaining information and pursuing that information. Example: Q: "What did Mike say?" A: "Mike said that he hacked the Delaware Bank of Corporations and took over their Bitcoin." Given that declaration, it makes perfect sense to pursue Mike for additional information (if, of course, the matter is about stolen Bitcoin from DBC.)

## 2. Assume facts, not in evidence.

It depends. While lawyers should not let their clients speculate, as Minsberg writes, maybe you want to let your client speak up if he or she knows the answer to the question.

## 3. Calls for an opinion

There is no need to establish a foundation at deposition to ask for a deponent's opinion, even when the deponent has no expertise on the matter.

## **4. Speaking and coaching objections**

It's up to the deponent to ask for clarification if he or she does not understand the question. It's possible to coach the client using objections, and that is off base.

Minsberg also enumerates a list of proper deposition objections. These include the following deposition objections.

## **5. Privilege**

If you do not make the objection at the time, then you have waived it. Privilege include such things as attorney-client privilege, medical privilege, and Constitutional privileges. Asking a privilege question is the only time you can instruct your client not to answer.

## **6. Form**

Susan Minsberg writes that "Some jurisdictions only require that the objecting lawyer state a general 'form' objection. Others require that the *type* of form objection be stated as well." Again, if you don't make an objection at the time, then you have waived it.

## **7. Mischaracterizes earlier testimony**

When it comes to deoposition objections, this can be a trick question. If the deponent testified one way earlier in the deposition, do not allow the opposing attorney to rephrase a question that contradicts what the deponent actually said. Make an objection.

## **8. Asked and answered**

This is often a way that an opposing attorney will badger the client or lead him to eventually contradict something he or she said earlier. It's important to make an objection to this line of questioning.

## **9. Calls for a legal conclusion**

Usually, the deponents are not qualified to come to legal conclusions. Even if the deponent is an attorney, it still may not be a legitimate line of questioning.

## **10. Harassment**

Do not allow your client to be bullied. Make an objection. Voice the bullying or harassing behavior for the record so that the court reporter will document it. If the behavior continues, give a play by play: "Mr. Jones has risen to his feet, he now is looming over my client and has begun slamming the table with his fists. Mr. Jones is now waving his arms, continuing to scream so violently that his spittle is spraying my client." If the opposing attorney does not stop, then terminate the deposition.

## **Final thoughts on deposition objections**

Knowing the rules is the first step in coming out on top. Knowing and using proper deposition objections and especially being able to call out an opposing attorney trying to misuse objection gives you a hefty advantage.