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RE: **Deposition Preparation Letter**ⁱ

Dear Client,

You have a deposition pending in this matter. A deposition is your testimony under oath, just as if you were in front of the judge. In fact, the judge may very well read your deposition, instead of your testifying in court.

Following are deposition instructions which we would like you to review before your meeting with us to prepare for your deposition. We may meet with you before the deposition, to explain the process, what to expect and review any questions or concerns you may have. We know you may be nervous, as this procedure is one that is new to you, which is why we will spend the time to make you more comfortable with the process and less likely to get upset or angry, which the opposing lawyer may try to do.

There are really only three important procedural rules and three important substantive rules.

Remember three important procedural rules:

- (1) Listen carefully to the question, (make a written note of the question if necessary), and wait for an objection before answering.
- (2) Answer the question truthfully and do not guess. Make sure you understand the question (asking the question to be repeated, rephrased, etc. as there is no requirement to answer a question that is not fully understood.) If you do not know, say you do not know. There is no requirement that you guess, even if they ask the same question two or three times, stick to your guns and refuse to guess. If you do not remember, say you do not remember.
- (3) Answer only the question and do not volunteer more information than the question requires. The opposing side will act as if this is a conversation and try to get you to volunteer more information in this manner. Do not offer to get any information for them, refer to notes, or get anything out of a briefcase, file, or purse. They should ask your lawyer about getting documents, etc. Do not joke around. This is serious business.

Remember three important substantive rules:

- (1) Before answering, think of which of the three purposes of deposition the question is seeking. (Are they trying to obtain information, commit you to a story, or catch you in a lie?) Do not worry about the answer, but see if you can make a positive point, which we will explain to you.
- (2) Think of the three positive point goals of our interests we will develop with you and answer to include something related to one of the three positive points if the question is seeking anything other than

discovery only. For example, that it is important that the case be settled in mediation and that settlement will be discussed in mediation, if they ask a question about what you want.

(3) Again, answer only the question and do not volunteer more information than the question requires.

Deposition is one part of the discovery process in a family law case. It is just one piece of the puzzle. Remember, we will do our best to try to resolve all issues rather than go to court. We will help you through this process. If you have any questions prior to our first meeting, please do not hesitate to contact us.

Sincerely,

Costantino & D'Agostino, P.A.

cc: File.

ⁱ Excerpts taken from Form 12-060, Florida Family Law and Practice - 2008, Judge Renee Goldenberg