

IMPEACHMENT FOR PRIOR INCONSISTENT STATEMENTS

Step One: *When a witness testifies to something on direct that differs from the deposition, write it down here and hand it to co-counsel:*

Step two: *Co-counsel reviews deposition. If there is not a clear inconsistency, write a large "NO" in the space below. If there is a clear inconsistency, write YES.*

Step three: *Co-counsel writes out exactly what the witness said in the deposition in the space below at line 1. Co-counsel enters the appropriate page, paragraph and line number at line 8 below, marks the place in the deposition, and returns the form to main counsel.*

1. ISN'T IT TRUE THAT

2. YOU'RE SAYING IT'S NOT TRUE THAT _____ [repeat fact above]

3. YOU GAVE A DEPOSITION IN THIS CASE, CORRECT?

4. UNDER OATH?

5. YOU SWORE TO GIVE AN ACCURATE DESCRIPTION OF THE EVENTS?

If denied, request judicial notice that all depositions are taken under an oath to tell the truth.

6. AND YOU WERE GIVEN A COPY OF YOUR DEPOSITION SO YOU COULD CHECK IT FOR ACCURACY AND COMPLETENESS AND CORRECT ANY ERRORS?

If witness denies: I request judicial notice that this is standard deposition procedure.

7. THEN YOU SIGNED THE DEPOSITION, SWEARING IT WAS ACCURATE?

If witness denies: I request judicial notice of the section of the pretrial order containing the stipulation that the deposition was signed.

8. IN YOUR DEPOSITION, ON PAGE ____, PARAGRAPH ____, YOU TESTIFIED THAT _____ [repeat exact content of your original question] ____, DIDN'T YOU.?

9. [If witness waffles]: WELL LET ME HELP REFRESH YOUR MEMORY.

Get deposition from co-counsel

Q. ISN'T IT TRUE THAT DURING THE DEPOSITION, YOU WERE ASKED THE FOLLOWING QUESTION AND GAVE THE FOLLOWING ANSWER: read deposition.

10. If inexplicably denied: I MARK THIS DEPOSITION AS EXHIBIT ____, AND MOVE INTO EVIDENCE THE PORTION WHERE THE WITNESS TESTIFIES THAT _____ [READ IT]_____