

PRACTICAL TIPS FOR REMOTE DEPOSITIONS

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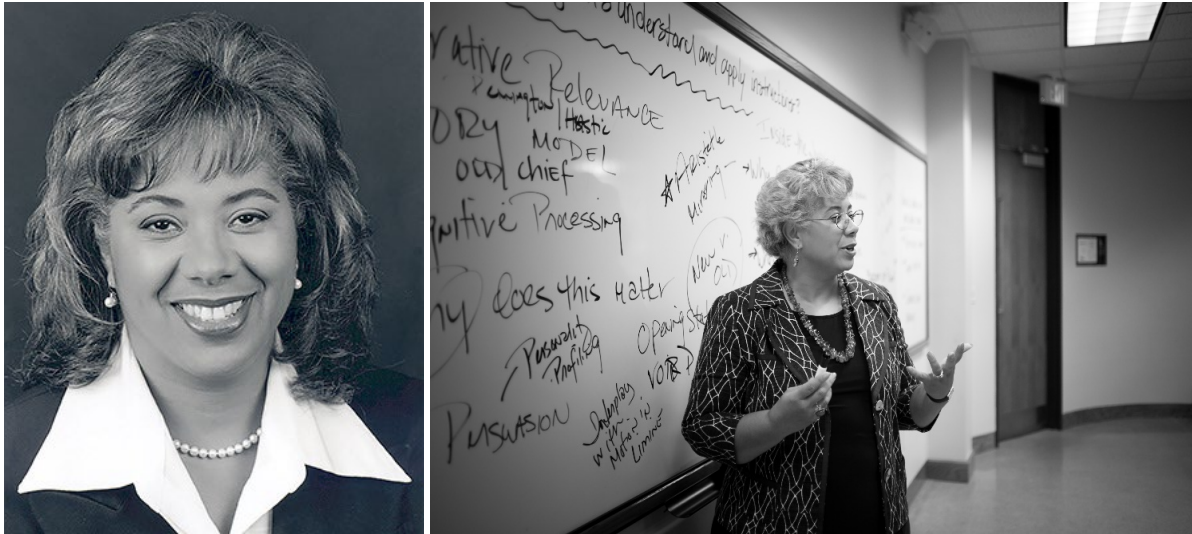
CHAPTER 11

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PRACTICAL TIPS FOR REMOTE DEPOSITIONS

I need to start with a HUGE disclaimer. I'm an attorney. I do not have any special training or education in information technology, studio production, set design, software development, etc. The advice in this article is from my personal experience taking and observing remote depositions, conversations with other attorneys who've taken remote depositions, tinkering with my workspace layout, reading "[Remote Advocacy in a Nutshell](#)", and watching tutorial videos on Youtube. Some of the advice in this article might be wrong, or it might be outdated by the time you read this article. I'll be using technical terms casually. You should still be able to understand what I mean in context, even if I use a technical term inaccurately. I am not recommending any particular product or brand, even though I may give examples using specific products.

The abrupt appearance of COVID-19 resulted in government shut downs and emergency orders designed to limit the spread of the pandemic. These stay-at-home orders and social distancing requirements significantly impacted the judicial system and forced attorneys to adopt new and innovate approaches to the practice of law. Remote advocacy was less common pre-pandemic; however, during the pandemic it has increasingly become the norm. I suspect many of the changes to the practice of law are permanent.

Remote depositions may continue to be commonplace post-pandemic because they are so convenient. Participants avoid the time, costs, and hassle of traveling to depositions. Instead, participants can join from the comfort of their home or office. The considerable savings on airfare, rental car, gas, hotel, and conference rooms are passed on to grateful clients. Hours of transit time can instead be invested in working on other matters, self-care, hobbies, and family time.

The focus of this article is on the practical aspects of remote depositions. However, many of the same principles apply to other forms of remote advocacy and business meetings. Hopefully, you will find the information engaging. I encourage you to continue researching the topics discussed in this article using online guides and tutorial videos.


VIDEOCONFERENCING PLATFORMS

Most remote deposition take place using some form of videoconferencing platform (unless the deposition is by phone). Some of the most popular platforms are Zoom, Cisco Webex, Microsoft TEAMS, Skype, and GoToMeetings. There are also boutique law-focused platforms like vTestify, among others.

Often, the attorneys are not the ones choosing the platform. Instead, the court reporter or court reporting agency selects the platform and sends the participants a link to join the deposition. It is important to determine as early as possible in the process from the court reporter or agency which platform will be used during the deposition. Additionally, many court reporters require all attendees to register for the remote deposition in advance. Take steps to ensure all attendees register before the day of the deposition.

Familiarize yourself with the platform you will be using during the deposition.

It is important to familiarize yourself with whichever platform you'll be using during the deposition so you avoid wasting time and appearing unprepared. Pick a popular platform and invest the time it takes to master the basic and advanced features. To do this, you should download the program, register an account, and practice using the features. The platform will have a tutorial page for new beginners. All of them have regular live trainings that will teach you how to use the platform and its features. Finally, there are tutorial videos available on their website or Youtube that you can watch. You should take advantage of these resources to be the most effective advocate.

Most of the popular and boutique platforms share the same basic and advanced features commonly used during remote depositions. Once you've mastered the features on one, you just need to practice with the other platforms to familiarize yourself with their idiosyncrasies. For example, Zoom, Skype, and GoToMeeting have icons that says "share screen"; whereas, on Microsoft TEAMS and Cisco Webex you share screen by clicking on the  icon.

Similarly, you should make sure that your deponents are familiar with the platform and all the features you anticipate being used during the deposition. They need to download and register an account with the platform. You should conduct your meetings and deposition prep with them using the same platform and on the same electronic device they'll be using during the deposition. This ensures you are both comfortable with the technology. If you anticipate either side using the whiteboard or other advanced feature, practice using it with them. This also gives you an opportunity to identify problems and resolve them prior to the deposition.

Identify yourself and the party you represent in your screen name and use a professional profile picture.

You may already use Zoom, Skype, or one of the other platforms for personal calls to friends and family. You may use the same account for both personal and professional calls.

Recently, a defendant logged into his Zoom arraignment hearing in Judge Jeffrey Middleton's Michigan courtroom with the screen name "Butf---er 3000."¹ The judge, as you can imagine, was not amused. The defendant was horrified. Apparently, his sister had created his personal account and named him that as a joke.

You must ensure that you are professional at all times during the remote deposition.

While you are probably not using a vulgar screen name, you must ensure that you are properly named during every videoconference call. Your screen name should be your name followed by the party you represent during a deposition. This is for the benefit of the court reporter and deponent, particularly if there are multiple attorneys and parties participating. At the conclusion of the deposition, change your screen name back to just your name. You may need to rename yourself multiple times during the day if you are in meetings, hearings, and depositions.

You should ensure that the profile picture you use during the deposition is professional. Your profile picture is likely going to display every time you turn off your camera, such as during breaks. You might have a funny profile picture you use for personal calls, but Baby Yoda or a Nicolas Cage meme are probably not appropriate for a deposition. Remember: a deposition should be treated as if you are in court. If you don't have a professional picture, just use your company/agency logo or don't use a profile picture.

One way to avoid the overlap between the personal and professional is to create two separate accounts on the platforms. Use your personal email address for the personal account and your professional email address for the professional account.

It is very important to go over screen names and profile pictures with your deponents prior to their deposition. They will likely be using a personal account. You want them to use an image or screen name that portrays them in the best light, particularly if the deposition is going to be played for a jury.

If you are taking an adverse deposition and the deponent logs in with a vulgar or inappropriate screen name or profile picture then consider taking a screen shot and using it as an exhibit. Depending on the circumstances, you could wait until the end of the deposition to bring it up during questioning.

Take lots breaks to avoid zoom fatigue.

Zoom fatigue is real. There are a number of reasons for it. It can be caused by prolonged periods of staring at unnaturally large faces in full screen mode, watching yourself in real-time, immobility, and the amount of cognition load.² You can reduce zoom fatigue by resizing the view so faces don't appear unnaturally large and hiding self-view. You should also take more breaks than you normally would during in person depositions. Consider establishing breaks at regular intervals at the beginning of the deposition, such as scheduling a 10-minute break at 80-minute intervals.

Use breakout rooms during the deposition breaks.

Before the pandemic, during deposition breaks the parties and their attorneys would usually go into separate rooms to meet. During remote depositions, some attorneys meet individually or collectively during breaks by calling each other, joining conference calls or messaging. However, there is a risk the attorneys could forget to mute their microphone and inadvertently reveal privileged information. It is also inconvenient.

There is a better way. The court reporter can set up break out rooms. Breakout rooms are rooms split off from the main meeting where a small group of participants can meet. You should make arrangements with the court reporter prior to the deposition to have breakout rooms set up for your party during breaks, since some platforms require it to be set up before the deposition starts.

Be careful when using the chat features.

Depending on the platform, your conversations in the chat, even private ones, may be viewable to the host court reporter. You don't want your chats with co-counsel to become part of the record. So, while you do want the chat feature turned on during the deposition, depending on the platform you should conduct privileged conversations on a separate messaging platform. You should check with the court reporter and research the specific platform you'll be using prior to the deposition to determine whether you can securely chat with co-counsels during the deposition.

Use the whiteboard, screen sharing, and other advanced features.

The most popular platforms all allow you to use advanced features like share screen. They also allow you to annotate documents. Deponents often find it convenient if you share your screen and highlight or zoom in on the relevant portion of exhibits. You can use the whiteboard feature to have the deponent create exhibits. You can use the annotations feature to have deponents mark-up documents and save them as exhibits. When using the share screen

¹ <https://www.abajournal.com/news/article/judge-taken-aback-when-defendant-logs-in-to-arraignment-with-obscene-screen-name>

² <https://news.stanford.edu/2021/02/23/four-causes-zoom-fatigue-solutions/>

feature, you can pause and unpause the screen for the other participants while you navigate to the next exhibit. You should familiarize yourself with all of the advanced features available on the platform to be the most effective advocate for your client.

Organize your exhibits.

There are many programs that can assist you with exhibit management, such as eDepoze, vTestify, and LiveDeposition.

As a general rule, you should organize and save all your potential exhibits in the same folder on your desktop. If you are marking your own exhibits, you can use a program like <https://exhibitsticker.com/>. Make sure you have a plan in place prior to the deposition.

You can physically mail your exhibits to the deponent and have them open them on camera during the deposition. Alternatively, you can email them or just drop them in the chat. There is no wrong way to share your exhibits with the other participants.

You should show all the exhibits you anticipate could be used during the deposition to your deponent during deposition prep. If they will be using a phone or a device that interferes with their ability to see small text during the deposition, it is advisable to send them paper copies of the exhibits.

ELECTRONIC DEVICES

All participants in remote depositions will need an electronic device to participate. It is important to check with your deponent prior to the deposition to ensure they have the capability to participate. Based on the circumstances of the deponent, you may have to reserve a computer or tablet or a conference room with videoconferencing capabilities.

Use a computer for the deposition.

Computers are the ideal device to use during remote depositions. It is inadvisable for attorneys to use anything other than a computer for the depositions. Similarly, whenever possible, deponents should use a computer during the deposition.

While tablets and smart phones are not ideal for attorneys, they can work for deponents who don't have a computer or laptop. Some court reporting agencies can provide deponents with a computer or tablet for use during depositions for a fee.

Participants using a tablet or smartphone must make sure they've downloaded the appropriate deposition platform application; have a power cable plugged into a power source at the location where they are testifying; and close all applications not in use during the deposition. The phone should be placed on "Do Not Disturb" and orientated in a horizontal (landscape) view. You'll need to look up how to do this on your individual device prior to the deposition. Usually, you can turn on "Do Not Disturb" and unlock your phones orientation (if locked) by swiping down on your phone and selecting the appropriate icons.

Purchase an external webcam and use a webcam security cover.

While most modern laptops come equipped with a built-in webcam, participants using a desktop will likely need to buy an external webcam. Even if your laptop comes with a webcam, you should consider purchasing an external one because you want your webcam to be positioned at eye level and an arm's length away. There are many affordable external webcams available online. Ideally, you should purchase a high-definition webcam that has a resolution of 1080p or higher.

Whether you are purchasing an external webcam or using a laptop already equipped with one, you'll want to make sure you have a webcam security cover. Generally, you should keep the security cover closed at all times when the webcam is not in use to prevent unauthorized remote usage. If you turn your webcam off, flip your security cover on. This is the best physical failsafe. Whenever you are not appearing on screen, such as during breaks, you can use the security cover to ensure that you are not continuing to appear on video. No matter how savvy and careful you are, there will be times when you forget to turn off your webcam. You might be flustered by a toddler screaming, or urgently need to go to the bathroom, or just be zonked out after hours of a mind-numbing deposition. It will happen to you. So, training yourself to use a physical failsafe is very important.

Recently, Jeffrey Toobin, a television legal analyst, lost a position with the New Yorker after he forgot to turn his camera off during a break in a Zoom meeting and was seen masturbating on camera.³ A school board member in New Jersey had to resign after she thought she had turned off her camera and brought her laptop into the bathroom with her

³ <https://www.vice.com/en/article/epdgm4/new-yorker-suspends-jeffrey-toobin-for-zoom-dick-incident>

during a break.⁴ An attorney in Peru, seen below, was admonished by the judge for disrespecting “the dignity of this court as well as the other lawyers present and the legal profession as a whole” after he forgot to turn off his webcam and had sex on camera while live streaming during a court proceeding.⁵



Another concern is that your webcam may still be streaming, even when your screen is turned off. This happened to me recently. I was participating in a meeting over Zoom and my laptop battery died. I plugged the computer back in and discovered I was still streaming. My computer had just gone into power saving mode and turned off my screen.

The same thing happened to Joshua Shenk, editor-in-chief at The Believer.⁶ Except, Mr. Shenk was in the bathtub using a virtual background. When his laptop battery died and his screen turned off, Mr. Shenk stood up to plug his laptop in to a power source. In doing so, he exposed himself to his co-workers. He subsequently resigned from his position at The Believer.

There are innumerable examples of similar mistakes because attorneys thought they’d turned off their webcam. If you’ve been taking a lot of remote depositions, you’ve already seen participants forget to turn off their webcams during breaks. It happens to all of us.

You should ALWAYS use a webcam security cover when you are not using the webcam, even if the computer screen is black or you think the computer is turned off.

Make sure the electronic device you are using is plugged into a power source during the deposition.

Whether you are using a desktop, laptop, tablet, or cell phone, you should make sure they are plugged into a power source during the deposition. You should not assume a fully charged device can make it through the entire deposition. You cannot rely on battery power alone.

You need to be familiar with the location where you will be during the remote deposition to ensure your power cable can reach a power source. If not, you may need to bring an extension cable.

The same holds true for your deponent. They might be relocating to a better lit or more private area of their home or office. You’ll want to ensure when you are doing deposition prep with them that they are in the same location where they will be during the deposition. Ensure that they can plug whichever device they will be using while in this location.

⁴ https://nypost.com/2020/11/25/school-board-member-resigns-after-zoom-meeting-bathroom-mishap/?utm_source=url_sitebuttons&utm_medium=site%20buttons&utm_campaign=site%20buttons

⁵ <https://nypost.com/2021/01/31/peruvian-lawyer-caught-having-sex-during-virtual-court-hearing/>

⁶ <https://www.thewrap.com/joshua-wolf-shenk-believer-magazine-editor-resigns-flashing-staff-zoom/>

Turn off all notifications.

You should ensure that you, and the deponent, turn off all phone and computer notifications during the deposition. You don't want distracting pings while you are asking questions or while the deponent is answering. This is especially true if you have co-counsel messaging with you during the deposition. This can also present a problem if you are using the sharing screen feature and notifications are pop up that are visible to the other participants. You can turn off notifications on your phone by swiping down and selecting the "Do Not Disturb" icon. You can turn off notifications in the settings of your messaging program or, if you are using Windows, by right-clicking on the notification icon on your taskbar, selecting "focused assist", and choosing "Off."

Use a docking station and dual monitor set up.

A docking station will allow you to connect multiple external devices, use dual monitors, charge your laptop, and connect to the internet with an ethernet cable. If your laptop has a limited number of ports, it is advisable to purchase a docking station.

If you use a laptop and docking station in your office, I strongly recommend that you move both under your desk with a sliding tray mount. This will free up a lot of desk space.

A dual monitor set up is ideal because you can use one screen for videoconference and the other to manage documents. Depending on the platform, there may be a dual monitor setting, such as in Zoom. You should turn this feature on prior to the deposition to optimize your user experience. There are numerous [tutorial videos](#) and [instructions online](#) that can walk you through the process of a dual monitor set up.

Power cycle your electronic devices prior to the deposition.

Power-cycling your electronic devices clears their short-term memory (cache) thereby increasing their speed and providing an opportunity for you to identify potential problems before you start the deposition. Power cycle electronic devices by turning them off, unplugging them, waiting 30 seconds, plugging them back in, and turning them back on. Both you and the deponent should power cycle the electronic devices you may use during the deposition an hour before you start.

INTERNET CONNECTION

The most common problem participants are likely to encounter during remote depositions are with their connection. This can result in participants experiencing call lag, frozen screens, and dropped calls. Fortunately, there are some simple steps all participants can take to decrease the likelihood of connection problems.

Test your internet speed.

You should run an [internet speed test](#) to determine how fast your internet connection is. The minimum speed necessary to use Zoom is 1.5 Mbps on the lowest settings. It is highly advisable to have a connection with at least 5 Mbps when using Zoom or any other platform to participate in a deposition. If you work from home, consider upgrading to the fastest internet connection speed available in your area.

Upgrade your modem and router.

If you lease your modem and router from your internet service provider, you should upgrade the equipment every two years. If you notice slower speeds, you should upgrade immediately. You can upgrade your equipment by contacting your internet service provider directly.

Use an ethernet cable.

Connecting to the internet using an ethernet cable is faster and more stable than WiFi and cellular. However, not all ethernet cables are created equal. You should physically examine your ethernet cable to note the "CAT" number. Make sure the ethernet cable you use for your remote deposition is at least CAT6a (or higher). A CAT6a cable can support more than 10x the speed and triple the bandwidth of a CAT5 cable. Make sure you purchase a "shielded" ethernet cable to prevent cross talk and electromagnetic signal interference.

Your office or home may be prewired for ethernet. You should check to see if the prewiring is CAT5 or CAT5e. Your CAT6a cable will still work on older networks, but to take advantage its full potential you may need to run the ethernet cable directly from your computer to the modem.

Don't be discouraged by the distance you may have to run the ethernet cable. My home office is on the second floor, but my modem is on the first. WiFi is great for everyday use and I don't want a loose cable running through my house. So, I keep a 100 ft. ethernet cable handy that I use only during remote depositions and hearings. When not in use, I store it in a desk drawer or closet. You can purchase a 100-foot CAT6a shielded ethernet cable for less than \$30 [online](#).

Encourage your deponent to use an ethernet cable, and to purchase a longer cable if necessary, if you experience connection problems during deposition prep.

Power cycle your router and modem prior to the deposition.

As a general rule, you should [power cycle](#) your router and modem monthly. Like with your electronic devices, you should power cycle your router and modem an hour before you start the deposition. Power cycling your router and modem clears their short-term memory (“cache”), optimizes your channel frequencies, and ensures they are running smoothly and quickly.

Minimize WiFi signal interference

If you must use WiFi during the deposition, you want to maximize your signal strength by minimizing interferences. Your routers signal strength will decrease the further you are away from it. The signal strength can also be impacted by household appliances and obstructions like wood and concrete.

Generally, you can determine your WiFi signal strength by the number of solid bars in the wireless icon on your device.

To maximize your signal strength, you want to be as close as practicable to your router during the remote deposition. If you continue to have signal strength issues then you need to troubleshoot the issue and should contact your internet service provider. If you cannot relocate to be closer to your router, purchase a WiFi extender to boost your signal. You can purchase one online for as little as \$30, but you’ll need to make sure the device is compatible with your router and modem.

Maximize your bandwidth.

You will have the best experience during your deposition if you can maximize the amount of bandwidth available. While this is true when using an ethernet cable, it is particularly true when using WiFi.

You can increase bandwidth over your network by disconnecting nonessential devices sharing your internet connection, such as smart appliances. Ask others sharing the same internet connection to disconnect from the internet during your remote deposition. If that is not feasible, ask that they avoid activities that can hog bandwidth, like streaming videos/music, downloading large files, online gaming, and videoconferencing.

You can also increase your bandwidth by turning off applications that may be automatically syncing files in the background on your device, such as iTunes, Dropbox, and One Drive.

Check your cellular strength.

You should test your cellular signal strength at the location and time when the remote deposition will occur. Participants may find themselves having to switch to a cellular signal during the deposition in the event of catastrophic technical failure. This can play out either as the participant having to use a cellular device, like a smart phone, to participate or using their cellular device as a mobile hotspot. In either case, it is important to know ahead of time the limitations and capabilities of having to fall back on a cellular connection.

Generally, you can determine your cellular signal strength by the number of solid bars in the cellular icon on your device.

If you use a cellular device, close all applications you are not using during the deposition.

In the event that you have a weak signal, consider purchasing a cellular signal booster. You’ll need to make sure the booster is compatible with your cellular service provider. You will find that many cellular signal boosters cost over \$200, so bear this in mind when exploring your options.

LIGHTS, CAMERA, ACTION

In many ways, you want to approach your set up during the deposition from the perspective of a studio producer. You want to ensure the best audio and visual experience for your audience. A poorly designed audio set up can result in feedback, echoes, and the deponent experiencing difficulty hearing your questions. Similarly, a poorly designed set can result in a distracting visual presentation. You cannot see the facial expressions and body language of a poorly lit witness.

This is one of the most important aspects of deposition prep with your deponent. You should prep them in the same location where they will be located during the deposition. This allows you to determine whether there is poor lighting, background noises, or other issues you can account for prior to the deposition. You may need to move the deponent to a different room to be closer to their router or so that they have better lighting.

Pick a quiet location where you won't be interrupted.

It is important that you select a location where you won't be interrupted or distracted by loud external noises. Depending on the platform you are using, you may be able to adjust the settings to suppress external noises.

Avoid having a door behind you where family members or coworkers could walk in. Lock the door, if possible. Put a sign on your door to prevent interruptions. You want to avoid ending up like BBC Dad, a professor who went viral when his adorable children walked into the room during a live interview on the BBC.⁷

**Wear noise cancelling headphones.**

There are often background noises that can distract us during remote depositions, such as construction, family members, or ceiling fans. So, it is advisable to wear a pair of noise cancelling headphones to minimize the distractions. Depending on the headphones, they may come with a built-in microphone. This is the ideal solution to prevent feedback and echoes during the deposition.

⁷ <https://www.today.com/parents/bbc-dad-revisits-his-family-s-viral-moment-one-year-t124934>

Use an external USB microphone.

If your headphones do not include a built-in microphone, you should purchase an external USB microphone. There are many options available online for as little as \$30.

You should place your external USB microphone an arm's length away from where you are sitting. You should test your microphone and adjust the settings, as necessary, prior to deposition to ensure the optimal user experience. This includes making sure that your USB microphone is selected as the input microphone on your platform, since it may not be set as the default microphone. At the beginning of the deposition, make sure that all the participants can hear you clearly before going on the record.

Mute yourself when you aren't speaking.

During the deposition, you should mute yourself whenever you are not talking. You can use the platform settings to shortcut or hotkey the mute/unmute feature. As you practice and become more comfortable using a shortcut key (such as the letter M), you will discover that it isn't a problem. The norm should be to mute yourself to prevent distracting noises and feedback. If you find that you cannot unmute quickly enough to make timely objections, you should ask the deponent and opposing counsel to slow down so you can register objections. If they do not, or if you are experiencing lag, you may consider leaving your microphone unmuted. Otherwise, you should mute yourself unless you are speaking.

Deponents will probably not be muted during the deposition, except during breaks. But, consider asking them to mute themselves when they aren't speaking. It will ensure the clearest audio experience and slow them down so they have more time to consider the question. It will also allow the opposing counsel time to register any objections and help if there is a lag.

Be prepared to switch to telephone.

In the event of catastrophic technical failure or if you are unable to prevent feedback, you should be prepared to call into the deposition. You can still use your webcam, but you'll use your phone for the audio.

Position your webcam at eye level, an arm's length away, and frame your shot so your head is near the top of the frame and your eyes are in the top 1/3.

For the best visual experience, you should place your camera at your eye level. This allows you to look directly into the camera. The camera should be an arm's length away from where you are sitting. You may need to put your camera on a stack of books, on a tripod, or mount it on top of your screen. You want your eyes to appear in the top third of the shot.

Have you ever noticed how presenters and news anchors on television usually appear in shots? Take the examples below:



Notice how the participants are positioned in the frame: (1) they are centered; (2) the tops of their heads sit just below the top of the frame; (3) their shoulders are clearly visible; and, (4) their eyes are in the top 1/3 of the frame. This is the ideal positioning for you and your deponent during the deposition. You will likely need to adjust the settings on your webcam to achieve this framing.

Compare the framing above with the ones below:



You will appear more confident and credible with the proper framing. You want the audience to be able to see your body language. This is an important aspect to go over with your deponent during deposition prep. You want to get their framing right for the deposition so they present themselves in the best light.

Put a post-it note or something you can look at next to your webcam.

You want to be looking directly into the camera when speaking. This is especially true for your deponents. A witness appears less credible if their eyes are shifting or they are looking away when answering questions. On the other hand, it is exhausting to stare at a webcam for hours. You, and your deponent, should put something next to your webcam, like a post-it note, that you will look at during the deposition. Your deponent should be instructed to stare directly at the post-it note when answering questions. This will make them appear more credible and confident. It will look like they are making eye contact with the jurors when watching the deposition later.

Hide your camera and spotlight or pin the deponent.

Ask the court reporter to spotlight the deponent, which will pin them to your screen. If they can't, you should pin the deponent to your screen. Ask the deponent to pin you to their screen when you are asking them questions. This will make the exchange more personal and feel more like a back-and-forth exchange.

Hide all non-video participants to prevent your screen from being cluttered in group view.

You should also hide the self-view of your camera after confirming your visual presentation and framing. This prevents you from being distracted or self-conscious. It can also help with zoom fatigue. However, you have to be extra careful because it will be harder to confirm that your camera is turned off, unless you've purchased a webcam security cover.

Use filters and third-party software to touch up your appearance.

Some of the platforms, like Zoom, have settings that will touch up your appearance. It is advisable to turn this setting on, although the manner of doing so varies from platform to platform.

You should also consider using a third-party program, like Xsplit or Youcam, to control your webcam. Third-party programs allow you to touch up your appearance, use filters, zoom in/out, blur your background, add cool or warm lighting effect, and a host of other features that can improve your visual presentation.

If you decide to use a third-party program, be sure to tinker with the settings prior to the deposition for the optimal visual experience. You don't want to be tinkering with the settings during the deposition. This is especially true if you have overlap between your personal and professional accounts on the platform, make sure personal filters are turned off prior to joining the deposition so you don't end up like the controversial⁸ attorney in Presidio, TX, who went viral when he appeared in court during a civil asset forfeiture proceeding with a kitten filter turned on.⁹ While trying to turn the filter off, he famously said, "I'm here live. I'm not a cat." You should always turn your camera on and check your background and filters prior to joining the deposition.

⁸ <https://www.timesofisrael.com/im-not-a-cat-lawyers-dark-past-with-jewish-woman-who-owned-a-tx-smoke-shop/>

⁹ <https://www.washingtonpost.com/technology/2021/02/09/cat-lawyer-zoom-filter/>



Sit in front of a white wall or green screen.

For the best visual experience, position yourself so your background is a white wall. This will help with lighting. You want to wear clothes that contrast with the color of your background. So, white is a great background color (although there is nothing wrong with a colorful accent wall as long as you are dressed in a contrasting color).

Alternatively, you should consider purchasing a green screen. You can purchase a retractable green screen online that can fit in a closet or behind your office door when not in use. A green screen is critical if you intend to use a virtual background effect. If you use a background effect without a green screen, you will experience sheering and spotty effects. So, if you use a background, invest in a green screen. Depending on the platform you are using, there may be a green screen setting you should turn on when using a green screen. As with everything else mentioned in this article, test your settings and visual layout using the green screen prior to the deposition.



Use a professional virtual background.

If you have a green screen, you should consider using a virtual background. It is important to avoid using animated virtual backgrounds, such as one with running water, waves, running horses, etc. These virtual backgrounds use a large amount of bandwidth that can cause connection and lag problems.

Choose a generic virtual background, like a conference room or office. You want a virtual background with depth. Don't select something clever. Remember, even though you are remote during a deposition, it is still as if you are in

court. Although, I've witnessed attorneys appearing remotely in court early in the pandemic with mountain and beach virtual backgrounds. I think this was part of the fun of playing with new technology. But, I don't see attorneys appearing anymore in remote court proceedings with clever backgrounds (although I'm sure it still happens).

Blur your background.

If you have a green screen, but don't want to use a virtual background, then consider blurring your background. This is an ideal set up that eliminates distractions so the deponent can focus solely on you. You can also blur your background if you don't have a green screen, but you'll be susceptible to the same sheering, lag, and spotty effects issues as if you were using a virtual background.

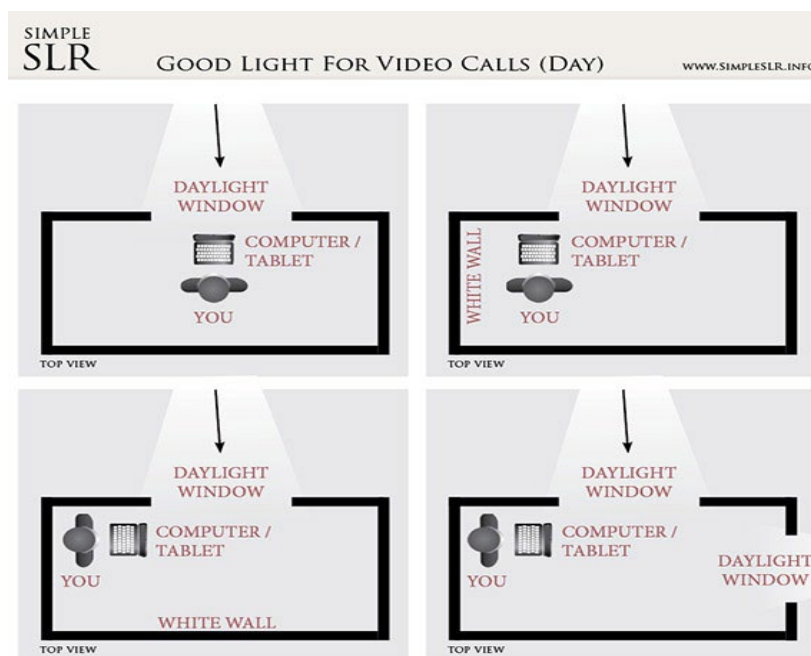
Curate your background.

Plants, furniture, and art, in moderation, are all advisable in the background. These can make the shot more personal and are less likely to distract your deponent. You should avoid the trend of using bookshelves as a background. After hours of staring at your face the deponent is going to be drawn to anything else visible in your frame. If you have bookshelves, they will start reading the book titles and wondering about, or remembering, the contents. You could also offend a deponent or making them feel embarrassed or "less than" because of their circumstances or the background that they're using. You want the deponent focused solely on you, not objects in your background.

There are guides available online and tutorial videos on Youtube from interior designers with tips on how to curate your background for videoconferencing calls.

Position yourself so you are sitting facing a window.

Often, the best lighting is natural lighting. So, if you are going to use a one-point lighting system you should try to position yourself so that a window is behind your computer. You may need curtains or a white sheet to diffuse the light. Consider using the following one-point lighting setups:



If you aren't able to use a window, consider using a lamp with a lamp shade behind your camera. You can also purchase a [ring light](#) to encircle your webcam or even a [webcam with a built in ring light](#) to achieve a similar effect.

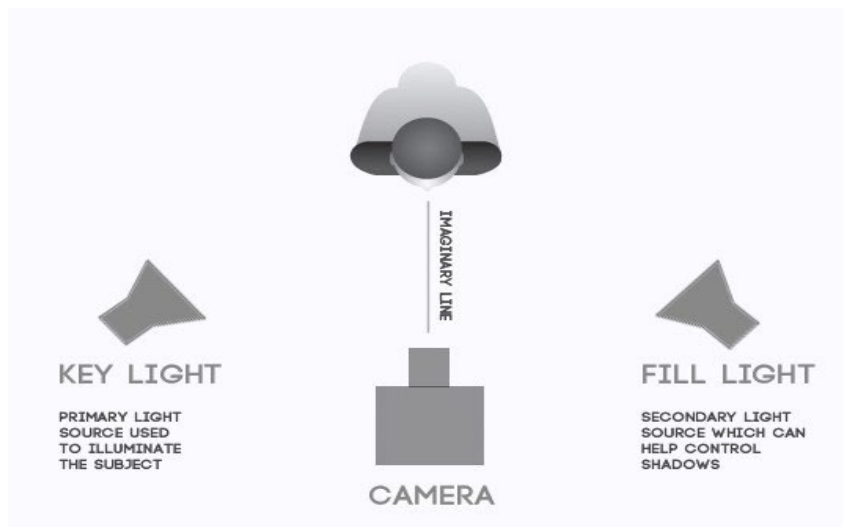
Avoid using harsh overhead lights. Your goal should be to achieve a soft lighting effect. Soft light smooths the transition from light to shadows.

Also, if you wear glasses, you'll want to make sure the light isn't so bright that it causes a reflection.

Set up a two-point light system.

For many attorneys, a two-point lighting system using fill and key lights is the ideal set up. The lights are opposite each other on either side of your camera. The key light is the brightest light and primary source of illumination. If you were only using a key light, half of your face would be illuminated and the other half would be bathed in shadow. The

fill light eliminates the shadow on the other half of your face without creating new shadows. It is a little dimmer than the key light. Together, the lights brightly illuminate your face and eliminate shadows from the shot.



You can purchase lights you can mount on tripods or attach to your monitors online, such as the Lume Cube.

You can also create three or four-point lighting systems using lights or, if you are using daylight, with reflectors. There are numerous guides available online and tutorial videos on YouTube describing how to set up one-, two-, three-, or four-point lighting systems.

Wear professional attire to the deposition.

You should dress professionally from head to toe. This ensures that even if you forget to turn your webcam off, you will not end up with a viral mishap. Wear colors that contrast with your background color. Don't wear green if you are using a green screen. It is also important that you remind the deponent to dress professionally during the deposition and to treat it as if they are testifying in court.

While this seems like obvious advice, there have been numerous stories of attorneys appearing at remote proceedings dressed inappropriately. A Florida judge recently wrote an open-letter admonishing attorneys to dress up for proceedings and citing different examples of attorneys showing up for court proceedings shirtless, in bed, and poolside wearing a beach cover-up.¹⁰ In California, as pictured below, a criminal defense attorney appeared at a court proceeding without a shirt. Don't go viral. Wear clothes and behave professionally during your deposition.



CONCLUSION

Hopefully, you've found at least some of the tips and advice in this article helpful.

¹⁰ https://wacotrib.com/news/weird/florida-judge-get-out-of-bed-get-dressed-for-zoom-hearings/article_1580e8e1-2fc7-5c10-9e3c-3ea75e00e2d6.html?utm_medium=social&utm_source=email&utm_campaign=user-share