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6 Steps to Remote International Depositions

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What does it mean to have an international deposition? This simply means that the witness will be in a foreign country. However, in this new virtual reality we're in, there are new challenges and components that we didn't have to deal with before. Between juggling the complexities of international depositions, paired with the logistical and tactical struggles of video conferencing, you will have a lot on your plate.

As you begin navigating this process, there are some basic steps you should be taking that will hopefully make your depositions run as smoothly as possible. Let's check them out.

Steps to Conduct an International Deposition

Step 1

Leading up to an international deposition, it is recommended that 4-6 weeks prior to the deposition date, you determine whether the witness is even willing to be deposed and immediately begin coordinating with the opposing counsel.

Cooperative Opposing Counsel

If you have a good working relationship with the opposing counsel, the first thing you should be trying to check off your list is a mutual stipulation with the opposing counsel so that the depositions can move forward. You should be stipulating that:

1. The deposition will move forward remotely
2. The witness can be sworn in by a court reporter as long as both parties stipulate on the record and the court reporter agrees

This is extremely important because court reporters only operate in the country and or state where they are certified and registered, even domestically.

Uncooperative Opposing Counsel

What happens if opposing counsel is not cooperative? There are a number of options that we will touch on at a high-level:

1. The Consulate Office may have to administer the oath for the witness. This means that the US Consulate and whatever country the witness may be in has granted status to administer the oath as it was taking place on US soil.
2. The other option is to hire a local notary. This will always be contingent on the country's laws and rules.
3. There are a few other judicial remedies where the judge by motion or otherwise decides to order that the deposition moves forward. This completely depends on the country where the witness will be.

Step 2

Now that you have talked to opposing counsel, hopefully, they are cooperative, the next step is to decide what country the deposition is going to take place in. There are a few red flags we want to draw your attention to with this.

The UK and Hong Kong are the most common locations for international depositions, but if you hear countries like Germany and Japan, those are extremely difficult to operate through and if you hear countries like Brazil or Russia, they do not allow US depositions to take place. A lot of the European countries that are in the EU are underneath the Hague Convention and generally follow the same rules. Please do your due diligence here because these rules do apply differently to citizens of those countries, versus non-citizens.

Remember that Covid considerations do apply to all depositions and meetings. Check out [Our World in Data](#) for up-to-date information on which countries are open, which countries will allow your team, opposing counsel, and or the court reporter to travel.

Step 3

Now that you have your country, you've spoken to opposing counsel regarding all the logistics surrounding the deposition, you must then determine where specifically the deposition will take place.

Much like a remote deposition here in the US, you have to decide the following:

- Do you want the witness physically with the court reporter?
- Are you going to do this in a hotel, conference room, at the witnesses home?
- Does it have to be at the Consulate Office for the purpose of swearing in the witness?

If the deposition must take place at the Consulate, it is recommended to start making those arrangements at least 6 weeks out.

With remote depositions, even domestically, regardless of where the witness will be during that deposition, you must test the equipment they will be using on the day of the deposition. And to go one step further, you need to make sure they have a working and reliable internet connection.

Whatever video conferencing platform you choose to use, your team needs to ensure that it has the capability to incorporate international phone numbers. This is important because if the internet connection is poor, and the bandwidth cannot sustain the meeting, the witness must have an option to call in and have video only.

Any video remote depositions do require a certain internet bandwidth speed, so again, please conduct your tech tests and be prepared.

Step 4

At this point, you've spoken to opposing counsel, you know the country, you've pinpointed an exact location of where your witness will be, you have all your equipment tested, next, you need to know what deposition services will be required.

To start, you need a court reporter, as mentioned previously, are you going to stipulate with opposing counsel that the court reporter be the one to swear in the witness remotely?

Will you have a videographer? Now, there is a common misperception with this element. Most online conferencing platforms have the ability to record meetings. But if that recording is taken on your own, it is not certified. Not to mention opposing counsel may not approve or allow it. So if you'd like the deposition recorded, you do need a certified videographer who can do the video recording remotely. This is a highly encouraged practice for international depositions and locally-based ones as well.

Do you need an interpreter? If so, what language(s) do they need to be able to speak, do they have all the necessary and properly tested equipment?

Next, you need to think about your **exhibits**. What exhibit platform are you going to use? Are you going to show your exhibits by sharing your screen? Some conferencing platforms will let you share you exhibits by chat, so is that something you would consider using? Additionally, how, when, and to who will you submit your exhibits to? Take time to get all these answers organized.

Following these considerations, the next step for your team is to prepare and send your deposition notice with all the assets and people you're requesting for the deposition. It's best practice to always indicate that this will be remote and by video conference. You also may want to take this opportunity to identify any other unique aspects of the deposition.

Step 5

It is important to send out your notice to the agency you are going to use to arrange your court reporter, as soon as possible. If there is an issue in terms of stipulations, you may need, for example, a notary in that country and that process takes time to coordinate. Any logistics internationally presume will take at least a week longer than in the states.

Step 6

It's deposition time! Make sure you have the time correctly marked in your calendar, and everyone is on the same page in terms of time zones.

When it begins, it will flow like a normal domestic deposition, just keep in mind any other additional considerations or international rules that you have to follow.

The Takeaway

Whether you're working with an agency that specializes in international depositions or not, be prepared and do your homework. Make sure you leave yourself plenty of time to schedule and coordinate everything so that you have time to make adjustments if need be.

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