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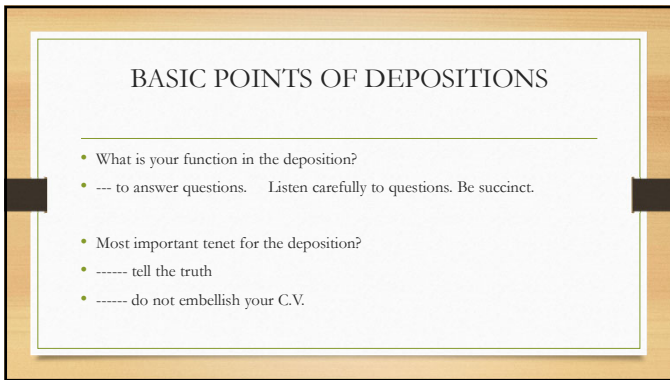
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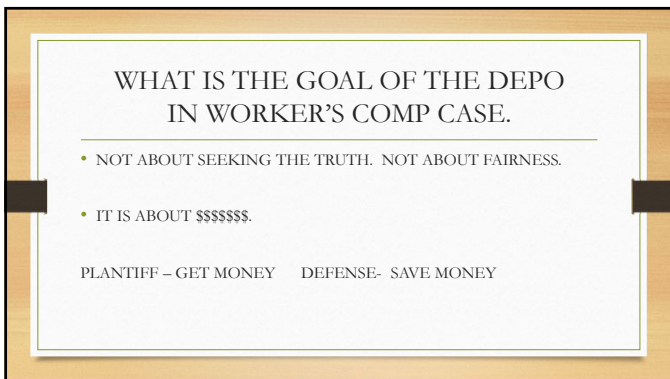
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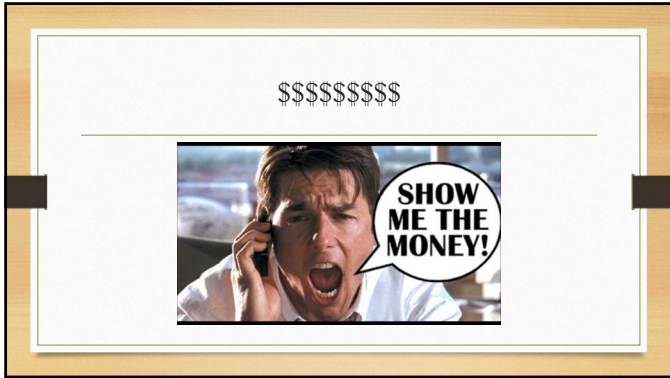
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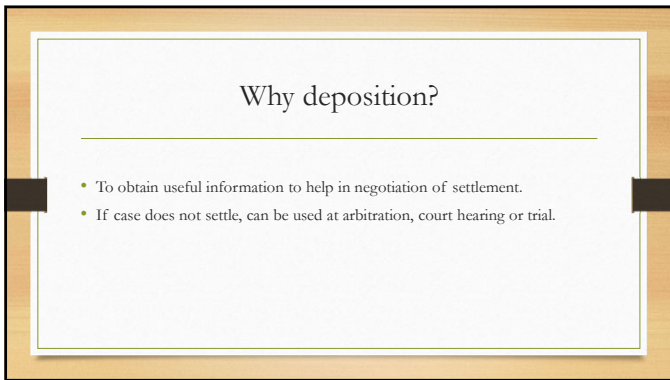
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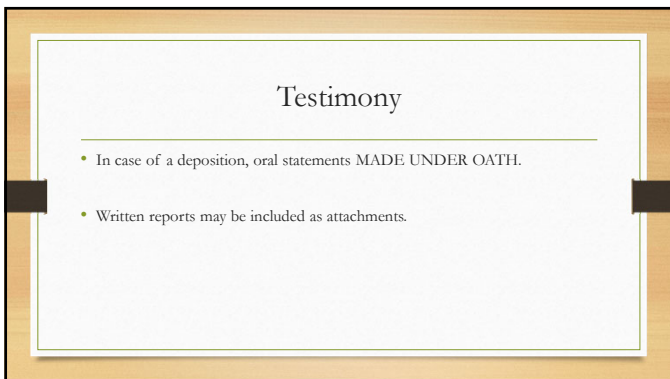
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**DRESS FOR SUCCESS**

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- Dress for Video Deposition.
- Dress down: business attire (men and women) Leave the Rolex, Breitling, or Tiffany watches/jewelry home.
- I like to wear Black Suit, Black Sweater and White Shirt. Or consider blue blazer and khaki trousers.

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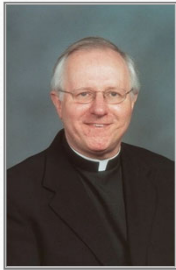
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BELIEVEABLE



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**IS HARRISONS TEXTBOOK OF  
INTERNAL MEDICIANE  
AUTHORITATIVE?**

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HARRISONS IS A VAUABLE TEXT, BUT THERE ARE MANY  
EQUALLY EXCELLENT BOOKS, THAT OFFER EQUALLY VALUABLE  
INFORMATION BUT AT TIMES VARIED OPINIONS.

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HAVE YOU EVER TOLD A LIE?

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- OF COURSE, BUT NEVER UNDER OATH – THAT WOULD BE PERJURY.

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Only source that I know of that is always authoritative

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- **MY WIFE**

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BE REASONABLE

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- The key point in being cross-examined with a medical treatise is reasonableness. Acknowledge the obvious. Harrison's Internal Medicine is a popular text. The authors are experienced doctors. However, every patient and doctor is different.
- Some carpenters fix pictures to walls using nails. Others use screws and some glue. Just because they perform the same task in different fashions does not mean that they are wrong.

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**REMEMBER THE AUDIENCE**

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- 1. KNOW WHO YOU ARE TALKING TO
- JUDGE? ANOTHER ATTORNEY?
- JURY (ORDINARY PEOPLE NOT PARTICULARLY SCHOOLED IN MEDICAL MATTERS).
- EXPLAIN IN EASY TO UNDERSTAND TERMS.

Fact: the NY Times reads at a 10<sup>th</sup> grade (16 year old) level.

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**EXPLAIN MEDICAL TERMS**

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- A torn meniscus is like a bad car shock-absorber.
- A horizontal tear of a meniscus is like the cut made by a bagel slicer
- Spondylosis = spine arthritis
- Spondylolisthesis is a slippage of one vertebral bone on another. Like a block out of place on stacked child blocks.

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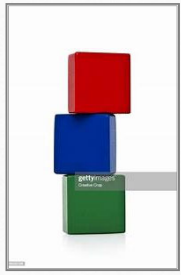
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**Crooked blocks**  
spondylolisthesis



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VIDEO DEPOSITION

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- LOOK AT CAMERA
- ENGAGE CAMERA
- FOCUS ON CAMERA
- MAKE LOVE TO CAMERA
- If you keep shifting your gaze you look SHIFTY

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SHIFTY

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DO NOT PORTRAY A VILLIAN

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### QUESTION TRAPS:

Do not agree to answer yes or no. (Have you stopped beating your wife or husband?).  
 If you give an honest answer, but the answer is potentially misleading, ask to explain.  
 For example: "Is it not correct doctor, that Mr. Wyler who has been treated for Malaria, was asymptomatic without fever on Tuesday?" You might answer "yes" and let the attorney go on to the next question. You could hope that the other attorney, would catch this oversight, and add in cross-exam, "Mr. Wyler appeared to be cured on Tuesday but did he not relapse on Thursday?". Or you could ask to explain your original "yes" answer, even saying that the yes answer is somewhat misleading.

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### Compound Questions:

- Break down the question into basic components.
- Answer questions one at a time and separately.

Think the various ingredients for a recipe.

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### CLEVER, CLEVER, CLEVER

"Doctor would you not agree that comminuted fracture with nerve damage can be quite severe, and then in general soft tissue injuries are generally more minor".  
 You might be inclined to answer yes to that.

Then, the next attorney question is: "is not a stab wound to the heart a soft tissue injury?" You would answer yes.

"no more questions"

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**Remuneration questions:**

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- Answer without hesitation. State how much you are paid.
- Remember you are worth it.
  
- Important: YOU ARE PAID FOR YOUR TIME – NOT FOR YOUR TESTIMONY

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**THREE BASIC RULES:**

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- 1. IF YOU DO NOT KNOW, STATE YOU DO NOT KNOW
- 2. IF YOU DO NOT RECALL, SAY SO.
- 3. IF YOU DO NOT UNDERSTAND THE QUESTION, SAY SO.
- 4. BE HONEST.

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**INTERESTING**

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- DOCTOR, THIS CASE INVOLVES A COMMINUTED, DISPLACED TIBIAL PLATEAU FRACTURE. I UNDERSTAND THAT YOU INTERPRET X – RAYS, BUT IN THIS CASE WOULD NOT A RADIOLOGIST BE BETTER ABLE TO COMMENT ON HEALING FROM READING THE FILMS?

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### Know the Standard

- The medical-legal standard for admissibility centers around the adjectives “possible”, “probable” and “certain”.
- Probable = more likely than not. Rarely would this be excluded from evidence.

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### NUMBERS NUMBERS NUMBERS

FACT: THE HIGHEST PRIME NUMBER LESS THAN 100 IS 97.

DOCTOR – YOU HAVE STATED THAT IS IS PROBABLE THAT THE FALL DOWN THE STAIRS CAUSED BUT A NECK SPRAIN AND NOT A HERNIATED DISC. ARE YOU 90% SURE, 75%, OR 51% SURE OF YOUR OPINION?

**YOU SHOULD ANSWER AND KEEP REPEATING LIKE A PARROT, MORE LIKELY THAN NOT.**

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### THOUGHT FOR THE DAY

- THERE IS ABSOLUTELY NO EXCUSE FOR A LACK OF PREPARATION. REVIEW THE FILE AND KNOW THE FACTS OF THE CASE AS IF YOU ARE STUDING FOR A TEST TO ALLOW YOU TO ENTER MEDICAL SCHOOL.
- KNOW THE MATERIAL. (AGE OF CLAIMANT, DATE OF INJURY, SURGERIES PERFORMED). IF POSSIBLE REVIEW ACTUAL IMAGING STUDIES (NOT JUST REPORTS)
- COMORBID “OTHER” MEDICAL CONDITIONS.

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**Facts to Know**

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- Impairment is defined as a decreased function of a body structure/region by a medical condition or injury

Disability is a restriction in an ADL caused by an impairment

Aggravation is the worsening of a pre-existent medical condition on a permanent basis. Exacerbation is worsening for a period of time and then a return to baseline.

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**Facts to Know**

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Arctic in Eskimo means bear. Remember bears at North Pole.

The job of the doctor at a Deposition is to answer Questions Truthfully.

Standard to be met is more likely than not.

In the formulation of an opinion, basing the opinion on Evidence Based Medicine is advised.

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**DO YOU AGREE?**

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- Degenerated discs (as opposed to traumatic ) are not painful.
- Electrodiagnostic testing is the only way to confirm radiculopathy.

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**Credibility**

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- You are teaching the jury.
- You are talking to the jury
- You are influencing the jury
- The Jury judges your credibility (they usually do not have a basis to judge your expertise).

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**Forensic Patients: how spectrum of patients differs from the usual “suspects” in an orthopaedic practice.**

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- 1. more minor injuries
- 2. greater disability
- 3. poorer results of treatment
- 4 longer and more varied care

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**Daubert : What are the 4 criteria that have to be met in order for an opinion to be admissible?**

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- 1. Whether the methods upon which the testimony is based are centered upon a testable hypothesis
- 2. The known or potential rate of error associated with the method
- 3. whether the methods has been subject to peer review
- 4. Whether the method is generally accepted in the relevant scientific community

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### CUT OFF ANSWER

- Vignette: Mr. X has a diagnosis of Malaria. On Monday he had shaking chills and a fever. With treatment he was symptom free on Friday. He was discharged from hospital. Yet, the following week, he had a relapse.
- Attorney question: Mr. X was symptom free and discharged on Friday, correct?
- What if you answer yes and attorney does not ask another question?
- You could respond after that you need to explain that answer as you believe it is misleading. May I please explain further.

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### GOOD RESPONSE TO THE HYPOTHETICAL.

- Certainly, a pre-existent condition can cause the disc to herniate, but unlike your hypothetical, the real accident was minor and happened 20 years ago and also, unlike your hypothetical, was totally without symptoms for that entire period of time.
- Also remember that many hypothetical questions can be quite long. Make sure that you are answering the question that is being asked. Listen and answer the question asked.

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### NO MORE QUESTIONS



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REST PERIOD



The image shows a group of approximately ten people in a yellow inflatable raft navigating a river with white-water rapids. The rafters are wearing blue life jackets and helmets. The background consists of dark, rocky riverbanks with some greenery.

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