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Deposition

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Definition

In cases where forensic neuropsychology is involved, a deposition occurs following the determination that the specific psychological or neuropsychological methods are admissible. Written opinions or oral opinions are provided by the expert witness under oath. Such opinions are scrutinized by the opposing counsel and by the trier of fact (e.g., judge or jury). The sworn testimony can be delivered in several ways. First, it can be presented in written form (e.g., affidavit) or orally via a deposition or in the courtroom. A deposition is considered a form of legal discovery and allows for litigants (e.g., their attorneys) to question fact or expert witnesses to make decisions regarding the testimony to be presented at the trial. During a deposition, both attorneys and a court recorder are present, but no judge or jury is in attendance. Everything asked and answered during the deposition is transcribed by a court reporter.

There are essentially two types of depositions: discovery deposition and trial deposition.

A discovery deposition is held by the opposing counsel and is intended to extract information about an expert's opinions, to refine the dispute by focusing on the most relevant issues, and to gain a sense of the expert witness' demeanor. A trial deposition (*de bene esse*) serves to preserve an expert witness' testimony if he/she is not able to appear at trial. A trial deposition and live trial testimony consist of two parts: direct examination and cross-examination. For further details on direct and cross-examinations, please see each respective entry.

Cross-References

- ▶ [Cross-Examination](#)
- ▶ [Direct Examination](#)

References and Readings

- Greiffenstein, M. F. (2009). Basics of forensic neuropsychology. In J. Morgan & J. Ricker (Eds.), *Textbook of clinical neuropsychology*. New York: Psychology Press.
- Melton, G. B., Petrila, J., Poythress, N. G., & Slobogin, C. (2007). *Psychological evaluations for the courts* (3rd ed.). New York: Guilford Press.