

EXERCISE

DEPOSITION WITNESS PREP: ETHICAL ISSUES

Background

You're in the middle of a prep session with a witness, getting her ready for a deposition. In her answers to your questions about the events of the case, she has forgotten several key facts. Also, some of her answers are coming across as defensive and would come across badly if the testimony is quoted in a brief or played for a jury.

You have to think on your feet about how to handle the forgotten facts, as well as her defensive answers.

Instructions

Come prepared to discuss what you'll do in this situation—specifically:

- What ethical rules you should have in mind while prepping the witness;
- What you should do about the witness forgetting several important facts; and
- How you'll address the witness's defensive answers.