Discovery in the Time of Covid: Mastering the Virtual Depos

January 12, 2021
Program: 5:00 PM – 6:00 PM
Via Zoom Webinar
1 CLE Hour
Discovery in the Time of Covid: Mastering the Virtual Depos

Program Title
Labor & Employment Law

Section/Committee

Program Date and Time
Tuesday, January 12, 2021  5:00 PM

Event Location
Zoom Webinar

Participant Name
Karyn Abbott

State Bar Number

Profession, if not a lawyer

Please rate by circling the appropriate number ( 5 = highest rating; 1 = lowest rating )

<table>
<thead>
<tr>
<th>Speakers</th>
<th>Usefulness of Information</th>
<th>Speaking ability</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dawn Sestito</td>
<td>5 4 3 2 1</td>
<td>5 4 3 2 1</td>
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<tr>
<td>Dan Stormer</td>
<td>5 4 3 2 1</td>
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<tr>
<td>Karyn Abbott</td>
<td>5 4 3 2 1</td>
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<tr>
<td>Natasha Chesler</td>
<td>5 4 3 2 1</td>
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Overall program rating ................................................................. 5 4 3 2 1

Contribution of written materials to the learning experience (Consider whether the material contained significant, current intellectual or practical content) ................................................. 5 4 3 2 1

Contribution of the location/environment to the learning experience ................................................................. 5 4 3 2 1

Did the program meet your expectations? [ ] Yes  [ ] No
If no, Please explain

Did the promotional materials accurately describe the program? [ ] Yes  [ ] No
If no, Please explain

How did you hear about the program?
[ ] E-Mail  [ ] Brochure  [ ] LACBA Website  [ ] LACBA Publications  [ ] Other
If other, Please explain

Please rank the factors that influenced your attendance at this program.

<table>
<thead>
<tr>
<th>Topic</th>
<th>Time</th>
<th>Location</th>
<th>Materials</th>
<th>Price</th>
<th>Speakers</th>
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</tr>
</tbody>
</table>

Other

Please sign this form and return to: Los Angeles County Bar Association, Events Department, P.O. Box 55020, Los Angeles, CA 90055-2020
Number of years in practice __________________ Number of lawyers in firm __________________

List of your area(s) of practice/interest

Who recommends/authorizes CLE attendance in your firm?

☐ Managing partner ☐ Recruiting officer ☐ Other ____________________________

☐ Department Head ☐ Self

What program length do you prefer?

☐ 1 Hour ☐ 2 Hours ☐ 3 Hours ☐ All-day

What time of day do you prefer to attend program?

☐ Weekday before 10 a.m. ☐ Weekday lunch ☐ Weekday evening

☐ Weekend ☐ Other ____________________________

Comments ____________________________________________________________

☐ You may use my comments for future promotional purposes

☐ You may not use my comments

Signature ____________________________ Date ____________________________

Please sign this form and return to: Los Angeles County Bar Association, Events Department, P.O. Box 55020, Los Angeles, CA 90055-2020
Companies trust Dawn Sestito as their go-to outside counsel, relying on her to guide them through all manner of sensitive disputes, from arbitrations and regulatory inquiries to class-action claims and bet-the-company litigation. Drawing on her own wide-ranging commercial litigation experience and leveraging the expertise of O’Melveny specialists, Dawn builds the right teams and brings the right resources to achieve the best outcomes for clients across a range of industries.

Dawn represents some of the world’s largest companies, defending them against claims including product mislabeling, breach of contract, employment discrimination, and public nuisance—an emerging legal battleground where she has extensive experience. The Daily Journal recognized Dawn’s success representing clients in matters ranging from patent disputes to major environmental litigation, honoring her as one of California’s “Top 20 under 40” attorneys in 2015.

A respected leader within the firm, Dawn serves as Managing Partner of O’Melveny’s Los Angeles office. She previously served in several other leadership roles, including as the firm’s Southern California Litigation Regional Head, as head of the Associate and Counsel Review Committee, and as a member of the Partner Compensation Committee.

Dawn also maintains an active pro bono practice focused on marriage equality and reproductive rights. Her work helped overturn Nevada’s same-sex marriage ban, and she filed amicus briefs in several cases challenging the federal Defense of Marriage Act, including in the United States Supreme Court in United States v. Windsor. She is currently working with a team of
O’Melveny attorneys challenging several Arizona state laws that endanger the health of women seeking legal abortions.

Experience

• Secured dismissal of more than a dozen putative class actions and and other claims asserted against a national retail grocery chain, including claims involving consumer protection, Proposition 65, unfair competition, breach of contract, and interference with contractual and prospective economic relations; other cases ongoing

• Defeated class certification for major international oil and gas company in ongoing litigation stemming from accidental release at refinery

• Leading defense in putative antitrust class action for major international oil and gas company

• Representing companies across a range of industries on consumer-protection, environmental, employment, and antitrust investigations by state agencies, including the attorneys general of California and other states

• Represented major international oil and gas company in a contract dispute with a private party; secured favorable verdict after bench-trial, including attorneys’ fees and spoliation sanctions; decision upheld on appeal by state supreme court and Ninth Circuit

• Represented several colleges and universities facing Title IX and Clery Act sexual assault issues, including investigations and audits by U.S. Department of Education as well as litigation brought by students, former students, and employees

• Represented major international oil and gas company in a dispute with state over oil and gas development; defended client in two administrative hearings, two successful state court appeals, an appeal to state supreme court, and multiple separate related lawsuits; cases ultimately settled

• Represented major international oil and gas company in litigation with federal and state governments over natural resource damages resulting from an oil spill; governments ultimately abandoned request to reopen amount of damages

• Represented consumer electronics companies in Section 337 investigations pending before the U.S. International Trade Commission and patent disputes pending in E.D. Texas and other district courts, including one jury trial

• Represented financial-services firm during multi-week arbitration over business disputes with former employees, including claims of unfair competition and breach of contract

• Secured dismissal of class-action lawsuit alleging unfair business practices and misclassification of employees by national package-delivery company

• Secured dismissal of two class actions alleging unfair business practices, violations of the California Labor Code, and employee misclassification by biotechnology company

• Defended large municipality in 70 individual actions alleging employee discrimination, retaliation, and violations of Section 1983 (free speech and due process)
Professional Activities

**Member**

- Values Award Committee

Honors & Awards

- Recommended by *The Legal 500, Dispute Resolution - General Commercial Disputes* (2018-2019)
- Southern California “Rising Star” in annual surveys conducted by *Law & Politics Media Inc.*
- Published in *Los Angeles* magazine
- Published in the Southern California edition of *Super Lawyers*
- O’Melveny Values Award recipient (2005)
- Nominated as a “Rising Star” in Litigation by *Euromoney Legal Media Group* at the 2014 Americas Women in Business Law Awards
Dan Stormer is a 1974 graduate of New York University School of Law, and a 1968 graduate of Wagner College. He has been a Civil Rights, International Human Rights and Constitutional lawyer for forty five years.

Mr. Stormer has been recognized internationally, nationally, and locally as one of the top attorneys in the United States.

Mr. Stormer has repeatedly been listed among Lawdragon Magazine’s “500 Leading Lawyers,” “500 Leading Litigators,” “500 Leading National Plaintiff Employment Lawyers” and “500 Leading National Plaintiff Consumer Lawyers” in America, “Top 100 Most Influential Lawyers in California,” “Top Labor and Employment Lawyers,” “Best Lawyers in America,” as well as in the "Top 10 Lawyers" in Southern California. As a result of a nationwide survey. He has been profiled repeatedly by various legal periodicals, including The Daily Journal, Super Lawyers™, Lawdragon, The National Law Journal, Los Angeles Lawyer, California Law - Business, California Lawyer, and the Legal Exchange. He was named as one of the 10 top plaintiff-side employment lawyers in California by The Daily Journal. He was also named one of the top 5 plaintiff-side employment lawyers in California by Chambers U.S.A. - America's Leading Lawyers. His firm is listed among the top 4 firms in the same poll. He has been repeatedly named one of Southern California’s Super Lawyers™ by Los Angeles Magazine and Law & Politics Magazine. He is "AV Preeminent" rated by Martindale-Hubbell. He has been listed in the Top 100 Lawyers and as a Super Lawyer in every year since the survey has been taken.

Mr. Stormer is recognized both nationally and internationally as one of the nation’s leading civil rights, employment, and constitutional law attorneys. He was recently described by The National Law Journal as "one of the country's top civil, constitutional, and international human rights lawyers." He has been repeatedly recognized in "The Best Lawyers in America," and the "Guide to the World's Leading Labour and Employment Lawyers." He has presented at the "Arguments of the Masters" and the "Legends of Litigation."

Mr. Stormer has lectured and published extensively, including legal treatises and law reviews. He has taught at over 300 seminars and trial programs, including the national conventions for the American Bar Association, the American Association for Justice, the National Employment Lawyers Association, Consumer Attorneys of California, the National Institute of Trial Advocacy and other advocacy programs. He has also taught law school at Hastings College of Law, Loyola Law School, University of San Fernando Law School, Southwestern Law School and People's College of Law.

Mr. Stormer has been involved in over 70 published appellate decisions and has argued cases at all levels, including repeatedly in the U.S. Supreme Court.

Mr. Stormer has obtained a number of large verdicts. Among them are the following:

In Martin v. Texaco, a verdict of $20.4 million was obtained for gender discrimination in employment.

In Steffens v. Regus, a verdict of $4,646,252 on behalf of a person who complained about unlawful activity and then was terminated.

In Stewart v. Jet Set, a judgment of over $3,000,000 on behalf of a person wrongfully terminated as a result of sexual orientation discrimination.
In Zinzun v. City of Los Angeles, a verdict of $3.84 million was obtained for civil rights violations.
In Schell v. City of Los Angeles, Chief of Police Bernard Parks, et al., a verdict of $4.361 million was obtained. Included in that verdict was a punitive damage award of $500,000 against Chief of Police Bernard Parks and $250,000 against his assistant, Commander Watson.

In Ruiz v. Jackson, a jury awarded $1.6 million against a Sony Executive for coercing a Filipino woman into service as a domestic slave.

In Heaton v. Groberman, $2 million for wrongful death of a tenant who came into contact with bacteria from a failed septic system.

In Wysinger v. The Automobile Club of Southern California, the jury awarded $1.3 million in damages ($1 million in punitive damages) for a senior employee who was retaliated against for complaining of discrimination. In addition, the Court awarded $1.1 million in attorneys’ fees and costs. Thus, the total award was $2.4 million.

In Bonsangue v. ADP, a verdict of over $1 million was obtained for a claim of age discrimination.

In Troffer v. United States, a judgment of over $1 million was obtained on behalf of firefighters wrongfully excluded from a United States Air Force base without due process.

Mr. Stormer has been lead or co-counsel in dozens of other multi-million dollar verdicts and settlements.
<table>
<thead>
<tr>
<th>Award/Activity</th>
<th>Source</th>
<th>Year(s)</th>
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<tbody>
<tr>
<td>Lawdragon Leading Plaintiff Lawyer</td>
<td>Lawdragon Leading Plaintiff Lawyer Magazine</td>
<td>2021</td>
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<tr>
<td>Elite Lawyer Award – Top Attorneys</td>
<td>Elite Lawyer</td>
<td>2020, 2021</td>
</tr>
<tr>
<td>500 Leading National Plaintiff Consumer Lawyers</td>
<td>Lawdragon 500 Leading Plaintiff Consumer Lawyers</td>
<td>2020</td>
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<tr>
<td>Best Attorneys of America</td>
<td>Rue Ratings’ Best Attorneys of America</td>
<td>Lifetime Charter Member</td>
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<tr>
<td>Fellow</td>
<td>The Fellows of the American Bar Foundation</td>
<td>Life Fellow</td>
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<tr>
<td>Top Attorneys in Southern California</td>
<td>Los Angeles Magazine</td>
<td>2020</td>
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<tr>
<td>Category</td>
<td>Organization</td>
<td>Years</td>
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<tr>
<td>Best Lawyers in Southern California (Selected by Peer Recognition &amp; Professional Achievement)</td>
<td>The Wall Street Journal</td>
<td>2020</td>
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<tr>
<td>Certification/Recognition</td>
<td>Publication/Website</td>
<td>Years Covered</td>
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<tr>
<td>Employment Law – Individuals “Lawyer of the Year” for Pasadena</td>
<td>Best Lawyers in America</td>
<td>2016, 2019</td>
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<tr>
<td>Decades of Service Award</td>
<td>National Lawyers Guild Los Angeles</td>
<td>2019</td>
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<td>Lawyer of the Year</td>
<td>2019 Edition of The Best Lawyers in America</td>
<td>2019</td>
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<td>Civil Rights Law - Attorney of the Year in California</td>
<td>2019 Corporate Intl Magazine Global Award</td>
<td>2019</td>
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<td>Award</td>
<td>Organization</td>
<td>Years</td>
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<tr>
<td>Lawyer Of The Year: Southern California</td>
<td>The Wall Street Journal</td>
<td>2019</td>
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<td>America's Most Honored Professionals</td>
<td>The American Registry</td>
<td>2019</td>
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<td>America’s Top 100 Civil Defense Litigators</td>
<td>America’s Top 100 Civil Defense Litigators</td>
<td>2018</td>
</tr>
<tr>
<td>America’s Top 100 Criminal Defense Attorneys</td>
<td>America's Top 100 Criminal Defense Attorneys</td>
<td>2017, 2018</td>
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<td>Attorney of the Year - CLAY Award – Civil Rights</td>
<td>California Lawyer Magazine</td>
<td>2006, 2017</td>
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<td>LA CAN Freedom Now Award</td>
<td>The Los Angeles Community Action Network</td>
<td>2016</td>
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<tr>
<td>Award</td>
<td>Association/Outfit</td>
<td>Year(s)</td>
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<tr>
<td>Best Lawyers in America Employment Law - Individuals</td>
<td>Best Lawyers in America – 20th Edition</td>
<td>2014 (over 20 years consecutively on list)</td>
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<td>Hadsell Stormer Richardson &amp; Renick LLP – Tier 1 Ranking</td>
<td>U.S. News - Best Lawyers’ “Best Law Firms”</td>
<td>2014</td>
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<tr>
<td>Southern California’s Top Rated Lawyers</td>
<td>American Lawyer Media</td>
<td>2013</td>
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<td>Best Attorneys in Los Angeles</td>
<td>Best Lawyers – Individuals Award</td>
<td>2013</td>
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<tr>
<td>Congressional Award for Outstanding Public Service to the Community</td>
<td>Congressman Howard L. Berman</td>
<td>2012</td>
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<td>Religious Liberty Award</td>
<td>ACLU of Southern California</td>
<td>2012</td>
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<tr>
<td>Lawyer of the Year – Individuals - Employment Law</td>
<td>Naifeh &amp; Smith – Best Lawyers in America</td>
<td>2012</td>
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<tr>
<td>Pro Bono Honor</td>
<td>Chief Judge of the United States District Court for the District of Columbia and The Standing Committee on Pro Bono Legal Services of the Judicial Conference for the District of Columbia Circuit</td>
<td>2011</td>
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<td>Award/Title</td>
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<tr>
<td>Recognized for Distinction in Labor and Employment Law</td>
<td>The American Lawyer</td>
<td>2011</td>
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<td>Appellate Lawyer Award</td>
<td>The National Law Journal</td>
<td>2010</td>
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<td>Southern California 50 Leadership Council</td>
<td>RAND Institute for Civil Justice</td>
<td>2010</td>
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<td>Top Lawyers</td>
<td>Labor + Employment</td>
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<td>The Wagner Alumni Fellows Award – Law</td>
<td>Wagner College</td>
<td>2008</td>
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<tr>
<td>Certificate of Recognition</td>
<td>Los Angeles City Council, Eric Garcetti – President</td>
<td>2007</td>
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<td>LGBT Award</td>
<td>ACLU Foundation of Southern California</td>
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<td>Award</td>
<td>Honoree</td>
<td>Year</td>
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<tr>
<td>Fellow of the Dean’s Roundtable</td>
<td>Chapman University School of Law</td>
<td>2007</td>
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<tr>
<td>The Los Angeles Area’s Best Lawyers</td>
<td>Los Angeles Times - West Magazine</td>
<td>2006</td>
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<tr>
<td>Certificate of Recognition For Outstanding Dedication to the Community</td>
<td>California State Senate</td>
<td>2006</td>
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<td>Certificate of Appreciation In Honor of Dedication to Social Justice in the City of Los Angeles</td>
<td>Los Angeles City Council</td>
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<td>Social Justice Award</td>
<td>Occidental College - Urban &amp; Environmental Policy Institute</td>
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<td>The 500 Leading Litigators in America</td>
<td>Lawdragon Magazine</td>
<td>2006</td>
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<td>Certificate of Recognition for Human Rights Legal Representation</td>
<td>California State Assembly</td>
<td>2006</td>
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<td>Joseph Posner Award</td>
<td>California Employment Lawyer’s Association</td>
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<td>Certificate of Recognition for Fighting Discrimination</td>
<td>California State Assembly Resolution</td>
<td>2005</td>
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<td>National Lawyers Guild</td>
<td>2005</td>
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<td>Award</td>
<td>Recipient</td>
<td>Date</td>
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<td>Robert Kenny Award</td>
<td>Governors of The College of Labor and Employment Lawyers</td>
<td>2004</td>
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<td>Fellow of the College</td>
<td>Chambers Publishing - America's Leading Business Lawyers</td>
<td>2003</td>
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<tr>
<td>Top 5 Employment Lawyers in California</td>
<td>For outstanding contribution to the citizens of Los Angeles</td>
<td>1995</td>
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<tr>
<td>Los Angeles Office of the City Attorney's Commendation</td>
<td>For longstanding commitment to ensure equal justice and for service to the community</td>
<td>1995</td>
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<tr>
<td>California Lt. Governor's Commendation</td>
<td>Commitment to Civil Rights, Constitutional Law and Public Interest Law</td>
<td>1995</td>
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<tr>
<td>California Assembly Resolution</td>
<td>California Women's Law Center</td>
<td>1995</td>
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<td>Pursuit of Justice Award</td>
<td>The Daily Journal</td>
<td>1991</td>
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<td>Top 10 Labor &amp; Employment Lawyers in California</td>
<td>People's College of Law</td>
<td>1991</td>
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<td>Clarence Darrow Award</td>
<td>Hollywood Fair Housing Council</td>
<td>1989</td>
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<td>Hollywood Fair Housing Council Award</td>
<td>Public Counsel Law Center</td>
<td>1987</td>
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<tr>
<td>Pro Bono Firm of the Year</td>
<td>Legal Aid Foundation of Los Angeles</td>
<td>1986</td>
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</tbody>
</table>
Other Activities

- Rim of the World Special Athletes – Board of Directors
- Adaptive Recreation Center’s Foundation – Board of Directors
- Professional Ski Instructors of America/American Association of Snowboard Instructors
  - Adaptive Committee - Western Region - Chair
  - Adaptive Committee –National
  - Tech Team - Western Division Adaptive
- Board of Directors - Big Bear Therapeutic Riding Center
- Adaptive Adventures Unlimited – Board of Directors
- Tahoe Adaptive Competition Center – Founding Member
- Silverlake Parks and Recreation - Sports Board
- Echo Park / Silverlake People’s Child Care Center
- Volunteer Coaching
- John Marshall High School - Assistant Tennis Coach - Boys & Girls Varsity
- Various Youth Sports Leagues - Baseball (ages 6-adult), Soccer (ages 6-15), and Basketball (ages 6-15)
- Professional Ski Instructors of America (Focusing on teaching persons with disabilities, as well as Alpine and Children’s instruction)
- “The Edge” – Professional Ski Instructors of America Magazine
KARYN ABBOTT, Biography

Karyn Abbott began her legal career as a legal secretary, then a paralegal, and in 1981 obtained her Certified Shorthand Reporter and Registered Professional Reporter licenses. In 2011 she became a Certified Realtime Reporter. She established Karyn Abbott & Associates Court Reporters and Legal Video Services in 1983 and was actively reporting and managing that company for 29 years. She has reported extensively throughout the United States, Europe and Asia. She lived in Bangkok, Thailand, for several months reporting a high-profile case. Karyn has conducted seminars at law firms and legal organizations on how to integrate video with depositions and trial testimony. Karyn has reported and coordinated many multi-national and worldwide cases. She now educates attorneys and reporters on remote deposition practices.

Education: Bryan College of Court Reporting, Los Angeles, California
Graduated in 1981
Auburn University, Auburn, Alabama
Western Kentucky University, Bowling Green, Kentucky

Certifications: Certified LiveNote Reporter, No. 0312113-06
California Certified Shorthand Reporter No. 5252
Registered Professional Reporter No. 1802

Related Work Experience:
President and Owner, Court Reporters Unlimited
July 2016 to Present
Manages day-to-day operations of a court reporting firm as well as reporting depositions and legal proceedings

Partner in Mastering Transcription, Inc.
2018 to Present

President and owner of Karyn Abbott & Associates
May 1983 to September 2012, Responsible for supervising 25 reporters, marketing team, legal transcribers, videographers and clerical support personnel

Owner of Law in Motion Video Services
August 1990 to June 2010

Memberships: National Court Reporters Association, California Court Reporters Association, American Association of Electronic Reporters and
Transcribers, Los Angeles Legal Secretaries Association, Women Lawyers Association of Los Angeles
## Discovery in the Time of Covid:
### Mastering the Virtual Deposition

<table>
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<tr>
<td>Sample Zoom Deposition Notice Language</td>
<td>A</td>
</tr>
<tr>
<td>California Civil Procedure Code § 2025.270</td>
<td>B</td>
</tr>
<tr>
<td>California Civil Procedure Code § 2025.330</td>
<td>C</td>
</tr>
<tr>
<td>California Civil Procedure Code § 2025.340</td>
<td>D</td>
</tr>
<tr>
<td>California Civil Procedure Code § 2025.620</td>
<td>E</td>
</tr>
</tbody>
</table>
SAMPLE ZOOM DEPOSITION NOTICE LANGUAGE

PLEASE TAKE NOTICE that pursuant to Rules 2025.210, et seq., 2025.220 et seq., and 2025.270(a), of the California Code of Civil Procedure, Plaintiffs will take the deposition of ** on ** starting at ** a.m. via telephonic / videoconference as is permitted under the State of California’s Stay At Home Order, Executive Order N-33-20, dated March 19, 2020, which was issued in response to the current COVID-19 pandemic. Plaintiffs will send the video conference log-in information to the noticed parties via electronic mail prior to the start of the deposition. This deposition will be taken by stenographic means before an officer authorized to administer oaths. The officer may appear remotely per Executive Order N-38-20, dated March 27, 2020. This deposition may be video recorded. The deposition will continue from day-to-day until completed.

PLEASE TAKE FURTHER NOTICE that, pursuant to Code of Civil Procedure sections 2025.330-2025.340, Plaintiffs reserve the right to record the deposition testimony of the above-named deponent(s) by audio-visual means, including videotape, in addition to recording by stenographic method pursuant to Code of Civil Procedure section 2025.330. Plaintiffs reserve the right to use the videotaped recording of the deposition at the time of trial pursuant to Code of Civil Procedure section 2025.620.
§ 2025.270. Date of deposition

West's Annotated California Codes
Code of Civil Procedure (Refs & Annos)
Title 4. Civil Discovery Act (Refs & Annos)
Chapter 9. Oral Deposition Inside California (Refs & Annos)
Article 2. Deposition Notice (Refs & Annos)

§ 2025.270. Date of deposition

Effective: January 1, 2008

Currentness

(a) An oral deposition shall be scheduled for a date at least 10 days after service of the deposition notice.

(b) Notwithstanding subdivision (a), in an unlawful detainer action or other proceeding under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3, an oral deposition shall be scheduled for a date at least five days after service of the deposition notice, but not later than five days before trial.

(c) Notwithstanding subdivisions (a) and (b), if, as defined in Section 1985.3 or 1985.6, the party giving notice of the deposition is a subpoenaing party, and the deponent is a witness commanded by a deposition subpoena to produce personal records of a consumer or employment records of an employee, the deposition shall be scheduled for a date at least 20 days after issuance of that subpoena.

(d) On motion or ex parte application of any party or deponent, for good cause shown, the court may shorten or extend the time for scheduling a deposition, or may stay its taking until the determination of a motion for a protective order under Section 2025.420.

Credits

Editors' Notes

LAW REVISION COMMISSION COMMENTS

2004 Addition

Subdivision (a) of Section 2025.270 continues the first and second sentences of former Section 2025(f) without change.

Subdivision (b) continues the third sentence of former Section 2025(f) without substantive change.
Subdivision (c) continues the second paragraph of former Section 2025(f) without change, except to conform the cross-reference.

For the consequences of noncompliance with the requirements of a deposition notice, see Section 2025.410. [33 Cal.L.Rev.Comm. Reports 847 (2004)].

2007 Amendment

Section 2025.270 is amended to clarify its application when personal records of a consumer are subpoenaed in an unlawful detainer case. The provision is also amended to clarify its application when employment records of an employee are subpoenaed. Further, the amendment makes clear that the special notice requirement for an unlawful detainer case also applies to a proceeding for forcible entry (see Section 1159) or forcible detainer (see Section 1160).

Under subdivision (c), a litigant must give twenty days notice when subpoenaing personal records of a consumer or employment records of an employee. This rule applies even in an unlawful detainer case or other summary proceeding for possession of real property.

Under subdivision (d), a court may adjust the notice period for good cause shown. Likewise, on a showing of good cause, a court may shorten the time limits for serving a consumer or a custodian of records under Section 1985.3, provided that the rights of witnesses and consumers are preserved. See Section 1985.3(h). Similarly, on a showing of good cause, a court may shorten the time limits for serving an employee or a custodian of records under Section 1985.6, provided that the rights of witnesses and employees are preserved. See Section 1985.6(g). In addition, under specified circumstances, a court may continue the trial date or extend other time limits in an unlawful detainer case or other summary proceeding for possession of real property. See Sections 1167.3, 1167.5, 1170.5; see also Deal v. Municipal Court, 157 Cal.App.3d 991, 997-98, 204 Cal.Rptr. 79 (1984). [36 Cal.L.Rev.Comm. Reports 271 (2007)].
§ 2025.330. Oath or affirmation; stenographic record; electronic recording; examination subject to Evidence Code provisions; questions submitted to deposition officer for answer by deponent in lieu of party participation

Effective: January 1, 2006

(a) The deposition officer shall put the deponent under oath or affirmation.

(b) Unless the parties agree or the court orders otherwise, the testimony, as well as any stated objections, shall be taken stenographically. If taken stenographically, it shall be by a person certified pursuant to Article 3 (commencing with Section 8020) of Chapter 13 of Division 3 of the Business and Professions Code.

(c) The party noticing the deposition may also record the testimony by audio or video technology if the notice of deposition stated an intention also to record the testimony by either of those methods, or if all the parties agree that the testimony may also be recorded by either of those methods. Any other party, at that party's expense, may make an audio or video record of the deposition, provided that the other party promptly, and in no event less than three calendar days before the date for which the deposition is scheduled, serves a written notice of this intention to make an audio or video record of the deposition testimony on the party or attorney who noticed the deposition, on all other parties or attorneys on whom the deposition notice was served under Section 2025.240, and on any deponent whose attendance is being compelled by a deposition subpoena under Chapter 6 (commencing with Section 2020.010). If this notice is given three calendar days before the deposition date, it shall be made by personal service under Section 1011.

(d) Examination and cross-examination of the deponent shall proceed as permitted at trial under the provisions of the Evidence Code.

(e) In lieu of participating in the oral examination, parties may transmit written questions in a sealed envelope to the party taking the deposition for delivery to the deposition officer, who shall unseal the envelope and propound them to the deponent after the oral examination has been completed.

Credits
Editors' Notes

LAW REVISION COMMISSION COMMENTS

2004 Addition

Subdivision (a) of Section 2025.330 continues the first sentence of former Section 2025(l)(1) without change.

Subdivision (b) continues the second sentence of former Section 2025(l)(1) without change.

Subdivision (c) continues the third, fourth, and fifth sentences of former Section 2025(l)(1) without change, except to conform the cross-references.

Subdivision (d) continues the sixth sentence of former Section 2025(l)(1) without change. [33 Cal.L.Rev.Comm. Reports 851 (2004)].

Subdivision (e) continues former Section 2025(l)(3) without change.

2005 Amendment

Subdivision (c) of Section 2025.330 is amended to make clear that the right of a non-deposing party to make an audio or video record of deposition testimony is not dependent on the method of recording used by the party noticing the deposition.

West's Ann. Cal. C.C.P. § 2025.330, CA CIV PRO § 2025.330
Current with all laws through Ch. 372 of 2020 Reg.Sess.
§ 2025.340. Recordation by audio or video technology; procedural requirements; submission at hearing with stenographic transcript

Effective: July 1, 2005
Currentness

If a deposition is being recorded by means of audio or video technology by, or at the direction of, any party, the following procedure shall be observed:

(a) The area used for recording the deponent's oral testimony shall be suitably large, adequately lighted, and reasonably quiet.

(b) The operator of the recording equipment shall be competent to set up, operate, and monitor the equipment in the manner prescribed in this section. Except as provided in subdivision (c), the operator may be an employee of the attorney taking the deposition unless the operator is also the deposition officer.

(c) If a video recording of deposition testimony is to be used under subdivision (d) of Section 2025.620, the operator of the recording equipment shall be a person who is authorized to administer an oath, and shall not be financially interested in the action or be a relative or employee of any attorney of any of the parties, unless all parties attending the deposition agree on the record to waive these qualifications and restrictions.

(d) Services and products offered or provided by the deposition officer or the entity providing the services of the deposition officer to any party or to any party's attorney or third party who is financing all or part of the action shall be offered or provided to all parties or their attorneys attending the deposition. No service or product may be offered or provided by the deposition officer or by the entity providing the services of the deposition officer to any party or any party's attorney or third party who is financing all or part of the action unless the service or product is offered or provided to all parties or their attorneys attending the deposition. All services and products offered or provided shall be made available at the same time to all parties or their attorneys.

(e) The deposition officer or the entity providing the services of the deposition officer shall not provide to any party or any other person or entity any service or product consisting of the deposition officer's notations or comments regarding the demeanor of any witness, attorney, or party present at the deposition. The deposition officer or the entity providing the services of the deposition officer shall not collect any personal identifying information about the witness as a service or product to be provided to any party or third party who is financing all or part of the action.
(f) Upon the request of any party or any party's attorney attending a deposition, any party or any party's attorney attending the deposition shall enter in the record of the deposition all services and products made available to that party or party's attorney or third party who is financing all or part of the action by the deposition officer or by the entity providing the services of the deposition officer. A party in the action who is not represented by an attorney shall be informed by the noticing party that the unrepresented party may request this statement.

(g) The operator shall not distort the appearance or the demeanor of participants in the deposition by the use of camera or sound recording techniques.

(h) The deposition shall begin with an oral or written statement on camera or on the audio recording that includes the operator's name and business address, the name and business address of the operator's employer, the date, time, and place of the deposition, the caption of the case, the name of the deponent, a specification of the party on whose behalf the deposition is being taken, and any stipulations by the parties.

(i) Counsel for the parties shall identify themselves on camera or on the audio recording.

(j) The oath shall be administered to the deponent on camera or on the audio recording.

(k) If the length of a deposition requires the use of more than one unit of tape or electronic storage, the end of each unit and the beginning of each succeeding unit shall be announced on camera or on the audio recording.

(l) At the conclusion of a deposition, a statement shall be made on camera or on the audio recording that the deposition is ended and shall set forth any stipulations made by counsel concerning the custody of the audio or video recording and the exhibits, or concerning other pertinent matters.

(m) A party intending to offer an audio or video recording of a deposition in evidence under Section 2025.620 shall notify the court and all parties in writing of that intent and of the parts of the deposition to be offered. That notice shall be given within sufficient time for objections to be made and ruled on by the judge to whom the case is assigned for trial or hearing, and for any editing of the recording. Objections to all or part of the deposition shall be made in writing. The court may permit further designations of testimony and objections as justice may require. With respect to those portions of an audio or video record of deposition testimony that are not designated by any party or that are ruled to be objectionable, the court may order that the party offering the recording of the deposition at the trial or hearing suppress those portions, or that an edited version of the deposition recording be prepared for use at the trial or hearing. The original audio or video record of the deposition shall be preserved unaltered. If no stenographic record of the deposition testimony has previously been made, the party offering an audio or video recording of that testimony under Section 2025.620 shall accompany that offer with a stenographic transcript prepared from that recording.

Credits
(Added by Stats.2004, c. 182 (A.B.3081), § 23, operative July 1, 2005.)
Editors' Notes

LAW REVISION COMMISSION COMMENTS

2004 Addition

The introductory clause of Section 2025.340 continues the introductory clause of former Section 2025(/)(2) without substantive change.

Subdivision (a) continues former Section 2025(/)(2)(A) without change.

Subdivision (b) continues the first and second sentences of former Section 2025(/)(2)(B) without substantive change.

Subdivision (c) continues the third sentence of former Section 2025(/)(2)(B) without substantive change.

Subdivision (d) continues the fourth, fifth, and sixth sentences of former Section 2025(/)(2)(B) without change.

Subdivision (e) continues the seventh and eighth sentences of former Section 2025(/)(2)(B) without change.

Subdivision (f) continues the ninth and tenth sentences of former Section 2025(/)(2)(B) without change.

Subdivision (g) continues former Section 2025(/)(2)(C) without change.

Subdivision (h) continues former Section 2025(/)(2)(D) without change.

Subdivision (i) continues former Section 2025(/)(2)(E) without change.

Subdivision (j) continues former Section 2025(/)(2)(F) without change.

Subdivision (k) continues former Section 2025(/)(2)(G) without change.

Subdivision (/) continues former Section 2025(/)(2)(H) with revisions to encompass all types of audio and video technology, not just audiotape and videotape.

Subdivision (m) continues former Section 2025(/)(2)(I) with revisions to conform cross-references and to encompass all types of audio and video technology in the last sentence, not just audiotape and videotape. [33 Cal.L.Rev.Comm. Reports 852 (2004)].

Current with all laws through Ch. 372 of 2020 Reg.Sess.
§ 2025.620. Use of deposition at trial or other hearings; procedural requirements; permitted uses; submission of total or partial testimony

Effective: July 1, 2005

At the trial or any other hearing in the action, any part or all of a deposition may be used against any party who was present or represented at the taking of the deposition, or who had due notice of the deposition and did not serve a valid objection under Section 2025.410, so far as admissible under the rules of evidence applied as though the deponent were then present and testifying as a witness, in accordance with the following provisions:

(a) Any party may use a deposition for the purpose of contradicting or impeaching the testimony of the deponent as a witness, or for any other purpose permitted by the Evidence Code.

(b) An adverse party may use for any purpose, a deposition of a party to the action, or of anyone who at the time of taking the deposition was an officer, director, managing agent, employee, agent, or designee under Section 2025.230 of a party. It is not ground for objection to the use of a deposition of a party under this subdivision by an adverse party that the deponent is available to testify, has testified, or will testify at the trial or other hearing.

(c) Any party may use for any purpose the deposition of any person or organization, including that of any party to the action, if the court finds any of the following:

(1) The deponent resides more than 150 miles from the place of the trial or other hearing.

(2) The deponent, without the procurement or wrongdoing of the proponent of the deposition for the purpose of preventing testimony in open court, is any of the following:

(A) Exempted or precluded on the ground of privilege from testifying concerning the matter to which the deponent's testimony is relevant.
§ 2025.620. Use of deposition at trial or other hearings; ..., CA CIV PRO § 2025.620

(B) Disqualified from testifying.

(C) Dead or unable to attend or testify because of existing physical or mental illness or infirmity.

(D) Absent from the trial or other hearing and the court is unable to compel the deponent's attendance by its process.

(E) Absent from the trial or other hearing and the proponent of the deposition has exercised reasonable diligence but has been unable to procure the deponent's attendance by the court's process.

(3) Exceptional circumstances exist that make it desirable to allow the use of any deposition in the interests of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court.

(d) Any party may use a video recording of the deposition testimony of a treating or consulting physician or of any expert witness even though the deponent is available to testify if the deposition notice under Section 2025.220 reserved the right to use the deposition at trial, and if that party has complied with subdivision (m) of Section 2025.340.

(e) Subject to the requirements of this chapter, a party may offer in evidence all or any part of a deposition, and if the party introduces only part of the deposition, any other party may introduce any other parts that are relevant to the parts introduced.

(f) Substitution of parties does not affect the right to use depositions previously taken.

(g) When an action has been brought in any court of the United States or of any state, and another action involving the same subject matter is subsequently brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the initial action may be used in the subsequent action as if originally taken in that subsequent action. A deposition previously taken may also be used as permitted by the Evidence Code.

Credits
(Added by Stats.2004, c. 182 (A.B.3081), § 23, operative July 1, 2005.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

2004 Addition

The introductory clause of Section 2025.620 continues the introductory clause of former Section 2025(u) without change, except to conform the cross-reference.

Subdivision (a) continues former Section 2025(u)(1) without change.
Subdivision (b) continues former Section 2025(u)(2) without change, except to replace paragraph with subdivision and to conform the cross-reference.

Subdivision (c) continues former Section 2025(u)(3) without substantive change.

Subdivision (d) continues former Section 2025(u)(4) without change, except to conform the cross-references.

Subdivision (e) continues former Section 2025(u)(5) without change, except to replace section with chapter.

Subdivision (f) continues former Section 2025(u)(6) without change.

Subdivision (g) continues former Section 2025(u)(7) without change. [33 Cal.L.Rev.Comm. Reports 875 (2004)].