

ITEM 6.01 | OBJECTIONS

Rule 1.310(c) provides that “[a]ny objection during a deposition shall be stated concisely and in a non-argumentative and non-suggestive manner.” (Emphasis added). Speaking objections to deposition questions are frequently designed to obscure or hide the search for the truth by influencing the testimony of a witness. Objections and statements that a lawyer would not dare make in the presence of a judge are all too often made at depositions. For example:

- *“I object. This witness could not possibly know the answer to that. He wasn’t there.”*

The typical witness response after hearing that:

“I don’t know. I wasn’t there.”

- *“I object, you can answer if you remember.”*

The typical witness response after hearing that:

“I don’t remember.”

- *“I object. This case involves a totally different set of circumstances, with different vehicles, different speeds, different times of day, etc.”*

The typical witness response after hearing that:

“I don’t know. There are too many variables to compare the two.”

Objections should be asserted by stating: “I object to the form of the question.” The grounds should not be stated unless asked for by the examining attorney. When the grounds are requested, they should be stated succinctly. Coaching the deponent or suggesting answers through objection or otherwise is improper and should not occur.

Examination and cross-examination of witnesses may proceed as permitted at the trial. Rule 1.310(c). If a deponent changes his testimony after consulting with his attorney, the fact of the consultation may be brought out, but the substance of the communication generally is protected.³ Where an attorney has improperly instructed his client not to answer a question at deposition, the court may prohibit the attorney from communicating with the client concerning the topic at issue until such time as the deposition recommences.⁴



Rule 1.310(d) provides that a “*motion to terminate or limit examination*” may be made upon a showing that objection and instruction to a deponent not to answer are being made in violation of Rule 1.310(c).

*Trial Lawyers Section of the Florida Bar
Conference of Circuit Court Judges
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Footnotes

³ *Haskell Co. v. Ga. Pac. Corp.*, 684 So. 2d 297 (Fla. 5th DCA 1996).

⁴ *McDermott v. Miami-Dade County*, 753 So. 2d 729 (Fla. 1st DCA 2000).

