

The following is an edited sample of the long set of questions that either a plaintiff or a defendant can ask a plaintiff about his/her injuries. If you want the full, unabridged, set of bodily injury questions, see:

<http://www.lawyertrialforms.com/BI3106BIInjuriesTestimony.htm>

That above link takes you to deposition checklist #BI3106 — Injuries Testimony re Bodily Injury Plaintiff. It is a basic "building block" in your deposition preparation. Simply add that injuries "building block" to your deposition outline regarding the liability features of the case.

This checklist is written from the point of view of the defense attorney. However, it is easily usable by the plaintiff's attorney in educating and preparing the client to respond to these questions about his/her injury.

Then, if you are the attorney for the injured person and using this checklist to form your questions for your client's trial testimony, you can do that by carefully choosing (from the total checklist of 14 pages) the items you want to have your plaintiff testify about at the trial.

There are several main divisions of the full checklist. You often may want change the order of the questions, but the following is a practical order to approach the injuries section of a deposition.

SECTION 1. PERSONAL IDENTITY AND BACKGROUND

SECTION 2. EDUCATION, EMPLOYMENT, AND INCOME SOURCES

SECTION 3. MEDICAL HISTORY

SECTION 4. INJURIES CAUSED BY THE INCIDENT

SECTION 5. TREATMENT AFTER INCIDENT

SECTION 6. ACTIVITIES BEFORE INJURY

SECTION 7. ACTIVITIES SINCE INJURY

ADDENDUM: "Twelve Special Questions for Use by Plaintiff's Attorney in Plaintiff's Direct Trial Testimony on His/Her Bodily Injury."

This sample starts here

SECTION 4. INJURIES CAUSED BY THE INCIDENT

When plaintiff left the scene

How ___ With whom ___ Went Where

Able to Walk ___ Talk ___ Conscious

What hurt at the scene (objective, e.g., bleeding)(subjective: e.g., arm pain).

Plaintiff's injuries

Get description of force involved in the incident and where force was applied to body

Tell me each injury you had because of the incident.

Important: As the deponent answers — List each injury received.

1

2

3

4

et cetera

- Then ask: “Are those **all** of the injuries you received from this incident?”

Eliminate portions of body not injured (e.g., your left foot was not hurt) Go over entire body and elicit negative responses as to other portions of the body. Nail down the lack of injury to areas other than those plaintiff has specifically listed for you in this deposition.

Now look at the list you made — Go over each separate injury or area of the body injured

Ask for Objective manifestations of each listed injury. (E.g., cut, bruise)

Ask what Subjective complaints there were for each listed injury (e.g., tender, headaches, pain).

- Ask: “Are those **all** of the problems you had from [each listed injury]?”

General description of the recovery from the incident now in litigation


Affirm the previous list of injuries

Repeat the list of each part of body injured and as to each, ask about

Recovery from each injury

Present complaints and disabilities from each injury

SECTION 5. TREATMENT AFTER INCIDENT

 TIP You will be getting medical records from most or all of the medical providers.

The purpose of these questions here is not to get the exact dates and the exact facts shown in the medical records. Your purpose is to get — the plaintiff's version of what the injuries are; how the plaintiff will present the injuries at trial; and the testimony you can use at trial.

ER or urgent care treatment

When and where

Did you tell them all your problems from the accident?

What did they do for you?

First doctor after ER or hospitalization from ER

Who suggested seeing this doctor

All first-visit complaints made to this doctor

Treatment given or prescribed by this doctor on first visit

All complaints made to this doctor on later visit(s)

Treatment given or prescribed by this doctor on later visit(s)

Each other doctor

When first seen

Who suggested seeing this doctor

All first-visit complaints made to this doctor

Treatment given or prescribed by this doctor on first visit

Treatment given or prescribed by this doctor on later visit(s)

First hospital admission

When admitted

What done in hospital

Condition on discharge

Each later hospitalization

When admitted

What done in hospital

Condition on discharge

Casts, bandages, technical aids, or other appliances

Ever confined to bed or confined to home because of your injuries

When ____ How long

Why confined

Who ordered the confinement.

Special damages

Tell me **all** the bills and expenses that you have from the injury. (Not the amounts, just who billed you or where you had expenses.)

Medical and hospital

Services rendered by others

Property damage

Anything else not covered. (Is that **all** the bills and expenses you have from the injury?)

Who has paid these bills
Is a doctor giving you free service because of an agreement with your attorney?

SECTION 6. ACTIVITIES BEFORE INJURY

Vehicle activities

- Drive own vehicle
- Maintain or repair vehicles in the household

Home activities

- Cooking
- Making beds
- Shopping
- Building repairs
- Sweeping and dusting
- Laundry
- Outdoor landscaping or gardening

Social activities

- Dancing
- Clubs
- Attending dinners or luncheons

Church activities

Sports activities

- Play
- Watch other than by TV

Vacation and trip activities

* * * * *

This does not include all parts of sections mentioned in this sample.

Special Note to Plaintiff's Attorney Regarding Trial Testimony

If you are the attorney for the injured person and using this checklist to form your questions for trial testimony, you can do that by carefully choosing (from the foregoing deposition examination items) the items of information that you want to have your plaintiff testify about at the trial.

Then, you may well want to add on some or all of the following additional 12 questions for direct examination of your plaintiff at the trial.

**Twelve Special Questions for Use by Plaintiff's Attorney
in Plaintiff's Direct Trial Testimony on His/Her Bodily Injury.**

1. Please tell the jury the changes in your body and activities after the injury. Would you please compare for us any difference before and after the injury.

- Physical impairments.
- Appearance (disfigurement).
- Physical pain.
- Mental anguish.
- Indications of discomfort and pain.
- Walking, posture.
- Other body movements.
- Performing job duties.
- Social activities.
- Clubs, trips, dancing, church, etc.
- Hobbies.
- Sports.

2. Generally, how would you summarize what is different about your activities as compared before your injury?

3. Are there things that you now do not get done or no longer do?

- Cleaning.
- Driving.
- Cooking.
- Errands.
- Meals and eating.
- Yard work, gardening.
- House maintenance.
- House work.
- Craftsman.
- Repair work.
- Car maintenance.
- Other examples.
- Laundry.
- Sewing.
- Marketing.
- Child care.
- Children counselor.

4. Are there changes or restrictions on your time left available for yourself?

5. Are there social activities outside the home that have changed after the accident because of your injuries?

- Vacations?
- Dancing?
- Times with relatives or friends?
- Church?
- Other?

* * * * *

This is the end of the sample from the total form.

The above is only a small and edited portion of the 14 page long set of questions about the plaintiff's bodily injuries. If you want the full, unabridged, set of bodily injury questions, see:

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