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All the best,

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Leonard Bucklin

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❖ The following is a PowerLitigation™ article of Leonard Bucklin.

The “Always Ask” block of deposition questions.

The following is a block of eight questions you should always ask at a deposition of an adverse or independent witness. The witness’s answers may be startling to you and damaging to your opponent. We call this the “Always Ask” block, and suggest you keep a copy in the notebook that you take to the deposition.

## **The Always Ask deposition block of questions.**

**# 1. Have you posted any statements about this case or [the relevant event] on the internet?**

(Your own internet search query is fallible, plus there may be unindexed Facebook or Twitter posts made the night before the deposition.)

**# 2. Have you ever been arrested?**

(Felony convictions and any convictions for moral turpitude are usually admissible for impeachment. Because this question may lead to admissible evidence, this question is a proper discovery question, even if the fact of an arrest is not admissible at trial. Incidentally, because this question is not expected, it shakes the adverse witness's composure.)

**#3. The court records trio of:**

Have you ever testified in court?  
Have you ever testified in deposition?  
Have you ever been a plaintiff or a defendant in a lawsuit?

(Previous recorded testimony and documents from a lawsuit can lead to impeachment material. Further, even an independent witness have been a party to a civil suit for fraud or been a party in a lawsuit involving similar claims.)

**# 4. Have you ever seen the [plaintiff/defendant/critical witness] before the [event related to this lawsuit]?**

(A supposedly independent witness may have connections you should know about.)

**# 5. [For parties as deponents.] Was anyone else present when you met with your lawyer?**

[If a third-party (e.g., daughter) was present during the meeting, the witness may have waived the attorney-client privilege.]

**# 6. [For non-parties as deponents.] Did you meet with the [other side's attorney] before this deposition?**

(Pin down the number of meetings, where they occurred and how long they lasted. This information can help dismantle the claim of independence.)

**# 7. Have you signed any written statements or made any recorded statements or spoken to any attorneys or investigators or reporters about the events related to this lawsuit?**

**# 8. Tell me everything you did to get ready for this deposition?**

(Find out the specific documents reviewed, places visited and persons met with by the witness. This will show you what the witness or adverse party perceived as either their weakest or their most important topics, and also may lead to evidence you did not know existed.)

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