



# SEVEN KEYS TO A PERFECT DEPOSITION TRANSCRIPT



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# Attorneys Make the Record

Conducting depositions during the COVID-19 pandemic required attorneys to litigate cases under unfamiliar circumstances as everyone coped with social distancing and other government health mandates fashioned in response to the COVID-19 pandemic. Regardless of the circumstances, however, the litigator's objective has always been the same: to create an accurate record of the deponent's testimony in a manner that advances the client's interest.

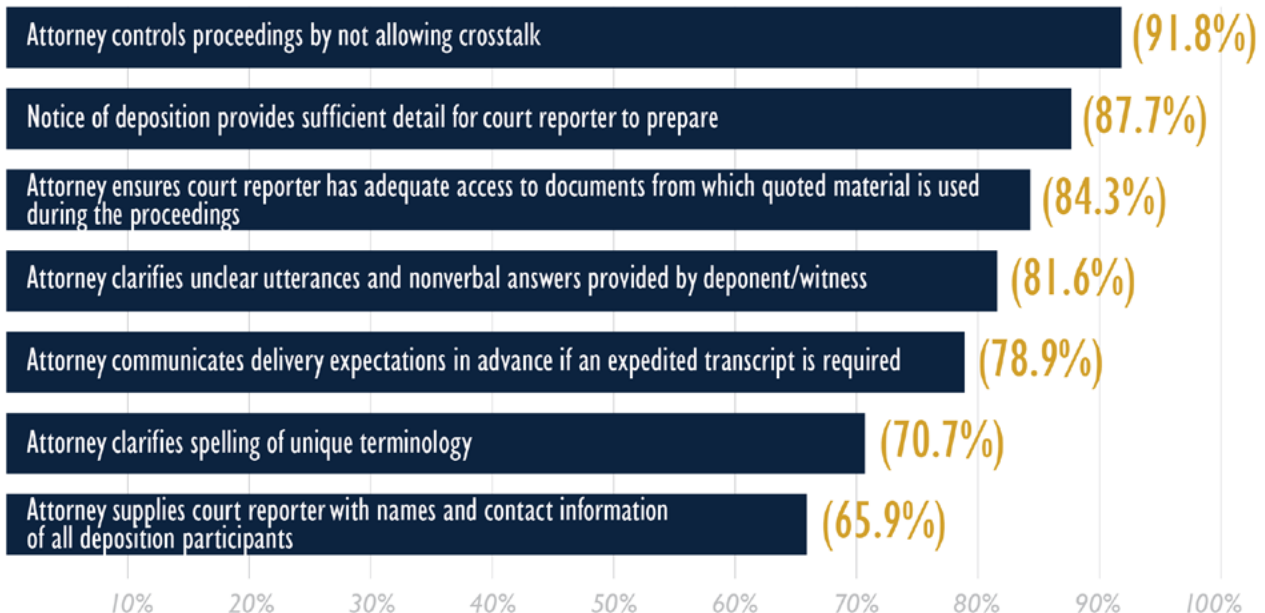
We recently asked Esquire's network of national court reporters to describe the winning qualities of litigators who successfully consistently created accurate depositions during the past year. Hundreds of court reporters in our network responded, supplying impressions based on the thousands of depositions — remote depositions, overwhelmingly — that they transcribed between March 2020 and June 2021.

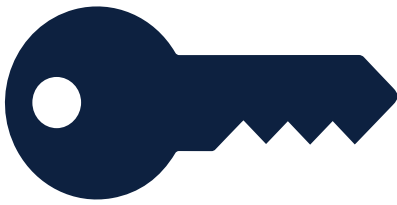
The successful attorney behaviors identified by our court reporters turned out to be remarkably uniform. In fact, seven behaviors believed to consistently create accurate deposition transcripts stood out from the rest. They're summarized in the chart below.

The attorneys who consistently created accurate records were disciplined about avoiding crosstalk, whether in-person or remote. If they had high-quality equipment, they knew how to use it. They communicated their requirements to the court reporter in detail, as early as possible. They spelled out unfamiliar words, and they were careful and deliberate with exhibits. In this e-book, we spell out the seven keys to efficiently getting an accurate deposition transcript every time.

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## Attorney behaviors cited as “extremely important” in obtaining an accurate record of the deposition:





## Minimize Crosstalk

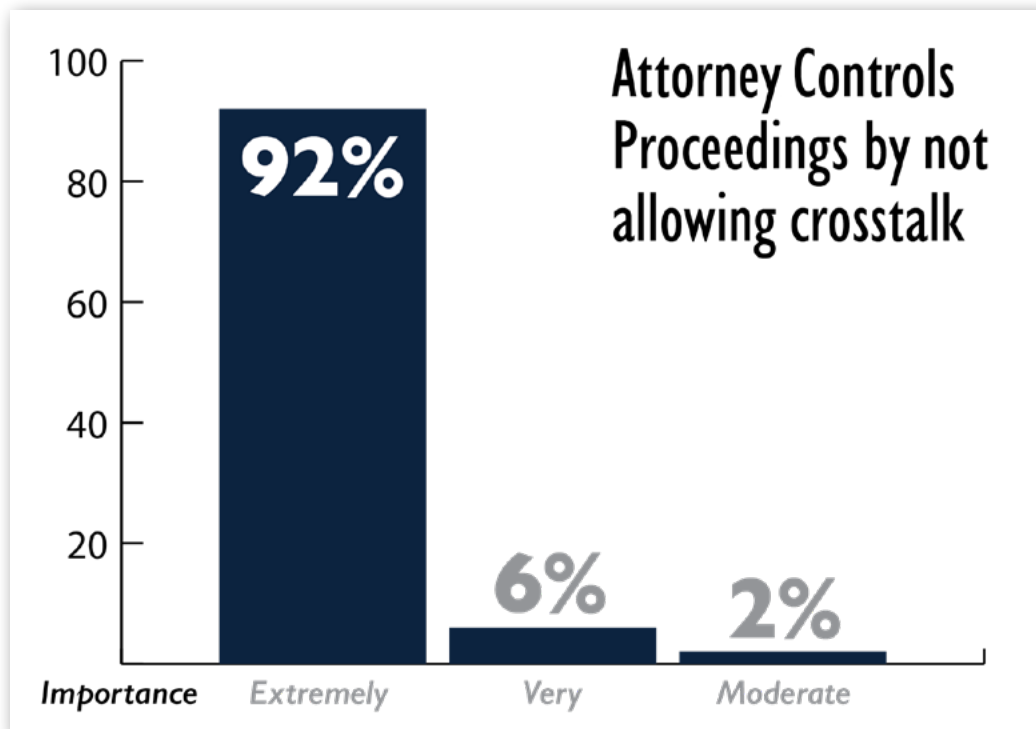
*“I love an attorney who understands what a clean record looks like. I love an attorney who takes his own advice from the admonitions and doesn’t speak over the witness. I love attorneys who are conscious of how terrible their transcript is going to look when they consistently cut each other off.”*

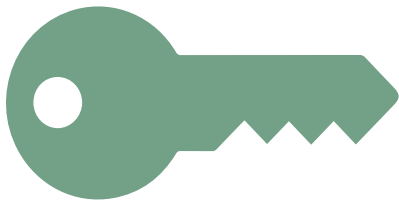
*Juliana Gomer*

During a deposition, crosstalk occurs when attorneys attempt to speak at the same time or when a witness continues to speak after an objection is raised by an attorney. During an in-person deposition, the court reporter can often discern who said what through other evidence — the direction the sound is coming from or the visual cue of a person’s lips moving. These helpful cues are missing in remote depositions, making it difficult for the court reporter to accurately untangle crosstalk. Unfortunately, many

popular videoconference platforms create an additional hurdle to deciphering crosstalk — they automatically mute all audio channels except for one when crosstalk arises.

Attorneys can ensure they are creating an accurate transcript by taking care not to speak simultaneously. When crosstalk occurs, attorneys should take care to stop and then repeat, for the court reporter’s benefit, whatever remarks were rendered indecipherable.





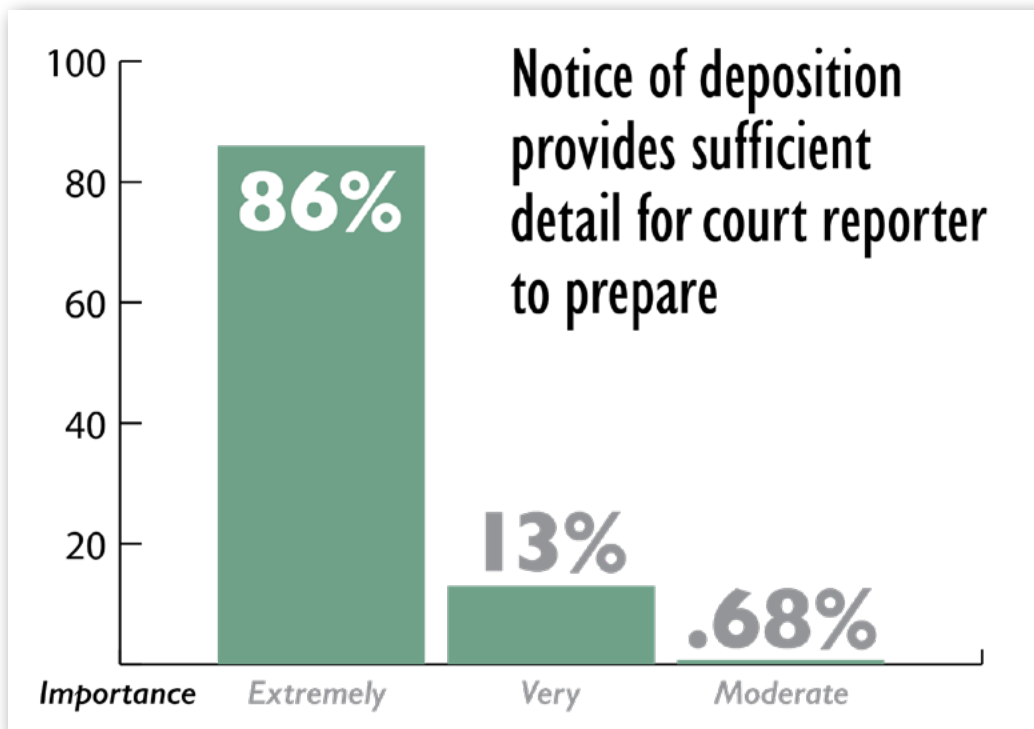
## Include Vital Information on Deposition Notice

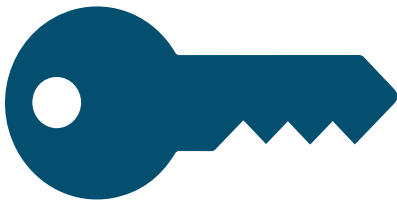
*“It’s helpful when attorneys provide a full caption, including appearances, when they don’t tolerate crosstalk, and when they provide me with the exhibits ahead of time.”*

*Joanne Bryan*

The notice of deposition is a vital planning tool for court reporters. A well-written notice of deposition will specify — in addition to the “where” and “when” — the names of all parties and attorneys, how the deposition will be conducted (e.g., in-person, remote via videoconference or teleconference, or some combination of remote and in-person), the

physical location of the attorneys and deponents, whether some or all will be socially distanced, and whether an interpreter and/or a legal videographer will be used. Court reporters in possession of a well-written notice of deposition will be prepared to accurately and efficiently take the record.





## Ensure Court Reporter has Access to Documents

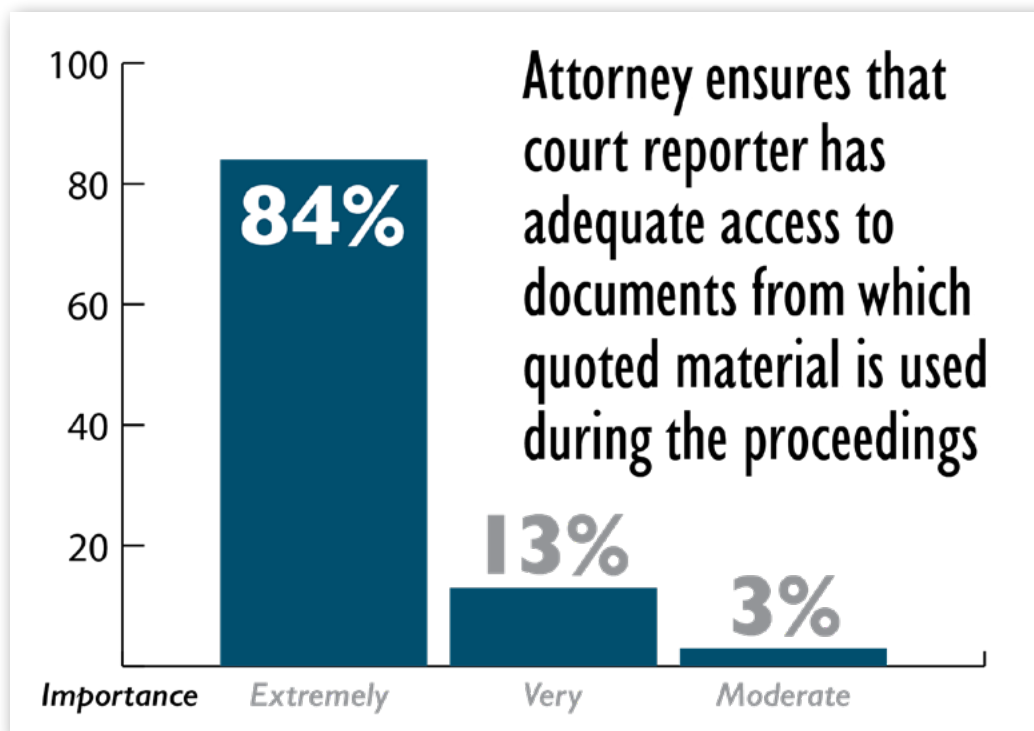
*“Having counsel identify the exhibits when nobody else has a copy of them to clearly identify some identifying reference ... especially when other parties are attending Zoom and don’t always have the benefit of seeing the exhibit. It’s a good idea for the court reporter when stating “Exhibit 1 is marked” to add the first page Bates number so all counsel can follow along. (obviously if the situation permits.)”*

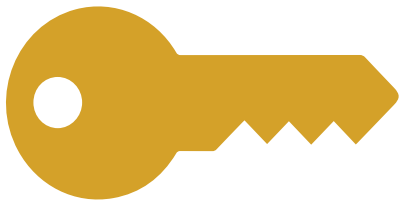
Gina M. Shrader

Documents are a critical part of the deposition. They’re commonly offered as exhibits and used as the basis for impeaching or refreshing the deponent’s memory. Documents also do double-duty as authoritative sources for the spelling of

key terms and party names. Giving the court reporter access to all important documents means that the deposition will run smoothly and produce an accurate transcript.

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## Clarify Inaudible Testimony

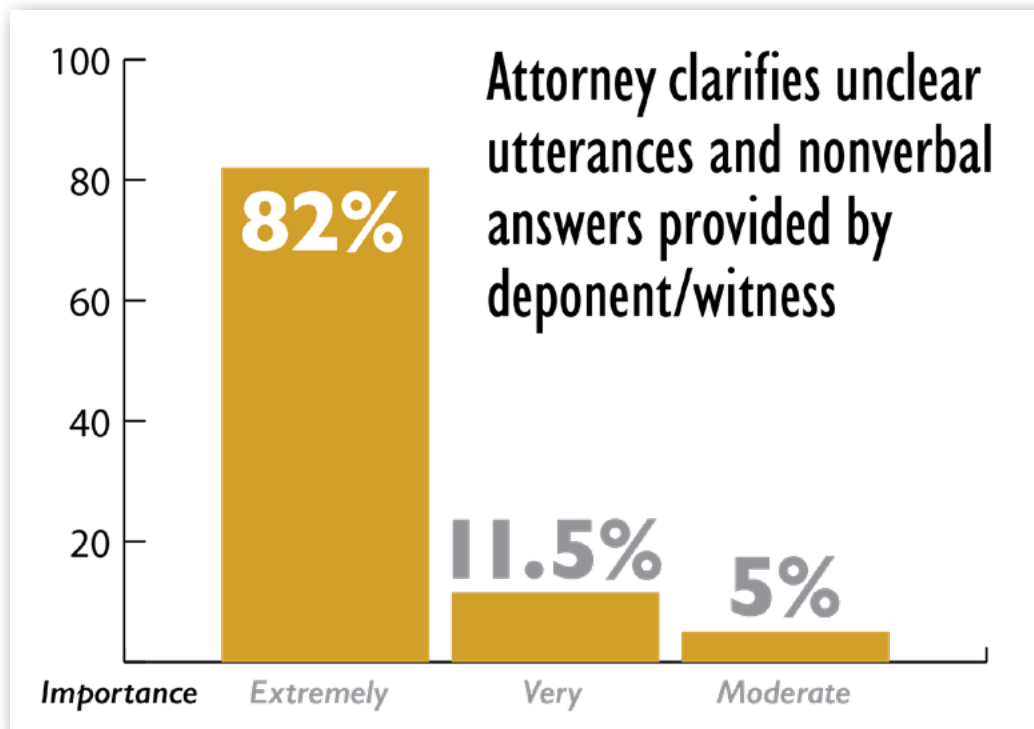
*“Working via Zoom now is great; however, there are sometimes internet audio issues. I have found that the attorney can make the record cleaner by simply clarifying any inaudible portions of the testimony. It really shows their courtesy for the record and the court.”*

*Tonie Thomson*

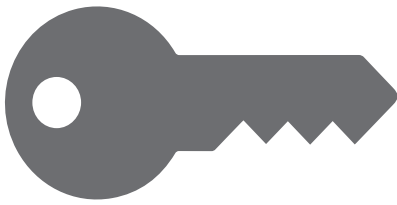
Remote deposition testimony can become inaudible for any number of reasons, including poor internet connectivity, a soft-spoken witness, a witness who fails to speak directly into the microphone, the presence of external noise in the witness’s environment, or low-quality computer

hardware. Attorneys should assume that if they cannot understand what is being said, then the court reporter cannot either. The solution is for the attorney to ask that the testimony be repeated so that everyone can hear and understand it.

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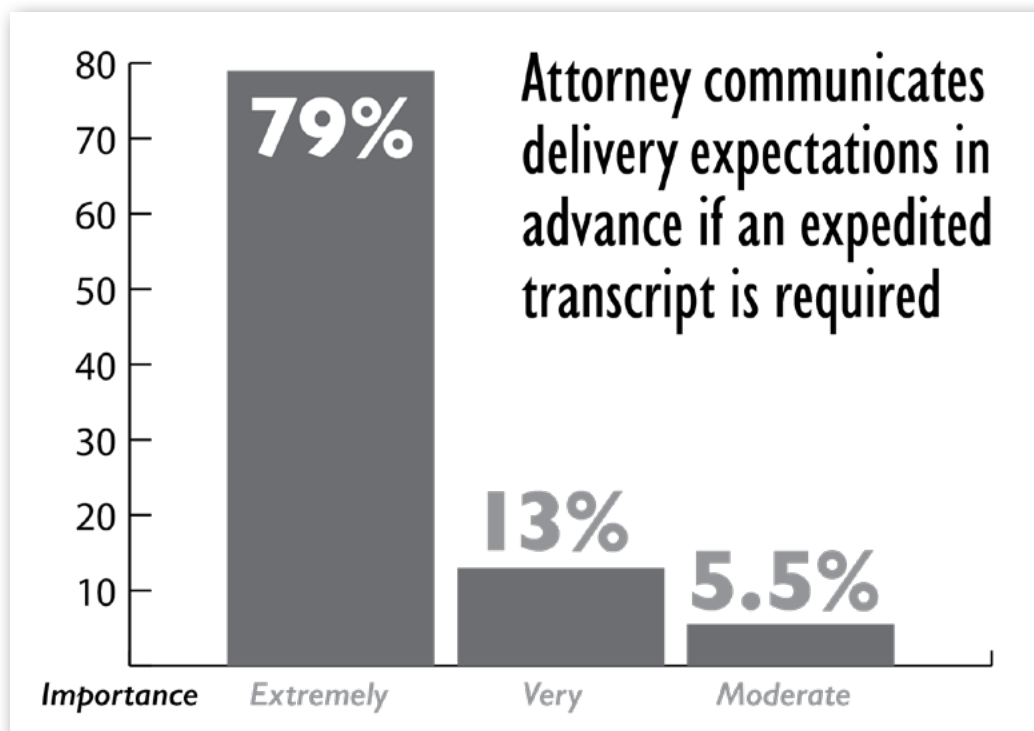
## Alert Reporter Early for Quick Turnarounds

*“The more information we have about a case ahead of time, the better, particularly information regarding a possible expedited transcript. If I’m on an all-day deposition that I know is possibly going to be expedited, I’m not going to schedule a job for the day or two afterwards so I will be able to complete the transcript on time.”*

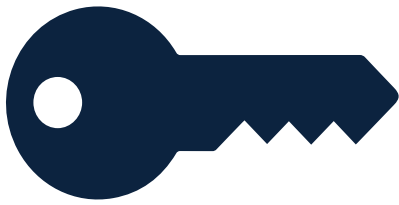
*Sara Watt*

Court reporters who know that expedited delivery of the transcript is necessary will block off time in their schedule immediately after the deposition in order to meet the deadline. When given advance notice of the need for an expedited transcript, the chances that the court reporter will have competing obligations are significantly diminished.

Minding the other “keys to a perfect transcript” also helps. Speaking clearly and audibly throughout the deposition greatly aids a court reporter working against a tight deadline. Finally, taking care to spell proper names, acronyms, and unusual terms during the deposition will save the court reporter the time and trouble of looking them up after the deposition concludes.







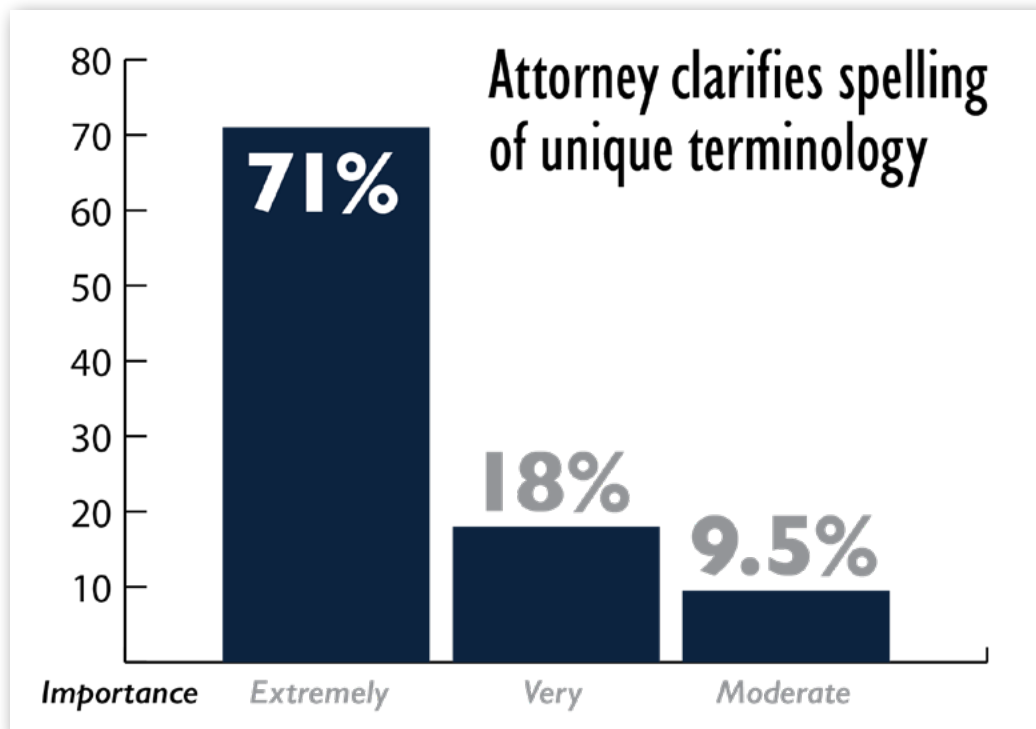
## Clarify Unusual Terminology

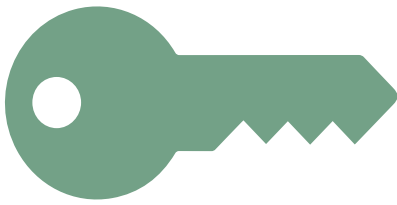
*“The attorney stayed online after the deposition was over, and we went over all exhibits and unusual spellings. That is so helpful so I don’t have to waste time afterwards tracking down exhibits and spellings, especially when the job turned into a rush.”*

*Tami L. Barker*

Generally speaking, experienced court reporters are well-versed in the language of the law and in the special vocabularies used by the many types of businesses operating in their jurisdictions. But they can’t know everything. Attorneys can contribute

greatly to the accuracy of deposition transcripts by taking a moment during the deposition to spell out industry jargon, terms of art, or other uncommon words.





## Provide Contact Information for All Participants

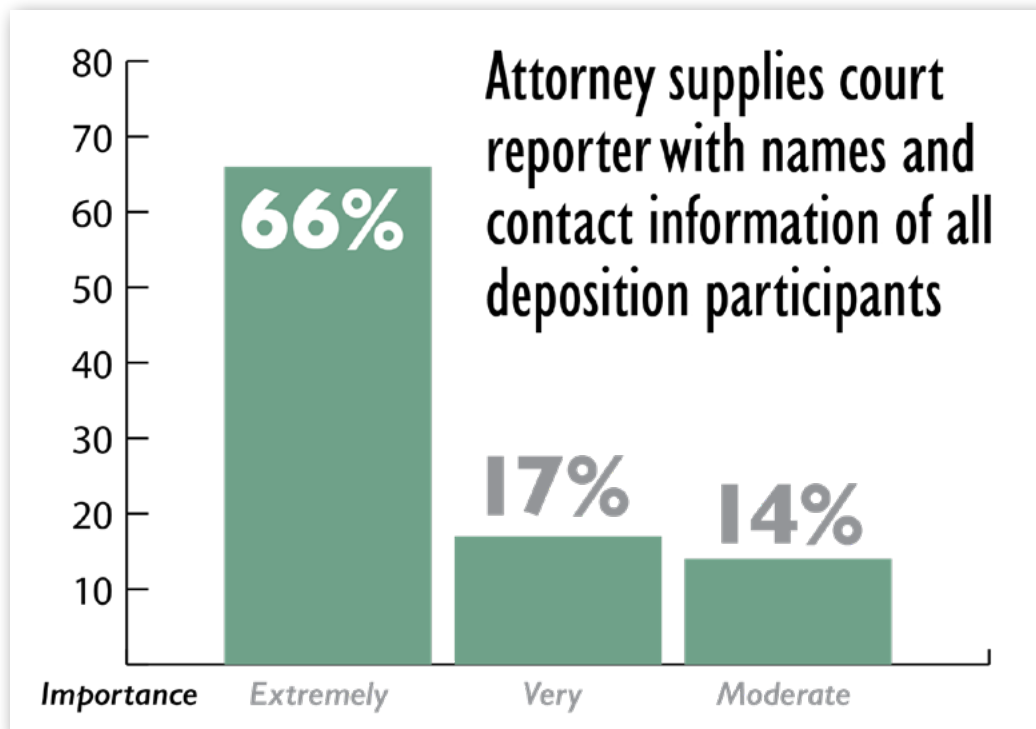
*“When I receive a notice that includes all parties on the service list with firm name, address, phone, and email address rather than “service sent to all attorneys of record,” I let the attorney know to complement their staff on how helpful the notice was for me.”*

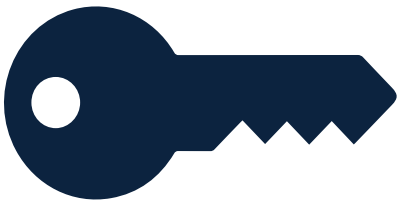
*Jennifer Figueroa*

When court reporters are not provided with the names and contact information of all parties and attorneys, they will use whatever information they’ve been given to find the information. However, this investigation adds time to the job and needlessly introduces an opportunity for

error. Because the correct information is well-known and readily available to the attorney who scheduled the deposition, providing it at the outset to the court reporter is the best way to ensure that the deposition transcript is created quickly and accurately.

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## CONCLUSION

*“It is extremely helpful when attorneys understand they are creating a record and are mindful of the court reporter’s purpose. We take the record, but we do not make the record.”*

*Kerry Murphy*

The survey results hold important takeaways for litigators. For the most accurate deposition transcript possible under any circumstances, attorneys should:

Speak slowly and take care to eliminate crosstalk. It’s also a good idea to pause occasionally, and check to ensure that everyone is on the same page as the deposition progresses.

Thoroughly prepare. Attorneys should set deposition ground rules at the outset and stick to them. They should be practiced and confident when operating any technology used to capture

deposition testimony. They should provide the court reporter as much information as possible in advance of the deposition.

Provide the court reporter with important documents and contact information for all participants. In advance of the deposition, if feasible.

Invest in technology. Good equipment pays dividends during remote proceedings. Reliable microphones and strong network connections ensure that the court reporter hears exactly what was said during the deposition.

## Additional Reading

[Making the Record](#)

[16 Tips to Nail Your Next Remote Deposition or Hearing](#)

[Court Reporting’s Alphabet Soup: What Do Those Letters Mean?](#)

[When Deposition Advocacy Becomes Unethical](#)

[A First-Timer’s Guide to Deposition Interpreters \(eBook\)](#)

[Elements of a Strong Remote Deposition Protocol](#)

[Technology Tips From Virtual Trial Experts](#)

[Will In-Person Depositions Vanish Before COVID-19?](#)



