

Q. How should court reporters respond when a witness asks to read and sign the deposition, and the attorney then requests that a copy be sent to the attorney's office?

A. Code of Civil Procedure Article 1445 requires the court reporter to make a copy of the deposition available to the witness for read-and-sign purposes, but the article gives no guidance on the circumstances of that review. Some court reporters require the witness to review the deposition transcript in the reporter's office, as long as this does not inconvenience the witness. Factors that might make it inconvenient for the witness to come to the reporter's office include the following: a witness' distance from the office; a witness' disability; a witness' work hours. Court reporters should strive to eliminate or minimize inconvenience for a witness. For example, some reporters seek professional courtesy from another reporter who would allow the witness to read and sign at that reporter's office if it is more conveniently located than the taking reporter's office. In any event a reporter would be wise to build a paper trail, notifying the witness in writing (return receipt requested) of a specific date, time, and place where the deposition will be made available for the witness to review and sign.

Some reporters also use several "secondary" strategies to discourage unauthorized copying of the deposition when they must relinquish control of it: (1) Some reporters place a sticker on the binder that reveals whether the pages have been taken apart for copying, and if so, their practice is to send a bill to the attorney who had custody of the transcript. (2) Some reporters send the transcript directly to the witness rather than to the lawyer's office, but they do so with the recognition that this does little to prevent the deposition from being copied if an attorney and deponent are determined to make one. (3) Some reporters include with the transcript a statement that unauthorized copying of the reporter's work product is prohibited. (4) Some court reporters have suggested printing the review copy on pages emblazoned with the word "DRAFT" (except for the signature page) and thereby rendering it more difficult or embarrassing for a lawyer to use the transcript.