

Cross-Examining Plaintiffs in Employment Harassment and Discrimination Cases: Strategies for Depositions and Trials

Webinar

09.04.2024 | 1:00-2:30 PM EDT

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Rare is the employment law case that does not come down to the plaintiff's testimony. Whether in a deposition or during trial, counsel must know what to ask and how to ask it. Counsel must decide whether the deposition or trial should be the focus and how to prepare for the substance of either or both.

As the plaintiff's lawyer, you want to make sure the plaintiff is prepared to discuss all acts of alleged discrimination and the facts showing the adverse actions are discriminatory. Moreover, the plaintiff must prepare to present evidence to rebut the defendant's defenses, evidence of emotional distress damages, and evidence of mitigation of damages.

If it is likely a case will proceed to trial, the defendant's deposition of the plaintiff may center on opportunities for impeachment at trial. However, the defendant's plan to impeach the plaintiff must be nuanced to present a vigorous defense without alienating the jury.

Listen as our expert panel discusses the factors to weigh when choosing a deposition-focused or trial-focused approach, how to prepare for either, and an appropriate tone to maximize the ability to discredit the plaintiff without engendering jury sympathy.

Outline

1. Differences between deposition cross and trial cross
2. Witness preparation
 1. Information gathering
 2. Legal research
3. Deposition conduct
 1. Learning the plaintiff's case
 2. Getting admissions
 3. Setting up impeachment
4. Trial issues
 1. Know the answer to every question before asking

2. Lines of attack
3. Discrediting plaintiff testimony without fostering backlash sympathy

Benefits

The panel will review these and other critical issues:

- Whether to make deposition or trial the venue for the plaintiff's cross-examination
- Substantive preparation and planning for the plaintiff's deposition
- Strategies for fortifying the plaintiff's case during their deposition
- Strategies for discrediting the plaintiff without provoking anger at the defendant(s)

Speakers:

- Stephen Fox, Partner, Sheppard Mullin
- Megan Cooney, Partner, Gibson, Dunn & Crutcher

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Attorneys

Stephen E. Fox

Practice Areas

Labor and Employment

Litigation