

**PRAISE FOR *ADVANCED DEPOSITIONS***  
***STRATEGY AND PRACTICE***

“No one in America understands and teaches techniques for depositions that devastate defenses better than Miller and Scoptur—no one.”

—Jim Lees, member of the American Association for Justice and  
West Virginia Trial Lawyers Association

“Paul Scoptur and Phillip Miller approach depositions through the lens of years of experience with focus groups, taking strong depositions themselves, and teaching how to conduct depositions. They know how to obtain the most from a witness in any deposition situation.”

—Jerome O’Neill, fellow of the International Society of Barristers,  
member of the American Board of Trial Advocates, former president  
of the Vermont Association for Justice, cochair of the NCA Board  
of Trustees, member of the AAJ Board of Governors

“Having worked with Paul and Phillip as litigation consultants in all the major trucking litigation my office handles, I can unequivocally state the techniques work, work exceptionally well, and have caused more than one insurance company to tender limits in what were not only ‘no offer’ cases but ‘never offer’ cases. The distilling of the best deposition techniques from multiple schools of thought makes this a must-read. Every lawyer in my office had to read this book before they took another deposition. Every new lawyer in my office will have to read this book before they read the first case file. Strategic, tactical, timely, and immediately useful, this book is a must-read for every lawyer who ever plans to take a deposition.”

—Morgan G. Adams, past chair, AAJ Trucking Litigation  
Group; diplomate, National College of Advocacy

“*Advanced Depositions Strategy and Practice* is the bible on how to take effective depositions that generate big settlements and serious verdicts.”

—Bill Barton, author of *Recovering for Psychological Injuries*, 3rd edition,  
and past president of the Oregon and Western Trial Lawyers Associations

“This book is a must-have in any plaintiff lawyer’s library. Phillip and Paul are masters at the art and science of deposition taking, and this book and DVD with video examples teaches time-proven techniques that lead to killer depositions. And we all know killer depositions lead to better settlements and verdicts!”

—Mark R. Kosieradzki, past chair, AAJ Nursing Litigation Group; faculty member, AAJ Advanced Deposition College

*Advanced Depositions Strategy and Practice* is exactly the kind of book lawyers must read to ensure they are confident not only at the deposition, but also at trial or the negotiating table. Many guides to depositions can do the former, leaving the attorney with the feeling that the deposition itself was a ‘win’ and covered all the necessary ground. Few can do the latter, setting up victory down the road, when it really counts. This book does both by explaining every part of the process from multiple angles, with insight and practical examples from years of experience, plus advice and anecdotes from lawyers across the country.”

—Bryan F. Aylstock, appointee to leadership roles in several Plaintiffs’ Steering Committees for Multi-District Litigations, including co-lead counsel and multidistrict coordinator; founding partner of litigation firm Aylstock, Witkin, Kreis & Overholtz, PLLC

“Phillip Miller and Paul Sceptur have put together what should be the ‘go to’ book on depositions. They have combined decades of knowledge, experience, and tried-and-true methods and now share their expertise and wisdom with other trial lawyers so that they can improve their own skills. This book must be on every lawyer’s shelf no matter how long he or she has been practicing.”

—Carrie R. Frank, JD, MSSW; past president, Colorado Trial Lawyers Association; faculty member, Advanced Deposition College

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# ADVANCED DEPOSITIONS STRATEGY AND PRACTICE

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PHILLIP H. MILLER  
AND  
PAUL J. SCOPTUR



TRIAL GUIDES, LLC



Formerly the Association of Trial Lawyers of America (ATLA®)

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*To my family, friends, and mentors through my  
life—you have all given a part of yourselves to help  
shape who I am, and for that, I am grateful.*

—Paul J. Sceptur

*To my parents—they left too early, but they left me  
more than they could ever know.*

—Phillip H. Miller

*If you haven't won the case in your depositions, it is unlikely that it will happen in the courtroom.*

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## PUBLISHER'S NOTE

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This book is intended for practicing attorneys. This book does not offer legal advice and does not take the place of consultation with an attorney or other professional with appropriate expertise and experience.

Attorneys are strongly cautioned to evaluate the information, ideas, and opinions set forth in this book in light of their own research, experience, and judgment; to consult applicable rules, regulations, procedures, cases, and statutes (including those issued after the publication date of this book); and to make independent decisions about whether and how to apply such information, ideas, and opinions to a particular case.

Quotations from cases, pleadings, discovery, and other sources are for illustrative purposes only and may not be suitable for use in litigation in any particular case.

The cases described in this book are actual cases, and the names and other identifying details of participants, litigants, witnesses, and counsel have not been fictionalized except where otherwise expressly stated.

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## ACKNOWLEDGMENTS

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Our fellow faculty members at the American Association for Justice's Advanced Deposition College have taught and inspired us to take better and better depositions. Their questions and approaches to deposition problems helped us craft and refine much of what is in this book. We also want to acknowledge James P. Scoptur for his valuable contribution of legal research for this book. Without him, we would have had to do it ourselves.

Along the way, we have taught with and learned from many lawyers from all over the country. David Wenner and Greg Cusimano, the creators of the Jury Bias Model™, as well as Rick Friedman (*Rules of the Road, Polarizing the Case*), David Ball (*Damages, Reptile*), trial lawyer and jury consultants Jim Lees and Carrie Frank, trial consultant Rodney Jew (*Reverse Planning*), Joshua Karton (psychodrama and storytelling), Carl Bettinger (*Twelve Heroes, One Voice*), trial consultant Eric Oliver (several titles), and our friends and fellow trial lawyers Mark Kosieradzki and Tom Vesper (*Deposition Notebook*). These great teachers and thinkers have unavoidably affected our view of deposition strategy, so you will see references to the principles they have written about, taught, and popularized throughout this book. Along the way, we have taught hundreds, if not thousands, of lawyers, and they have often become our teachers and exceeded us in their insights and skills. We are in their debt.



# INTRODUCTION

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Exceptional depositions do not result from finding out everything the witness knows, but from a focused effort to elicit testimony that accomplishes specific goals that are critical to your case outcome. This book discusses the techniques required for anyone who wants to take exceptional depositions. These techniques include:

- ◆ Exhaustion
- ◆ Boxing in
- ◆ Restating
- ◆ Summarizing
- ◆ Using learned treatises and published studies
- ◆ Using cross-examination skills with difficult and evasive witnesses
- ◆ Establishing standards of conduct (or care) through defense witnesses

Each of these techniques has a special purpose. When you use and sequence them appropriately within a deposition, the outcome can be exceptional.

In the end, this book is about getting witnesses to tell the truth. This is not always easy and is frequently frustrating, but it is beautiful when it happens.

Depositions too often are nothing more than discovery exercises, an endless, persistent string of “who, what, when, where, why, and how” questions. At the end of such a deposition, you might know most of what a witness knows or remembers. Big deal. No defense attorney or insurance carrier will lose sleep because you managed to spend six hours asking a corporate representative these questions. These kinds of questions by themselves are unlikely to change the case value or increase your chances of prevailing in court either by motion or verdict.<sup>1</sup>

This book is not a checklist of questions to ask in a car wreck case, medical malpractice case, or any other kind of case. There are plenty of those out there. The problem with any checklist is that if you have not thought through your case, if you have not developed a strategy for the depositions and clear goals for each witness, then asking a premade list of questions may not help you. Likewise, asking the questions from the list will not get you the same result if you do not know how to use the skills we discuss here. This book is meant to teach you certain techniques to use in your depositions. In many instances, we have used actual excerpts from depositions we have taken, and in others, we have used excerpts that past Depositions College attendees sent to us. But understand there is a difference between simply reading these examples and actually trying them, or variations of them, in your depositions. You must try them. Most of the time they work!<sup>2</sup>

Both of us have spent a good part of the last thirty-four years as trial lawyers, taking depositions in automobile cases,

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1. Because these kinds of questions are not focused on prevailing on a motion or verdict, their ability to accomplish this kind of goal is diminished. While it is true, “Even a blind hog finds an acorn every now and then,” that is hardly a strategy for success.

2. Please send us excerpts from your depositions where you have tried these techniques and they have succeeded for inclusion in the Second Edition. Do not send us excerpts from your depositions where you have tried these techniques and they did not work. Send those to Tom Vesper instead.

motorcycle cases, trucking cases, medical malpractice cases, nursing home cases, products liability cases, construction zone cases, child abuse cases, contract cases, and civil rights cases. The success of depositions in those cases depended in large part on the strategies and techniques we talk about in this book. Despite decades of experience, our education in deposition techniques accelerated when we began teaching deposition technique and strategy for the National College of Advocacy. As both the originators and program advisors for the NCA Deposition and Advanced Depositions Colleges, we have continually taught, evolved, and used the techniques we share here.

The strategies and techniques discussed in this book can make a difference. Good luck.

• • •

This book is accompanied by a DVD that contains additional resources, including deposition notices that you can use and adapt for different types of cases, sample deposition protocols, videos of actual depositions where our strategies are put into practice (these videos are referenced throughout the book), and examples of 30(b)(6) notices and deposition outlines. For more information on what is included on the DVD, please see the “DVD Contents” section at the end of the book.







attitudes and beliefs are everywhere. The focus group research that Cusimano and Wenner began more than a decade ago established (and has repeatedly confirmed) five pervasive biases:

- ◆ Accountability/personal responsibility
- ◆ Antiplaintiff
- ◆ Suspicion
- ◆ Victimization
- ◆ Stuff happens

We will discuss these biases as part of the process of analyzing your case and developing an effective discovery and deposition plan.

People think by processing information. This occurs consciously and unconsciously. Conscious processing is your inner voice. Your inner voice's dominant point of view is always personal; meaning, you appreciate and understand what you are hearing when it relates to something you have learned, heard, or experienced in the past (the *I-brain*).

Unconscious processing operates automatically with no effort or sense of voluntary control (the *hidden brain*). The hidden brain is a collection of cognitive shortcuts including heuristics and biases. *Biases* are simply another name for attitudes and beliefs. *Heuristics* are simply a way of making decisions using mental shortcuts, such as an educated guess, a rule of thumb, or, more commonly, our own life experiences. In large part, most people are unaware of their unconscious attitudes and beliefs. The hidden brain's job is to save your cognitive energy for new situations as you encounter them. Imagine if every time you got into your car to drive home, you had to consciously plot out the route as if you had never been there before. When jurors deliberate, the hidden brain and the I-brain work together.

The hurdle that we face as lawyers is highlighting for jurors why they should not lump your client's accident and injuries into the "stuff-happens" category. Jurors typically do this by tapping into how the facts they are hearing connect with one of their own life experiences in a meaningful way.

The game we need to play is to make biases, attitudes, and beliefs work for us instead of against us. What are the questions we need to ask in depositions that will help us frame our case to match or counter the biases we know jurors have?

## PROMINENT JURY BELIEFS AND BIASES

What are the predominant beliefs and attitudes that drive jury deliberations, and what facts will jurors adopt in order to reach their decision? There are five major beliefs, attitudes, and biases that jurors hold.<sup>1</sup> We prefer to call them beliefs or attitudes because they are simply what people think. They are not *biases* to the decision-makers—jurors or judges<sup>2</sup>—they are simply what these people believe to be the truth in their world. We need to know and identify these biases so we can either knock them out, neutralize them, or, even better, use them to our advantage in depositions and at trial.

In no particular order, the biases you should expect to see in your cases are:

- ◆ Accountability/personal responsibility
- ◆ Antiplaintiff
- ◆ Suspicion
- ◆ Victimization
- ◆ Stuff happens

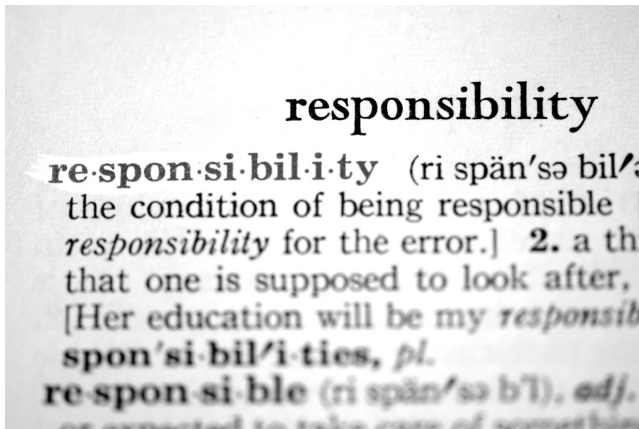
These beliefs emerge in focus groups and jury discussions about every case. Depositions need to be structured to neutralize these beliefs among the jurors, and, whenever possible, we need to find ways to use these beliefs to our advantage.

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1. Greg Cusimano and David Wenner, The Jury Bias Model.

2. Recent research has established that judges are influenced by the same attitudes and beliefs as laypeople; see “Blinking on the Bench: How Judges Decide Cases,” Vanderbilt University Law School, Public Law & Legal Theory Working Paper 07-25, 2012.

## Accountability and Personal Responsibility



The jury will have a discussion about personal responsibility with or without you. This is why it is important to deal with personal responsibility in the discovery process. Whenever possible, emphasize the plaintiff's personal responsibility, and contrast that with the defendant's failure to accept responsibility and be held accountable. You can establish responsibility in many ways: how the defendant could have prevented the injury; how the plaintiff took steps to avoid the injury and did not do anything wrong; and how the defendant had the opportunity to avoid creating the risk of injury to the plaintiff, and, through a series of choices, chose not to. This is what we call *compare and contrast*. In the deposition, go through the choices the defendant had, and contrast those choices with what the defendant did.

In order to counter the personal responsibility bias, establish that the plaintiff is a responsible person in as many aspects of life as possible. Do this through nonfamily member testimony, and provide examples of the plaintiff being responsible. She is a parent, family member, worker, member of the community, volunteer. Show that the plaintiff does things in her personal and work life that establish she is a responsible member of society.

Distinguish your case from what jurors perceive as frivolous lawsuits. In deposition, establish that getting money for nothing

is wrong, but your case is one in which money is asked for in exchange for health. Establish that the plaintiff has paid with her health. Who else must pay in order to balance out the scales?

There are examples of questions we can ask of the defendant in deposition to counter the personal responsibility bias.

- Q: Do you accept responsibility for the collision?
- Q: Do you accept responsibility for making the wrong diagnosis?
- Q: Can you point to anything the plaintiff did wrong?
- Q: Would you agree that if there is more than one choice, it is always best to make the safest choice?

Your deposition strategy should include questions that establish the plaintiff has accepted personal responsibility for her health, bills, and future, and contrast that the defendant still accepts no responsibility for the choices he made.

## **Antiplaintiff Bias**



Jurors come into a courtroom with an antiplaintiff attitude. They see advertisements on television run by the Chamber of Commerce talking about lawsuit abuse. They see print advertisements about lawsuit abuse. They hear about lawsuit abuse on talk radio. They

see television shows where characters are made to look like plaintiffs seeking to take advantage of the system. Many people have words like *lawsuit lottery* unfairly connected to plaintiffs. Jurors identify with the defendant more often than not, thinking that next time they could be the defendants in a lawsuit.

What can we do to counter this antiplaintiff bias? Make it harder for jurors to identify with the defendant. We do not want jurors to identify with the defendant and say, “He’s just like me.” Rather, we want jurors to look at the defendant and say, “He is not like me,” regardless of any surface or substantive similarities. We *do* want the jurors to identify with the plaintiff, which means we want to show the plaintiff has conservative, American values. Here is a list of values most people generally consider conservative:

- ◆ Human dignity
- ◆ Sanctity of life
- ◆ Independence
- ◆ Self-reliance
- ◆ Personal responsibility
- ◆ Accountability
- ◆ Motivated by what is morally right
- ◆ Playing by the rules

Can we show that most plaintiffs have these kind of values? Everyone demonstrates their values in the way they work, raise a family, and live their lives, but we do not feature them as much as we should, and these conservative values (no matter how someone votes) are actually things that can make us proud about who we represent.

Jonathan Haidt’s research on values specifically differentiates the relative weight that people give to various traits, between people who describe themselves as very liberal to very conservative.<sup>3</sup>

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3. Jonathan Haidt, *The Righteous Mind—Why Good People Are Divided by Politics and Religion* (New York: Pantheon, 2012).

The results from Haidt's research are instructive. When people give relative weight to the following values, there is a bright line difference between liberals and conservatives. The values tested were:

- ◆ Caring
- ◆ Fairness
- ◆ Loyalty
- ◆ Authority
- ◆ Sanctity

People who described themselves as liberal gave the greatest importance to *caring* and *fairness*. Conservatives gave the greatest weight to *authority*, *sanctity*, and *loyalty* (in that order). When eliciting testimony about a defendant that shows he places little weight on authority, sanctity, or loyalty, we think we have made some headway with conservative jurors. Likewise when the plaintiff and his family demonstrate those qualities, it cannot hurt.

We have seen conservative jurors and Tea Party members in our focus groups across the United States over the last few years. Conservatives, especially members who identify with the Tea Party, tend to be very harsh on plaintiffs and lawsuits in general. They believe in libertarianism, that there are too many lawsuits, and that many plaintiffs are simply asking for money when they were not really hurt. We have also found that despite this, conservatives and Tea Party members are very rule-oriented and will respond positively to plaintiff's cases, especially if the plaintiff shows conservative values. If we show them that the defendant broke a rule and the plaintiff followed the rule, they are more than willing to hold the defendant accountable. A critical requirement for this to happen is for us to get the defendant or his expert to agree to the rule, and then to show that the defendant broke the rule.

In a recent deposition, Paul asked the owner of a group home the following questions:

Q: Do you agree that under this statute, a resident of a group home has a right to a safe environment?

A: Yes.

Q: Do you agree that oxygen tubing should not be left on the floor where a vision-impaired resident could trip on it?

A: Yes.

Q: Do you agree that the standard of care requires you not to leave oxygen tubing on the floor where a vision-impaired resident could trip on it?

A: Yes.

Q: Do you agree that leaving oxygen tubing on the floor where a vision-impaired resident could trip on it is an intentional disregard of the rights of that resident?

A: Yes.

This sequence of questions made it hard for the jury to identify with the owner of the group home in this case. We outlined the rules, established that they were in fact the accepted standard of care, and showed how the defendant broke that rule. Rules are extremely helpful in countering the antiplaintiff bias, as they take the spotlight off the plaintiff and put it on the defendant.

## Suspicion





Studies show that up to 86 percent of the public does not trust lawyers and does not have faith in the judicial system. Insurance and business propaganda, fueled by millions of dollars of advertising, has had a significant effect on the public and the judiciary. Not only does the public view lawsuits with a skeptical eye, many members of the judiciary view lawsuits with suspicion as well. They believe that the lawyer and client are in cahoots, the plaintiff's case is a fraud, the system itself is flawed, and they cannot believe the plaintiff and her lawyer. Studies show that the public believes that lawyers will say anything, truthful or otherwise, to win a case.

How do we counter the suspicion bias in depositions? One of our favorite deposition questions is to ask the defendant if the case is frivolous. In only the rare occasion is the answer yes. A substantial majority of defendants or defendant's representatives will say the case is not frivolous.

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### **SEE THE VIDEO**

#### **◆ Frivolous Lawsuit**

In this video, we ask the defendant if the case is frivolous. Many jurors think most personal injury lawsuits are frivolous, especially medical malpractice lawsuits. I often ask the defendant if he thinks the lawsuit he is being sued in is frivolous. Most of the time, the answer is no.

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Remembering that jurors may look at any of the plaintiff's evidence with suspicion, what can we do, at the very least, to make that suspicion appear unreasonable to other jurors? As an example, when documents and photographs are part of the case, do not underestimate the importance of defense witnesses or other independent witnesses authenticating the document or photograph. When a plaintiff has had surgery, might a defense juror have some suspicion that the surgery was unnecessary? Remove any possible doubt in the necessity of the surgery by asking that question to a witness whom the jury will see as outside your sphere of influence.

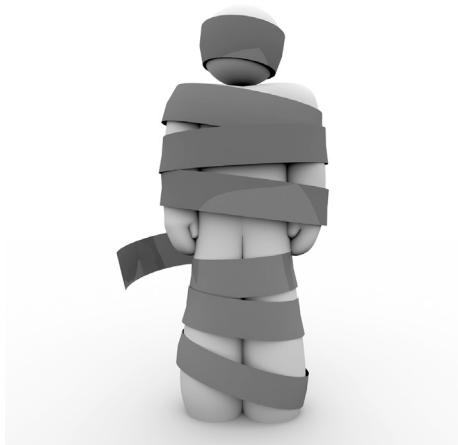
Other questions can center around the plaintiff's character.

- ◆ Ask the defendant and the defense witnesses if the plaintiff has good character.
- ◆ Ask physicians if the plaintiff worked hard to get better and was motivated.
- ◆ Ask employers if the plaintiff was a good employee.
- ◆ In doing a compare and contrast, ask the defendant if the defendant's employee's conduct was wrong, careless, and ultimately reckless.
- ◆ Ask the defendant if he breached the standard of care.

Do not be afraid to ask these questions because you might be surprised by the answer!

One of the best—but not only—ways to show that a case is authentic and not frivolous is through the testimony of the defendant and their witnesses. Tainting the defendant's character and showing the plaintiff has conservative values are also great approaches to incorporate into your strategy.

## **Victimization**



Jurors often believe that the defendant is the victim in the case. After all, the defendant is the one who has been sued. Jurors may

even feel *they* are the victims in the case, and not the plaintiff, as they are being taken away from their families and livelihoods for \$10 a day. Jurors often ask:

- ◆ How will this verdict affect me?
- ◆ How much more will I have to pay for insurance?
- ◆ Will this kind of case drive doctors out of our city?
- ◆ Will this end up costing me more for my medical care?
- ◆ Why should the plaintiff get this money when I can't and my back hurts too?

In advertisements about product liability lawsuits, the implication is that we all pay for the costs of such lawsuits. These advertisements imply that no one is immune from the lawsuit crisis; we all pay the price. They portray the jury pool as the victims of lawsuits as opposed to the injured person, and they are very effective, as jurors often see themselves as victims of lawsuits in general.

How do we counter the victimization bias in depositions?

Establish that the defendant did not act as a juror would expect. There are standards of conduct that jurors expect of people. This is the norm. Every juror believes that she—for the most part—acts normally, and that most people act or respond like she does. When the behavior is something jurors are not familiar with, such as job activities in an unfamiliar industry, jurors use the conduct of others—like custom and practice—to establish the “norm.” Deposition testimony can make that attitude and belief work for us and not against us. Testimony in a deposition can:

- ◆ Establish that the defendant did not act as one would expect; for example, the defendant did not comply with the norm or do what others in the same situation would have done.
- ◆ Compare and contrast what the defendant did and what the norm would have been.

- ◆ Show what choices the defendant could have made that would have avoided the plaintiff's injury.
- ◆ Establish that the defendant is not like the juror; that is, not someone the jurors bond with or relate to. (This is part of the reason the strategy of tainting the defendant's character is so successful.)
- ◆ Show that in contrast with the defendant's decisions, the plaintiff had no choice.

In this type of questioning, emphasize the defendant's choices and conduct in such a way to show that the defendant chose to willfully act in a specific way that placed the plaintiff at risk for injury.

Jurors focus and talk about evidence that is most readily made available to them; that is, what they have heard and most readily remember, which is known as *availability*.

Establishing that the defendant is *not* a victim, is *not* like the jurors, and that the defendant's choices and acts were *not* what a juror would have done—in depositions and then at trial—puts the spotlight on the defendant's conduct and takes it off of the plaintiff.

For example, when deposition testimony exposes that the defendant had multiple choices, all of which sound reasonable, jurors can easily say, "I never would have done that," and are unlikely to see the defendant as a victim.

Q: Rather than stopping in the breakdown lane, you could have pulled off the interstate at Exit 231 and made this phone call.

Q: Rather than stopping in the breakdown lane, you could have chosen to have your codriver make this phone call.

Q: Rather than stopping in the breakdown lane for a call, you could have contacted dispatch for directions before you started that morning, couldn't you?

With each of these questions, the defendant driver had reasonable and safer choices for making a call than coming to a stop in the breakdown lane. His choices are not likely choices that

jurors will say they would have made—and thus he is not like them; he is not a victim.

## Stuff Happens



Many times in focus groups, we hear jurors say that it was just an accident, it was no one's fault, it was an act of God. Jurors with those beliefs will be unwilling to blame the defendant for causing an injury. In voir dire, this type of juror always needs one more fact, one more bit of information, before expressing any opinion. They say, "I'd have to know more." In deliberations, these jurors will not find the defendant at fault unless you can prove that the defendant acted intentionally. Absent bad or *reptile-like* facts, this type of juror will never hold the defendant responsible for the choices he made, unless a strong, plaintiff-oriented juror carries this juror through the deliberations.

We hear this often in our focus groups, but here is an example from a focus group where we were discussing a birth injury. Many of the participants felt that the doctor was negligent for causing the birth injury, but there was one woman who did not agree. A participant asked her, "What if it was your child?" She responded with, "It was God's will, and God had a plan for her." This is a juror who could never be convinced.

How do we counter this bias in a deposition? It may not be possible, but at a minimum, we need to show the injury occurred because of the *choices* the defendant made. You must establish it was not simply an act of God; it was not simply an accident. Rather, it was the consequence of a choice or series of choices the defendant made, knowing the consequences of his decisions and acts. For the stuff-happens juror, you must raise the defendant's conduct to conscious disregard. Every act of negligence is someone *choosing* to break a community safety rule. Emphasizing community safety and that rules are made to protect not just the plaintiff but the community at large is a start. The case is about endangering everyone's safety, every user of the road, every patient, every patron of the mall, anybody and everyone who is at risk when someone chooses to break a community safety rule.

In order to set the stage for proof that makes conduct look more than just negligent, we have to set the stage and provide context for the facts we are presenting. In one of the cases we use as an example in the next chapter, a trucking company hires a driver without using proper employee screening. Here are some facts we were able to elicit, all of which were designed to lead jurors to the conclusion that the operation of this company presented a risk to everyone, and they needed to send a message. The facts we knew we could—and did—elicit were:

- ◆ The company has one thousand trucks.
- ◆ It operates in thirty-eight states.
- ◆ Its turnover is 120 percent per year (one hundred new hires per month).
- ◆ Its process for screening drivers for moving violations was the same for this driver as for every driver or applicant.
- ◆ Its process for screening drivers for criminal history, including DUI, was the same for this driver as with every driver or applicant.

## **SUMMARY**

Known biases and land mines exist in every case, and if you think about them strategically, you can neutralize or eliminate them in your depositions. Developing a deposition plan—our next chapter—is strategically incorporating rebuttals to those known biases and land mines that we have illustrated here. Whether it is accountability, personal responsibility, antiplaintiff, suspicion, victimization, stuff happens, or case-specific land mines—questions in depositions can go a long way to eliminating them as problems in your case.