



# The Modern Lawyer's Guide to Depositions





**Pop quiz:** *How many binders of printed deposition transcripts are on your desk right now? How many were once reviewed and annotated, but are now in parts unknown or lost to recycling? How about sticky notes? Bonus points for any that are crumpled up or whose writing is illegible.*

Do you still have that copy of the deposition you spent hours reviewing as you're writing your motion for summary judgement, let alone by the time you're making designations and video cuts? And which copy of that deposition is being referenced by the partner who's editing your motion while at home, the night before it needs to be filed?

You know you'll never be able to accurately catalog all of this. You, your team, and your clients deserve better. Your ability to access not only your own work product but that of each of your case team members throughout deposition review and the life of a matter can have a measurable impact on your case strategy and ultimately, your matter outcomes.

Case teams can modernize their approach to deposition review with a few strategic adjustments to their process and technological support from a next-generation review platform. While the way you practice won't change overnight, your firm can adopt a truly collaborative deposition review process on behalf of your clients by concentrating your case strategy development efforts in the following areas:



## Uncover the unknown unknowns

Litigators often spin their wheels reviewing unimportant depositions because they lack a birds-eye view to prioritize analysis of the testimony that is most critical to the case when the need arises. One mark of a modern deposition review platform is this opportunity for litigators to leverage advanced search functionality to bring relevant testimony to the forefront precisely when it's needed. Equipped with the right deposition review solution, you can stop wasting valuable time trying to build a case on potentially lackluster evidence.

### *Don't start at zero*

A discovery challenge unique to deposition review lies in surfacing key themes and excerpts within lengthy testimony, and identifying which specific lines and video clips tell your client's story best. The key to locating and prioritizing these case-making deposition insights is to leverage a platform that allows you to search within and across these documents, even when you don't know precisely or even remotely what you're looking for.



## ***Go beyond keywords***

Robust search capabilities can help litigators move beyond simple keyword searches to find relevant excerpts of testimony. Support for functionality like proximity search, Westlaw/LexisNexis-style search syntax, and the ability to search work product as well as transcript text can point you to the right moments within each deposition that can make your case — and prevent you from missing those that risk it.



## **Collaborate to amplify insights**

The modern legal practitioner collaborates with a large and geographically disparate team, and the communication required to work most successfully together often poses several challenges. Whether it's creating consistent work product; accessing it readily; or moving it out into summaries, motions, or filings, the right deposition review platform addresses all of these challenges.

### ***Work as a team***

Your team reviews documents during ediscovery to identify issues, intended uses, and workflows with agreed-upon, consistent tagging structures — and yet can scatter to the wind when it comes to their methods for deposition transcript review. Often, attorneys mark up transcripts inconsistently and in their own, often indecipherable shorthand. Tools within a deposition review platform that enable attorneys to set agreed-upon tagging structure, format, and definitions for marking up transcripts eliminate this confusion and create a clear audit trail for the case team.

### ***Access your team's thinking anytime, from anywhere***

In a world where legal teams work everywhere and seemingly always, connection and real-time collaboration have never been more critical to the practice of law. A modern deposition review platform arms your team with the ability to work however and wherever they are when that next great idea strikes, thanks to the anywhere, anytime accessibility of the cloud. Whether reviewing a deposition moment by moment or scanning a deposition summary, your case team is always in sync with each other's thought processes, questions, and big ideas.

### ***Share and file with ease***

The evidence wrangling and formatting acrobatics that typically accompanies writing deposition summaries, motions, and briefs can be frustrating for litigators. A modern deposition review platform should facilitate ready identification, understanding, and export of key deposition excerpts, video, and work product for use in summaries, briefs, motions, and correspondence with clients. Whether you're whipping up an issue report for a trial attorney, filling out a designations table to file with the court, or formatting your annotations alongside their video clips, look for a solution that makes these workflows effortless — and frees up your evenings for anything other than copy/paste.



## Reduce time to evidence

In litigation, time can be a critically limited resource. Adopting a deposition platform that accelerates time to evidence and surfaces the best material quickly allows you to spend less time on administrivia and more on fact-driven case development.

### *Identify key themes early*

When analyzing depositions, you may have little understanding of who and what will be most relevant. Attorneys who leverage a deposition review software that surfaces key themes and issues within a deposition or across a case have a distinct advantage when it comes to crafting the best possible story for their clients. A robust solution should not only facilitate ready identification of these themes but should also make them searchable, easy to quantify, and quick to share internally or externally.

### *Present the right moments*

Finding the right information is only one piece of trial preparation. Adopting a next-generation deposition review technology allows attorneys to easily identify all the key insights across witness testimony and thus quickly and effectively prepare only the most relevant information to present at trial. Litigators armed with industry-leading deposition review software should easily be able to select the right designations and video to clip and ensure they've got the best possible story ready to go.

### *Pick up where you left off*

If you're handing a deposition summary off to a partner, inheriting a case you didn't start, or if your current case has simply moved into the next phase of discovery, it can be challenging to understand what you (or the prior case team) were thinking when these documents were last reviewed. Absent this context, you and each of your colleagues are left to create yet another round of work product from scratch or from memory. Case teams that review their depositions in a modern, cloud-based platform can avoid recreating the same work product over and over again thanks to easy consumption and sharing of the entire team's annotations, tags, notes, comments, and summaries, devoting more time to case strategy as a result.





## Maximize the value of video

Humans are inherently visual creatures, making tools that easily identify visual evidence all the more impactful. A witness speaking on screen can increase the impact of their testimony when compared to merely reading it from the transcript. The right deposition review technology facilitates attorneys' identification of case-making insights that can only be revealed by a witness' delivery.

### *Uncover video insight with synchronization*

As many litigators know, deposition video and synchronization are expensive, and even more so when you consider the fact that video is rarely looked at before the eve of trial because it's too difficult to view video and transcripts together. While it's tempting to skip deposition video review altogether, that can come at a heavy price, including the loss of insight that witness body language, facial expressions, tone of voice, and pauses reveal. Deposition review solutions that make it easy for litigators to analyze video with capabilities such as automatic synchronization to transcripts can add significant value to your case strategy.

### *Make your memory an asset, not a risk*

Attorneys of all people understand just how unpredictable witness and particularly eyewitness testimony can be. Inadvertent revisionism is a considerable risk; relying on first-hand memory of a deposition can leave damaging blind spots to counterarguments, unforeseen witness impeachability, and other gaps in case strategy. Allowing your case team to see exactly how your witnesses testified in depositions can also help in evaluating how they might perform at trial. A deposition review solution that lets you scrutinize a deposition within the limited time you have to build a case will keep you out of hot water — especially when it comes to witness impeachment or twists in counterarguments.

### *Keep your view holistic — literally*

A solution that enables your team to review deposition transcripts, synchronized video, and relevant exhibits side-by-side empowers you to catch key moments of testimony without toggling between applications and papers — or worse, going without key context as you conduct your deposition review because the exhibit printouts are at your office. From the moment you get video files of deposition testimony, your deposition review methodology should allow your team to spend the bulk of your time on collaboration and strategy — all built upon understanding that you can only get from seeing and hearing how a witness testified.



## Track witness performance and case impact

Not all witness testimony is created equally. The ability to determine at a glance whose is most relevant, credible, and impactful — and whose is not — enables litigators to accelerate case development and reduce the risk of wasting precious time reviewing less-than-stellar depositions throughout case preparation.

### *Systemize witness selection*

What if, instead of drafting another firm-wide email asking if anyone knows an expert in underwater basket weaving, you could simply look up one of likely multiple experts that you've retained before? If you're like most litigators, your assessments of past performance are scattered between old case files, emails, and your memories if not forgotten. Best-in-class case management software can help you centralize your firm's witness assessments and qualification to facilitate efficient and informed expert selection for your next case.

### *Take the risk out of witness selection*

How often have you or a colleague selected a highly recommended witness whose performance didn't have a positive impact on your case? Whether it was perceived conflict of interest, less-than-credible presentation, or outright hostility, witness challenges come in many forms. Robust and easily searchable witness performance analysis mitigates risk in your witness selection process, empowering your firm to make the best possible witness selections for every case.



## Get your head into the cloud(s)

Practitioners' needs have shifted within a rapidly evolving legal landscape. Lawyers today need to be able to support their clients from anywhere at any time. Cloud-based solutions help practitioners keep pace with their evolving lives and livelihoods without breaking the bank or exposing client data to undue risk.

### *Eliminate hardware costs and maintenance headaches*

From capital investments in hardware to software maintenance fees to expensive licensing and training, the ever-growing costs required to maintain on-premise case management solutions weigh heavier on firms and their clients every day. And for all of this investment, firms can miss out on technological advances, critical bug fixes, and security patches bottlenecked by challenging and oft-delayed upgrades. Moving your deposition review process into the cloud eliminates this financial and functional strain entirely and allows your firm to free up IT resources to focus on more strategic projects.



## *UI so easy that the senior partner will actually use it*

Are you tired of wrestling with deposition review software that looks and functions like it predates AOL? A good deposition review solution should intuitively guide you through the user interface, allowing you to focus on the deposition itself. Look to a technology partner that involves attorneys in the development and design of their deposition review solution — as a practitioner, you'll be able to tell which products put lawyers at the center of the user experience.

## *Don't compromise security*

As a litigator, you have more than enough to worry about without also wondering if your clients' data and your work product are safe. Recent high-profile data breaches in the legal space have highlighted the vulnerability of legal work product and cast the need for increased cybersecurity measures into the forefront. Fortunately, next-generation legal technology built on infrastructure like Amazon Web Services (AWS) wields the collective power of these cloud platforms' highest security measures. Why rely on the million dollars a law firm or service provider spends on data security when you can benefit from the billion dollars a year that Amazon invests?

## Conclusion

The modern lawyer faces rapidly evolving challenges to their practice in light of ever-accelerating cultural, economic, and technological change. The right partner and technology help future-proof your practice and give you a leg up against the opposing side.

Modernize your approach to deposition review with DISCO Case Builder. Case Builder can help you get more value from your deposition review efforts to build a stronger case, faster. Robust searching, side-by-side viewing of automatically synchronized videos and transcripts, and advanced formatting capabilities are just a few of the ways technology can help you maximize and leverage insights in less time.

To learn more about DISCO Case Builder, or to request a demo, please visit <https://www.csdisco.com/case-builder>.

