

CogentEdge

Strategic Witness Preparation

Witness Preparation by Videoconference

CogentEdge is a Leader in Preparing Witnesses by Videoconference

Current social distancing measures are changing the practice of law. Clients are not traveling to law firms and attorneys must practice remotely. Meetings, depositions and witness preparation are now done by videoconference.

CogentEdge has extensive experience preparing witnesses by videoconference. We have been successfully preparing witnesses using this format since 2018. Our early entry into remote collaboration allowed us to refine the process over time. The result is a tested and proven process that is both efficient and effective at preparing witnesses.

Preparing witnesses by videoconference is highly effective. Our attorneys follow the same format and rigorous discipline used at in-person sessions. All of our attorneys are trained to use the presentation features available on Zoom and GoToMeeting, so that we can remotely provide the same training and techniques. Among other things, we address the emotional impact a lawsuit has on the witness. We also work on the witness' listening skills through the Socratic method and whiteboard relevant questions and issues. Lastly, we also practice essential cross-examination using critical documents on screen.

Witness preparation by videoconference reflects the reality of social distancing requirements and prepares the witness for the videotaped deposition in a very real way. Depositions are now taken using the Reptile process and videotaped for use at trial. Our videoconference preparation allows the witness to experience being in front of the camera prior to the actual videotaped deposition. They learn how to defeat the Reptile on camera and prevent harmful sound bites from occurring during the actual deposition. Claims analysts have the opportunity to watch remotely and see in real time the progress of the witness and what the deposition will ultimately look like. The scheduling is more flexible because it eliminates many of the obstacles to coordinating the sessions with the defense attorney and the witness and it produces the same skilled witness we need to testify and win the case. Overall expense is reduced because there are no travel costs.

Only Attorneys Can Preserve the Attorney-Client Privilege

CogentEdge is the largest group of witness preparation attorneys in the nation. We are also the only group exclusively using licensed and specially trained attorneys to prepare witnesses to testify. Unlike other consulting firms, who may use PhDs or psychologists with theoretical knowledge or “witness coaches”, all of our attorneys are litigation prepared and battle-tested with actual experience litigating cases. They have practiced law and know the confidentiality and privacy issues involved in witness preparation. CogentEdge has put in place the right technologies and processes to maximize the protection of our communications and the security of documents clients provide to us.

It is now critical that all remote witness preparation be done by attorneys to preserve the attorney-client privilege. Plaintiff’s attorneys should never be allowed to claim that a non-attorney preparation waived privilege. When clients are asked who prepared them to testify it is essential that the only answer be “My attorneys”. Only attorneys can ensure the preparation sessions remain confidential and not be subject to disclosure.

We Secure and Protect Client Documents

CogentEdge has ten years of experience operating as a “virtual firm” exclusively using cloud technology. We have the latest security and document protection service using an Enterprise with Governance account with Box (a leading in the cloud document management provider). This establishes the highest level of content management and protection. All documents provided to CogentEdge are uploaded and encrypted to a HIPAA, HITECH and FINRA compliant platform.

CogentEdge runs conflicts checks on all matters and has established protocols to protect documents and information and the confidentiality required to maintain attorney-client privilege protection.

CogentEdge is 100% HIPAA Compliant¹

As a consulting firm with access to Patient Health Information (PHI), CogentEdge has HIPAA Business Associate Agreements with third-party providers, including Box (in the cloud document management), Zoom (videoconferencing) and GoToMeeting (videoconferencing). These third-party companies do not have access to identifiable PHI. In conjunction with these platforms, CogentEdge employs several safeguards to protect PHI. As a virtual office, our computing hardware is stored in secure locations and access to these devices is protected with recommended passwords. CogentEdge limits document access to authorized personnel with a multi-layer system designed to give each user only the amount of access needed to perform his or her job. In addition, we use two-factor identification, encryption and key management, password protection and other reasonable methods to keep documents secure.

We Maintain Confidentiality and Privacy During Videoconferencing

CogentEdge keeps all video preparation sessions secure and complies with all applicable security standards, including HIPAA, to keep the video sessions secure and confidential. These standards include: (1) Ensuring the confidentiality, integrity, and availability of all electronic PHI we create, receive, maintain or transmit; (2) Protect against any reasonably-anticipated threats or hazards to the security or integrity of such PHI; (3) Protect against any reasonably-anticipated use or disclosure of such PHI that is not permitted or required under the privacy regulations; and (4) Ensure compliance by our team.

¹HIPAA Certification - Currently, the agencies that certify health technology – the Office of the National Coordinator for Health Information Technology and the National Institute of Standards and Technology – do “not assume the task of certifying software and off-the-shelf products” (p. 8352 of the Security Rule), nor accredit independent agencies to do HIPAA certifications. Additionally, the HITECH Act only provides for testing and certification of Electronic Health Records (EHR) programs and modules. Thus, as CogentEdge is not an EHR software or module, our company and technology is not certifiable by these unregulated agencies.

We Keep Videoconferences Secure

To protect the privacy of our clients and the confidentiality of information shared during the preparation sessions, CogentEdge takes the follow steps:

- We create multi-layered access control for owner, administrators and members.
- Access to Zoom or GoToMeeting is protected by verified email address and password.
- Session access is password protected.
- Sessions are not listed publicly and are only shared with attendees.
- Only CogentEdge attorneys can host witness preparation sessions by video, and each meeting will only have a single host.
- As meeting host, CogentEdge can easily expel attendees or terminate sessions in progress.
- As meeting host, CogentEdge can lock a meeting in progress to prevent any additional persons from accessing the meeting.
- As meeting host, CogentEdge controls screen sharing, whiteboard access, chat access and exchange of documents.
- Through our Agreements with Zoom and GoToMeeting, all meeting data transmitted across the network is protected using a unique Advanced Encryption Standard (AES) with a 256-bit or 128-bit key generated and securely distributed to all participants at the start of each session.
- Documents and screens shared during the meeting are protected against passive and active attacks with authentication codes.
- Our Agreements with Zoom and GoToMeeting ensure that PHI and other confidential information is not captured or misused.

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