impeachment. Nor do you want to display your copy of the transcript to opposing counsel when it is annotated with your secret handwritten margin notes.

You need a system—some system—that ensures that the important deposition testimony of the important witnesses is at your fingertips in a form you can use. Whether this involves summaries, subject-matter indexes, paper clips, post-it notes, rote memorization, an instantly searchable collection of electronically-stored deposition transcripts (and the ability to come up with the right search criteria), or a trial team of second and third chairs and paralegal hunters-and-gatherers, you have to be able to find what you need when you need it.

Some organizational discipline is provided by the rules. Rule 26(a)(3)(B) requires that the parties designate "those witnesses whose testimony the party expects to present by deposition" along with lists of witnesses expected to be called and exhibits expected to be offered. Rule 26(a)(3)(A)(i)-(iii). These pretrial disclosures must be "in writing, signed, and served." Rule 26(a)(3)(B)(4).

The pretrial disclosures are to be made at least 30 days before trial, unless the court directs otherwise. Within 14 days of the disclosures, other parties may file and serve objections "to the use under Rule 32(a) of a deposition designated by another party under Rule 26(a)(3)(A)(ii)" as well as to proposed exhibits. Objections "not so made"—other than objections under Fed. R. Evid. 402 (relevance) and 403 (prejudice, confusion, undue delay, waste of time, cumulative)—are waived unless "excused by the court for good cause." Rule 26(a)(3)(B).

The pretrial disclosures need not include materials that may be presented at trial "solely for impeachment," Rule 26(a)(3)(A), and, presumably for other unanticipated (or unanticipatible) purposes, like refreshing recollection.

Practice varies as to whether the Rule 26(a)(3)(A)(ii) "designation of those witnesses whose testimony" is expected to be presented "by deposition" requires only the witnesses' names or, in addition, specifications of pages and lines expected to be used. The 1993 Advisory Committee Notes suggest that designation of "particular portions of stenographic depositions to be used at trial" is required only if mandated by court order or local rule. If the other side's designations do specify pages and lines, your objections should specify the transcript excerpts that you will want to use under the Rule 32(a)(6)/ Fed. R. Evid. 106 "rule of completeness" if the designating party's excerpts are introduced as evidence.

Some judges have additional requirements for designating, objecting to, and using transcript excerpts—including format requirements, highlighted color-coding, multiple copies, limitations on demonstrative exhibits and publication to the jury, special rules for electronic-only uses, etc.—so it pays to read the local court rules and the judge's standing and pretrial orders and ask the clerk about practices.

In sum, be prepared to use deposition transcripts at trial:

1. To present admissions;
2. For impeachment;
3. As a substitute for "unavailable" witnesses;
4. To refresh recollection;
5. As a substitute for unrefreshed memory;
6. As past recollection recorded;
7. For witness control; and
8. To make offers of proof and to support—or resist—evidentiary motions and objections.