

# The Perfect Deponent: Advice On How To Avoid Catching A Bad Case Of The “SHUTUPNOWs”

---

December 23, 2016 | by Stephen Haller, Matheu Nunn

If you have been on the wrong side of Partners Stephen P. Haller, Esq., or Matheu D. Nunn, Esq., during a Deposition (i.e. a pre-trial question-and-answer session), you know that they may want nothing more than for the adverse party or witness (also known as a deponent) to suffer from an affliction known as “*the spastic habit of unrelenting talking under pressure, non-responsive or otherwise wordy*” (**SHUTUPNOW** for short). An individual suffering from **SHUTUPNOW** can best be described as one who seems oddly insistent upon turning what should be a one- or two-word answer into *War and Peace*, with subsequent answers resembling *The Raven*, *Don Quixote*, or J.R.R. Tolkien’s stories – all of them. A person experiencing the **SHUTUPNOWs** will tend to provide irrelevant, unresponsive, long-winded, nonsensical, sarcastic, emotional and labyrinthine mind-numbing answers to the simplest questions. Indeed, “*are you breathing?*” could spawn a dissertation on Lamaze classes replete with details of the subsequent birth (an offer to provide a photo is likely to follow). The deponent’s answer may leave everyone in the room – including the deponent’s own attorney – thinking: “*at no point in your rambling, incoherent response were you even close to anything that could be considered a rational thought! I award you no points and may God have mercy on your soul.*” (Credit to the Moderator in *Billy Madison*: <https://www.youtube.com/watch?v=hkodTydUR0E>).

Haller and Nunn say that they, too, have represented a few (very few) deponents who suffer from **SHUTUPNOW**. According to Haller and Nunn, **SHUTUPNOW** is a painful disease – and even more painful to watch. They also caution that a litigant suffering from **SHUTUPNOW** may, in fact, ruin his case in a feeble attempt to: (a) prove he is a modern-day Albert Einstein; (b) prove the bona fides of the case to the other attorney, who, anecdotally, does not determine the facts; (c) demonstrate his ability to channel his inner-Chandler Bing; and/or (d) play the role of comedian, Jerry Lewis. Haller and Nunn have this advice for deponents who want to be like Albert Einstein, Matthew Perry, or Jerry Lewis in a deposition: *by all means, be like Jerry Lewis*.

Let them explain.

Earlier this year, Jerry Lewis, age 90, provided an interview to *The Hollywood Reporter*. Haller and Nunn say that Jerry's answers – monosyllabic, responsive, honest, even brutal – serve as an excellent tutorial for a deponent. In other words, be like this Jerry: [http://www.hollywoodreporter.com/news/hollywood-reacts-thr-jerry-lewis-interview-958221?facebook\\_20161221](http://www.hollywoodreporter.com/news/hollywood-reacts-thr-jerry-lewis-interview-958221?facebook_20161221), not this one: <https://www.youtube.com/watch?v=OhOcE7Ytigc>. As always, an attorney should prepare his or her client prior to the deposition to avoid an unexpected case of the **SHUTUPNOWs**.