

ITEM 10.05 | REVIEW OF PRIVILEGED DOCUMENTS FOR DEPOSITION

Documents used to refresh testimony prior to testifying are discoverable unless otherwise privileged. Therefore, the use of lawyer-client privileged documents to refresh testimony prior to testifying does not waive the privilege. However, the privilege would be waived if the same documents were used to refresh testimony while testifying.²⁶

*Trial Lawyers Section of the Florida Bar
Conference of Circuit Court Judges
Conference of County Court Judges*

Footnotes

²⁶ *Proskauer Rose v. Boca Airport, Inc.*, 987 So. 2d 116 (Fla. 4th DCA 2008).

