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Date: May 30, 2007 08:02 PM
Author: Jennifer Peirson (crjennifer@cox.net)
Subject: (Nodded) parenthetical

Just curious, what do you-all use when a witness (or whoever) nods their head? My firm owner likes (Witness nodded.), not to include whether it's affirmative or negative b/c it's not our job to interpret their gestures. I agree with her there, but to me (and maybe a lot of other folks), "nodded" means an affirmative answer while "shakes" may mean a negative one. Is (Witness nodded.) too generic and/or misleading?

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Date: May 30, 2007 08:06 PM
Author: MaryJo Legg (daveandmj@verizon.net)

Jennifer,

The way I look at it, we're just describing a gesture. Everyone knows what a nodding head looks like and what a shaking head looks like. Let them make the assumptions on what the answer is.

By the way, I do (Nods head.) and (Shakes head.)

MJ

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Date: May 30, 2007 08:13 PM
Author: Jennifer Peirson (crjennifer@cox.net)
Subject: But...

...my firm requires we use "(Witness nodded.)" no matter what the answer, yay or nay. It's meant to indicate only that the witness motioned their head in response. We don't use "shakes." Although your response does answer my question in that people assume it was a "yes" response, even if it wasn't. That was my concern, that people are misled that it's a "yes" answer in every case.

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Date: May 30, 2007 08:19 PM
Author: Amanda Leigh (amanda.leigh@tx.rr.com)

(Reporter freaks.) That'd be me if someone told me to put nodded for a shake. There'd be no way. A nod is a nod and a shake is a shake. If she doesn't want to indicate a yes or a no, then how 'bout (Witness moves head.) or (No verbal response.)?

Putting "nodded" to noncommittally indicate a shake or a nod, I thought I'd heard it all.

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Date: May 30, 2007 08:29 PM

Author: Jill S. Driscoll (jilldmail@gmail.com)

In the format manual that Texas uses, it is suggested that we use (Witness moves head up and down) or (Witness moves head from side to side.)

I was never really fond of that, but I guess they figured that was the noneditorial way to handle it.

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Date: May 31, 2007 11:09 AM

Author: Debbie Hamon (DHamonCSR@yahoo.com)

Jill, I'm in Texas too, but I decided to use more hybrid parentheticals: (Nods head up and down) and (Shakes head from side to side). I don't put "witness" in it because sometimes it might be an attorney or even the judge. At least that way I can write it the same no matter who is responding.

The Texas UFM also states, "It is the responsibility of the attorneys, as well as the judge in some instances, to note for the record any significant nonverbal behavior (e.g., physical gestures and lengthy pauses on the part of a witness). If counsel or the court fail to refer to the witness's affirmative or negative gesture or other things occurring during the proceedings that may assist the reader, parenthetical notations may be used."

I hope this helps!

Debbie

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Date: May 31, 2007 11:20 AM
Author: Jerry Kelley (JerryKelleyCRR@aol.com)
Subject: Shaking or nodding

Jill, I've written UP/UP for [Moving head up and down] and SIDE/SIDE as [Moving head side to side] for decades.

At a seminar where a judge was speaking to court reporters, he said that he disliked reading [Nodding head] and [Shaking head] because it brought to his mind that either the witness was sleepy or suffering from palsy or tremors.

A certified court interpreter who was speaking to court reporters told us that in South America moving the head up and down means no and moving the head side to side means yes.

In February, a court of appeals justice told official court reporters meeting in San Antonio that she and her fellow justices knew exactly what was meant by [Moving head up and down] or [Moving head side to side].

Jerry
Write fast and sell lots of copies

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Date: May 31, 2007 01:01 PM
Author: Jason Meadors (jason@reporterworks.com)
Subject: me, too

I put:

A (Nods head.) or
A (Shakes head.)

I mean, is there really any question about what's going on with the answer, other than to parse out the potential meanings of "nods head" and "shakes head" until you get something completely out of common understanding?

I don't use "witness" because, as stated, it's redundant. There's already an answer symbol there. It's can't be attributed to anyone else.

- Jason

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Date: May 30, 2007 08:36 PM

Author: Denise A. "Mitz" Drill (ddrill@rocketmail.com)

Subject: Objection!

Misleading, mischaracterizes the witness's answer.

That's the most ridiculous thing I've ever heard, frankly.

Mitz

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Date: May 30, 2007 08:51 PM

Author: Joyce Z. Casey (jzcasey@comcast.net)

Subject: definition

Every dictionary definition I've ever seen of the word "nod" mentions an *up-and-down* motion of the head. It is absolutely misleading (and against common English) to use a nodding paren when the witness actually shakes their head.

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Date: May 30, 2007 09:03 PM

Author: Deborah Trujillo (dmtrujillo@yahoo.com)

Subject: Nodding

I agree with MaryJo. I use (Nods head), (Shakes head). No need to include the word "witness," IMO, since that is apparent because it's already indicated after "A." for "Answer," and, in Q-and-A format, only the witness answers the question.

Deborah

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Date: May 31, 2007 12:24 PM
Author: Jennifer Peirson (crjennifer@cox.net)
Subject: thanks...

...for all your replies.

Jerry, I like your UP/UP and SIDE/SIDE, and I'm putting them in my dictionary right now. :)

Okay, I'm glad I'm not the only one who thinks it's misleading. I've only ever worked for one firm (I'm a relatively new reporter), so you kinda figure, okay, this is the way it is, but it bothered me not being more clear.

I will be using more clear parens from now on! :)

~Jennifer

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Date: May 31, 2007 01:14 PM
Author: Pat Porter (pmporter@att.net)
Subject: Nodding, etc.

A reporter I work with puts (indicating) for the answer if the witness either nods or shakes their head.

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Date: May 31, 2007 06:06 PM
Author: Victoria "Tori" Pittman (unc_rpr@yahoo.com)
Subject: up and down, side to side

I have in my transcripts:
(Moves head up and down)

and

(Moves head side to side)

And, since sometimes the ATTORNEYS do it, this works out well - only two different formats, NODZ/NODZ OR NEG/NEG (for me, of course, heaven forbid I interpret something).

But, of course, in NC, it's a free-for-all. we can do whatever we want - no rules, guidelines, standards are imposed (unless you're a member of NCRA or NVRA)

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Date: June 05, 2007 01:22 PM

Author: Pat Porter (pmpor@att.net)

Subject: Uh-huh = yes

Also had a reporter who wanted "yes" put in the transcript if the witness said "uh-huh," or "no" typed in if the witness said "uh-unh." Delete the "uh-huh" and/or the "uh-unh." Even in video depositions.

Fine, but sometimes an attorney would ask if that "uh-huh" was a "yes." Well, I'd have to remember to delete the attorney's question and the witness's response to that, because there was no "uh-huh" in there because I'd been told to delete them. Had to be on my toes all the time.

I never could understand why the reporter thought that made sense, especially on video depositions.

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Date: June 05, 2007 07:28 PM

Author: Amanda Leigh (amanda.leigh@tx.rr.com)

No way would I let any reporter/attorney/anybody tell me to change proceedings or delete proceedings so it makes sense because I have changed the proceedings!! Yeah, she wouldn't call me anymore, but so what--I don't take kindly to anybody trying to tell me to change the record, for any reason, to any degree.

Had attorneys once say that on the record, back when I was a new reporter: "We agree that the court reporter will change all nods and uh-huhs to yes and all shakes and huh-uhs to no." I was new, but knew enough to speak up and say, "No, I won't change the record."

I am shocked a court reporter would tell another court reporter to alter the record. She knows better.

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Date: June 05, 2007 08:50 PM
Author: Pat Porter (pmporter@att.net)
Subject: Unh-unh, I'm not a Reporter

I'm a scopist, so I didn't feel I could tell her when I didn't agree with what she wanted done with her transcripts. Her name goes on them, after all...not mine.

Her punctuation was, well, the strangest I'd ever seen, so taking out the "uh-huhs," etc., wasn't that surprising to me.

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Date: June 05, 2007 08:53 PM
Author: Amanda Leigh (amanda.leigh@tx.rr.com)

Ooooooooooooooh, gotcha. Thanks for the clarification.

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Date: June 05, 2007 07:46 PM
Author: Marge Teilhaber, RDR, CSR, LSR (marge@mteilhaber.com)
Subject: boy oh boy

You must have been very young and inexperienced when you agreed to that lunacy. I'm sure there's no way in hell you'd do that now. What a joke that [I suppose you mean] agency owner is. Geez!!

Or are you a scopist, Pat, and as you said the reporter asked you to do this. Now, that's an interesting situation: a scopist does work for a court reporter who makes ridiculous requests that totally compromises the integrity of the record. Does the scopist comply.

I suppose there's always the chance of the CR being sued for malpractice and then trying to pin it on the scopist. So if I was a scopist, I wouldn't comply.

And certainly if it was an agency owner making the demand on me as the court reporter, I'd refuse to comply. Never had a demand that even comes close, though, and I'm sure I never will.

Marge

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Date: June 05, 2007 08:28 PM

Author: Cathryn Bauer (stenobauer@gmail.com)

Subject: On our toes

Greetings:

Pat, sometimes that means having to say, "I just can't do that," or "My code of professional ethics doesn't allow me to do that."

Blessings, Cathryn

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Date: June 03, 2007 10:43 PM

Author: Marge Teilhaber, RDR, CSR, LSR (marge@mteilhaber.com)

Subject: since the ground rules. . .

. . . that the lawyers SPIT OUT often includes the words "no nods of the head or shakes of the shoulders," I've gotten into the habit of using this:

A. (Nodding.)

I never knew that a nod was a yes and a shake is a no or maybe it's vice-versa, whatever, and don't care. If the witness moves their head and gives nothing audible, that's what I use.

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Date: June 06, 2007 10:33 PM

Author: John Gales (jgales@bgreporting.com)

Subject: nodding

I don't use a parenthetical for head nods. Never have, never will. I stop what's going on and ask the witness to say a word.

The attys usually say thanks and/or instruct/remind the witness to use words.

John

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Date: June 01, 2007 08:09 AM

Author: Fred Jeske (fred_J94@yahoo.com)

Subject: Excuse me.

A (Nodding no.)

THE REPORTER: Excuse me. Could you nod your head a little louder?

A (Nodding yes.)

THE REPORTER: Since we're interpreting, might as well make it easier on the reader. I mean, if "shakes" and "nods" have specific meaning, great, but the whole point is while it was not verbal, it was discernable by the reporter. I've yet to be told I'm not doing that right, but I'm sure someone who loves to find fault will!

Further, um-hum, unh-unh, or however you choose to spell those, are differentiated and meaningful, despite what comes out of counsel's mouth to the contrary.

I loved this one I heard at a convention:

REPORTER: Excuse me. Could you mumble a little louder?

Because it occurs so frequently, I write M-M for um-hum.

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Date: June 01, 2007 10:20 AM

Author: Coconut Pantsari (Official in SC) (coconutp@bellsouth.net)

Well, I guess my response is not going to be very popular because I do the nod and shake thing, but then I add (Indicating affirmative/negative response). I never used to until I saw it in a transcript, and I think it helps the reader. A lot of the transcripts I do are appeals; therefore, the person reading the transcript was not there.

I agree that the attorney or Court should clear up the record, but I can't tell you how many times this happens during the course of a trial, and, alas, no one worries about it. I wish attorneys would care more about making a record. It drives me crazy.

I also use: Uh-huh. (Indicating affirmative response).
and Huh-uh, the reverse. I guess I feel vindicated because of the use of the word, "indicating."

This is such a hot button topic, but there it's out there. Someone can holler at me if you choose. Don't know if it will make much difference, but I will listen.

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Date: June 01, 2007 11:31 AM

Author: Amanda Leigh (amanda.leigh@tx.rr.com)

Think whatever you want to do is fine. Sometimes I put these (indicating) this, (indicating) that, (nods head), (reviewing document), et cetera, and I know that if there is ANY objection by any party to it, I won't hear about it--they'll take it to the bench, if it's a big-enough deal to 'em (and then I won't have to do anything, as a freelancer, if the Court rules that it shouldn't be there). I think different styles is a good thing. Some attys may like the way Reporter A does something, like what Reporter B does. I've actually gotten clients, I believe, because of my closed-dash use. I say, to each her own.

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Date: June 03, 2007 01:23 AM

Author: greg adelson (greg_adelson@yahoo.com)

Subject: affirmative

Hey, you just never know. There are people out there I'm sure that might shake their head from side to side and mean yes. I think the affirmative and negative is your speculation. If you put (Shaking head from side to side) or (Nodding head up and down), that is going to let the reader know exactly what happened, and they can draw their own conclusion. It is analogous to using exclamation marks. We don't make judgments, interpret, nor speculate.

Greg

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Date: June 02, 2007 08:31 PM

Author: Christine Pazzani (chrispazzani@gmail.com)

Subject: spoken word

I use: A. (No audible response.) I take down spoken words, and it's not my job to figure out whether the rocks in their heads were sloshing or shaking. Often I'm not even looking at the witness, so how would I even know which way the head went.

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Date: June 02, 2007 09:47 PM

Author: Phil Stillerman (philrpr@optonline.net)

I use [No verbal response] my steno is NFR/NFR or NOFR

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Date: June 04, 2007 12:09 PM

Author: G. Allen Sonntag (gallens@excite.com)

Well, to add fuel to the fire, I do the same as was previously stated, uh-uh (Negative response.) and all. Also
A (Indicating negative.)

I do this for the clarity of the record, to enhance the record that is produced in spite of counsel's laggard making of the record.

Question: If you had a witness who only indicated for the whole depo and counsel didn't clarify, would you just do
A (Indicating.)

or would you per force interpret?

Or would you suggest you never interpret?

Q JAOET before the accident?

The attorney meant "Did you eat" but came out JAOET, always does.

Q JU go there? Did you go there?

So, you see, we do interpret in every proceeding whether you'all want to admit it or not.

I make a record usable by all attorneys and courts with no guesses required. I've been doing it for way many years and have taught many to do it the right way, my way.

So be it!

AllenS

PS: Your soapbox!

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Date: June 04, 2007 02:18 PM

Author: Amanda Leigh (amanda.leigh@tx.rr.com)

Yeah, I agree, Allen. I think my clients (and other attorneys I report for) would be upset if they got a transcript with A. (Indicating.) or A. (No verbal response.) from me when there is nodding or shaking of the head. I suggested the (No verbal response) in the beginning of the thread as a way I know not to commit to shaking or nodding, if that's an issue with the reporter.

Anyway, yeah, I put the shake and nod, but I don't do the "in the affirmative" or "in the negative." It's not that I disagree with doing that; it's just a little too wordy for my taste. I have come to the conclusion after almost 20 years of reporting that A LOT OF THE ISSUES that reporters are concerned with (like this one) don't mean a rat's ass to the attorneys...uh, well, no, that's not right--in this case if I only put A. (Indicating.) for a nod or shake, I think it might get a bit of attention from the grey flannels.

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Date: June 04, 2007 07:26 PM

Author: greg adelson (greg_adelson@yahoo.com)

Subject: (indicating negative)

(Shaking head amazed.)

Greg

p.s. man of few words. No soapbox necessary.

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Date: June 05, 2007 04:37 PM

Author: joel hillman

Subject: witness nodded

am i the only one who has heard people say no and mean yes or say yes and mean no? or move their head either up and down or side to side and mean the exact opposite? (of course, i'm the only one married to my wife, so that may answer my own question). if the court or counsel want to indicate what they think the wit is saying, let them do it. it's really their job, not mine. (No response) was my method, although i might, depending on the circumstances (friendly or adversarial attys), ask the wit something like "is that yes or no?" i might even say that my wife often shakes her head and means yes or nods her head and means no. the response in the room was often an indication of understanding.

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Date: June 05, 2007 04:59 PM

Author: Elizabeth Howd (elizabethhowd@hotmail.com)

I have attorneys say, "Please don't nod your head no or shake your head yes." Huh?? I still put (Nodding head) and (Shaking head), because it's in the dictionary and people should know that nodding means moving up and down and shaking means moving from side to side. You'd think.

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Date: June 05, 2007 08:36 PM

Author: Candis Bradshaw (candisbradshaw@gmail.com)

Subject: Note to Joel

Joel,

Please include your e-mail address with your posts. Forum rules require it. Thanks!

:) Candis

Forum staff

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Date: June 12, 2007 08:46 PM

Author: joel hillman (hillmanjoel@aol.com)

Subject: note to candis

sorry. will try harder to remember in the future. if i say it was a senior moment will you forgive me? i get a lot of those these days.

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Date: June 14, 2007 10:04 PM

Author: Deborah M. DeSilva (debdesilva@adelphia.net)

Subject: gestures

(No audible response.)

~ Debbie DeSilva

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