

## Rule 30.1 DEPOSITIONS

(a) Reasonable Notice. Unless otherwise ordered by the Court, "reasonable notice" for the taking of depositions under Fed. R. Civ. P. 30(b)(1) shall be not less than five (5) days. Fed. R. Civ. P. 6 governs the computation of time.

(b) Telephonic Depositions. The motion of a party to take the deposition of an adverse party by telephone will presumptively be granted. Where the opposing party is a corporation, the term "adverse party" means an officer, director, managing agent or corporate designee, pursuant to Fed. R. Civ. P. 30(b)(6).

(c) Depositions of Witnesses Who Have No Knowledge of the Facts. Where an officer, director or managing agent of a corporation or a government official is served with a notice of deposition or subpoena regarding a matter about which he has no knowledge, he shall submit, reasonably before the date noticed for the deposition, an affidavit so stating and identifying a person with the corporation or government entity having knowledge of the subject matter involved in the pending action.

The noticing party may, notwithstanding such affidavit of the noticed witness, proceed with the deposition, subject to the witness's right to seek a protective order.

(d) Directions Not to Answer. Repeated directions to a witness not to answer questions calling for non-privileged answers are symptomatic that the deposition is not proceeding as it should. When direction is given to a witness not to answer, it should be made only on the ground of privilege.

Where a direction not to answer such a question is given and honored by the witness, either party may seek an immediate ruling from the Magistrate Judge as to the validity of such direction. If the witness refuses to answer questions calling for non-privileged answers and the attorney giving such direction does not withdraw such direction, the Court may require the attorney to pay all costs associated with retaking the deposition.

If a prompt ruling cannot be obtained, the direction not to answer made on grounds of privilege may stand pending a ruling and the deposition shall continue until (1) a ruling is obtained or (2) the problem resolves itself. A direction not to answer on any ground except privilege shall not stand and the witness shall answer.

(e) Suggestive Deposition Objections. Objections in the presence of the witness which are used to suggest an answer to the witness are presumptively improper. If the objection to a deposition question is one that can be obviated or removed if presented at the time, the proper objection is "objection to the form of the question," and the problem with the form shall be identified. If the objection is on the ground of privilege, the privilege shall be stated and established.

(f) Conferences Between Non-Party Deponent and Defending Attorney. An

attorney defending at a deposition of a non-party deponent shall not engage in a private conference with the deponent during the actual taking of a deposition, except for the purpose of determining whether a privilege should be asserted.

(g) Assertion of a Privilege or Qualified Immunity From Discovery. Where a claim of privilege or qualified immunity from discovery is asserted during a deposition, the attorney asserting the privilege or qualified immunity from discovery shall identify during the deposition the nature of the privilege or qualified immunity from discovery which is being claimed.

(h) Establishment of Privilege or Qualified Immunity From Discovery. After a claim of privilege or qualified immunity from discovery has been asserted, the attorney seeking disclosure shall have reasonable latitude during the deposition to question the witness to establish other relevant information concerning the assertion of the privilege or qualified immunity from discovery, including:

(1) the applicability of the particular privilege or qualified immunity being asserted;

(2) circumstances which may constitute an exception to the assertion of the privilege or qualified immunity;

(3) circumstances which may result in the privilege or qualified immunity having been waived; and

(4) circumstances which may overcome a claim of qualified privilege or qualified immunity from discovery.

(i) Filing of Depositions. Deposition transcripts shall not be filed with the Clerk of Court until such time as they are published during a hearing or trial.

(j) Return of Depositions. At the time that files are retired to the Federal Records Center, the Clerk shall deliver any depositions filed in said case to the counsel representing the party taking said deposition.