

Rule 28. Persons Before Whom Depositions May Be Taken; Depositions Outside the Forum Jurisdiction

(a) Persons before whom depositions may be taken.

(1) Within the United States. Within the United States or within a territory or insular possession subject to the jurisdiction of the United States, depositions shall be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held, or before a person appointed by the Court. A person so appointed has power to administer oaths and take testimony. The term officer as used in SCR-Dom Rel 30, 31 and 32 includes a person appointed by the Court or designated by the parties under SCR-Dom Rel 29.

(2) In foreign countries. Depositions may be taken in a foreign country (1) pursuant to any applicable treaty or convention, or (2) pursuant to a letter of request (whether or not captioned a letter rogatory), or (3) on notice before a person authorized to administer oaths in the place where the examination is held, either by the law thereof or by the law of the United States, or (4) before a person commissioned by the court, which person shall have the power by virtue of the commission to administer any necessary oath and take testimony. A commission or a letter of request shall be issued on application and notice and on terms that are just and appropriate. It is not requisite to the issuance of a commission or a letter of request that the taking of the deposition in any other manner is impracticable or inconvenient; and both a commission and a letter of request may be issued in proper cases. A notice or commission may designate the person before whom the deposition is to be taken either by name or descriptive title. A letter of request may be addressed "To the Appropriate Authority in [here name the country]." When a letter of request or any other device is used pursuant to any applicable treaty or convention, it shall be captioned in the form prescribed by that treaty or convention. Evidence obtained in response to a letter of request need not be excluded merely because it is not a verbatim transcript, because the testimony was not taken under oath, or because of any similar departure from the requirements for depositions taken within the United States under these Rules.

(3) Disqualification for interest. No deposition shall be taken before a person who is a relative or employee or attorney of a party, or is a relative or employee of such attorney, or is financially interested in the action.

(b) Depositions outside the forum jurisdiction.

(1) Actions in this Court. Any party to a domestic relations action pending in this Court may file with the Court a motion for appointment of an examiner to take the testimony of a witness who resides outside the District of Columbia. The motion shall state the name and address of each witness sought to be deposed and the reasons why the testimony of such witness is required in the action. The motion shall be served on all other parties to the action who may within five days file opposition to the motion as prescribed in SCR-Dom Rel 12. If the motion is granted, the Court shall appoint an examiner to take the testimony of such witnesses as are designated in the order of appointment and shall issue a commission to the examiner who shall take the testimony in the manner prescribed in these Rules.

(2) Actions in other jurisdictions. When a commission is issued or notice given to take the testimony of a witness found within the District of Columbia, to be used in an action pending in a court of a state, territory, commonwealth, possession, or place under the

jurisdiction of the United States, the party seeking that testimony may file with this Court a certified copy of the commission or notice. If the commission or notice is in order, the Clerk shall, upon approval by the judge-in-chambers of the commission or notice and the proposed subpoena, issue a subpoena compelling the designated witness to appear for deposition at a specified time and place. Testimony taken under this subparagraph shall be taken in the manner prescribed in these Rules and the Court may entertain any motion, including motions for quashing service of a subpoena and for issuance of protective orders, in the same manner as if the action were pending in this Court.