

Rule 30. Depositions Upon Oral Examination

(a) When depositions may be taken. After commencement of the action, any party may take the testimony of any person, including a party, by deposition upon oral examination. Leave of court must be obtained only if the plaintiff seeks to take a deposition prior to the expiration of 30 days after service of the summons and complaint upon any defendant or 70 days in any case involving the District of Columbia or its officer or agency, or the United States or its officer or agency; except that leave is not required (1) if a defendant has served a notice of taking deposition or otherwise sought discovery, or (2) if special notice is given as provided in subparagraph (b)(2) of this Rule. The attendance of witnesses may be compelled by subpoena as provided in SCR-Dom Rel 45. The deposition of a person confined in prison may be taken only by leave of court on such terms as the Court prescribes.

(b) Notice of examination; general requirements; special notice; nonstenographic recording; production of documents and things; deposition of organization; deposition by telephone or other remote electronic means.

(1) A party desiring to take a deposition upon oral examination shall give reasonable notice in writing to every other party. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice. If the deposition is to be recorded by videotape pursuant to subparagraph (b)(7) of this Rule, or by other nonstenographic means, the notice shall specify the method of recording. If a videotape deposition is to be taken for use at trial pursuant to SCR-Dom Rel 32(a)(4), the notice shall so specify.

(2) Leave of court is not required for the taking of a deposition by plaintiff if the notice (A) states that the person to be examined is about to go out of the District of Columbia and more than 25 miles from the place of trial, or is about to go out of the United States, and will be unavailable for examination unless the person's deposition is taken before expiration of the 30 or 70-day period, and (B) sets forth facts to support the statement. The plaintiff's attorney shall sign the notice, and the attorney's signature constitutes a certification by the attorney that to the best of the attorney's knowledge, information, and belief the statement and supporting facts are true. The sanctions provided by SCR-Dom Rel 11 are applicable to the certification.

(3) The parties may stipulate in writing or the Court may upon motion order that the testimony at a deposition be recorded by nonstenographic means. The stipulation or order shall designate the person before whom the deposition shall be taken, the manner of recording, preserving and filing the deposition, and may include other provisions to assure that the recorded testimony will be accurate and trustworthy. A party may arrange to have a stenographic transcription made at the party's own expense. Any objection under paragraph (c), any changes made by the witness, the witness's signature identifying the deposition as the witness's own or the statement of the officer that is required if the witness does not sign, as provided in paragraph (e), and the certification of the officer required by paragraph (f) shall be set forth in a writing to accompany a deposition recorded by nonstenographic means.

(4) The notice to a party deponent may be accompanied by a request made in compliance with SCR-Dom Rel 34 for the production of documents and tangible things at the taking of the deposition. The procedure of SCR-Dom Rel 34 shall apply to the request.

(5) A party may in the party's notice and in a subpoena name as the deponent a corporation or a partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. A subpoena shall advise a non-party organization of its duty to make such a designation. The persons so designated shall testify as to matters known or reasonably available to the organization. This subparagraph (b)(5) does not preclude taking a deposition by any other procedure authorized in these Rules.

(6) The parties may stipulate in writing or the Court may upon motion order that a deposition be taken by telephone or other remote electronic means. For the purposes of this Rule and SCR-Dom Rel 28(a), 37(b)(1) and 45(a), a deposition taken by such means is deemed to be taken at the place where the deponent is to answer questions propounded to the deponent.

(7) A videotape deposition of a witness other than an expert may be taken only (1) upon written stipulation, (2) upon order of the Court for good cause shown, or (3) in the case of a non-party witness who is not subject to subpoena for trial or is otherwise unavailable for trial, upon notice.

(c) Examination and cross-examination; record of examination; oath; objections. Examinations and cross-examination of witnesses may proceed as permitted under the provisions of SCR-Dom Rel 43(b). The officer before whom the deposition is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically or recorded by any other means ordered in accordance with subparagraph (b)(3) of this Rule. The testimony shall be transcribed if requested by a party.

All objections made at time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition and the party taking the deposition shall transmit them to the officer, who shall propound them to the witness and record the answers verbatim.

(d) Motion to terminate or limit examination. At any time during the taking of the deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass or oppress the deponent or party, this Court or the court in the district where the deposition is being taken may order the termination or suspension of the examination, or may limit the scope and manner of the taking of the deposition as provided in SCR-Dom Rel 26(c). Upon demand of the objecting party or deponent, taking of the deposition shall

be suspended for the time necessary to make a motion for an order. The provisions of SCR-Dom Rel 37(a)(4) apply to the award of expenses incurred in relation to the motion.

(e) Submission to witness; changes; signing. When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by the witness, unless such examination and reading are waived by the witness and by the parties. The officer shall note separately any changes in form or substance which the witness desires to make, along with the reasons given by the witness for making them, and append the changes to the deposition. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 30 days of its submission to the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress under SCR-Dom Rel 32(d)(4) the Court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(f) Certification by officer; exhibits; copies.

(1) The officer shall certify on the deposition that the witness was duly sworn by the officer and that the deposition is a true record of the testimony given by the witness. The officer shall then securely seal the deposition in an envelope endorsed with the title of the action and marked "Deposition of [here insert name of witness]" and shall comply with the requirements of SCR-Dom Rel 5(d) for the processing of such materials. If the deposition is recorded by nonstenographic means, the cassette or tape shall be clearly marked with the name of the deponent, the date of the deposition, and the title of the action.

Documents and things produced for inspection during the examination of the witness shall, upon the request of a party, be marked for identification and appended to the deposition and may be inspected and copied by any party, except that if the person producing the materials desires to retain them the person may (A) offer copies to be marked for identification and appended to the deposition and to serve as originals if the person affords to all parties fair opportunity to verify the copies by comparison with the originals, or (B) offer the originals to be marked for identification, after giving to each party an opportunity to inspect and copy them in which event the materials may then be used in the same manner as if appended to the deposition. Any party may move for an order that the original be appended to and returned with the deposition to the Court, pending final disposition of the case.

(2) The officer shall furnish a copy of the deposition to any party or to the deponent upon payment of reasonable charges.

(g) Failure to attend or to serve subpoena; expenses.

(1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the Court may order the party giving the notice to pay to such other party the reasonable expenses incurred by that party and that party's attorney in attending, including reasonable attorney's fees.

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon the witness and the witness because of such failure does not attend, and if another party attends in person or by attorney because that party expects the deposition of

that witness to be taken, the Court may order the party giving the notice to pay to such other party the reasonable expenses incurred by that party and that party's attorney in attending, including reasonable attorney's fees.

(h) Transcription of deposition taken by nonstenographic means. If a party intends to use in the proceeding a deposition recorded by nonstenographic means, the party shall have prepared a typewritten, verbatim transcript of the testimony. The original transcription shall not be filed with the Court unless otherwise ordered. If so ordered, a copy shall be served upon all parties, at least 30 days before such proceeding.