

Rule 31. Depositions by Written Questions

(a) WHEN A DEPOSITION MAY BE TAKEN.

(1) *Without Leave.* A party may, by written questions, depose any person, including a party, without leave of court except as provided in Rule 31(a)(2). The deponent's attendance may be compelled by subpoena under Rule 45.

(2) *With Leave.* A party must obtain leave of court, and the court must grant leave to the extent consistent with Rule 26(b)(1) and (2):

(A) if the parties have not stipulated to the deposition and:

(i) the deposition would result in more than 10 depositions being taken under this rule or Rule 30 by the plaintiffs, or by the defendants, or by the third-party defendants;

(ii) the deponent has already been deposed in the case; or

(iii) the plaintiff seeks to take a deposition before 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; or

(B) if the deponent is confined in prison; except

(C) leave is not required under Rule 31(a)(2)(A)(iii) if:

(i) a defendant has served a notice of taking deposition or otherwise sought discovery; or

(ii) the plaintiff's notice states that the deponent is expected to be out of the District of Columbia and more than 25 miles from the place of trial and be unavailable for examination unless the person's deposition is taken before expiration of the 30-day or 70-day period, and sets forth facts to support the statement.

(3) *Service; Required Notice.* A party who wants to depose a person by written questions must serve them on every other party, with a notice stating, if known, the deponent's name and address. If the name is unknown, the notice must provide a general description sufficient to identify the person or the particular class or group to which the person belongs. The notice must also state the name or descriptive title and the address of the officer before whom the deposition will be taken.

(4) *Questions Directed to an Organization.* A public or private corporation, a partnership, an association, or a governmental agency may be deposed by written questions in accordance with Rule 30(b)(6).

(5) *Questions from Other Parties.* Any questions to the deponent from other parties must be served on all parties as follows: cross-questions, within 14 days after being served with the notice and direct questions; redirect questions, within 7 days after being served with cross-questions; and recross-questions, within 7 days after being served with redirect questions. The court may, for good cause, extend or shorten these times.

(b) **DELIVERY TO THE OFFICER; OFFICER'S DUTIES.** The party who noticed the deposition must deliver to the officer a copy of all the questions served and of the notice. The officer must promptly proceed in the manner provided in Rule 30(c), (e), and (f), to:

(1) take the deponent's testimony in response to the questions;

(2) prepare and certify the deposition; and

(3) send it to the party, attaching a copy of the questions and of the notice.

(c) **FILING.** The deposition must not be filed except as provided in Rule 5(d).

COMMENT TO 2017 AMENDMENTS

This rule is substantially similar to *Federal Rule of Civil Procedure 31*, as amended in 2007 and 2015, except that: 1) the time period in subsection (a)(2)(A)(iii) reflects local practice; 2) exceptions to the restriction in subsection (a)(2)(A)(iii) have been moved to new subsection (a)(2)(C) and continue to reflect the 25-mile subpoena range of this court; and 3) section (c) prohibits the filing of a deposition except as permitted in Rule 5(d).

COMMENT

SCR Civil 31 is largely identical to *Federal Rule of Civil Procedure 31* except that there is no cross-reference in subparagraph (a)(2)(C) to Rule 26, since the changes in that Rule have not been adopted herein, and that subparagraph restricts the taking of depositions within 30 days of the service of the summons and complaint or within 70 days after service of the summons and complaint in the case of the United States or the District of Columbia. Additionally, paragraph (b) provides that the deposition shall not be filed and paragraph (c) has been deleted in its entirety.