

1 **Rule 30. Depositions upon oral questionexamination.**

2 (a) **When depositions may be taken; whenWhen leave required.**

3 ~~(a)(1) A party may deposetake the testimony of any person, including a party or~~
4 ~~witness, by oral questions. A witness may not be deposed deposition upon oral~~
5 ~~examination without leave of court except as provided in paragraph (2). The attendance~~
6 ~~of witnesses may be compelled by subpoena as provided in Rule 45.~~

7 ~~(a)(2) A party must obtain leave of court, which shall be granted to the extent~~
8 ~~consistent with the principles stated in Rule 26(b)(3), if the person to be examined is~~
9 ~~confined in prison or if, without the written stipulation of the parties:~~

10 ~~(a)(2)(A) a proposed deposition would result in more than once in standard~~
11 ~~discovery. An expert who has prepared a report disclosed ten depositions being taken~~
12 ~~under Rule 26(a)(3)this rule or Rule 31 by the plaintiffs, or by the defendants, or by third-~~
13 ~~party defendants;~~

14 ~~(a)(2)(B) may not be the person to be examined already has been deposed in the~~
15 ~~case; or~~

16 ~~(a)(2)(C) a party seeks to take a deposition before the time specified in Rule 26(d)~~
17 ~~unless the notice contains a certification, with supporting facts, that the person to be~~
18 ~~examined is expected to leave the state and will be unavailable for examination unless~~
19 ~~deposed before that time. The party or party's attorney shall sign the notice, and the~~
20 ~~signature constitutes a certification subject to the sanctions provided by Rule 11.~~

21 (b) **Notice of depositionexamination; general requirements; special notice; non-**
22 **stenographic recording; production of documents and things; deposition of**
23 **organization; deposition by telephone.**

24 (b)(1) ~~The~~A party deposing a witnessdesiring to take the deposition of any person
25 upon oral examination shall give reasonable notice in writing to every other party ~~to the~~
26 action. The notice shall state the date, time and place for ~~taking~~the deposition and the
27 name and address of each witness. ~~If person to be examined, if known, and, if the name~~
28 of a witness is not known, the notice shall describe the witness sufficientlya general
29 description sufficient to identify the person or statethe ~~particular~~ class or group to which
30 the person belongs. The notice shall designate any documents and tangible thingsif a
31 subpoena duces tecum is to be served on the person to be examined, the designation

32 ~~of the materials~~ to be produced by a witness. ~~The notices set forth in the subpoena~~
33 shall designate the officer who will conduct~~be attached to or included in~~ the
34 deposition notice.

35 (b)(2) The ~~notice party taking the deposition~~ shall designate~~state in the notice~~ the
36 method by which the deposition will testimony shall be recorded. With prior notice to the
37 officer, witness and other parties, any party may designate a recording method in
38 addition to the method designated in the notice. Depositions~~Unless the court orders~~
39 ~~otherwise, it~~ may be recorded by sound, sound-and-visual, or stenographic means, and
40 the party ~~designating~~taking the recording method~~deposition~~ shall bear the cost of the
41 recording. The appearance or demeanor of witnesses or attorneys shall not be distorted
42 through recording techniques.

43 (b)(3) ~~A~~With prior notice to the deponent and other parties, any party may designate
44 another method to record the deponent's testimony in addition to the method specified
45 by the person taking the deposition. The additional record or transcript shall be made at
46 that party's expense unless the court otherwise orders.

47 ~~(b)(4) Unless otherwise agreed by the parties, a~~ deposition shall be conducted
48 before an officer appointed or designated under Rule 28 and shall begin with a
49 statement on the record by the officer that includes (A) the officer's name and business
50 address; (B) the date, time and place of the deposition; (C) the name of the
51 witness~~deponent~~; (D) the administration of the oath or affirmation to the
52 witness~~deponent~~; and (E) an identification of all persons present. If the deposition is
53 recorded other than stenographically, the officer shall repeat items (A) through (C) at
54 the beginning of each unit of the recording medium~~tape or other recording medium~~.
55 ~~The appearance or demeanor of deponents or attorneys shall not be distorted through~~
56 ~~camera or sound recording techniques~~. At the end of the deposition, the officer shall
57 state on the record that the deposition is complete and shall state any stipulations~~set~~
58 ~~forth any stipulations made by counsel concerning the custody of the transcript or~~
59 ~~recording and the exhibits, or concerning other pertinent matters~~.

60 (b)(~~4~~5) The notice to a party witness~~deponent~~ may be accompanied by a request
61 under~~made in compliance with~~ Rule 34 for the production of documents and tangible
62 things at the ~~taking of the~~ deposition. The procedure of Rule 34 shall apply to the

63 request. The attendance of a nonparty witness may be compelled by subpoena under
64 Rule 45. Documents and tangible things to be produced shall be stated in the
65 subpoena.

66 (b)(5) A deposition may be taken by remote electronic means. A deposition taken by
67 remote electronic means is considered to be taken at the place where the witness is
68 located.

69 (b)(6) A party may ~~in the notice and in a subpoena~~ name as the witness ~~adeponent a~~
70 ~~public or private~~ corporation, a partnership, an association, or a governmental agency,
71 ~~and~~ describe with reasonable particularity the matters on which questioning examination
72 is requested, and direct. ~~In that event,~~ the organization ~~to so named shall~~ designate one
73 or more officers, directors, managing agents, or other persons ~~who consent~~ to testify on
74 its behalf. The organization shall state and may set forth, for each person designated,
75 the matters on which the person will testify. A subpoena shall advise a nonparty
76 organization of its duty to make such a designation. The ~~person~~ persons so designated
77 shall testify as to matters known or reasonably available to the organization. ~~This~~
78 ~~Subdivision (b)(6) does not preclude taking a deposition by any other procedure~~
79 ~~authorized in these rules.~~

80 ~~(b)(7) The parties may stipulate in writing or the court may upon motion order that a~~
81 ~~deposition be taken by remote electronic means. For the purposes of this rule and~~
82 ~~Rules 28(a), 37(b)(1), and 45(d), a deposition taken by remote electronic means is~~
83 ~~taken at the place where the deponent is to answer questions.~~

84 (c) **Examination and cross-examination; ~~record of examination; oath; objections.~~**

85 (c)(1) Questioning Examination and cross-examination of witnesses may proceed as
86 permitted at the trial under the ~~provisions of the~~ Utah Rules of Evidence, except Rules
87 103 and 615.

88 ~~(c)(2) The officer before whom the deposition is to be taken shall put the witnesses~~
89 ~~on oath or affirmation and shall personally, or by someone acting under the officer's~~
90 ~~direction and in the officer's presence, record the testimony of the witness. All~~
91 objections shall be recorded ~~made at the time of the examination to the qualifications of~~
92 ~~the officer taking the deposition, to the manner of taking it, to the evidence presented, or~~
93 ~~to the conduct of any party and any other objection to the proceedings shall be noted by~~

94 ~~the officer upon the record of the deposition, but the questioning examination shall~~
95 ~~proceed, and with the testimony being taken subject to the objections. In lieu of~~
96 ~~participating in the oral examination, parties may serve written questions in a sealed~~
97 ~~envelope on the party taking the deposition, and the party taking the deposition shall~~
98 ~~transmit them to the officer, who shall propound them to the witness and record the~~
99 ~~answers verbatim.~~

100 ~~(d) Schedule and duration; motion to terminate or limit examination.~~

101 ~~(d)(1) Any objection to evidence during a deposition shall be stated concisely and in~~
102 ~~a non-argumentative and non-suggestive manner. A person may instruct a~~
103 ~~witness deponent not to answer only when necessary to preserve a privilege, to enforce~~
104 ~~a limitation on evidence directed by the court, or to present a motion for a protective~~
105 ~~order under Rule 37. Upon demand of the objecting party or witness, the deposition~~
106 ~~shall be suspended for the time necessary to make a motion. The party taking the~~
107 ~~deposition may complete or adjourn the deposition before moving for an order to~~
108 ~~compel discovery under Rule 37. under paragraph (4).~~

109 ~~(d) **Limits.** During standard discovery, oral questioning)(2) Unless otherwise~~
110 ~~authorized by the court or stipulated by the parties, a deposition is limited to one day of~~
111 ~~a nonparty shall not exceed four hours, seven hours. The court must allow additional~~
112 ~~time consistent with Rule 26(b)(2) if needed for a fair examination of the deponent or if~~
113 ~~the deponent or another person, or other circumstance, impedes or delays the~~
114 ~~examination.~~

115 ~~(d)(3) If the court finds that any impediment, delay, or other conduct has frustrated~~
116 ~~the fair examination of the deponent, it may impose upon the persons responsible an~~
117 ~~appropriate sanction, including the reasonable costs and oral questioning attorney fees~~
118 ~~incurred by any parties as a result thereof.~~

119 ~~(d)(4) At any time during the taking of the deposition, on motion of a party or of the~~
120 ~~deponent and upon a showing that the examination is being conducted in bad faith or in~~
121 ~~such manner as unreasonably to annoy, embarrass, or oppress the deponent or party,~~
122 ~~the court in which the action is pending or the court in the district where the deposition is~~
123 ~~being taken may order the officer conducting the examination to cease forthwith from~~
124 ~~taking the deposition, or may limit the scope and manner of the taking of the deposition~~

125 ~~as provided in Rule 26(c). If the order made terminates the examination, it shall be~~
126 ~~resumed thereafter only upon the order of the court in which the action is pending. Upon~~
127 ~~demand of the objecting party or deponent, the taking of the deposition shall not exceed~~
128 ~~seven hours. be suspended for the time necessary to make a motion for an order. The~~
129 ~~provisions of Rule 37(a)(4) apply to the award of expenses incurred in relation to the~~
130 ~~motion.~~

131 (e) **Submission to witness; changes; signing.** ~~Within 28~~ if requested by the
132 ~~deponent or a party before completion of the deposition, the deponent shall have 30~~
133 ~~days after being notified by the officer that the transcript or recording is available, a~~
134 ~~witness may sign a statement of changes to the form or substance of the~~ in which to
135 ~~review the transcript or recording and, if there are changes in form or substance, to sign~~
136 ~~a statement reciting such changes and the reasons~~ for the changes. The officer given by
137 ~~the deponent for making them. The officer shall indicate in the certificate prescribed by~~
138 ~~subdivision (f)(1) whether any review was requested and, if so, shall append any~~
139 ~~changes~~ timely made by the witness deponent during the period allowed.

140 (f) **Record of deposition; certification and delivery by officer; exhibits; copies.**

141 (f)(1) The officer shall ~~transcript or other recording of the deposition made in~~
142 ~~accordance with this rule shall be the record~~ the deposition or direct another person
143 present to record ~~of~~ the deposition. The officer shall sign a certificate, to accompany the
144 ~~record of the deposition,~~ that the witness was under oath or affirmation ~~duly sworn~~ and
145 that the record transcript or other recording is a true record of the deposition. The officer
146 shall keep a copy of the record. The testimony given by the witness. Unless otherwise
147 ordered by the court, ~~the officer shall securely seal the record of the deposition in an~~
148 envelope ~~endorsed with the title of the action and marked "Deposition of (name). Do not~~
149 open." and shall promptly send the sealed record ~~of the deposition~~ to the attorney who
150 arranged for the transcript or other record to be made. If the party who designated the
151 recording method, taking the deposition is not represented by an attorney, the record of
152 the deposition shall be sent to the clerk of the court for filing unless otherwise ordered
153 by the court. An attorney or party receiving the record ~~of the deposition~~ shall store it
154 under conditions that will protect it against loss, destruction, tampering, or deterioration.

155 (f)(2) Every party may inspect and copy documentsDocuments and things produced
156 for inspection and must have a fair opportunity to compare copies and originals.
157 ~~Upon~~during the examination of the witness shall, upon the request of a party,
158 ~~documents and things produced for inspection shall~~be marked for identification and
159 ~~annexed to the record of the deposition and may be inspected and copied by any party,~~
160 ~~except that, if the person producing the materials desires to retain them, that person~~
161 ~~may (A) offer copies to~~ be marked for identification and added to the record. If the
162 ~~witness wants to retain~~ annexed to the record of the deposition and to serve thereafter
163 ~~as originals, if the person affords to all parties fair opportunity to verify the copies by~~
164 ~~comparison with~~ the originals, that person shall or (B) offer the originals to be copied,
165 marked for identification and added to the record, ~~after giving to each party an~~
166 ~~opportunity to inspect and copy them, in which event the originals may be used in the~~
167 ~~same manner as if annexed to the record of the deposition. Any party may move for an~~
168 ~~order that the originals be annexed to and returned with the record of the deposition to~~
169 ~~the court, pending final disposition of the case.~~

170 ~~(f)(3)~~ (f)(3) ~~Unless otherwise ordered by the court or agreed by the parties, the~~
171 ~~officer shall retain stenographic notes of any depositions taken stenographically or a~~
172 ~~copy of the recording of any deposition taken by another method.~~ Upon payment of
173 reasonable charges ~~therefor,~~ the officer shall furnish a copy of the record of the
174 ~~deposition~~ to any party or to the witness. An official transcriptdeponent. Any party or the
175 ~~deponent may arrange for a transcription to be made from the recording~~ of a recording
176 ~~made deposition taken~~ by non-stenographic means shall be prepared under Utah Rule
177 of Appellate Procedure 11(e).

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

179 ~~(g)(1)~~ If the party giving the notice of ~~the taking of~~ a deposition fails to attend or fails
180 to serve a subpoena upon a witness who fails to attend, and ~~and proceed therewith and~~
181 another party attends in person or by attorney ~~pursuant to the notice,~~ the court may
182 order the party giving the notice to pay to ~~the~~such other party the reasonable costs,
183 expenses ~~incurred by him and his attorney in attending, including reasonable attorney's~~
184 fees incurred.

185 (h) Deposition in action pending in another state. Any party to an action in
186 another state may take the deposition of any person within this state in the same
187 manner and subject to the same conditions and limitations as if such action were
188 pending in this state. Notice of the deposition shall be filed with the clerk of the court of
189 the county in which the person whose deposition is to be taken resides or is to be
190 served. Matters required to be submitted to the court shall be submitted to the court in
191 the county where the deposition is being taken.

192 (i) Stipulations regarding deposition procedures. The parties may by written
193 stipulation provide that depositions may be taken before any person, at any time or
194 place, upon any notice, and in any manner and when so taken may be used like other
195 depositions.

196 ~~(g)(2) If the party giving the notice of the taking of a deposition of a witness fails to~~
197 ~~serve a subpoena upon him and the witness because of such failure does not attend,~~
198 ~~and if another party attends in person or by attorney because he expects the deposition~~
199 ~~of that witness to be taken, the court may order the party giving the notice to pay to~~
200 ~~such other party the reasonable expenses incurred by him and his attorney in attending,~~
201 ~~including reasonable attorney's fees.~~

202 ~~Advisory Committee Notes~~

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