

1       **Rule 30. Depositions upon oral examination questions.**

2       (a) When depositions may be taken; ~~When~~when leave required.

3       ~~(a)(1) A party may take the testimony of any person, including~~depose a party, ~~or~~  
4       witness by ~~deposition upon oral examination without leave of court except as provided~~  
5       ~~in paragraph (2). The attendance of witnesses~~questions. A witness may not be  
6       ~~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 deposed more than ten depositions~~  
11       ~~being taken once in standard discovery. An expert who has prepared a report disclosed~~  
12       ~~under this rule or Rule 31 by the plaintiffs, or by the defendants, or by third-party~~  
13       ~~defendants;~~

14       ~~(a)(2)Rule 26(a)(3)(B) 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       ~~may not be deposed before that time. The party or party's attorney shall sign the notice,~~  
20       ~~and the signature constitutes a certification subject to the sanctions provided by Rule~~  
21       ~~44.~~

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

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

32 ~~on the person to be examined, the designation of the materials~~The notice shall  
33 designate any documents and tangible things to be produced ~~as set forth in the~~  
34 ~~subpoena~~by a witness. The notice shall be attached to or included in~~designate the~~  
35 officer who will conduct the ~~noticed~~deposition.

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

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

48 ~~(b)(4) Unless otherwise agreed by the parties, a~~(b)(3) A deposition shall be  
49 conducted before an officer appointed or designated under Rule 28 and shall begin with  
50 a statement on the record by the officer that includes (A) the officer's name and  
51 business address; (B) the date, time and place of the deposition; (C) the name of the  
52 ~~deponent~~witness; (D) the administration of the oath or affirmation to the  
53 ~~deponent~~witness; and (E) an identification of all persons present. If the deposition is  
54 recorded other than stenographically, the officer shall repeat items (A) through (C) at  
55 the beginning of each unit of ~~tape or other recording medium. The appearance or~~  
56 ~~demeanor of deponents or attorneys shall not be distorted through camera or sound-~~  
57 ~~recording techniques.~~the recording medium. At the end of the deposition, the officer  
58 shall state on the record that the deposition is complete and shall ~~set forth any~~  
59 ~~stipulations made by counsel concerning the custody of the transcript or recording and~~  
60 ~~the exhibits, or concerning other pertinent matters~~state any stipulations.

61 (b)(~~54~~) The notice to a party ~~deponent~~witness may be accompanied by a request  
62 ~~made in compliance with~~under Rule 34 for the production of documents and tangible

63 things at the ~~taking of the~~ deposition. The procedure of Rule 34 shall apply to the  
64 request. The attendance of a nonparty witness may be compelled by subpoena under  
65 Rule 45. Documents and tangible things to be produced shall be stated in the  
66 subpoena.

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

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

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

85 (c) Examination and cross-examination; ~~record of examination; oath;~~ objections.  
86 Examination and cross-examination

87 (c)(1) Questioning of witnesses may proceed as permitted at the trial under the  
88 ~~provisions of the~~ Utah Rules of Evidence, except Rules 103 and 615. ~~The officer before~~  
89 ~~whom the deposition is to be taken shall put the witnesses on oath or affirmation and~~  
90 ~~shall personally, or by someone acting under the officer's direction and in the officer's~~  
91 ~~presence, record the testimony of the witness.~~

92 (c)(2) All objections ~~made at the time of the examination to the qualifications of the~~  
93 ~~officer taking the deposition, to the manner of taking it, to the evidence presented, or to~~

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

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

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

110 ~~(d)(2) Unless otherwise authorized by the court or stipulated by the parties, a~~  
111 ~~deposition is limited to one day) Limits. During standard discovery, oral questioning of~~  
112 ~~seven hours. The court must allow additional time consistent with Rule 26(b)(2) if~~  
113 ~~needed for a fair examination of the deponent or if the deponent or another person, or~~  
114 ~~other circumstance, impedes or delays the 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 attorney fees incurred by any~~  
118 ~~parties as a result thereof.~~

119 ~~(d)(4) At any time during the taking of the deposition, on motion a nonparty shall not~~  
120 ~~exceed four hours, and oral questioning~~ of a party ~~or of the deponent and upon a~~  
121 ~~showing that the examination is being conducted in bad faith or in such manner as~~  
122 ~~unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which~~  
123 ~~the action is pending or the court in the district where the deposition is being taken may~~  
124 ~~order the officer conducting the examination to cease forthwith from taking the~~

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

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

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

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

155 store it under conditions that will protect it against loss, destruction, tampering, or  
156 deterioration.

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

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

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

181 ~~(g)(1)~~ If the party giving the notice of ~~the taking of~~ a deposition fails to attend ~~and~~  
182 ~~proceed therewith and~~or fails to serve a subpoena upon a witness who fails to attend,  
183 and another party attends in person or by attorney ~~pursuant to the notice~~, the court may  
184 order the party giving the notice to pay to ~~such~~the other party the reasonable costs,

185 expenses and attorney fees incurred ~~by him and his attorney in attending, including~~  
186 ~~reasonable attorney's fees.~~

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

193 Advisory Committee Notes

194 (h) Deposition in action pending in another state. Any party to an action in another  
195 state may take the deposition of any person within this state in the same manner and  
196 subject to the same conditions and limitations as if such action were pending in this  
197 state. Notice of the deposition shall be filed with the clerk of the court of the county in  
198 which the person whose deposition is to be taken resides or is to be served. Matters  
199 required to be submitted to the court shall be submitted to the court in the county where  
200 the deposition is being taken.

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

205