

Navigating International Depositions and Cultural Challenges

A Practical Guide for Cross-Border Discovery

1. Know your country categories before planning: Some countries (Canada, UK, Mexico, Australia) permit voluntary depositions; others (Italy, Spain, Sweden, Switzerland) require advance government authorization; and some (Germany, France, China, Brazil) prohibit or severely restrict depositions—requiring Hague Convention procedures or bringing the witness to neutral ground.
2. Start early and engage local counsel: International depositions routinely take 6-12 months to arrange. Identify international discovery needs at case outset and consult ALFA International network members who can navigate local procedural requirements, court appearances, and cultural norms.
3. Consider venue alternatives strategically: Bringing a cooperative witness to the U.S. may be simpler and cheaper than navigating foreign procedures. Third-country venues (UK, Poland, or the Netherlands for European witnesses, Singapore for Asia-Pacific) or U.S. embassy facilities offer workable options when home-country depositions are restricted.
4. Adapt your approach for cultural differences: Err on the side of formality (use titles, not first names); understand that indirect communication styles may make “That would be difficult” mean “No”; respect the concept of “face” by avoiding aggressive tactics that cause public embarrassment; and allow extra time for witness preparation across cultural expectations.
5. Conduct depositions with trial use in mind: Foreign witnesses may not be available for live trial testimony. Under Federal Rule of Civil Procedure 32, depositions of witnesses outside the U.S. at trial time are usable “for any purpose”—so be mindful of evidentiary rules, video the deposition for credibility assessment, and conduct examinations that will present well to a jury.

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Beth Rose
Moderator
SILLS CUMMIS & GROSS P.C.
Newark, New Jersey
brose@sillscummis.com

David Warnick
JOHNSON & BELL, LTD.
Chicago, Illinois
warnickd@jbltd.com

Cody J. Cooper
PHILLIPS MURRAH P.C.
Oklahoma City, Oklahoma
cjcooper@phillipsmurrah.com