



2026 Future Leaders Practice Group Seminar

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Preparing Your Corporate Representative for Deposition

By Using Technology to Your Advantage

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Federal Rule of Civil Procedure, Rule 30(b)(6)

The language of the statute can be found verbatim, below:

Notice or Subpoena Directed to an Organization. In its notice or subpoena, a party may name as the deponent a public or private corporation, a partnership, an association, a governmental agency, or other entity and must describe with reasonable particularity the matters for examination. **The named organization must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on its behalf;** and it may set out the matters on which each person designated will testify. Before or promptly after the notice or subpoena is served, the serving party and the organization must confer in good faith about the matters for examination. A subpoena must advise a nonparty organization of its duty to confer with the serving party and to designate each person who will testify. **The persons designated must testify about information known or reasonably available to the organization.** This paragraph (6) does not preclude a deposition by any other procedure allowed by these rules. Fed. R. Civ. Proc., Rule 30(b)(6), emphasis added.

Selecting Your Witness

- The 30(b)(6) designee is not an ordinary witness, as they are the face and voice of the entity, and their testimony is binding. That's why thoughtful and meaningful selection, preparation, and strategic use of language are critical—not merely just to have the designee survive the deposition, but to control the narrative and tell the story we want told.
- Consider whether multiple designees are necessary for the topics. If one representative is preferred based on experience or other factors, evaluate whether he/she can be prepared to competently testify on all topics.
- Consider how the deponent and this deposition will affect the company in the future, and in future litigation.
- Consider prior testimony of the anticipated designee and whether he/she is the best person for designation. If possible, review any problematic or conflicting prior testimony and prepare to avoid them in the future.

Preparing Your Witness

- Provide your designee ample time to review all documents produced by company, and other pertinent documents. Consider multiple preparation sessions, including via Zoom or in person.
- Prepare and discuss a theme. Make sure your representative understands the defense theme and the company's position with regard to facts and circumstances. But remember, it is not the designee's job to argue the case or the law.
- Consider using Cloud based deposition repositories for witness to review his/her prior deposition testimony in other matters, or company's prior 30(b)(6) witness depositions. Consider using a deposition bank to organize depositions taken by same Plaintiff's counsel for preparation purposes.
- Discuss importance of presentation, and make special considerations if the designee is being deposed for the first time. Remind the designee that he/she is the company's face at the time of trial, and that the deposition may be videotaped.
- During preparation sessions, evaluate the witness with regard to issues with demeanor, expressions, or other noticeable traits or habits that would portray the witness or company in a negative light. Discuss the

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items in a professional and productive manner to better prepare the witness for intangible aspects of the deposition.

- Presentation elements for Designee's preparation:
 - Tone should be consistent; control emotion and speed.
 - Be honest and attentive.
 - Avoid taking hard questions "personally" or getting defensive during questioning.
- Prepare for "Reptilian" questions.
- Consider videotaping practice sessions and playing testimony back for designee to review.
- Consider a mock deposition with another member of your firm with whom the designee is not familiar.
- Discuss legalese and buzzwords that should give the designee pause (e.g., "reasonably safe").

At the Deposition

- The designee has all the power – the last thing they should be is a passive participant.
- Prepare your designee to use preparation as a shield, and communication as a sword. This means your designee needs to be prepared to explain the all-important "why" underlying the company policies or decisions at issue in the case, as well as reframing overly narrow or misleading questions by adding relevant, necessary context and content.
- Avoid absolute answers like "yes," "no," "always," and "never."
- Educate where necessary such as when plaintiff's counsel makes incorrect assumptions or has incorrect understandings, but do not voluntarily educate or over-answer where it is not necessary to assist with the company's position in the case.
- Remind and empower designee to not be afraid to ask clarifying questions to questioning attorney. It is important that the designee knows all of the facts and circumstances when answering questions, especially hypothetical questions. Consider the response "depends on the circumstances."