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Advisory Committee on Civil Rules
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I am a plaintiff's lawyer who has practiced primarily in the District of Columbia and Connecticut federal courts for the past 40 years. My specialties are labor and employment law. I provide the following comments on some of the possible changes the Advisory Committee is contemplating to FRCP 30(b)(6).

Inclusion of specific reference to Rule 30(b)(6) among the topics for discussion at the Rule 26(f) conference, and in the report to the court under Rule 16

This change would fall under the category of "a solution in search of a problem". Rule 26(f) conference generally is too early to make any final decisions on 30(b)(6) depositions. If the rule were passed parties would probably indicate a pro forma designation to preserve their rights but it would have little practical impact.

Judicial admissions

Some binding effect on a 30 (b)(6)'s witness's testimony is necessary. Otherwise the rule would be worthless. Evidentiary admissions are usually what the courts have decided are appropriate.

Requiring and permitting supplementation of Rule 30(b)(6) testimony

This part of any rule should be limited to discovering new facts not reasonably within the party's possession at the time of the deposition. Otherwise it could be used as an excuse for the witness to say: "I will get back to you on that" and might result in needless continuances.

Forbidding contention questions in Rule 30(b)(6) Depositions

Fact contention questions are totally appropriate in a 30(b)(6) deposition and should not be restricted. Legal contentions could probably be excluded.

Adding a provision for objections to Rule 30(b)(6)

Again, this is a solution on search of a problem. The procedures in place for protective orders are sufficient to protect 30(b)(6) witnesses from abuse.

Amending the rule to address the application of limits on the duration and number of depositions as applied to Rule 30(b)(6) depositions

The rule should make clear that 30(b)(6) witnesses should be counted as only one out of the total of ten presently allowed. Otherwise a party could circumvent the rules by designating several witnesses and thereby unfairly limit the number of fact witnesses.

I hope the Committee will take these comments into consideration along with my colleagues from the plaintiff's labor and employment bar. Thank you.

Very truly yours,

Jonathan L. Gould