



FRCP 30b6 comments

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to:

Rules_Comments

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To the Rule Committee:

I like the ideas of 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. I agree early attention to this can help act as a catalyst for consideration of the various issues surrounding such a deposition.

Statements during a 30(b)(6) deposition should be considered a judicial admissions in the sense that the organization is forbidden to offer evidence inconsistent with the answers of the witness. That there is authority interpreting the rule otherwise should not change that the testimony should be "binding" in that it is an admission. It may be non-hearsay as well but if it is not a judicial admission then it is not "binding."

Supplementation of Rule 30(b)(6) testimony should not be allowed. It takes away any incentive to adequately prepare the witness. In my experience, with even the most sophisticated attorneys, attorneys generally do not know what is required of them in terms of preparing witnesses for 30b6 depositions.

Contention questions in Rule 30(b)(6) depositions should not be forbidden. The organization though, might be allowed to have the right to answer such questions in writing but they must do so within the time allowed for interrogatories without the deposing attorney needing to do a separate request for the information.

There should definitely be an explicit provision authorizing pre-deposition objections by the organization. Objections should be specific and the deposition should go forward on all issues not specifically objected to. The deposing party should clearly have the option to compel answers to questions not answered based on objections.

There is no principled reason there should be limits on the number of 30b6 depositions. 30b6 depositions are governed by topics not by amount of time or number because multiple people may be designated on various topics. This has not been an issue of dispute I have observed.

Best,

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