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Taking and Defending Rule 30(b)(6) Depositions

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Overview

- Basics of 30(b)(6) Depositions
- Tips on Taking 30(b)(6) Depositions
- Defending 30(b)(6) Witnesses

Introduction

- A party seeking information from a corporation may serve a notice requiring the corporation to designate a person to testify in a deposition on specified topics.
- Such notices:
 - Are referred to as corporate designee or 30(b)(6) notices.
 - Impose various obligations on the corporation.
 - Present opportunities for an opposing litigant.



The Language of Rule 30(b)(6)

“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 then 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...The persons designated must testify about information known or reasonably available to the organization.”

The Rationale For Rule 30(b)(6)

Per the comments to FRCP 30(b)(6), this rule was drafted to:

1. Reduce the difficulty a deposing lawyer encounters in determining whether a particular employee of a corporation is a “managing agent.”
2. Protect entities from the burden of having an unnecessarily large number of their employees deposed.



Use of 30(b)(6) Deposition Testimony

- 30(b)(6) testimony can be used like any other deposition testimony.
 - See FRCP 32(a)(2) (“An adverse party may use for any purpose the deposition of a party or anyone who, when deposed, was the party’s officer, director, managing agent, or designee under Rule 30(b)(6) or 31(a)(4).”) (emphasis added).
- The predominant view is that 30(b)(6) testimony is not a judicial admission on behalf of the organization party.
 - However, a 30(b)(6) witness can make an admission against interest that is binding on the corporation.

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