

Corporate Representative Depositions

CINDY SAITER

41ST ANNUAL CORPORATE COUNSEL INSTITUTE

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Corporate Representative Deposition: Federal Rule

- Fed. R. Civ. P. 30(b)(6):

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 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.** A subpoena must advise a nonparty organization of its duty to make this designation. 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.

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Corporate Representative Deposition: Texas Rule

- Tex. R. Civ. P. 199.2(b)(1):

Identity of witness; organizations. The notice must state the name of the witness, which may be either an individual or a public or private corporation, partnership, association, governmental agency, or other organization. If an organization is named as the witness, the notice must describe with reasonable particularity the matters on which examination is requested. In response, the organization named in the notice **must - a reasonable time before the deposition - designate one or more individuals to testify on its behalf and set forth, for each individual designated, the matters on which the individual will testify.** Each individual designated must testify as to matters that are known or reasonably available to the organization. This subdivision does not preclude taking a deposition by any other procedure authorized by these rules.

Purpose of Rule 30(b)(6)/Rule 199.2(b)(1)

- It is not literally possible to take the deposition of a corporation.
- Allows testimony from people who can speak for the corporation.
- The corporation or other entity appears vicariously through its designee or multiple designees.

Resolution Trust Corp. v. S. Union Co., 985 F.2d 196, 197 (5th Cir. 1993).

Purpose of Rule 30(b)(6)/Rule 199.2(b)(1)

- Reduce the difficulty in determining whether a person deposed is a managing agent;
- Reduce the “bandying” by which various officers of a corporation are deposed, in turn, and each disclaims knowledge of facts that are clearly known by someone in the organization; and
- Protect the corporation or agency by eliminating unnecessary and unproductive depositions.

Advisory Committee Notes to Rule 30(b)(6), 48 F.R.D. at 515;

Cates v. LTV Aerospace Corp., 480 F.2d 620, 623 (5th Cir. 1973).

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