

Proposed Amendments to Rule 31

Rule 31 is amended as follows:

Rule 31. Deposition Upon **Depositions by** Written Questions

~~(a) Serving Questions; Notice.~~ **(a) When a Deposition May Be Taken.**

(1) **Without Leave.** A party may ~~take the testimony of,~~ **by written questions, depose** any person, including a party, ~~by deposition upon written questions without leave of court except as provided in paragraph~~ **Rule 31(a)(2).** ~~The~~ **The deponent's** attendance of witnesses may be compelled by the use of subpoena as provided in **under** Rule 45.

(2) **With Leave.** A party must obtain leave of court, ~~which shall be granted~~ **and the court must grant leave** to the extent consistent with the principles stated in Rule 26(b)(2), if the person to be examined is confined in prison or if, without the written stipulation of):

(A) if the parties have not stipulated to the deposition and:

(i) the parties, ~~(A) a proposed deposition would result in more than ten~~ **10** depositions being taken under this rule or Rule 30 by the plaintiffs, or by the defendants, or by **the** third-party defendants;

(Bii) the person to be examined **deponent** has already been deposed in the case; or

~~(C) a~~ **iii) the** party seeks to take a deposition before the time specified in Rule ~~Rule~~ **26(d).**; or

(B) if the deponent is confined in prison.

(3) **Service; Required Notice.** A party desiring **who wants** to take a deposition upon **depose a person by** written questions shall **must** serve them upon **on** every other party, with a notice stating ~~(1) the,~~ **if known, the deponent's** name and address of the person who is to answer them, if known, and if **if** the name is not known, **unknown, the notice must provide** a general description sufficient to identify the person or the particular class or group to which the person belongs, and ~~(2) .~~ **The notice must also state** the name or descriptive title and **the** address of the officer before whom the deposition is to **will** be taken.

(4) **Questions Directed to an Organization.** A deposition upon written questions may be taken of a public or private corporation or, a partnership or, **an** association, or **a** governmental agency **may be deposed by written questions** in accordance with the provision of Rule 30(b)(6).

~~(4) Within 14 days after the notice and written questions are~~ (5) **Questions from Other Parties.** Any questions to the deponent from other parties **must be** served, a party may serve **on all parties as follows:** cross-questions upon all other parties. Within, **within 14 days after being served with the notice and direct questions; redirect questions, within** 7 days after being served with cross-questions, a party may serve redirect questions upon all other parties. Within; **and recross-questions, within** 7 days after being served with redirect questions, a party may serve recross questions upon all other parties. The court may, for **good** cause shown enlarge, **extend** or shorten the time **these times**.

~~(b) Officer To Take Responses and Prepare Record. A copy of the notice and copies of all questions served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall~~ **(b) Delivery to the Officer; Officer's Duties.** **The party who noticed the deposition must deliver to the officer a copy of all the questions served and of the notice. The officer must promptly** proceed promptly, in the manner provided by **in** Rule 30(c), (e), and (f); to:

(1) take the deponent's testimony of the witness in response to the questions and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the questions received by the officer.;

(2) prepare and certify the deposition; and

(3) send it to the party, attaching a copy of the questions and of the notice.

(c) Notice of **Completion or Filing.**

~~When the deposition is filed, or received by the party taking it, that party shall promptly give notice thereof to all other parties.~~

(1) Completion. The party who noticed the deposition must notify all other parties when it is completed.

(2) Filing. A party who files the deposition must promptly notify all other parties of the filing.

(As amended Oct. 3, 1984, eff. Jan. 1, 1985; July 28, 1988, eff. Nov. 1, 1988; Nov. 29, 1995, eff. Mar. 31, 1996; Aug. 29, 2000, eff. Jan. 1, 2001; _____, **2009**, eff. _____, **2010**.)

Advisory Committee Note

The language of Rule 31 has been amended as part of the general restyling of these rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.