



IN THE SUPREME COURT OF ALABAMA

March 14, 2024

ORDER

IT IS ORDERED that Rule 30(c) and Rule 30(d), Alabama Rules of Civil Procedure, be amended to read in accordance with Appendices A and B, respectively, to this order;

IT IS FURTHER ORDERED that the Committee Comments to Amendment of Rule 30(c) and Rule 30(d) Effective March 14, 2024, be adopted to read in accordance with Appendix C to this order;

IT IS FURTHER ORDERED that the amendments of Rule 30(c) and Rule 30(d) and the adoption of the Committee Comments thereto are effective immediately; and

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow Rule 30:

"Note from the reporter of decisions: The order amending Rule 30(c) and Rule 30(d), Alabama Rules of Civil Procedure, and adopting the Committee Comments thereto, effective March 14, 2024, is published in that volume of *Alabama Reporter* that contains Alabama cases from __ So. 3d."

Parker, C.J., and Shaw, Wise, Bryan, Sellers, Mendheim, Stewart, Mitchell, and Cook, JJ., concur.

Witness my hand and seal this 14th day of March, 2024.

Megan B. Rhodese

**Clerk of Court,
Supreme Court of Alabama**

**FILED
March 14, 2024

Clerk of Court
Supreme Court of Alabama**



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APPENDIX A

Rule 30(c), Ala. R. Civ. P.

(c) Examination and Cross-Examination; Record of Examination; Oath; Objections. Examination and cross-examination of witnesses may proceed as permitted at the trial under the Alabama Rules of Evidence, except that Rule 103 and Rule 615, Ala. R. Evid., which deal with trial procedure, are not applicable to pretrial discovery. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically and may be videotaped or recorded by other equivalent technology in accordance with subdivision (b)(4) of this rule.

All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to any objection, but the examination shall still proceed, subject to any such objection. Any objection must be stated concisely in a nonargumentative and nonsuggestive manner. A person may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation ordered by the court, or to present a motion under Rule 30(d)(2). In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition and that party shall transmit them to the officer, who shall propound them to the witness and record the answers verbatim.



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APPENDIX B

Rule 30(d), Ala. R. Civ. P.

(d) Sanction; Motion to Terminate or Limit Examination.

(1) *Sanction.* The court may impose an appropriate sanction -- including awarding the reasonable expenses and attorney's fees incurred by any party -- on any person who impedes, delays, or frustrates the fair examination of the deponent.

(2) *Motion to Terminate or Limit Examination.* At any time during the taking of the deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the court in the circuit where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in Rule 26(c). If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. The provisions of Rule 37(a)(4) apply to the award of expenses incurred in relation to the motion.



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APPENDIX C

Committee Comments to Amendment of Rule 30(c) and Rule 30(d) Effective March 14, 2024

The amendment of Rule 30(c) and Rule 30(d) serves three purposes, all of which are in keeping with Rule 30, Fed. R. Civ. P., the operative provisions of which have been effective since 1993.

First, pursuant to Rule 30(c), no deponent is permitted to refuse to answer a question posed in a deposition, except (a) to preserve a privilege or a protection against disclosure (e.g., work product), (b) to enforce a previously established court-imposed limitation on the scope of examination, or (c) to facilitate a party's suspension of the deposition in order to present a motion under Rule 30(d)(2). Accordingly, directions to a deponent not to answer a question not only can be disruptive to the examination of the deponent but also will rarely be permissible.

Second, Rule 30(c) now explicitly prohibits so-called "speaking" objections. Depositions are sometimes unduly prolonged, if not unfairly frustrated, by lengthy objections and colloquy, often suggesting how the deponent should respond to an examining party's questions. Although, under the amended rule, objections may be made during a deposition, they ordinarily should be limited to those that under Rule 32 might be waived if not made at that time, i.e., objections raising grounds that might be immediately obviated, removed, or cured, such as objections to the form of a question or the responsiveness of an answer. Under Rule 32, other objections can, even without the so-called "usual stipulation" preserving objections, be raised for the first time at trial and therefore should be kept to a minimum during a deposition.

Third, Rule 30(d) explicitly empowers the court to award appropriate remediation and to issue appropriate sanctions for violations of the rule. Although other authority and provisions in the rules might in some circumstances provide courts with the same powers, this amendment is designed to confirm that, in all circumstances arising from



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deposition misconduct, the court has explicit authority to impose sanctions, including awarding attorneys' fees and costs resulting from obstructive tactics that unreasonably prolong a deposition, on the person engaged in such obstruction. See Ex parte Hankook Tire America Corp., [Ms. SC-2023-0210, Dec. 22, 2023] __ So. 3d __ (Ala. 2023) (main opinion and special concurrence of Cook, J.). Such remedial awards and sanctions may be imposed on a nonparty witness or that witness's counsel, as well as on a party or that party's counsel.