

IN THE SUPREME COURT OF THE STATE OF NEVADA
IN THE MATTER OF PROPOSED
AMENDMENTS TO NEVADA RULES
OF CIVIL PROCEDURE 26, 30, AND 34.

ADKT 0487

FILED

DEC 19 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
[Signature]
CHIEF DEPUTY CLERK

**ORDER AMENDING NEVADA RULES OF
CIVIL PROCEDURE 30 AND 34**

WHEREAS, on March 1, 2013, the Honorable James Hardesty and the Honorable Michael Douglas, Justices of the Nevada Supreme Court, filed a petition in this court seeking the amendment of Nevada Rules of Civil Procedure (NRCP) 30 and 34; and

WHEREAS, this court conducted a public hearing on this matter and solicited comments on the proposed amendments from the bench, bar, and public; and

WHEREAS, this court has determined that the proposed rule changes are warranted; accordingly

IT IS HEREBY ORDERED that NRCP 30 and NRCP 34 shall be amended and shall read as set forth in Exhibit A.

IT IS FURTHER ORDERED that this amendment to the Nevada Rules of Civil Procedure shall be effective March 1, 2014. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating copies of this order to all subscribers of the advance sheets of the Nevada Reports and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk

of this court as to the accomplishment of the above-described publication of notice of entry and dissemination of this order shall be conclusive evidence of the adoption and publication of the foregoing rules.

DATED this 19th day of December, 2013.

Pickering, C.J.
Pickering

Gibbons, J.
Gibbons

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Douglas, J.
Douglas

Cherry, J.
Cherry

Saitta, J.
Saitta

cc: All District Court Judges
Alan Lefebvre, President, State Bar of Nevada
Kimberly Farmer, Executive Director, State Bar of Nevada
Clark County Bar Association
Washoe County Bar Association
First Judicial District Bar Association
Administrative Office of the Courts

AMENDMENT TO NEVADA RULES OF CIVIL PROCEDURE

RULE 30. DEPOSITIONS [UPON] BY ORAL EXAMINATION

* * *

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

(1) [Any objection] Duration. Unless otherwise stipulated or ordered by the court, a deposition is limited to 1 day of 7 hours. The court or discovery commissioner must allow additional time consistent with Rule 26(b)(2) if needed to fairly examine the deponent or if the deponent, another person, or any other circumstance impedes or delays the examination. Instructing a deponent not to answer shall only be allowed when necessary to preserve a privilege, to enforce a limitation directed by the court, or to file a motion under paragraph (3).

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

(3) Motion to Terminate or Limit.

(A) Grounds and Procedure. At any time during a deposition [shall be stated concisely and in a nonargumentative and nonsuggestive manner. A party may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation directed by the court, or to present a motion under paragraph (3)], the deponent or a party may move to terminate or limit it on the grounds that it is being conducted in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses the deponent or party. The motion may be filed in the court where the action is pending or, if the action is pending out of the state, where the deposition is taken. If the objecting deponent or party so demands, the deposition must be suspended for the time necessary to obtain an order.

[(2)](B) Order. [If the court or discovery commissioner finds that any impediment, delay, or other conduct has frustrated

~~the fair examination of the deponent, it may impose upon the persons responsible an appropriate sanction, including the reasonable costs and attorney's fees incurred by any parties as a result thereof.] The court may order that the deposition be terminated or may limit its scope and manner as provided in Rule 26(c). If terminated, the deposition may be resumed only by order of the court where the action is pending.~~

~~[(3)](C) Award of Expenses. [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 district 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~~] applies to the award of expenses incurred in relation to the motion.~~

* * *

RULE 34. [PRODUCTION OF] PRODUCING DOCUMENTS [AND THINGS AND ENTRY UPON], ELECTRONICALLY STORED INFORMATION, AND TANGIBLE THINGS, OR ENTERING ONTO LAND, FOR INSPECTION AND OTHER PURPOSES

(a) [~~Scope. Any~~] In General. A party may serve on any other party a request within the scope of Rule 26(b):

(1) to produce and permit the requesting party [~~making the request, or someone acting on the requestor's behalf, to inspect and copy, any designated documents (including writings, drawings, graphs, charts, photographs, phonorecords, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form), or to inspect and copy, test,~~] or its

representative to inspect, copy, test, or sample [any tangible things which constitute or contain matters within the scope of Rule 26(b) and which are in the possession, custody or control of the party upon whom the request is served; or (2) to permit entry upon designated land or other property in] the following items in the responding party's possession, custody, or control [of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or]:

(A) any designated documents or electronically stored information—including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form; or

(B) any designated [object or operation thereon, within the scope of Rule 26(b).] tangible things; or

(2) to permit entry onto designated land or other property possessed or controlled by the responding party, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

(b) Procedure.

(1) Contents of the Request. The request ~~[shall set forth the items to be inspected either by individual item or by category, and];~~

(A) must describe [each item and category] with reasonable particularity[. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts. Without leave of court or written stipulation, a request may not be served before the time specified in Rule 26(a).] each item or category of items to be inspected;

(B) must specify a reasonable time, place, and manner for the inspection and for performing the related acts; and

(C) may specify the form or forms in which electronically stored information is to be produced.

(2) Responses and Objections.

(A) Time to Respond. The party ~~[upon]~~ to whom the request is ~~[served shall serve a written response]~~ directed must respond in writing within 30 days after ~~[the service of the request]~~ being served. A shorter or longer time may be ~~[directed]~~ stipulated under Rule 29 or be ordered by the court. ~~[or, in absence of such an order, agreed to in writing by the parties subject to Rule 29. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made]~~

(B) Responding to Each Item. For each item or category, the response must either state that inspection and related activities will be permitted as requested or state the ground for objecting to the request, with specificity, including the reasons.

(C) Objections. An objection must state whether any responsive materials are being withheld on the basis of that objection. An objection to part of ~~[an item or category, the part shall be specified and]~~ a request must specify the part and permit inspection ~~[permitted]~~ of the ~~[remaining parts]~~ rest.

(D) Responding to Request for Production of Electronically Stored Information. The response ~~[shall first set forth each request for production made, followed by the answer or objections thereto. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.]~~

A party who produces documents for inspection shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.] may state an objection to a requested form for producing electronically stored information. If the responding party objects to a requested form—or if no form was specified in the request—the party must state the form or forms it intends to use.

(E) Producing the Documents or Electronically Stored Information. Unless otherwise stipulated or ordered by the court, these procedures apply to producing documents or electronically stored information:

(i) A party must produce documents as they are kept in the usual course of business or must organize and label them to correspond to the categories in the request;

(ii) If a request does not specify a form for producing electronically stored information, a party must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms; and

(iii) A party need not produce the same electronically stored information in more than one form.

(c) [Persons Not Parties. A person not a party to the action] Nonparties. As provided in Rule 45, a nonparty may be compelled to produce documents, electronically stored information and tangible things or to [submit to] permit an inspection. [as provided in Rule 45.]

(d) Expenses of Copying. The party requesting that documents be copied must pay the reasonable cost therefor and the court may, upon such terms as are just, direct the respondent to copy the documents.