

1 **"Rule 30. Depositions upon oral examination.**

2 (a) When depositions may be taken. – After commencement of the action, any party may
3 take the testimony of any person, including a party, by deposition upon oral examination. Leave
4 of court, granted with or without notice, must be obtained only if the plaintiff seeks to take a
5 deposition prior to the expiration of 30 days after service of the summons and complaint upon
6 any defendant or service made under Rule 4(e), except that leave is not required (i) if a defendant
7 has served a notice of taking deposition or otherwise sought discovery, or (ii) if special notice is
8 given as provided in subsection (b)(2) of this rule. The attendance of witnesses may be compelled
9 by subpoena as provided in Rule 45, provided that no subpoena need be served on a deponent
10 who is a party or an officer, director or managing agent of a party, provided the party has been
11 served with notice pursuant to subsection (b)(1) of this rule. The deposition of a person confined
12 in prison or of a patient receiving in-patient care in or confined to an institution or hospital for
13 the mentally ill or mentally handicapped may be taken only by leave of court on such terms as
14 the court prescribes.

15 (b) Notice of examination; general requirements; place of examination; special notice;
16 nonstenographic recording; production of documents and things; deposition of organization. –

- 17 (1) A party desiring to take the deposition of any person upon oral examination
18 shall give notice in writing to every other party to the action. The notice shall
19 state the time and place for taking the deposition and the name and address of
20 each person to be examined, if known, and, if the name is not known, a general
21 description sufficient to identify him or the particular class or group to which
22 he belongs. If a subpoena duces tecum is to be served on the person to be
23 examined, the designation of the materials to be produced as set forth in the
24 subpoena shall be attached to or included in the notice. The notice shall be
25 served on all parties at least 15 days prior to the taking of the deposition when
26 any party required to be served resides **without the State** and shall be served
27 on all parties at least 10 days prior to the taking of the deposition when all of
28 the parties required to be served reside within the State. Depositions of parties,
29 officers, directors or managing agents of parties or of other persons designated
30 pursuant to subsection (b)(6) hereof to testify on behalf of a party may be
31 taken only at the following places:

32 A resident of the State may be required to attend for examination by
33 deposition only in the county wherein he resides or is employed or transacts
34 his business in person. A nonresident of the State may be required to attend
35 for such examination only in the county wherein he resides or within 50 miles
36 of the place of service except that a judge, as defined by subdivision (h) of this
37 rule, may, upon motion showing good cause, require that a party who selected
38 the county where the action is pending as the forum for the action or an officer,
39 director or managing agent of such a party, or a person designated pursuant to
40 subsection (b)(6) hereof to testify on behalf of such a party present himself for
41 the taking of his deposition in the county where the action is pending. The
42 judge upon granting the motion may make any other orders allowed by Rule
43 26(c) with respect thereto, including orders with respect to the expenses of the
44 deponent.

- 45 (2) Leave of court is not required for the taking of a deposition by plaintiff if the
46 notice (i) states that the person to be examined is about to go out of the county
47 where the action is pending and more than 100 miles from the place of trial,
48 or is about to go out of the United States, or is bound on a voyage to sea, and
49 will be unavailable for examination unless his deposition is taken before
50 expiration of the 30-day period, and (ii) sets forth facts to support the
51 statement. The plaintiff 's attorney shall sign the notice, and his signature

1 constitutes a certification by him that to the best of his knowledge,
2 information, and belief the statement and supporting facts are true. The
3 sanctions provided by Rule 11 are applicable to the certification.

4 If a party shows that when he was served with notice under this subsection
5 (b)(2) he was unable through the exercise of diligence to obtain counsel to
6 represent him at the taking of the deposition, the deposition may not be used
7 against him.

8 (3) The court may for cause shown enlarge or shorten the time for taking the
9 deposition.

10 (4) Unless the court orders otherwise, testimony at a deposition may be recorded
11 by sound recording, sound-and-visual, or stenographic means. If the testimony
12 is to be taken by other means in addition to or in lieu of stenographic means,
13 the notice shall state the methods by which it shall be taken and shall state
14 whether a stenographer will be present at the deposition. In the case of a
15 deposition taken by stenographic means, the party that provides for the
16 stenographer shall provide for the transcribing of the testimony taken. If the
17 deposition is by sound recording only, the party noticing the deposition shall
18 provide for the transcribing of the testimony taken. If the deposition is by
19 sound-and-visual means, the appearance or demeanor of deponents or
20 attorneys shall not be distorted through camera techniques. Regardless of the
21 method stated in the notice, any party or the deponent may have the testimony
22 recorded by stenographic means.

23 (5) A party deponent, deponents who are officers, directors or managing agents
24 of parties and other persons designated pursuant to subsection (b)(6) hereof to
25 testify on behalf of a party may not be served with a subpoena duces tecum,
26 but the notice to a party for the deposition of such a deponent may be
27 accompanied by a request made in compliance with Rule 34 for the production
28 of documents and tangible things at the taking of the deposition. The
29 procedure of Rule 34, except as to time for response, shall apply to the request.
30 When a notice to take such a deposition is accompanied by a request made in
31 compliance with Rule 34 the notice and the request must be served at least 15
32 days earlier than would otherwise be required by Rule 30(b)(1), and any
33 objections to such a request must be served at least seven days prior to the
34 taking of the deposition.

35 (6) A party may in his notice and in a subpoena name as the deponent a public or
36 private corporation or a partnership or association or governmental agency
37 and describe with reasonable particularity the matters on which examination
38 is requested. In that event, the organization so named shall designate one or
39 more officers, directors, or managing agents, or other persons who consent to
40 testify on its behalf, and may set forth, for each person designated, the matters
41 on which he will testify. A subpoena shall advise a nonparty organization of
42 its duty to make such a designation. It shall not be necessary to serve a
43 subpoena on an organization which is a party, but the notice, served on a party
44 without an accompanying subpoena shall clearly advise such of its duty to
45 make the required designation. The persons so designated shall testify as to
46 matters known or reasonably available to the organization. This subsection
47 (b)(6) does not preclude taking a deposition by any other procedure authorized
48 in these rules.

49 (7) The parties may stipulate in writing or the court may upon motion order that
50 a deposition be taken by telephone. For the purposes of this rule and Rules
51 28(a), 37(a)(1) and 45(d), a deposition taken by telephone is taken in the

1 district and the place where the deponent is to answer questions propounded
2 to him.

3 (c) Examination and cross-examination; record of examination; oath; declaration;
4 objections. – Examination and cross-examination of witnesses may proceed as permitted at the
5 trial under the provisions of Rule 43(b). The person before whom the deposition is to be taken
6 shall put the deponent on oath and shall personally, or by someone acting under the person's
7 direction and in the person's presence, record the testimony of the deponent. If a deponent lacks
8 the government-issued photographic identification necessary for the deponent to be put on oath
9 by the person before whom the deposition is taken, the deponent's testimony may be taken upon
10 the deponent's signing a declaration stating that the deponent's testimony is given under penalty
11 of perjury. The testimony shall be taken stenographically or recorded by any other means ordered
12 in accordance with subsection (b)(4) of this rule. If requested by one of the parties, the testimony
13 shall be transcribed.

14 All objections made at the time of the examination to the qualifications of the person before
15 whom the deposition is taken, or to the manner of taking it, or to the evidence presented, or to
16 the conduct of any party, and any other objection to the proceedings, shall be noted upon the
17 deposition by the person before whom the deposition is taken. Subject to any limitations imposed
18 by orders entered pursuant to Rule 26(c) or 30(d), evidence objected to shall be taken subject to
19 the objections. In lieu of participating in the oral examination, parties may serve written questions
20 in a sealed envelope on the party who served the notice of taking the deposition, and he shall
21 transmit them to the person before whom the deposition is to be taken who shall open them at
22 the deposition, propound them to the witness and record the answers verbatim.

23 (d) Motion to terminate or limit examination. – At any time during the taking of the
24 deposition, on motion of a party or of the deponent and upon a showing that the examination is
25 being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress
26 the deponent or party, a judge of the court in which the action is pending or any judge in the
27 county where the deposition is being taken may order before whom the examination is being
28 taken to cease forthwith from taking the deposition, or may limit the scope and manner of the
29 taking of the deposition as provided in Rule 26(c). If the order made terminates the examination,
30 it shall be resumed thereafter only upon the order of a judge of the court in which the action is
31 pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be
32 suspended for the time necessary to make a motion for an order. The provisions of Rule 37(a)(4)
33 apply to the award of expenses incurred in relation to the motion.

34 (e) Submission to deponent; changes; signing. – The sound-and-visual recording, or the
35 transcript of it, if any, the transcript of the sound recording, or the transcript of a deposition taken
36 by stenographic means, shall be submitted to the deponent for examination and shall be reviewed
37 by the deponent, unless such examination and review are waived by the deponent and by the
38 parties. If there are changes in form or substance, the deponent shall sign a statement reciting
39 such changes and the reasons given by the deponent for making them. The person administering
40 the oath shall indicate in the certificate prescribed by subdivision (f)(1) whether any review was
41 requested and, if so, shall append any changes made by the deponent. The certificate shall then
42 be signed by the deponent, unless the parties by stipulation waive the signing or the deponent is
43 ill or cannot be found or refuses to sign. If the certificate is not signed by the deponent within 30
44 days of its submission to him, the person before whom the deposition was taken shall sign the
45 certificate and state on the certificate the fact of the waiver or of the illness or absence of the
46 deponent or the fact of the refusal or failure to sign together with the reason, if any, given therefor;
47 and the deposition may then be used as fully as though the certificate were signed unless on a
48 motion to suppress under Rule 32(d)(4) the court holds that the reasons given for the refusal to
49 sign require rejection of the deposition in whole or in part.

50 (f) Certification; exhibits; copies. –

- 1 (1) The person authorized to administer the oath shall certify that the deposition
 2 is a true record of the testimony given by the deponent and either that (i) the
 3 deponent was duly sworn by the person or (ii) the deponent signed a
 4 declaration because the oath was not administered. This certificate shall be in
 5 writing and accompany the sound-and-visual or sound recording or transcript
 6 of the deposition. The person shall then place the deposition in an envelope or
 7 package endorsed with the title of the action and marked "Deposition of (here
 8 insert name of witness)" and shall personally deliver it or mail it by first class
 9 mail to the party taking the deposition or the party's attorney who shall
 10 preserve it as the court's copy.

11 Documents and things produced for inspection during the examination of
 12 the deponent shall, upon the request of a party, be marked for identification
 13 and annexed to and returned with the deposition, and may be inspected and
 14 copied by any party, except that (i) the person producing the materials may
 15 substitute copies to be marked for identification, if he affords to all parties fair
 16 opportunity to verify the copies by comparison with the originals, and (ii) if
 17 the person producing the materials requests their return, the person before
 18 whom the deposition is taken shall mark them, give each party an opportunity
 19 to inspect and copy them, and return them to the person producing them, and
 20 the materials may then be used in the manner as if annexed to and returned
 21 with the deposition. Any party may move for an order that the original be
 22 annexed to and returned with the deposition to the court, pending final
 23 disposition of the case.

- 24 (2) Upon payment of reasonable charges therefor, the person administering the
 25 oath shall furnish a copy of the deposition to any party or to the deponent.
 26 (3) Repealed by Session Laws 2005-138, s. 3, effective October 1, 2005.

27 (g) Failure to attend or to serve subpoena; expenses. –

- 28 (1) If the party giving the notice of the taking of a deposition fails to attend and
 29 proceed therewith and another party attends in person or by attorney pursuant
 30 to the notice, the judge may order the party giving the notice to pay to such
 31 other party the reasonable expenses incurred by him and his attorney in
 32 attending, including reasonable attorney's fees.
 33 (2) If the party giving the notice of the taking of a deposition of a witness fails to
 34 serve a subpoena upon him and the witness because of such failure does not
 35 attend, and if another party attends in person or by attorney because he expects
 36 the deposition of that witness to be taken, the judge may order the party giving
 37 the notice to pay to such other party the reasonable expenses incurred by him
 38 and his attorney in attending, including reasonable attorney's fees.

39 (h) Judge; definition. –

- 40 (1) In respect to actions in the superior court, a judge of the court in which the
 41 action is pending shall, for the purposes of this rule, and Rule 26, Rule 31,
 42 Rule 33, Rule 34, Rule 35, Rule 36 and Rule 37, be a superior court judge who
 43 has jurisdiction pursuant to G.S. 7A-47.1 or G.S. 7A-48 in that county.
 44 (2) In respect to actions in the district court, a judge of the court in which the
 45 action is pending shall, for the purposes of this rule, Rule 26, Rule 31, Rule
 46 33, Rule 34, Rule 35, Rule 36 and Rule 37, be the chief district judge or any
 47 judge designated by him pursuant to G.S. 7A-192.
 48 (3) In respect to actions in either the superior court or the district court, a judge of
 49 the court in the county where the deposition is being taken shall, for the
 50 purposes of this rule, be a superior court judge who has jurisdiction pursuant

1 to G.S. 7A-47.1 or G.S. 7A-48 in that county, or the chief judge of the district
2 court or any judge designated by him pursuant to G.S. 7A-192.

3 (i) Content of declaration; perjury; exhibit. – A declaration signed by a deponent
4 pursuant to this rule shall have the same effect as an affirmation under G.S. 14-209, and a
5 deponent's willful perjury hereunder shall be subject to the same punishment as set forth therein.
6 A declaration signed under this rule shall contain all of the following:

- 7 (1) A heading setting forth information sufficient to identify the matter for which
8 the deposition was taken (including, but not limited to, the jurisdiction, court,
9 district, or division in which the action is filed), the title of the action, and the
10 name of the first party on each side with an appropriate indication of other
11 parties.
12 (2) The legal name and the address of the deponent.
13 (3) The date of the deposition.
14 (4) The following statement in bolded lettering: "Under penalty of perjury, I
15 declare that my testimony is truthful and I acknowledge that a material
16 misstatement of fact made by me while giving my testimony may be grounds
17 for a conviction of perjury under the laws of this State."
18 (5) A line for the deponent's signature, along with a line for the deponent to
19 indicate the date when the document was signed.
20 (6) Lines for the signatures of two witnesses in whose presence the deponent
21 signed the declaration.

22 The deponent's declaration shall be attached to the deposition transcript as an exhibit and
23 filed with the transcript. A person's preparation of the declaration does not constitute the
24 unauthorized practice of law."
25

26 The phrase "without the State" was added by Section 2 of Chapter 762 of the 1975 Session Laws.
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28 Reported by Paul Lipof.