

LOCAL RULE 7030-1: DEPOSITIONS AND EXAMINATIONS

- (a) At the beginning of each deposition or Rule 2004 examination, deposing counsel shall instruct the witness to ask deposing counsel, rather than the witness's own counsel, for clarifications, definitions, or explanations of any words, questions, or documents presented during the course of the deposition. The witness shall abide by these instructions.
- (b) All objections, except those which would be waived if not made at the deposition under Fed. R. Civ. P. 32(d)(3), and those necessary to assert a privilege, to enforce a limitation directed by the Court, or to present a motion pursuant to Fed. R. Civ. P. 30(d), shall be preserved.
- (c) Counsel shall not direct or request that a witness not answer a question, unless that counsel has objected to the question on the ground that the answer is protected by a privilege or a limitation on evidence directed by the Court or unless that counsel intends to present a motion under Fed. R. Civ. P. 30(d)(1). In addition, counsel shall have an affirmative duty to inform their clients that unless such an objection is made, the question must be answered. Counsel directing that a witness not answer a question on those grounds or allowing their clients to refuse to answer a question on those grounds shall move the Court for a protective order under SC LBR 7026-1 within five (5) business days of the suspension or termination of the deposition or examination. Failure to timely file such a motion will constitute waiver of the objection, and the deposition or examination may be reconvened.
- (d) Counsel shall not make objections or statements which might suggest an answer to a witness. Counsel's objections shall be stated concisely and in a non-argumentative and non-suggestive manner, stating the basis of the objection and nothing more.
- (e) Counsel and witnesses shall not engage in private, "off the record" conferences during depositions or during breaks or recesses regarding the substance of the testimony at the deposition or examination, except for the purpose of deciding whether to assert a privilege or to make an objection or to move for a protective order.
- (f) Any conferences which occur pursuant to, or in violation of, paragraph (e) are proper subjects for inquiry by deposing counsel to ascertain whether there has been any witness coaching and, if so, to what extent and nature.
- (g) Any conferences which occur pursuant to, or in violation of, paragraph (e) shall be noted on the record by the counsel who participated in the conference. The purpose and outcome of the conference shall be noted on the record.
- (h) Deposing counsel shall provide to opposing counsel a copy of all documents to be shown to the witness during the deposition or examination, either before the deposition or examination begins or contemporaneously with the showing of each document to the witness. If the documents are provided (or otherwise identified) at least three (3) business days before the deposition, then the witness and the witness's counsel do not have the right to discuss the documents privately during the deposition or examination. If the documents have not been so provided or identified, then counsel and the witness may have a reasonable amount of time to discuss the documents before the witness answers questions concerning the document.
- (i) If an objecting party or deponent demands, after good faith consultation, that the deposition be suspended pursuant to Fed. R. Civ. P. 30(d), the assigned judge's office shall be contacted to allow that judge to resolve the matter telephonically, if possible. If the assigned judge is not available, that judge's standing instructions for resolution of such matters, which may include referral to a another judge, shall be followed. These instructions shall be available from the judge's chambers and the Courtroom deputy clerk.
- (j) Violation of this Local Rule shall be deemed to be a violation of a court order and shall subject the violator to sanctions under Fed. R. Civ. P. 37(b)(2).

Notes:

(2009) This rule is new and incorporates provisions found in the local rules of the District Court.