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Advisory Committee on Civil Rules Adopts Sensible Rule 30(b)(6) Amendment

(In re Proposed Amendment to Rule 30(b)(6))

“This is a victory for common sense. The Advisory Committee’s rejected rule proposal would have injected a new source of uncertainty and chaos into the Rule 30(b)(6) deposition process.”

—Cory Andrews, WLF Senior Litigation Counsel

WASHINGTON, DC—The Advisory Committee on Civil Rules has abandoned a proposed amendment to Rule 30(b)(6) of the Federal Rules of Civil Procedure that would have obliged a company responding to a corporate-deposition request to confer with opposing counsel on the *identity* of the witness who will speak for the company. The Advisory Committee’s decision was a victory for WLF and the larger civil-justice community.

Rule 30(b)(6) requires organizations (including corporations, associations, and government agencies) to designate one or more persons to testify on the organization’s behalf about specific matters raised in litigation. The Rule has been a source of frequent complaints since its inception, and Rule 30(b)(6) depositions increasingly have led to protracted discovery disputes. In 2018, the Advisory Committee issued a proposed amendment to the Rule that would have required the parties to confer on the *identity* of the witness who will speak for the company. In response, it received 500 written comments (including from WLF), many of them critical of the proposal.

The Advisory Committee’s new proposal merely requires the parties to confer in good faith “about the matters for examination,” but contains no mention of the identity of the designated witness. The Judicial Conference Committee on Rules of Practice and Procedure will formally consider the new proposed Rule in June. If approved, the Rule will take effect on December 1, 2020.

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