

STATE OF MAINE
SUPREME JUDICIAL COURT
AMENDMENT TO
MAINE RULES OF CIVIL PROCEDURE

2018 Me. Rules 02

Effective: February 14, 2018

All of the Justices concurring therein, the following amendment to the Maine Rules of Civil Procedure is adopted to be effective on the date indicated above. The specific amendment is stated below. To aid in the understanding of the amendment, an Advisory Note appears after the text of the Rule amendment. The Advisory Note states the reason for the amendment, but the Advisory Note is not part of the amendment adopted by the Court.

1. Rule 30(b) of the Maine Rules of Civil Procedure is amended to read as follows:

RULE 30. DEPOSITIONS UPON ORAL EXAMINATION

....

(b) Notice of Examination: General Requirements; Special Notice; Non-stenographic Recording; Production of Documents and Things; Deposition of Organization.

....

(4) Recording of Depositions.

(A) A deposition may be recorded by:

(A) (i) Shorthand writing,

(B) (ii) Stenotype machine,

(C) (iii) Tape recording with multi-track tape,

~~(D)~~ (iv) Video camera recording, or

~~(E)~~ (v) Any other method agreed to by the parties or approved by the court.

(B) Any method for recording a deposition shall:

~~(A)~~ (i) Comply with the requirements of Rule 28;

~~(B)~~ (ii) Assure an accurate and trustworthy recording;

~~(C)~~ (iii) Provide clear identification of the separate speakers;

~~(D)~~ (iv) Permit editing for use at trial in a manner that will allow expeditious removal of objectionable and extraneous material without significant disruption in presentation of the edited testimony to a jury;

~~(E)~~ (v) Allow prompt preparation of a written transcript of the proceedings if such is ordered by any party or the court; and

~~(F)~~ (vi) Allow prompt copying of any audio or video tape of the proceedings, where an audio or video tape is used, if such is ordered by any party or the court.

Any party may object to the taking of a deposition on the grounds that the recording method is not one of those approved above, or that the recording method will not comply with one or more of the criteria ~~(A)~~ through ~~(F)~~ in subdivision (B) above. Such an objection shall be served in writing and received by the other parties and the court at least 3 days prior to the scheduled date for the deposition. Where such an objection is served, the deposition shall be deferred until such time as the objection is heard by the court.

In a video deposition, the camera shall focus only on the witness and any exhibits utilized by the witness, unless the parties agree otherwise.

Any ~~other~~ party may record a deposition by any means, provided that the recording does not disrupt or impede the deposition process. The method of recording specified in the notice by the party noticing the deposition shall constitute the only official record of the deposition. Any party intending to record a deposition by another means designated in subdivision (b)(4)(A) of this rule shall give notice in writing to every other party of the additional recording method.

Advisory Note – February 2018

The substantive amendment to Rule 30(b)(4) permits recording by any party at a deposition. Specifically, it provides that, upon notice in writing to all other parties, a party may make a recording by another means listed in Rule 30(b)(4)(A). The amendment does not change the current language that “[t]he method of recording specified in the notice by the party noticing the deposition shall constitute the only official record of the deposition.” The purpose of the amendment is to allow parties to make a recording for their own trial preparations.

In addition, the amendment adjusts the lettering and numbering of the two lists in Rule 30(b)(4) to eliminate the use of the same subdivision letters for two separate lists. As amended, Rule 30(b)(4)(A) contains the list of methods for recording a deposition, and Rule 30(b)(4)(B) contains the list of criteria that must be satisfied when employing any method for recording a deposition.

Dated: February 14, 2018

FOR THE COURT,*

LEIGH I. SAUFLEY
Chief Justice

DONALD G. ALEXANDER
ANDREW M. MEAD
ELLEN A. GORMAN
JOSEPH M. JABAR
JEFFREY L. HJELM
THOMAS E. HUMPHREY
Associate Justices

* This Rule Amendment Order was approved after conference of the Court, all Justices concurring therein.