



Client Alert

New California rules impose a time limit on oral depositions. The passage of AB 1875 limits depositions to seven hours per witness in a civil case.

New Seven-Hour Deposition Time Limits in California

On January 1, 2013, new rules imposing a time limit on oral depositions in California took effect. The passage of AB 1875, codified at Code of Civil Procedure Section 2025.290, limits depositions to seven hours per witness in a civil case.

Previously, there were no time limits for depositions taken in California state court. The rule, sponsored by the Consumer Attorneys of California (CAOC), is intended to prevent parties from using depositions to harass opposing parties or witnesses. However, the rule is subject to several exceptions to account for situations in which a longer deposition might be necessary. The time limit does not apply to:

- Depositions of designated experts.
- Depositions of persons designated as the corporate person most qualified, or person most knowledgeable.
- Depositions in employment cases brought by an employee against an employer.
- Depositions in complex cases of more than five parties.
- A party who has appeared after the conclusion of the deposition, in which case the new party may notice another deposition subject to the requirements.

Parties may avoid the seven-hour limitation: (1) by stipulation between the parties; (2) as part of the court's case management order; or (3) by filing a motion for a court order lifting the limit, "if needed to fairly examine the deponent," or if "another person, or any other circumstance impedes or delays the examination." (Note: The seven-hour clock does not run during examination by the witness's own counsel).

This rule does not prevent deponents from seeking a protective order in an attempt to further limit the seven hours, or to prevent a deposition entirely.

Comparison with Federal Rules

The new rule is analogous to Rule 30 of the Federal Rules of Civil Procedure, which limits a deposition to one day of seven hours. The above-listed California rule is different in that it does not require that the deposition occur on a single day. The exceptions are also exclusive to the California rule.

California joins the ranks of several other states that already have deposition limits in effect, including Arizona with a four-hour limit, Texas with a six-hour limit and Maryland with a seven-hour limit.



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Possible Effects of this Rule

One possible effect of this new rule is that litigants may try to frame their cases as complex or employment-related, in order to avoid the time limits. There may also be an increase in plaintiffs naming corporate defendants as opposed to individuals, in order to take person-most-qualified depositions, which are specifically excluded by the statute.

The rule may have the effect of encouraging attorneys to seek increased written discovery. Parties may also plan to conduct shorter depositions earlier in the case and use the rest of their time in an additional deposition after obtaining written discovery, as depositions will be limited by number of hours, rather than days.

Finally, provided that the courts do not routinely dispense with the seven-hour limit in their case management orders, this new rule is designed and should have the effect of cutting down on delay and lowering the cost of civil litigation in California for both sides.

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