

IN RE: PROPOSED AMENDMENTS TO
RULES 28 AND 30 OF THE MONTANA
RULES OF CIVIL PROCEDURE

)
) ORDER
)

On September 28, 2001, the Montana Supreme Court Advisory Commission on the Montana Rules of Civil Procedure and Rules of Appellate Procedure submitted to this Court proposed amendments to Rules 28 and 30 of the Montana Rules of Civil Procedure. The proposed amendments are attached hereto as Attachment A and the Commission Comment regarding the proposed amendments is Attachment B.

IT IS ORDERED that effective December 31, 2001, Rule 28(d) and Rule 30(d) of the Montana Rules of Civil Procedure are hereby amended as indicated in Attachment A to this Order. (Deleted language is stricken; added language is underlined.)

The Clerk of this Court shall prepare and mail copies of this Order to the Code Commissioner of the Legal Services Division for the State of Montana; to all Montana Clerks of the District Courts; the Clerk of the United States District Court of the State of Montana; the Chairman of the Advisory Commission on Rules of Civil Procedure and Appellate Procedure; the Montana State Law Librarian; the President and Executive Director of the State Bar of Montana with the request that this order be published in the next available issue of The Montana Lawyer; to State Reporter Publishing Company; and to West Group.

DATED this 6th day of ~~October~~ ^{November}, 2001.

FILED

NOV 06 2001

Ed Smith
CLERK OF THE SUPREME COURT

Harold M. Gray

Chief Justice

William Ruppert

[Signature]

Jan Peguier

Troy Truitt

Patricia Cotton

Jim Rice

Justices

ATTACHMENT A

Rule 28(d) [amended]

Rule 28(d). Depositions to Be Used in Other States. Whenever the deposition of any person is to be taken in this state pursuant to the laws of another state of the United States or of another country for use in proceedings there, the district court of the county where the witness is to be served, upon proof that notice has been duly served, may issue; ~~pursuant to Rule 45(d);~~ the necessary subpoenas.

Rule 30(b)(8) [deleted]

~~(8) Unless otherwise ordered or stipulated, each deposition shall not last more than eight hours nor take place on more than one day. Additional time may be obtained for good cause by leave of court.~~

Rule 30(d) [amended]

Rule 30(d). Schedule and Duration; Motion to terminate or limit examination.
(1) Any objection during a deposition must be stated concisely and in a non-argumentative and non-suggestive manner.

(2) Unless otherwise authorized by the court or stipulated by the parties, a deposition is limited to one day of seven hours. The court must allow additional time consistent with Rule 26(b)(2) if needed for a fair examination of the deponent or if the deponent or another person, or other circumstance, impedes or delays the examination.

(3) If the court finds that any impediment, delay, or other conduct has frustrated the fair examination of the deponent, it may impose upon the persons responsible an appropriate sanction, including the reasonable costs and attorney's fees incurred by any parties as a result thereof.

~~(d)~~ (4) At any time during the taking of the a deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court

in which the action is pending or the court in the district where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in Rule 26(c). If the order made terminates the examination, it ~~shall~~ may be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition ~~shall~~ must be suspended for the time necessary to make a motion for an order. The provisions of Rule 37(a)(4) apply to the award of expenses incurred in relation to the motion.