

February 5, 2019

Advisory Committee on Civil Rules  
Committee on Rules of Practice and Procedure  
of the Judicial Conference of the United States  
One Columbus Circle, NE  
Washington, D.C. 20544

**Re: Letter from Companies Opposing the Proposed Amendment to Rule 30(b)(6)**

Dear Judge Bates and Members of the Federal Civil Rules Advisory Committee:

We write in opposition to the proposed amendment to Federal Rule of Civil Procedure 30(b)(6) involving both party and non-party organizational representative depositions, which would mandate conferral over topics including “the identity of each person the organization will designate to testify.” Imposing such a requirement would provoke time-consuming and costly new discovery disputes as counsel and courts struggle to square the change with the well-settled and well-grounded law that the responding organization has complete discretion to select the 30(b)(6) witnesses that will speak for the organization. Unfortunately, the Committee’s statement in its proposed advisory note that, under the proposed amendment, the organization would “ultimately” have the right to select its designee will not ameliorate the disruption and imbalance that will result from the imposition of this rule, particularly with respect to non-parties. The clear implication of the proposed amendment is that the party noticing the deposition has the right to influence the choice of the witness(es). Moreover, the addition of a conferral requirement regarding “the number and description of the matters for examination” does not provide meaningful guidance or direction as to what precisely is to be discussed. Additionally, the “continuing as necessary” requirement is vague and undefined and will spawn further controversy—in particular, the length of time in which the parties shall continue to confer and who will decide how long the conferral shall last and what constitutes “as necessary.”

Equally important, the proposed amendment offers no solutions to the pressing major failings of the current Rule 30(b)(6) deposition process. The Committee could do a great service to the bench and bar by drafting a different amendment that addresses the well-known and long-standing issues with the rule. A positive amendment would resolve major gaps in the current rule: (i) an objection procedure; (ii) presumptive limits on the number of topics; (iii) clear instructions on how to count the number of hours allowed for a deposition with multiple topics or individuals designated; (iv) a uniform prohibition on contention questions; and (v) a safe harbor for circumstances in which an organization no longer has relevant knowledge due to the passage of time or for other reasons.

In summary, although we strongly urge the Committee to reject the proposed amendment as written, we would enthusiastically support a decision to draft a new amendment addressing the important issues that plague practitioners and parties under Rule 30(b)(6).

Thank you for your consideration.

Adtalem Global Education  
Advance Publications, Inc.  
Aisin Holdings of America, Inc.  
Altec, Inc.  
Altria  
American Airlines, Inc.  
American Axle & Manufacturing, Inc.  
AmeriFirst Financial, Inc.  
AmeriTrust Group, Inc.  
Argo Group  
Armstrong Transport Group, LLC  
Ascena Retail Group  
Bank of America  
BASF Corporation  
Bayer U.S.  
Becton, Dickinson and Company  
Black Canyon Midstream, LLC  
Boston Scientific Corporation  
BRP Inc.  
BWX Technologies, Inc.  
California Institute of Technology  
Campbell Soup Company  
Cardinal Health  
CarMax, Inc.  
CBIZ, Inc.  
Celgene Corporation  
Clare Holdings  
Colorado Dental Service, Inc. d/b/a Delta Dental of Colorado  
Comcast Corporation  
Continental Corporation  
Cooper Tire & Rubber Company  
Cornelius Advisors  
Cracker Barrel Old Country Store, Inc.  
Cree, Inc.  
CTS Cement Manufacturing Corporation  
Cummins Inc.  
DCS Corporation  
DEKRA North America  
Delage Landen Financial Services, Inc.  
Eatwell Enterprises LP  
Eli Lilly and Company  
EMR (USA Holdings) Inc.  
Exclusive Trading Company  
Extrusion North America at Hydro  
Exxon Mobil Corporation  
Farmers Insurance

FCA US LLC  
FedEx Express  
First Financial Equity Corp.  
Ford Motor Company  
Ford Motor Credit Company, LLC  
General Electric Company  
General Motors Company  
GlaxoSmithKline LLC  
Gleason Corporation  
Global Investment Alliance Inc.  
Gobo Ventures  
Good2Go Auto Insurance  
Goosehead Insurance, Inc.  
Gordon Food Service  
Greenlane  
Harvey Gulf International Marine, LLC  
Hecla Mining Company  
Honda North America, Inc.  
Horizon Bank  
Hyundai Motor America  
Idaho Power Company  
Infor  
JLT Specialty Insurance Services Inc  
Johnson & Johnson  
Karta Legal  
Kubota Tractor Corporation  
Kudelski Group  
Legrand North & Central America  
Lifeway Foods, Inc.  
Louisiana-Pacific Corporation  
Lowe Enterprises  
Macy's, Inc.  
Marriott International, Inc.  
Marriott Vacations Worldwide Corporation  
Mazda Motor of America, Inc.  
Medtronic  
Meijer  
Microsoft Corporation  
Molson Coors Brewing Company  
MRC Global Inc.  
MSA Safety  
Mueller Water Products, Inc.  
National Collegiate Athletic Association  
Nelnet, Inc.  
NetScout Systems, Inc.  
Newell Brands Inc.

NFIB Small Business Legal Center  
Novartis Pharmaceuticals Corporation  
NuScale Power  
Other World Computing, Inc.  
Pfizer, Inc.  
Phibro Animal Health Corporation  
Phillips Service Industries, Inc.  
PROS Holdings, Inc.  
PubMatic, Inc.  
Pyro Spectaculars, Inc.  
Quanex Building Products Corporation  
Red Lobster Seafood Co  
Red Wing Shoe Company, Inc.  
Rexel USA, Inc.  
Rick Engineering Company  
Roush Enterprises, Inc.  
Rug Doctor, LLC  
Scientific Drilling International, Inc.  
Seneca Promotions, Inc.  
Simon Property Group  
State Farm Mutual Automobile Insurance Company  
Stryker Corporation  
Takeda Pharmaceuticals U.S.A., Inc.  
Textron Inc.  
The Dow Chemical Company  
The Powell Group  
The Sherwin-Williams Company  
The Walt Disney Company  
Toyota Motor North America, Inc.  
Uber Technologies Inc.  
USAA  
Vaya Health  
Verizon Communications Inc.  
Victory Wholesale Group  
Volkswagen Group of America, Inc.  
WABCO  
Walgreen Company  
Walmart  
Westat, Inc.  
Whirlpool Corporation  
Wiland, Inc.  
Worley Claims Services, LLC  
Yard Mule Specialists, Inc.  
ZF Friedrichshafen AG  
Zimmer Biomet  
Zydus Pharmaceuticals (USA) Inc.