

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 353
HOUSE BILL 762

AN ACT TO REMOVE THE REQUIREMENT THAT DEPOSITIONS RECORDED BY SOUND-AND-VISUAL MEANS MUST BE TRANSCRIBED AND TO PROVIDE THAT, INSTEAD OF A TRANSCRIPTION, THE RECORDING MAY BE REVIEWED BY THE DEPONENT AND MAY BE USED AS THE COURT'S COPY OF THE DEPOSITION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 30(b)(4) reads as rewritten:

"(4) Unless the court orders otherwise, testimony at a deposition may be recorded by sound recording, sound-and-visual, or stenographic means. In addition to stenographic means, testimony at a deposition may also be taken without order of court by other means, including videotape. If the testimony is to be taken by other means in addition to or in lieu of stenographic means, the notice shall state the methods by which it shall be taken and the deposing party shall provide for the transcribing of the testimony taken and the filing of the transcript of such testimony with the clerk in the manner provided in subsection (f)(1) of this rule. taken and shall state whether a stenographer will be present at the deposition. In the case of a deposition taken by stenographic means, the party that provides for the stenographer shall provide for the transcribing of the testimony taken. If the deposition is by sound recording only, the party noticing the deposition shall provide for the transcribing of the testimony taken. If the deposition is by sound-and-visual means, the appearance or demeanor of deponents or attorneys shall not be distorted through camera techniques. Regardless of the method stated in the notice, any party or the deponent may have the testimony recorded by stenographic means."

Sec. 2. G.S. 1A-1, Rule 30(e) reads as rewritten:

"(e) Submission to deponent; changes; signing. ~~When the testimony is fully transcribed the deposition shall be submitted to the deponent for examination and shall be read to or by him, unless such examination and reading are waived by the deponent and by the parties. Any changes in form or substance which the deponent desires to make shall be entered upon the deposition by the person before whom the deposition was taken with a statement of the reasons given by the deponent for making them. The deposition—The sound-and-visual recording, or the transcript of it, if any, the transcript of the sound recording, or the transcript of a deposition taken by stenographic means,~~

shall be submitted to the deponent for examination and shall be reviewed by the deponent, unless such examination and review are waived by the deponent and by the parties. If there are changes in form or substance, the deponent shall sign a statement reciting such changes and the reasons given by the deponent for making them. The person administering the oath shall indicate in the certificate prescribed by subdivision (f)(1) whether any review was requested and, if so, shall append any changes made by the deponent. The certificate shall then be signed by the deponent, unless the parties by stipulation waive the signing or the deponent is ill or cannot be found or refuses to sign. If the ~~deposition~~ certificate is not signed by the deponent within 30 days of its submission to him, the person before whom the deposition was taken shall sign the original thereof or, if the deponent refuses to return the original, a copy thereof certificate and state on the ~~record~~ certificate the fact of the waiver or of the illness or absence of the deponent or the fact of the refusal or failure to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though the certificate were signed unless on a motion to suppress under Rule 32(d)(4) the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part."

Sec. 3. G.S. 1A-1, Rule 30(f) reads as rewritten:

"(f) Certification and filing by ~~officer~~; person administering the oath; exhibits; copies; notice of filing. –

- (1) The ~~officer~~ person administering the oath shall certify ~~on the deposition~~ that the deponent was duly sworn by him and that the deposition is a true record of the testimony given by the ~~deponent~~ deponent. This certificate shall be in writing and accompany the sound-and-visual or sound recording or transcript of the deposition. He shall then place the deposition in an envelope or package endorsed with the title of the action and marked 'Deposition of (here insert name of witness)' and shall personally deliver it or mail it by first class mail to the party taking the deposition or his attorney who shall preserve it as the court's copy.

Documents and things produced for inspection during the examination of the deponent shall, upon the request of a party, be marked for identification and annexed to and returned with the deposition, and may be inspected and copied by any party, except that (i) the person producing the materials may substitute copies to be marked for identification, if he affords to all parties fair opportunity to verify the copies by comparison with the originals, and (ii) if the person producing the materials requests their return, the person before whom the deposition is taken shall mark them, give each party an opportunity to inspect and copy them, and return them to the person producing them, and the materials may then be used in the manner as if annexed to and returned with the deposition. Any party may move for an order that the original be annexed to and returned with the deposition to the court, pending final disposition of the case.

- (2) Upon payment of reasonable charges therefor, the ~~officer~~ person administering the oath shall furnish a copy of the deposition to any party or to the deponent.
- (3) The clerk shall give prompt notice of the filing of a deposition to all parties."

Sec. 4. This act becomes effective October 1, 1995, and applies to any cases filed on or after that date.

In the General Assembly read three times and ratified this the 29th day of June, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives