

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND



PROPOSED AMENDMENTS TO THE
LOCAL RULES

PUBLISHED FOR PUBLIC COMMENT ON MARCH 31, 2023

PURSUANT TO LOCAL RULE 605.1



**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
OFFICE OF THE CLERK**

Catherine M. Stavlas, Clerk of Court
David E. Ciambuschini, Chief Deputy
Elizabeth B. Snowden, Chief Deputy

Reply to Northern Division Address

March 31, 2023

NOTICE

The United States District Court for the District of Maryland is proposing changes to the following Local Rules: 102, 103, 104, 105, 107, 108, 112, 113, 207, 213, and Appendix A. Copies of the amendments are available on the Court's website at <https://www.mdd.uscourts.gov/local-rules-amendments>. If adopted, the amendments would take effect on July 1, 2023.

Comments must be submitted on or before June 1, 2023, to Mr. David E. Ciambuschini, Local Rules and Forms Committee, U.S. District Court for the District of Maryland, 101 West Lombard Street, Baltimore, MD 21201, or emailed to MDD_Localrules@mdd.uscourts.gov.

###

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Visit the U.S. District Court's Website at www.mdd.uscourts.gov

PROPOSED AMENDMENTS TO THE LOCAL RULES

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RULE 102. GENERAL FILING AND SERVICE REQUIREMENTS

REDLINED VERSION

1. Signatures, Identifying Information, and Proof of Service

a) Signatures

i) Parties Represented by Counsel. When a party is represented by counsel, the Clerk shall accept for filing only documents signed by a member of the Bar of this Court whose appearance is entered on behalf of that party. Use of any of the methods for signing an electronic document established by the Court, including use of an attorney's login and password to electronically file a document, constitutes the attorney's signature on the document.

ii) Parties Appearing Without Counsel. When a party is appearing without counsel, the Clerk will accept for filing only documents signed by that party. Attorneys who have prepared any documents which are submitted for filing by a self-represented litigant must be members of the Bar of this Court and must sign the document, state their name, address, telephone number, and their bar number assigned by this Court. Upon inquiry, all parties appearing without counsel must disclose the identity of any individual who has prepared, or assisted in preparing, any documents filed in this Court. **[Any attorney who prepares any document for filing in this Court by a person who is known by the attorney, or who is reasonably expected by the attorney, to be appearing without counsel shall be deemed thereby to have conferred disciplinary jurisdiction upon the Court for any alleged misconduct of that attorney.]**

* * *

2. Format of Court Documents

b) Margins, Spacing, and Numbering

All documents filed with the Court shall not exceed 8 1/2" x 11", with a one-inch margin on all sides. Lines of text for all documents, including correspondence, shall be double-spaced except for quotations and footnotes. Pages shall be numbered at the bottom of every page after the first page. Typed, **[or]** printed, ~~or written~~ material shall appear ~~only on the front side of any page~~ in at least 12-point font size **[for text and at least 10-point font size for footnotes in Times New Roman or larger typeface. Documents may not be handwritten unless the filer did not have the ability to submit typed or printed material].**

* * *

4. **Interdivisional Filing**

Unless otherwise ordered by the Court, ~~if a case designated to one division under L.R. 501 is assigned to a judge in the other division,~~ any pleadings, motions, memoranda or other documents may be filed in ~~the designated~~**[either]** division and, if such filing is made within any applicable deadline, shall be deemed to be timely.

5. **Electronic Orders and Documents**

b) Signatures

Orders and documents issued by either a judge or the Clerk may be signed either with an original signature or an electronic signature ~~as defined by the policies and procedures established by the Court for electronic filing.~~ Any order or document filed electronically without the original signature of the judge or the Clerk has the same force and effect as if the judge or the Clerk had signed a paper copy of the order or document.

* * *

[6. Filing When Represented by Counsel

Except for issues concerning the relationship between attorney and client, no document shall be accepted for filing by a party represented by counsel unless it is filed by counsel.]

RULE 102. GENERAL FILING AND SERVICE REQUIREMENTS (CONTINUED)
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PROPOSED VERSION

1. Signatures, Identifying Information, and Proof of Service

a) Signatures

i) Parties Represented by Counsel. When a party is represented by counsel, the Clerk shall accept for filing only documents signed by a member of the Bar of this Court whose appearance is entered on behalf of that party. Use of any of the methods for signing an electronic document established by the Court, including use of an attorney's login and password to electronically file a document, constitutes the attorney's signature on the document.

ii) Parties Appearing Without Counsel. When a party is appearing without counsel, the Clerk will accept for filing only documents signed by that party. Attorneys who have prepared any documents which are submitted for filing by a self-represented litigant must be members of the Bar of this Court and must sign the document, state their name, address, telephone number, and their bar number assigned by this Court. Upon inquiry, all parties appearing without counsel must disclose the identity of any individual who has prepared, or assisted in preparing, any documents filed in this Court. Any attorney who prepares any document for filing in this Court by a person who is known by the attorney, or who is reasonably expected by the attorney, to be appearing without counsel shall be deemed thereby to have conferred disciplinary jurisdiction upon the Court for any alleged misconduct of that attorney.

* * *

2. Format of Court Documents

b) Margins, Spacing, and Numbering

All documents filed with the Court shall not exceed 8 1/2" x 11", with a one-inch margin on all sides. Lines of text for all documents, including correspondence, shall be double-spaced except for quotations and footnotes. Pages shall be numbered at the bottom of every page after the first page. Typed or printed material shall appear in at least 12-point font size for text and at least 10-point font size for footnotes in Times New Roman or larger typeface. Documents may not be handwritten unless the filer did not have the ability to submit typed or printed material.

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Unless otherwise ordered by the Court, any pleadings, motions, memoranda or other documents may be filed in either division and, if such filing is made within any applicable deadline, shall be deemed to be timely.

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Orders and documents issued by either a judge or the Clerk may be signed either with an original signature or an electronic signature. Any order or document filed electronically without the original signature of the judge or the Clerk has the same force and effect as if the judge or the Clerk had signed a paper copy of the order or document.

* * *

6. Filing When Represented by Counsel

Except for issues concerning the relationship between attorney and client, no document shall be accepted for filing by a party represented by counsel unless it is filed by counsel.

RULE 103. INSTITUTION OF SUIT AND PLEADINGS

REDLINED VERSION

1. **Civil Cover Sheet**~~/~~**[and]**Extra Copies of Complaint/Designation of Related Cases~~/~~**[Claim for Relief/Limitations on Length]**

(c) Claim for Relief

Any pleading that states a claim for relief shall set forth each count separately and provide a clear statement of the supporting facts for each count.

d) Limitations on Length

Pleadings should be no longer than necessary and, except in removals of a state action, shall not exceed forty (40) pages in length. In extraordinary circumstances, parties may seek leave of Court to amend or supplement the initial pleading with additional pages.]

2. **Process**

c) Waiver Procedure

Whenever the waiver procedure under Fed. R. Civ. P. 4(d) is invoked, counsel shall submit to the Clerk a notice identifying the defendant(s) to whom the notice and request to waive service of summons is being sent. The notice shall be filed upon the filing of the complaint or such later date that counsel decides to invoke the waiver procedure.**[Plaintiff is required to promptly file such notice, and failure to do so may result in the Court declining to impose costs under Fed. R. Civ. P. 4(d) absent a showing of good cause.]**

* * *

5. **Removal**

a) Certification of Filing of State Court Documents

Any party effecting removal shall file with the notice true and legible copies of all process, pleadings, documents, and orders which have been served upon that party**[, along with a copy of the current state court docket sheet]**. Within thirty (30) days thereafter the party shall file true and legible copies of all other documents then on file in the state court, together with a certification from counsel that all filings in the state court action have been filed in the United States District Court. In cases subject to electronic filing, the copies shall be filed in accordance with the electronic filing procedures adopted by the Court.

* * *

6. Amendment of Pleadings

c) Identification of Amendments

Unless otherwise ordered by the Court, **[and except in cases in which the prior pleading was filed by a self-represented party,]** the party filing an amended pleading shall file and serve (1) a clean copy of the amended pleading and (2) a copy of the amended pleading in which stricken material has been lined through or enclosed in brackets and new material has been underlined or set forth in bold-faced type.

* * *

RULE 103. INSTITUTION OF SUIT AND PLEADINGS (CONTINUED)
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PROPOSED VERSION

1. Civil Cover Sheet and Extra Copies of Complaint/Designation of Related Cases/Claim for Relief/Limitations on Length

c) Claim for Relief

Any pleading that states a claim for relief shall set forth each count separately and provide a clear statement of the supporting facts for each count.

d) Limitations on Length

Pleadings should be no longer than necessary and, except in removals of a state action, shall not exceed forty (40) pages in length. In extraordinary circumstances, parties may seek leave of Court to amend or supplement the initial pleading with additional pages.

2. Process

c) Waiver Procedure

Whenever the waiver procedure under Fed. R. Civ. P. 4(d) is invoked, counsel shall submit to the Clerk a notice identifying the defendant(s) to whom the notice and request to waive service of summons is being sent. The notice shall be filed upon the filing of the complaint or such later date that counsel decides to invoke the waiver procedure. Plaintiff is required to promptly file such notice, and failure to do so may result in the Court declining to impose costs under Fed. R. Civ. P. 4(d) absent a showing of good cause.

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filed in the United States District Court. In cases subject to electronic filing, the copies shall be filed in accordance with the electronic filing procedures adopted by the Court.

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Unless otherwise ordered by the Court, and except in cases in which the prior pleading was filed by a self-represented party, the party filing an amended pleading shall file and serve (1) a clean copy of the amended pleading and (2) a copy of the amended pleading in which stricken material has been lined through or enclosed in brackets and new material has been underlined or set forth in bold-faced type.

* * *

RULE 104. DISCOVERY

REDLINED VERSION

7. Conference of Counsel Required

Counsel shall confer with one another concerning a discovery dispute and make **[a reasonable effort]**~~sincere attempts~~ to resolve the differences between them. The Court will not consider any discovery motion unless the moving party has filed a certificate reciting (a) the date, time, and place of the discovery conference, and the names of all persons participating therein, or (b) counsel's attempts to hold such a conference without success; and (c) an itemization of the issues requiring resolution by the Court. **[A “reasonable effort” means more than sending an email or letter to the opposing party. It requires that the parties meet in person or by video or telephonic means for a reasonable period of time in a good faith effort to resolve the disputed matter.]**

* * *

PROPOSED VERSION

7. Conference of Counsel Required

Counsel shall confer with one another concerning a discovery dispute and make a reasonable effort to resolve the differences between them. The Court will not consider any discovery motion unless the moving party has filed a certificate reciting (a) the date, time, and place of the discovery conference, and the names of all persons participating therein, or (b) counsel's attempts to hold such a conference without success; and (c) an itemization of the issues requiring resolution by the Court. A “reasonable effort” means more than sending an email or letter to the opposing party. It requires that the parties meet in person or by video or telephonic means for a reasonable period of time in a good faith effort to resolve the disputed matter.

RULE 105. MOTIONS, BRIEFS, AND MEMORANDA

REDLINED VERSION

3. Limitations on Length

Unless otherwise ordered by the Court, memoranda in support of a motion or in opposition thereto and trial briefs shall not exceed thirty~~five~~ (~~30~~~~35~~) pages, and reply memoranda shall not exceed ~~twenty~~ **[fifteen]** (~~15~~~~20~~) pages, **[inclusive of footnotes but]**exclusive of (a) affidavits and exhibits, (b) tables of contents and citations, and (c) addenda containing statutes, rules, regulations, and similar material.

4. When Table of Contents Required

A table of contents shall be included in any memorandum or brief exceeding ~~twenty-five~~ **[fifteen]** (~~25~~~~15~~) pages in length.

5. ~~Appendix of~~ Exhibits

[Parties are responsible for ensuring all exhibits are clear and well organized. When appropriate, parties should facilitate the Court's review of exhibits to include, for example, highlighting key language.] If any motion, memorandum, or brief is accompanied by more than five (5) exhibits, the exhibits shall be tabbed and indexed **[, with cross-references to the page numbers that relate to each exhibit].**

* * *

RULE 105. MOTIONS, BRIEFS, AND MEMORANDA (CONTINUED)

PROPOSED VERSION

3. Limitations on Length

Unless otherwise ordered by the Court, memoranda in support of a motion or in opposition thereto and trial briefs shall not exceed thirty (30) pages, and reply memoranda shall not exceed fifteen (15) pages, inclusive of footnotes but exclusive of (a) affidavits and exhibits, (b) tables of contents and citations, and (c) addenda containing statutes, rules, regulations, and similar material.

4. When Table of Contents Required

A table of contents shall be included in any memorandum or brief exceeding fifteen (15) pages in length.

5. Exhibits

Parties are responsible for ensuring all exhibits are clear and well organized. When appropriate, parties should facilitate the Court's review of exhibits to include, for example, highlighting key language. If any motion, memorandum, or brief is accompanied by more than five (5) exhibits, the exhibits shall be tabbed and indexed, with cross-references to the page numbers that relate to each exhibit.

* * *

RULE 107. TRIAL

REDLINED VERSION

3. Subpoenas – ~~Timely Service~~[When Served by Marshal]

As provided in L.R. 103.2.b, unless ordered by the Court, the United States Marshal shall not serve trial subpoenas except for a party who is proceeding in forma pauperis without counsel.

* * *

PROPOSED VERSION

3. Subpoenas – When Served by Marshal

As provided in L.R. 103.2.b, unless ordered by the Court, the United States Marshal shall not serve trial subpoenas except for a party who is proceeding in forma pauperis without counsel.

* * *

RULE 108. JUDGMENTS

REDLINED VERSION

2. Default **Judgments**

a) **Entry of Default**

To obtain an ~~order~~**[entry]** of default pursuant to Fed. R. Civ. P. 55(a), the plaintiff must file a written request with the Court. This request shall contain the last known address of the defendant. Promptly upon **[the]**entry of ~~an order of~~ default, the Clerk shall mail the ~~order~~**[entry]** of default to the defendant at the address stated in the request and to the defendant's attorney of record, if any, together with a notice informing the defendant that ~~the order of~~ default has been entered and that the defendant may move to vacate the ~~order~~**[entry of default]** within 30 days ~~after its entry~~.

[b) Default Judgment

To obtain a default judgment pursuant to Fed. R. Civ. P. 55(b), the plaintiff must file a written request with the Court supported by an affidavit stating whether the defendant is a minor, an incompetent person, or in military service, with supporting facts pursuant to 50 U.S.C. § 3931(b)(1). If it appears that the defendant is a minor or an incompetent person, the Court shall not enter a default judgment unless a general guardian, conservator, or other fiduciary has appeared on behalf of the defendant. If it appears that the defendant is in military service, the Court shall not enter a default judgment until after it appoints an attorney to represent the defendant pursuant to 50 U.S.C. § 3931(b)(2).]

RULE 108. JUDGMENTS (CONTINUED)
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PROPOSED VERSION

2. Default

a) Entry of Default

To obtain an entry of default pursuant to Fed. R. Civ. P. 55(a), the plaintiff must file a written request with the Court. This request shall contain the last known address of the defendant. Promptly upon the entry of default, the Clerk shall mail the entry of default to the defendant at the address stated in the request and to the defendant's attorney of record, if any, together with a notice informing the defendant that default has been entered and that the defendant may move to vacate the entry of default within 30 days.

b) Default Judgment

To obtain a default judgment pursuant to Fed. R. Civ. P. 55(b), the plaintiff must file a written request with the Court supported by an affidavit stating whether the defendant is a minor, an incompetent person, or in military service, with supporting facts pursuant to 50 U.S.C. § 3931(b)(1). If it appears that the defendant is a minor or an incompetent person, the Court shall not enter a default judgment unless a general guardian, conservator, or other fiduciary has appeared on behalf of the defendant. If it appears that the defendant is in military service, the Court shall not enter a default judgment until after it appoints an attorney to represent the defendant pursuant to 50 U.S.C. § 3931(b)(2).

RULE 112. SPECIAL PROCEEDINGS

REDLINED VERSION

3. Multi-District Litigation

c) Notification of Address

Upon receipt of an order of transfer, all counsel in the transferred action shall notify the Clerk of their names, addresses, ~~and~~ telephone numbers **[, and email addresses]**.

* * *

PROPOSED VERSION

3. Multi-District Litigation

c) Notification of Address

Upon receipt of an order of transfer, all counsel in the transferred action shall notify the Clerk of their names, addresses, telephone numbers, and email addresses.

* * *

RULE 113. DISPOSITION OF EXHIBITS AND SEALED MATERIALS

REDLINED VERSION

[4. Non-Electronically Submitted Administrative Records

After thirty (30) days' notice, the Clerk may destroy or otherwise dispose of any non-electronically submitted administrative records offered by any party, whether or not received into evidence, when the time for appeal expires or the mandate on appeal issues, unless otherwise ordered by the Court.]

PROPOSED VERSION

4. Non-Electronically Submitted Administrative Records

After thirty (30) days' notice, the Clerk may destroy or otherwise dispose of any non-electronically submitted administrative records offered by any party, whether or not received into evidence, when the time for appeal expires or the mandate on appeal issues, unless otherwise ordered by the Court.

RULE 207. MOTIONS

REDLINED VERSION

[1. Generally]

The provisions of L.R. 105 (except L.R. 105.2.c, 105.11, and 105.12) apply to criminal proceedings.

[2. Sealing]

Any post-arrest motion seeking the sealing of filings other than charging documents shall include (a) proposed reasons supported by specific factual representations to justify the sealing and (b) an explanation why alternatives to sealing would not provide sufficient protection. The Court will rule on such motion after sufficient time has passed to permit the filing of objections. Materials that are the subject of the motion shall remain temporarily sealed pending a ruling by the Court. If the motion is denied, the party making the filing will be given an opportunity to withdraw or redact the materials.]

PROPOSED VERSION

1. Generally

The provisions of L.R. 105 (except L.R. 105.2.c, 105.11, and 105.12) apply to criminal proceedings.

2. Sealing

Any post-arrest motion seeking the sealing of filings other than charging documents shall include (a) proposed reasons supported by specific factual representations to justify the sealing and (b) an explanation why alternatives to sealing would not provide sufficient protection. The Court will rule on such motion after sufficient time has passed to permit the filing of objections. Materials that are the subject of the motion shall remain temporarily sealed pending a ruling by the Court. If the motion is denied, the party making the filing will be given an opportunity to withdraw or redact the materials.

RULE 213. SENTENCING

REDLINED VERSION

1. Confidentiality of Presentence, Supervised Release, and Probation Records

b) Procedure Upon Demand by Judicial Process

When the production of a presentence report, supervised release report, violation report, probation record, or portion thereof, or the testimony of a probation officer concerning information learned during the performance of official duty is commanded by subpoena or other judicial process, the probation officer shall **[notify the Chief Probation Officer. The Chief Probation Officer will]** seek instruction from the Court and request that the Court issue an appropriate order. Except in the most unusual circumstances **[, and in accordance with the Guide to Judiciary Policy, Vol. 20, Ch. 8, § 850(a)]**, the Court shall order that the probation officer be excused from honoring the subpoena or other judicial process and that the requested disclosure not be made.

* * *

PROPOSED VERSION

1. Confidentiality of Presentence, Supervised Release, and Probation Records

b) Procedure Upon Demand by Judicial Process

When the production of a presentence report, supervised release report, violation report, probation record, or portion thereof, or the testimony of a probation officer concerning information learned during the performance of official duty is commanded by subpoena or other judicial process, the probation officer shall notify the Chief Probation Officer. The Chief Probation Officer will seek instruction from the Court and request that the Court issue an appropriate order. Except in the most unusual circumstances, and in accordance with the Guide to Judiciary Policy, Vol. 20, Ch. 8, § 850(a), the Court shall order that the probation officer be excused from honoring the subpoena or other judicial process and that the requested disclosure not be made.

* * *

<p>APPENDIX A. DISCOVERY GUIDELINES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND</p>

REDLINED VERSION

Guideline 5: Designation by an Organization of Someone to Testify on Its Behalf

~~a. Requested Areas of Testimony.~~

~~A notice or subpoena to an entity, association or other organization should accurately and concisely identify the designated area(s) of requested testimony, giving due regard to the nature, business, size and complexity of the entity being asked to testify. The notice or subpoena should ask the recipient to provide the name(s) of the designated person(s) and the areas that each person will testify to by a reasonable date before the deposition is scheduled to begin.~~

~~b. Designating the Best Person to Testify for the Organization.~~

~~An entity, association, or other organization responding to a deposition notice or subpoena should make a diligent inquiry to determine what individual(s) is (are) best suited to testify.~~

~~c. More Than One Person May Be Necessary.~~

~~When it appears that more than one individual should be designated to testify without duplication on the designated area(s) of inquiry, each such individual should be identified, a reasonable period of time before the date of the deposition, as a designated witness along with a description of the area(s) to which he or she will testify.~~

~~[a. A Fed. R. Civ. P. 30(b)(6) deposition notice or subpoena to a public or private corporation, partnership, association, governmental agency, or other entity should describe with reasonable particularity the matters for examination. The serving party should consider listing the matters for examination in a manner that groups related topics together.~~

~~b. Before or promptly after serving a notice or subpoena pursuant to Fed. R. Civ. P. 30(b)(6), the serving party and the organization to be deposed must confer in good faith about the matters for examination.~~

~~c. A subpoena to a nonparty organization must advise the nonparty organization of its duty to confer with the serving party and to designate each person who will testify.~~

-
- d. Depending on the circumstances of the case and content of the conference, the participants should consider engaging in more than one conference.
- e. The purpose of the description of matters for examination and conference(s) should be to focus the examination and preparation of the designated witness or witnesses.
- f. In the good faith conference or conferences pursuant to subsections (b) and (d), the parties should meet in person or by video or telephonic means for a reasonable period of time to discuss the description of the matters for examination and whether they have been described with reasonable particularity, as well as any objections to those descriptions. In addition to any other relevant factors, the parties may consider the nature, business, size, and complexity of the organization being asked to testify, and should consider the proportionality factors in Fed. R. Civ. P. 26(b).
- g. The named organization must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on its behalf. The parties may choose to discuss the identity or identities of the designee or designees who will testify if the parties deem it reasonable and appropriate to voluntarily do so. The choice of designee or designees should remain with the organization designating the witness. The named organization should identify the specific topics or groups of topics on which each designated witness will testify. The designating organization should make a diligent inquiry to determine which individual(s) is (are) best suited to testify.
- h. In many circumstances, it may be reasonable for the named organization to make a subsection (g) designation only after a subsection (b) conference or conferences.
- i. If the parties are unable to resolve a dispute or disputes under subsection (f), the parties may consider presenting the dispute or disputes to the Court prior to the deposition.
- j. Guideline 5 does not preclude a deposition by any other procedure allowed by the Federal Rules of Civil Procedure.
- k. Guideline 5 does not apply to a deposition under Fed. R. Civ. P. 31(a)(4).]

* * *

<p>APPENDIX A. DISCOVERY GUIDELINES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND (CONTINUED)</p>

PROPOSED VERSION

Guideline 5: Designation by an Organization of Someone to Testify on Its Behalf

- a. A Fed. R. Civ. P. 30(b)(6) deposition notice or subpoena to a public or private corporation, partnership, association, governmental agency, or other entity should describe with reasonable particularity the matters for examination. The serving party should consider listing the matters for examination in a manner that groups related topics together.
- b. Before or promptly after serving a notice or subpoena pursuant to Fed. R. Civ. P. 30(b)(6), the serving party and the organization to be deposed must confer in good faith about the matters for examination.
- c. A subpoena to a nonparty organization must advise the nonparty organization of its duty to confer with the serving party and to designate each person who will testify.
- d. Depending on the circumstances of the case and content of the conference, the participants should consider engaging in more than one conference.
- e. The purpose of the description of matters for examination and conference(s) should be to focus the examination and preparation of the designated witness or witnesses.
- f. In the good faith conference or conferences pursuant to subsections (b) and (d), the parties should meet in person or by video or telephonic means for a reasonable period of time to discuss the description of the matters for examination and whether they have been described with reasonable particularity, as well as any objections to those descriptions. In addition to any other relevant factors, the parties may consider the nature, business, size, and complexity of the organization being asked to testify, and should consider the proportionality factors in Fed. R. Civ. P. 26(b).
- g. The named organization must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on its behalf. The parties may choose to discuss the identity or identities of the designee or designees who will testify if the parties deem it reasonable and appropriate to voluntarily do so. The choice of designee or designees should remain with the organization designating the witness. The named organization should identify the specific topics or groups of topics on which each designated witness will testify. The designating organization should make a diligent inquiry to determine which individual(s) is (are) best suited to testify.

h. In many circumstances, it may be reasonable for the named organization to make a subsection (g) designation only after a subsection (b) conference or conferences.

i. If the parties are unable to resolve a dispute or disputes under subsection (f), the parties may consider presenting the dispute or disputes to the Court prior to the deposition.

j. Guideline 5 does not preclude a deposition by any other procedure allowed by the Federal Rules of Civil Procedure.

k. Guideline 5 does not apply to a deposition under Fed. R. Civ. P. 31(a)(4).

* * *