
Who is the Face of Your Insurance Company?

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Very often in bad faith or coverage litigation, an insurance company must respond to a notice of deposition pursuant to Rule 30(b)(6) of the Rules of Civil Procedure. This rule permits an adverse party to depose the actual company. The federal rule is entitled “Notice or Subpoena Directed to an Organization” and provides in pertinent part:

In its notice or subpoena, a party may name as the deponent a public or private corporation, a partnership, an association, a governmental agency, or other entity and must describe with reasonable particularity the matters for examination. The named organization must then designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on its behalf; and it may set out the matters on which each person designated will testify. The persons designated must testify about information known or reasonably available to the organization.

In my litigated matters on behalf of insurers, I have long taken the position that nothing in Rule 30(b)(6) requires the insurance company to designate the most knowledgeable person on a particular subject, although nearly every opposing counsel I have encountered presumes that will be the case. Certainly, it would be a misstep to designate a person who lacks sufficient knowledge to competently testify regarding the subject matter at issue, but unnecessary allegiance to the phantom requirement of locating the “most knowledgeable” individual is equally erroneous in my opinion. In my estimation, the more prudent consideration is which of the knowledgeable individuals makes the best witness on behalf of the company. Who communicates well and can master the lessons covered during our prep sessions? Who is personable and can convey an affinity for the company without coming off like a homer? Being strategic in your selection of a Rule 30(b)(6) witness is crucial. As counsel, don’t limit your options to the individual your client touts as the “most knowledgeable” on the subject at issue. As an insurer, think broadly about the most charismatic employees who also have the requisite knowledge to speak intelligently on the topic(s) at hand. Kill two birds with one stone by (1) selecting a sufficiently knowledgeable witness to comply with the mandates of Rule 30(b)(6), while (2) choosing a witness who will put a good face on the company.

About Young Moore and Henderson, P.A.

Young Moore and Henderson, P.A. is a civil law firm in Raleigh, North Carolina representing clients in a variety of litigation and transactional matters. Firm attorneys have extensive experience in the following areas: litigation, administrative law, business law, insurance law and regulation, workers’ compensation, real estate, retail and hospitality, trucking & transportation, healthcare, and estates and trusts.

- Insurance Coverage Analysis and Litigation/Bad Faith Litigation

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