

§ 30.221 May the judge limit the time, place, and scope of discovery?

Yes. The judge may limit the time, place, and scope of discovery either:

- (a) On timely motion by any interested party, if that party also gives notice to all interested parties and shows good cause; or
- (b) When the judge determines that limits are necessary to prevent delay of the proceeding or prevent undue hardship to a party or witness.

§ 30.222 What happens if a party fails to comply with discovery?

(a) If a party fails to respond to a request for admission, the facts for which admission was requested will be deemed to be admitted, unless the judge finds good cause for the failure to respond.

(b) If a party fails without good cause to comply with any other discovery under this part or any order issued, the judge may:

- (1) Draw inferences with respect to the discovery request adverse to the claims of the party who has failed to comply with discovery or the order, or
- (2) Make any other ruling that the judge determines just and proper.

(c) Failure to comply with discovery includes failure to:

- (1) Produce a document as requested;
- (2) Appear for examination;
- (3) Respond to interrogatories; or
- (4) Comply with an order of the judge.

§ 30.223 What is a prehearing conference?

Before a hearing, the judge may order the parties to appear for a conference to:

- (a) Simplify or clarify the issues;
- (b) Obtain stipulations, admissions, agreements on documents, understandings on matters already of record, or similar agreements that will avoid unnecessary proof;
- (c) Limit the number of expert or other witnesses to avoid excessively cumulative evidence;
- (d) Facilitate agreements disposing of all or any of the issues in dispute; or
- (e) Resolve such other matters as may simplify and shorten the hearing.

HEARINGS

§ 30.224 May a judge compel a witness to appear and testify at a hearing or deposition?

(a) The judge can issue a subpoena for a witness to appear and testify at a hearing or deposition and to bring documents or other material to the hearing or deposition.

(1) You may request that the judge issue a subpoena for the appearance of a witness to testify. The request must state the name, address, and telephone number or other means of contacting the witness, and the reason for the request. The request must be timely. The requesting party must mail the request to all other interested parties and to the witness at the time of filing.

(2) The request must specify the documents or other material sought for production under the subpoena.

(3) The judge will grant or deny the request in writing and mail copies of the order to all the interested parties and the witness.

(4) A person subpoenaed may seek to avoid a subpoena by filing a motion to quash with the judge and sending copies to the interested parties.

(b) Anyone whose legal residence is more than 100 miles from the hearing location may ask the judge to excuse his or her attendance under subpoena. The judge will inform the interested parties in writing of the request and the judge's decision on the request in writing in a timely manner.

(c) A witness who is subpoenaed to a hearing under this section is entitled to the fees and allowances provided by law for a witness in the courts of the United States (see 28 U.S.C. 1821).

(d) If a subpoenaed person fails or refuses to appear at a hearing or to testify, the judge may file a petition in United States District Court for issuance of an order requiring the subpoenaed person to appear and testify.

§ 30.225 Must testimony in a probate proceeding be under oath or affirmation?

Yes. Testimony in a probate proceeding must be under oath or affirmation.