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July 31, 2017

Rule 30(b)(6) Subcommittee of the Advisory Committee on Civil Rules
Administrative Office of the United States Courts
One Columbus Circle, NE, Suite 7-240
Washington, D.C. 20544

Dear Members of the Civil Rules Advisory Committee:

I am President of DRI – *The Voice of the Defense Bar*, (DRI), and I am writing to you on behalf of our organization to respectfully urge you and the Rule 30(b)(6) Subcommittee to continue with the important task of reforming Rule 30(b)(6).

With a membership of nearly 22,000 individual and corporate members, DRI is the world's largest international membership organization of lawyers involved in the defense of civil litigation. The history of DRI encompasses many years of effort by dedicated lawyers who see the need for a coordinated approach by defense lawyers to the challenges of a civil defense practice. We see Rule 30(b)(6) as one of those challenges. DRI is committed to anticipating and addressing issues germane to defense lawyers and the interests they represent, improving the civil justice system, and preserving the civil jury trial.

Although Rule 30(b)(6) is a much-used mechanism that was designed to improve the discovery process for both sides in litigation, it has become a battleground rule that today imposes disproportionate costs and burdens without providing commensurate benefits to the parties or the civil justice system.

The Subcommittee's Invitation for Comment includes several thoughtful ideas that deserve serious consideration and development into potential rule amendments. Specifically, DRI urges the Subcommittee to proceed with drafting the following:

- Amendments to Rules 16 and 26(f) that would include Rule 30(b)(6) in party conferences, pretrial conferences and scheduling orders;
- An amendment to Rule 26(e) allowing for supplementation of 30(b)(6) depositions;
- An amendment to Rule 30(b)(6) that provides a mechanism for making and resolving objections to the notice;
- An amendment to Rule 30(b)(6) that provides a presumptive limit of ten topics;
- An amendment to Rule 30(b)(6) that establishes a means for organizations to certify that they have no knowledge beyond information contained in documents and, where such certification is made, no deposition is required;
- An amendment to Rule 30(b)(6) clarifying that a deposition is not required on topics that have been subject to deposition before and where the transcript is available; and
- An amendment to Rule 30(b)(6) prohibiting contention questions.

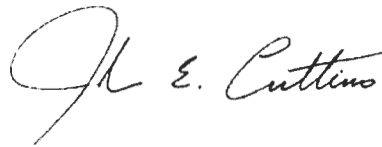
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These changes would improve Rule 30(b)(6) for parties, counsel and courts. They would also bring Rule 30(b)(6) into the spirit of the Committee's 2015 discovery amendments which encourage cooperation, proportionality and early case management. Note also that DRI supports the positions and reasoning provided in the recent July 5, 2017 comment submitted by Lawyers for Civil Justice.

Despite the strong merits of these ideas, I understand the Subcommittee has not yet decided to proceed with the drafting of possible amendments and vetting them in accordance with the Committee's practice of holding a public comment period. A handful of interested parties seem determined to dissuade the Subcommittee from undertaking any serious reform efforts, concluding in advance that any proposals will be unfair. DRI rejects this cynicism and has confidence that the Subcommittee's drafting and the Committee's rulemaking process will produce proposals worthy of consensus support.

Rule 30(b)(6) causes many recurring problems which increase the costs, delays and acrimony in civil cases. DRI respectfully urges the Subcommittee to act on the current opportunity for meaningful improvements by proceeding with draft amendments for public comment. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "John E. Cuttino". The signature is written in a cursive style with a large, stylized initial "J" and "C".

John E. Cuttino
DRI President