17-CV-AAAAAA

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Rule 30(b)(6) Subcommittee
Advisory Committee on Civil Rules

**Re: Invitation for Comment on Possible Issues Regarding Rule 30(b)(6)**
**Submitted electronically through** Rules_Comments@ao.uscourts.gov

Dear Rule 30(b)(6) Subcommittee:

The Massachusetts Academy of Trial Attorneys (MATA) is a voluntary, non-profit, state-wide professional association of attorneys in the Commonwealth of Massachusetts. MATA's mission is to preserve the American jury system; to protect the health and safety of Massachusetts families; to improve the quality of legal representation through education; to educate the public about consumer issues; to uphold the honor and dignity of the legal profession; and to uphold and defend the Constitution of the United States and of the Commonwealth of Massachusetts. MATA members represent seriously injured people, including those who are injured as a result of negligence in healthcare settings.

We are writing in opposition to some of the identified rule-amendment ideas described in your subcommittee's "Invitation for Comment." In general, Federal Rule of Civil Procedure 30(b)(6) ("the Rule") has served the justice system well, promoting efficiency and even-handedness. We suggest that some of the proposed changes would undermine these important principles. Several MATA members have also presented comments to these possible changes, so we will keep our comments very focused.

First, the suggestion of amending the Rule to require or permit supplementation of testimony undermines the function and effectiveness of the deposition. Minimally, it invites organizations to be less precise during a deposition, safe in the knowledge that they have a blanket opportunity to revisit the issue in written form at later date. An organization's ability to supplement deposition testimony should be tied to narrow circumstances.

The proposal to clarify whether testimony constitutes "judicial admission" is unnecessary and invites confusion and additional wasted time. The current state of the Rule and governing case law works well. Allowing parties the ability to disavow Rule 30(b)(6) testimony rather than "correct the record" through traditional cross-examination or introducing subsequent evidence undermines the value and dignity of deposition as a discovery tool.

Finally, the suggestion that a party's objection to a Rule 30(b)(6) notice can excuse a party's attendance from a deposition is not helpful to the process. Plaintiffs already have an information disadvantage during discovery. This proposed change would amplify the imbalance by laying the burden of obtaining a court order compelling attendance on the noticing party. It would do nothing to streamline the process and likely result in more protracted litigation.

Thank you for the opportunity to comment and for your consideration of our comments.

Sincerely

**Jonathan A. Karon**
**President**
**Massachusetts Academy of Trial Attorneys**