

WAC 480-07-410 Discovery—Depositions. (1) Who may be deposed.

A party may depose any person identified by another party as a potential witness. A party may depose a person who has not been identified as a potential witness only if the presiding officer approves the deposition. The presiding officer may approve the deposition of a person who has not been identified as a potential witness on a finding that the person appears to possess information that is necessary to the party's case, the information cannot reasonably be obtained from another source, and the probative value of the information outweighs the burden on the person proposed to be deposed.

(2) **Required notice; motion.** A party that intends to depose another party's designated potential witness must give notice to the commission and all parties. A party that seeks to depose a person who has not been identified as a potential witness must file a motion requesting permission to depose the person.

(3) **How conducted.** Parties should use Washington superior court civil rule 30 as a guide when conducting depositions. Parties must limit the scope of questioning in a deposition to the same standard set forth in WAC 480-07-400(4). A court reporter provided by the party requesting the deposition will record the deposition. Each party will be responsible for the attendance of any of its designated potential witnesses who have been scheduled for deposition.

(4) **Use of depositions.** Parties may use depositions for any lawful purpose, subject to the requirements of this subsection. If a party seeks to offer into evidence the deposition of a potential witness who is available to testify to the matters addressed in that person's deposition, the party must do the following:

(a) Offer only those portions of the deposition on which the party intends to rely; and

(b) Provide at least five business days' written notice to other parties and to the presiding officer prior to the hearing session at which the potential witness is expected to appear. The party must attach to the notice the portion(s) of the deposition that the party proposes to offer in the form of exhibits that are marked for identification as required under WAC 480-07-460(3). If portions of a deposition are admitted into evidence, other parties may offer additional portions of the deposition when necessary to provide a balanced representation of the deponent's testimony.

(5) **Correcting/supplementing deposition testimony.**

(a) *Correction.* A party may file a motion to correct a transcription error in a deposition transcript within ten days after the court reporter delivers the deposition transcript.

(b) *Supplementation.* Every deponent must supplement any response given in a deposition immediately upon learning that the prior response was incorrect or incomplete when made, or upon learning that a response that was correct and complete when made is no longer correct or complete. Each party is responsible for ensuring compliance with this requirement by deponents who are the party's potential witnesses.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 17-06-051 (General Order R-588), § 480-07-410, filed 2/28/17, effective 3/31/17; WSR 03-24-028 (General Order R-510, Docket No. A-010648), § 480-07-410, filed 11/24/03, effective 1/1/04.]