



Essentials of Depositions

December 4, 2018
6:00 p.m. – 8:00 p.m.

CBA Law Center
New Britain, CT

CT Bar Institute Inc.

CT: 2.0 CLE Credits (General)
NY: 2.0 CLE Credits (AOP)

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Lawyers' Principles of Professionalism

As a lawyer I must strive to make our system of justice work fairly and efficiently. In order to carry out that responsibility, not only will I comply with the letter and spirit of the disciplinary standards applicable to all lawyers, but I will also conduct myself in accordance with the following Principles of Professionalism when dealing with my client, opposing parties, their counsel, the courts and the general public.

Civility and courtesy are the hallmarks of professionalism and should not be equated with weakness;

I will endeavor to be courteous and civil, both in oral and in written communications;

I will not knowingly make statements of fact or of law that are untrue;

I will agree to reasonable requests for extensions of time or for waiver of procedural formalities when the legitimate interests of my client will not be adversely affected;

I will refrain from causing unreasonable delays;

I will endeavor to consult with opposing counsel before scheduling depositions and meetings and before rescheduling hearings, and I will cooperate with opposing counsel when scheduling changes are requested;

When scheduled hearings or depositions have to be canceled, I will notify opposing counsel, and if appropriate, the court (or other tribunal) as early as possible;

Before dates for hearings or trials are set, or if that is not feasible, immediately after such dates have been set, I will attempt to verify the availability of key participants and witnesses so that I can promptly notify the court (or other tribunal) and opposing counsel of any likely problem in that regard;

I will refrain from utilizing litigation or any other course of conduct to harass the opposing party;

I will refrain from engaging in excessive and abusive discovery, and I will comply with all reasonable discovery requests;

In depositions and other proceedings, and in negotiations, I will conduct myself with dignity, avoid making groundless objections and refrain from engaging in acts of rudeness or disrespect;

I will not serve motions and pleadings on the other party or counsel at such time or in such manner as will unfairly limit the other party's opportunity to respond;

In business transactions I will not quarrel over matters of form or style, but will concentrate on matters of substance and content;

I will be a vigorous and zealous advocate on behalf of my client, while recognizing, as an officer of the court, that excessive zeal may be detrimental to my client's interests as well as to the proper functioning of our system of justice;

While I must consider my client's decision concerning the objectives of the representation, I nevertheless will counsel my client that a willingness to initiate or engage in settlement discussions is consistent with zealous and effective representation;

Where consistent with my client's interests, I will communicate with opposing counsel in an effort to avoid litigation and to resolve litigation that has actually commenced;

I will withdraw voluntarily claims or defense when it becomes apparent that they do not have merit or are superfluous;

I will not file frivolous motions;

I will make every effort to agree with other counsel, as early as possible, on a voluntary exchange of information and on a plan for discovery;

I will attempt to resolve, by agreement, my objections to matters contained in my opponent's pleadings and discovery requests;

In civil matters, I will stipulate to facts as to which there is no genuine dispute;

I will endeavor to be punctual in attending court hearings, conferences, meetings and depositions;

I will at all times be candid with the court and its personnel;

I will remember that, in addition to commitment to my client's cause, my responsibilities as a lawyer include a devotion to the public good;

I will endeavor to keep myself current in the areas in which I practice and when necessary, will associate with, or refer my client to, counsel knowledgeable in another field of practice;

I will be mindful of the fact that, as a member of a self-regulating profession, it is incumbent on me to report violations by fellow lawyers as required by the Rules of Professional Conduct;

I will be mindful of the need to protect the image of the legal profession in the eyes of the public and will be so guided when considering methods and content of advertising;

I will be mindful that the law is a learned profession and that among its desirable goals are devotion to public service, improvement of administration of justice, and the contribution of uncompensated time and civic influence on behalf of those persons who cannot afford adequate legal assistance;

I will endeavor to ensure that all persons, regardless of race, age, gender, disability, national origin, religion, sexual orientation, color, or creed receive fair and equal treatment under the law, and will always conduct myself in such a way as to promote equality and justice for all.

It is understood that nothing in these Principles shall be deemed to supersede, supplement or in any way amend the Rules of Professional Conduct, alter existing standards of conduct against which lawyer conduct might be judged or become a basis for the imposition of civil liability of any kind.

--Adopted by the Connecticut Bar Association House of Delegates on June 6, 1994

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Essentials of Depositions CLE

December 4, 2018

6:00 - 8:00 pm

CBA Law Center

Panelists:

Isabelle L. Koch, Esq – Kennedy, Johnson, Schwab & Roberge, L.L.C.

Christopher P. Kriesen, Esq. – The Kalon Law Firm

George F. O'Donnell, Esq – McGann, Bartlett & Brown, LLC

Moderator:

Aigné S. Goldsby, Esq. – McGivney, Kluger & Cook PC

PANELISTS

Isabelle L. Koch, Esq.

Isabelle L. Koch, Esq., joined Kennedy, Johnson, Schwab & Roberge, L.L.C., on May 1, 2017, as an associate and represents clients in motor vehicle accidents, premises liability and complex personal injury claims. Prior to joining the firm, she was senior defense counsel for Allstate Insurance, and in her 10-year career with that company tried more than 50 jury cases to verdict. She received a Bachelor of Arts in political science from the University of Connecticut in 2000 and her Juris Doctor from the University Of Connecticut School Of Law in 2005. Ms. Koch is admitted to practice law in the State of Connecticut and is a member of the Connecticut Trial Lawyers Association, the New Haven County Bar Association and the Connecticut Bar Association. Ms. Koch lives with her husband and twin boys in Madison, CT.

Christopher P. Kriesen, Esq.

Attorney Christopher P. Kriesen is the founder and principal of the Kalon Law Firm, LLC. He formed the firm in 2017 to fulfill his vision of a better way to practice law, serve clients, and promote social good through entrepreneurship. He leads the firm and serves as the ethics officer.

Attorney Kriesen has tried cases in State and Federal Court, has argued appeals before Connecticut's Appellate and Supreme Courts, and has helped prepare amicus briefs on issues raising cases of first impression before the Supreme Court.

He is a trained mediator (Harvard Law School, Advanced Mediation Workshop, Program on Negotiation and the Quinnipiac School of Law Center on Dispute Resolution). He serves as an Attorney Trial Referee, Fact Finder, and Arbitrator in the Hartford Superior Court.

He has taught advocacy to students at the University of Connecticut School of Law. He is an active presenter at legal seminars for other lawyers and a mentor to law students and young lawyers.

He established the Kalon Fellowship, the Kalon Human Rights Clinic, Salons, Workshops, the Cicero Advocacy Project, and the Kalon ADR Center (which, as of September 1, 2018, donates 10% of its revenue to fund a scholarship for a graduate of the Hartford Youth Scholars Steppingstone Academy to help with their continuing education) making Kalon unique among peer firms in promoting social good.

He lives in West Hartford with his wife and his daughter attends Brandeis University.

George F. O'Donnell, Esq.

George F. O'Donnell graduated in 2007 from Gettysburg College with a B.A. in Management and a minor in economics. In 2010 he earned his J.D. from Western New England College, School of Law. Following law school, he practiced primarily in the areas of personal injury, workers' compensation, and criminal defense. Prior to joining McGann, Bartlett & Brown in 2015, he was employed by another defense firm where his practice focused on representing employers, insurance carriers, third party administrators and self-insured employers in workers' compensation claims. Attorney O'Donnell is admitted to the state bar of Connecticut and the United States District Court for the District of Connecticut. He is a member of the Connecticut Bar Association, Workers' Compensation Section Executive Committee, and the Young Lawyers Section Executive Committee/Workers' Compensation Committee Chair. Attorney O'Donnell concentrates his practice on workers' compensation defense. Attorney O'Donnell was selected by Super Lawyers to their Rising Stars list for workers' compensation in 2017.

MODERATOR

Aigné S. Goldsby, Esq.

Attorney Goldsby is an Associate in McGivney, Kluger & Cook's Hartford, CT office where she focuses on asbestos litigation, general liability defense, and municipal litigation. Prior to joining McGivney, Kluger & Cook, Attorney Goldsby was trial counsel for a Fortune 500 insurance company where she successfully completed four jury trials from jury selection to verdict.

She received her J.D. from The University of Connecticut School of Law in 2016, and her Bachelor of Arts from Bryn Mawr College in 2011. During law school, Attorney Goldsby was an Executive Editor for the Connecticut Journal of International Law and was a judicial intern to The Honorable William H. Bright, Jr. in the Tolland Judicial District.

Attorney Goldsby currently serves as President-Elect for the George W. Crawford Black Bar Association (2018-2019) and is Co-chair of the Litigation Committee for the Young Lawyers Section of the CBA. She is also on the Board of Directors for the ACLU of Connecticut and the Lawyer's Collaborative for Diversity.

In 2018 Attorney Goldsby was named as a "New Leader in the Law" by the Connecticut Law Tribune.

Deposition Essentials

Agenda

6:00 p.m. – 6:10 p.m.	Introduction	Aigne Goldsby
6:10 p.m. – 6:40 p.m.	Deposition Basics	Isabelle L. Koch
6:40 p.m. – 6:50 p.m.	Taking / Defending Depositions	Isabelle L. Koch, Christopher P. Kriesen
6:50 p.m. – 7:20 p.m.	Expert Depositions	Christopher P. Kriesen
7:20 p.m. – 7:45 p.m.	Workers' Comp. Depositions	George F. O'Donnell
7:45 p.m. – 8:00 p.m.	Questions and Answers	All

I. Purpose of a Deposition

A. Important to ascertain before taking depositions

- (1) Gain information
- (2) Avoid surprises
- (3) Neutralize opposition
- (4) Preserve testimony
- (5) Obtain documents

B. How does this deposition fit within your litigation plan for the case?

II. Types of Depositions

A. Party

- (1) Practice Book §13-26: “[A]ny party ... may, at any time after commencement of the action ... take the testimony of any person, including a party, by deposition upon oral examination.”
- (2) F.R.C.P. 30(a)(1): “A party may, by oral questions, depose any person, including a party, without leave of court except as provided in Rule 30(a)
(2). The deponent's attendance may be compelled by subpoena under Rule 45.”

B. Non-parties – issue a subpoena

- (1) Practice Book § 13-28(b): “Each ... commissioner of the superior court ...may issue a subpoena ... for the appearance of any witness ... to give testimony at a deposition.”
- (2) F.R.C.P. 30(a)(1): “A person may ... depose any person, including a party, without leave of court.”

C. Experts

- (1) Practice Book § 13-4(c)(1): “[A] party may take the deposition of any expert witness disclosed pursuant to subsection (b).”
- (2) F.R.C.P. 26(b)(4)(A): “A party may depose any person who has been identified as an expert whose opinions may be presented at trial.”

D. Nonparties in other States/Countries

- (1) Practice Book § 13-29(d) and General Statutes § 52-148c

E. Corporate Designee

- (1) Practice Book § 13-27(h): “A party may in the notice and in the subpoena name as the deponent a public or private corporation or a partnership or an association or a governmental agency or a state officer ... The organization or state officer so named shall designate one or more ... persons who consent to testify on its behalf.”
- (2) F.R.C.P. 30(b)(6): “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. A subpoena must advise a nonparty organization of its duty to make this designation. The persons designated must testify about information known or reasonably available to the organization.”

- F. For depositions of non-parties, make sure to send a copy of the subpoena to opposing counsel before it is served on the non-party

- (1) See F.R.C.P. 45(a)(4)

III. Defending Depositions

- A. Preparing Your Client for the Deposition

- B. Appropriate answers to questions

- (1) Yes

- (2) No

- (3) I don't know

- (4) I don't remember

- C. Tips for Deponent

- (1) If you don't understand a question, say so

- (2) Listen to the question and think before you answer

- (3) Practice, practice, practice

- D. Objections

- (1) If you have an objection to the form/procedure of the deposition (and haven't filed a motion for protective order), place the objection on the record

- (2) Objections to questions allowed under "usual stipulations"

- 1. Form of question: confusing, compound, calls for speculation

- 2. Privilege

- 3. Asked and answered

- (3) Relevance, hearsay and lack of foundation are not appropriate objections

- E. Have client review transcript, make any changes to the Errata sheet, sign and notarize Errata sheet

IV. Taking Depositions

A. State versus Federal Court

- (1) Depending on where the matter is located can impact the rules for your deposition
- (2) State Court
 - 1. Deposition has to be within thirty miles of the deponent's residence. Practice Book § 13-29(a).
- (3) Federal Court
 - 1. 7 hour time limit (not including breaks). F.R.C.P. 30(d)(1)
 - 2. Limited to ten depositions, without leave of the court. See F.R.C.P. 30(a)(2)(A)(i).

B. Preparing to Take Depositions

- (1) Plan logistics ahead: location, court reporter, time
- (2) Purpose: how does the deposition fit into the case strategy?
 - 1. What is the goal in taking the person's deposition?
 - 2. Will the transcript be used in a motion to compel, motion in limine, summary judgment motion or a *Daubert* challenge?
- (3) Research: know more about the topic than the deponent does

C. Preparation: Expert Depositions

- (1) Prepare early – know the expert's report by heart
- (2) Review and independently verify the expert's curriculum vitae

- (3) Research the expert's prior testimony
- (4) Consider consulting with other experts within the field
 - 1. Review treaties or other documents in the same field
- (5) Figure out what you need for a *Daubert* challenge

D. Deposition Outline

- (1) Use as a guide, not a script
- (2) Helpful for organizing your thoughts
- (3) Cross out portions of the outline as you go through them
- (4) Do not be afraid to add to the deposition outline impromptu based on the answers you receive from the deponent

E. Taking Depositions

- (1) Do not stick to the outline
- (2) Listen to the deponent
- (3) Ask follow up questions – especially to evasive answers
- (4) Be inquisitive
- (5) Do not worry about periods of silence

F. Handling Difficult Deponents

- (1) Evasive answers
- (2) Aggressive
- (3) Lying

G. Handling Difficult Opposing Counsel

- (1) Instructions disguised as objections
- (2) Excessive objections

- (3) Consider calling the Court

H. Deposition Stipulations

- (1) Although the Practice Book calls for “written” stipulations, stipulations are typically placed on the record prior to the start of the examination.
- (2) The “usual stipulations” means
 1. All objections, except those as to the form of the question, are reserved for trial
 2. An objection by one counsel is an objection for all
 3. Motions to strike are reserved until trial
 4. Parties agree to waive arguments concerning defects in the deposition notice
 5. There are no objections to the qualifications of the court reporter
 6. Review and sign

I. Deposition Exhibits

- (1) Exhibits, such as documents, photographs, prior testimony, and pleadings are often the subject of examination
- (2) Bring your expected exhibits in separately labeled folders
- (3) Bring at least three copies of each exhibit
- (4) Mark the exhibit before questioning
 1. The court reporter may also mark the exhibits
- (5) Describe the exhibit on the record before or after it is marked and before you ask your questions
- (6) Party who is conducting the deposition keeps the original exhibits

J. Special Consideration: Requesting Documents with a Deposition

(1) Expert Depositions

1. F.R.C.P. 26(b)(4): Documents that cannot be requested are drafts of expert reports and communications between the party's attorney and expert **except for** communications
 - a. that relate to compensation for the study or testimony
 - b. identify facts or data that the party's attorney provided and the expert considered in forming their opinions to be expressed
 - c. identify assumptions that the party's attorney provided and the expert relied on in forming their opinions to be expressed
2. Practice Book § 13-4(c)(1): "Nothing contained in subsection (b) of this section shall impair the right of any party from exercising that party's rights under the rules of practice to subpoena or to request production of any materials ... in connection with the deposition of any expert witness."

(2) Organization Depositions –F.R.C.P. 30(b)(6) and Practice Book § 13-27(h)

1. Include document request with deposition notice

(3) Party and non-party Deposition - request documents via subpoena

1. F.R.C.P. 45(C): "A command to produce documents, electronically stored information, or tangible things ... may be included in a

subpoena commanding attendance at a deposition ... or may be set out in a separate subpoena. A subpoena may specify the form or forms in which electronically stored information is to be produced.”

2. Practice Book § 13-28(c): “A subpoena issued for the taking of a deposition may command the person to whom it is directed to produce and permit inspection and copying of designated books, papers, documents or tangible things ... Unless otherwise ordered by the court or agreed upon in writing by the parties any subpoena issued to a person commanding the production of documents or other tangible thing at a deposition shall not direct compliance within less than fifteen days from the date of service thereof.”
3. Practice Book § 13-27(a): “If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice”

K. Special Consideration: Remote Depositions

- (1) F.R.C.P. 30(b)(4)
- (2) Consider logistics early

V. Use of Deposition Testimony

A. Hearings, Trial, Appeals

- (1) Practice Book § 13-31(a)(1): Any party may use a deposition to contradict or impeach the testimony of the deponent as a witness

- (2) Practice Book § 13-31(a)(2): depositions of any physician, psychologist, chiropractor, naturopathic, physician, osteopathic physician, or dentist licensed under the General Statutes can be used, whether or not the witness is available
- (3) Practice Book § 13-31(a)(3): Adverse parties may use the deposition of an officer, director, or managing agent or employee of a person designated under Practice Book 13-27(h) for any purpose
- (4) Practice Book § 13-31(a)(4): A deposition may be used for any purpose upon certain findings by the court (generally, that the witness is not available)

B. Arbitration

- (1) General Statutes § 51-214(c): “Any party to a written agreement for arbitration may make application to the Superior Court, or, when the court is not in session, to a judge thereof, having jurisdiction as provided in subsection (b) of this section, for an order directing the taking of depositions, in the manner and for the reasons prescribed by law for taking depositions to be used in a civil action, for use as evidence in arbitration.”
- (2) Depositions may be used in arbitration in a similar manner to a regular civil action
- (3) Be mindful of what rules of arbitration govern your proceeding
 - 1. For example, Rule 17(b) of the JAMS Rules provides that in a domestic arbitration, each party is entitled to one deposition of an opposing party or an individual under the control of an opposing

party and that each side may apply for the taking of additional depositions, if necessary.

VI. Depositions in Workers' Compensation Cases

Deposition of Claimant

A. Investigation

(1) Employment history

1. Earning capacity
2. Motivation to return to work
3. Multiple jobs on date of injury
4. Before and after subject date of injury
5. Nature of employment (job duties, hours, repetitive activity)

(2) Prior medical history

1. Treatment for same or similar condition
2. Treatment for prior injury to same body
3. Previous symptoms
4. Records requests and subsequent discovery tools
5. Primary care physician
6. Prescription medication and pharmacy records
7. Treatment with chiropractor

(3) Property ownership

1. Intentions to remain in Connecticut
2. Temporary partial disability benefits/ light duty under C.G.S.

Section 31-308(a) and Section 31-308a

(4) Health Insurance

1. Ability to process denied claim through group health insurance

B. Mechanism of Injury

- (1) Reliance by physicians
- (2) Reporting of injury to employer
 1. Impact of delayed reporting

C. Prior and/or Subsequent Insurance Claims

- (1) Benefits previously paid to claimant
- (2) Familiarity with process of filing workers' compensation claims
- (3) Permanent partial disability ratings
- (4) Motor vehicle accidents, or other non-work related injuries

D. Credibility of Witness

- (1) Formal Hearing
- (2) Medical records

Deposition of Fact Witnesses or Respondent

A. Role in Case

- a. Potential testimony at Formal Hearing
- b. Compensability of claim

B. Preparation

- a. Meet in person if possible
- b. Prior deposition testimony
- c. Involvement in prior claims
- d. Familiar with workers' compensation policies and practices

C. Documents

- a. Subpoena duces tecum, or request for production of records
- b. Keeper of records

D. Bias

- a. Relationship to claimant or respondents

Tab A

DOCKET NO.:	:	SUPERIOR COURT
	:	
MARY SMITH,	:	JUDICIAL DISTRICT OF
Plaintiff,	:	
v.	:	FAIRFIELD AT BRIDGEPORT
	:	
JOE DOE,	:	NOVEMBER 14, 2017
Defendant.	:	

NOTICE OF VIDEO-TAPED DEPOSITION OF JOE DOE

Pursuant to Connecticut Practice Book §13-27, Plaintiff, Mary Smith, will take the deposition of **Defendant, Joe Doe**, on Friday, April 14, 2018 at 10:00 a.m. before Cassian Reporting, LLC at the office of Madsen, Prestley & Parenteau, LLC, 402 Asylum Street, Hartford, CT 06103. The deposition will be taken by stenographic means and video-taped, and will be used for purposes of discovery and/or trial.

The oral examination will continue from day to day until completed. You are invited to attend and examine the said Joe Doe.

Plaintiff,
Mary Smith

By: _____

Claire M. Howard
Madsen, Prestley & Parenteau, LLC
402 Asylum Street
Hartford, CT 06103
(860) 246-2466 (tel.)
(860) 246-1794 (fax)
choward@mppjustice.com
Juris No. 415600

CERTIFICATION

This is to certify that on this 14th day of November, 2017, a copy of the foregoing was sent via electronic mail, to all counsel of record as follows:

Avidor Law
Frank Eucalitto
7 World Trade Center
10th Floor
New York, NY 10007
frank@startup.law

Courtesy Copy:

Cassian Reporting, LLC
55 Oak St., Suite 6
Hartford, CT 06106
860-595-7462
scheduling@cassianreporting.com

Claire M. Howard

Tab B

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

<hr style="border: 0.5px solid black;"/> JANE DOE, Plaintiff, v. ABC COLLEGE, Defendant. <hr style="border: 0.5px solid black;"/>	: : : : : : : : : : :	Civil Action No. NOVEMBER 14, 2017
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30(b)(6) RE-NOTICE OF DEPOSITION OF ABC COLLEGE UNIVERSITY

Pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, the Plaintiff, Jane Doe, will take the deposition of ABC College on Thursday, August 25, 2018 beginning at 10:00 am Eastern Standard Time, at the offices of Madsen, Prestley & Parenteau, LLC; 402 Asylum Street, Hartford, Connecticut 06103. The deposition will be taken upon oral examination by stenographic means before Cassian Reporting, LLC or some other officer duly authorized by law to take depositions.

This deposition is being taken for the purpose of discovery or for use at trial (or both), or for such purposes as are permitted under the applicable rules and law.

The Deponent is hereby advised of its duty to designate one or more officers, directors, or managing agents, or other persons who consent, to testify on its behalf as to the matters of examination listed below. Defendant may set out the matters on which each person designated will testify. The persons designated must testify about the information known or reasonably available to the organization.

Plaintiff also requests that Defendant produce documents responsive to the Schedule A document requests at the time of the deposition.

MATTERS FOR EXAMINATION

1. Decisionmaking Committee 2012-2013 deliberations to regarding Jane Doe's application for promotion to Professor, including but not limited to:
 - a. Basis for Decisionmaking Committee recommendation;
 - b. Voting on Jane Doe application for promotion;
 - c. Guidance from the Senior Vice President ("SVP"), President or Board of Trustees in assessing Jane Doe tenure application;
 - d. Communications regarding Jane Doe application for promotion; and
 - e. Documents consulted by Decisionmaking Committee in reaching recommendations for Jane Doe promotion application.
2. Decisionmaking Committee 2012-2013 deliberations to regarding Jane Doe appeal of the Decisionmaking Committee's recommendation to deny her promotion to Professor, including but not limited to:
 - a. Basis for Decisionmaking Committee recommendation to deny Jane Doe appeal;
 - b. Voting on Jane Doe's appeal;
 - c. Guidance from the SVP, President or Board of Trustees in assessing Jane Doe's appeal;
 - d. Communications regarding Jane Doe's appeal; and
 - e. Documents consulted by Decisionmaking Committee in reaching recommendations for Jane Doe appeal.
3. Decisionmaking Committee 2010-2011 deliberations to regarding Marty McFly's application for promotion to Professor, including but not limited to:
 - a. Basis for Decisionmaking Committee recommendation;
 - b. Voting on Marty McFly's application for promotion;
 - c. Guidance from the SVP, President or Board of Trustees in assessing Marty McFly's promotion application;
 - d. Communications regarding Mr. McFly's promotion application; and
 - e. Documents consulted by Decisionmaking Committee in reaching recommendations for Marty McFly's promotion application.
4. Decisionmaking Committee 2010-2011 deliberations to regarding Meredith Grey's application for promotion to Professor, including but not limited to:
 - a. Basis for Decisionmaking Committee recommendation;
 - b. Voting on Meredith Grey's application for promotion;
 - c. Guidance from the SVP, President or Board of Trustees in assessing Meredith Grey's promotion application;
 - d. Communication regarding Ms. Grey's promotion application; and

- e. Documents consulted by Decisionmaking Committee in reaching recommendations for Meredith Grey's promotion application.

Schedule A

1. Decisionmaking Committee minutes for 2010-2011.
2. Decisionmaking Committee minutes for 2011-2012.
3. Decisionmaking Committee minutes for 2012-2013.
4. Notes from Decisionmaking Committee deliberations for Marty McFly's 2010-2011 promotion application.
5. Notes from Decisionmaking Committee deliberations for Meredith Grey's 2011-2012 promotion application.
6. Notes from Decisionmaking Committee deliberations for Jane Doe's 2012-2013 promotion application and appeal.
7. Communications between the members of the Decisionmaking Committee, SVP, President, and Board of Trustees regarding Jane Doe's application for promotion and appeal.
8. Communications between the members of the Decisionmaking Committee, SVP, President, and Board of Trustees regarding Mr. McFly's promotion application.
9. Communications between the members of the Decisionmaking Committee, SVP, President, and Board of Trustees regarding Mr. McFly's promotion application.

Plaintiff expressly reserves the right to conduct further examinations of Defendant pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure during the course of discovery in this action.

PLAINTIFF
JANE DOE

By: /s/ Claire M. Howard
Jacques J. Parenteau (ct09771)
Claire Howard (ct29654)
Madsen, Prestley & Parenteau, LLC
402 Asylum Street
Hartford, CT 06320
Telephone: (860) 246-2466
Facsimile: (860) 246-1794
E-Mail: jparenteau@mppjustice.com
E-Mail: choward@mppjustice.com

CERTIFICATION OF SERVICE

This is to certify that a copy of the foregoing was served by electronic mail only this 14th day of November, 2017 to the following counsel of record:

Avidor Law
Frank Eucalitto
7 World Trade Center
10th Floor
New York, NY 10007
frank@startup.law

/s/Claire M. Howard
Claire M. Howard

Tab C

30(b)(6) Deposition Outline

- Stipulations
- Intro & Deposition taken today as part of Jane Doe's lawsuit
 - Confirm their understanding that this is ABC College's deposition which is being taken as part of Jane Doe's lawsuit against ABC College.
- Under oath
 - Affirmed an oath to tell the truth today subject to the penalties of perjury
 - Penalties of perjury apply the same as they would if testifying in court in the presence of a judge and jury?
- Ground Rules
 - Don't talk over each other - Wait until done with question
 - Verbal & audible answers – yes/no
 - If don't understand a question, let me know
 - If you don't ask for a clarification, I will assume you understand the question
- Have you discussed this deposition with anyone?
 - Exhaust recollection – who, when, what
- Have you discussed this lawsuit with anyone?
 - Exhaust recollection – who, when, what
- What did you do to prepare for deposition?
- **[Exhibit X: Show 30(b)(6) Deposition Re-Notice]**
 - Have you seen this document before?

- Mr. Designated Representative, do you understand that you've been designated as the representative of ABC College to testify on its behalf about the knowledge and information that is known or reasonably available to the College concerning the subjects listed on Exhibit No. X?
- And you understand that you're testifying on behalf of the College in that capacity today?
- And you've agreed to serve as the College's representative for purposes of this deposition?
- And do you understand that, in answering my questions today, you should be providing me with the knowledge that is known or reasonably available to the College, not just the knowledge that you've personally gained based on your own observations?
- Before today's deposition did you have an opportunity to review Exhibit No. X?
- And do you believe that you're sufficiently prepared to testify on behalf of ABC College today on Exhibit No. X?
- And can you explain to me what you did to prepare yourself to testify today on Exhibit No. X?
- At any point in your preparation for testifying today on Exhibit X, did you review any documents?
- Can you identify the documents that you reviewed for me as part of your preparation for your testimony today?
 - Did you review any deposition transcripts in this case?

- Which ones? When? Why?
- Did anyone tell you what was said in prior depositions in this case?
 - Who? What was said? Why?
- Did anyone provide you with a summary of the facts of the case to review?
- Did anyone provide you with a copy of Jane Doe's Complaint?
- Who was present at the deposition preparation meeting? How long did the meeting last?
- Exhaust recollection
- As part of your preparation for testifying today on behalf of ABC College did you review any other documents other than the documents that you've already identified today?
- Other than Ms. Defense Attorney, did you talk to anyone else, as part of your preparation for testifying on behalf of ABC College today?
- Did you talk to any of the members of the Decisionmaking Committee during Jane Doe, McFly and Grey's tenure applications to prepare for this deposition?
 - Who? When?
- Mr. Designated Representative, do you currently work for ABC College?
 - When did you begin working for ABC College?
 - Can you identify the position with ABC College that you currently hold?

- Time in position
- Position held at ABC College before current position
- While at ABC College, have you undergone any diversity training?
 - Exhaust recollection on when, where, substance of training, and why he took the training
- Whether Designated Representative has ever met Jane Doe. [exhaust recollection]
- I am going to ask you to direct your attention to pages 2 and 3 under Matters for Examination. And I'm going to read verbatim from the deposition notice b/c want to make a record so that we can intelligently talk about what it is we've asked you here to testify about. The first matter for examination is, "1. Decisionmaking Committee 2012-2013 deliberations to regarding Jane Doe's application for promotion to Professor, including but not limited to:
 - Basis for Decisionmaking Committee recommendation;
 - Voting on Jane Doe's application for promotion;
 - Guidance from the Senior Vice President ("SVP"), President or Board of Trustees in assessing Jane Doe's application;
 - Communications regarding Jane Doe's application for promotion; and
 - Documents consulted by Decisionmaking Committee in reaching recommendations for Jane Doe's application."

- Are you prepared today to testify on behalf of ABC College with respect to the subject matter set forth in matter number one?
- Turning back to page 2 of Exhibit X, the second matter for examination is, “Decisionmaking Committee 2012-2013 deliberations to regarding Jane Doe’s appeal of the Decisionmaking Committee’s recommendation to deny her promotion to Professor, including but not limited to:
 - Basis for Decisionmaking Committee recommendation to deny Jane Doe’s appeal;
 - Voting on Jane Doe’s appeal;
 - Guidance from the SVP, President or Board of Trustees in assessing Jane Doe’s appeal;
 - Communications regarding Jane Doe’s appeal; and
 - Documents consulted by Decisionmaking Committee in reaching recommendations for Jane Doe’s appeal.”
- Are you prepared today to testify on behalf of ABC College with respect to the subject matter set forth in matter number two?
- The third matter for examination is the “Decisionmaking Committee 2010-2011 deliberations to regarding Marty McFly’s application for promotion to Professor, including but not limited to:
 - Basis for Decisionmaking Committee recommendation;
 - Voting on Marty McFly’s application for promotion;
 - Guidance from the SVP, President or Board of Trustees in assessing Marty McFly’s application;
 - Communications regarding McFly’s application; and
 - Documents consulted by Decisionmaking Committee in reaching recommendations for Marty McFly’s application.
- Are you prepared today to testify on behalf of ABC College with respect to the subject matter set forth in matter number three?
- The fourth matter for examination is the “Decisionmaking Committee 2010-2011 deliberations to regarding Meredith Grey’s application for promotion to Professor, including but not limited to:
 - Basis for Decisionmaking Committee recommendation;
 - Voting on Meredith Grey’s application for promotion;
 - Guidance from the SVP, President or Board of Trustees in assessing Meredith Grey’s application;
 - Communication regarding Grey’s application; and

- Documents consulted by Decisionmaking in reaching recommendations for Meredith Grey's application."
- Are you prepared today to testify on behalf of ABC College with respect to the subject matter set forth in matter number four?
- And if you turn to the page four of Exhibit X, the deposition notice requested a variety of documents under Schedule A. I know I have been provided with one set of handwritten notes from the Decisionmaking Committee's deliberations for Meredith Grey and Marty McFly's applications and six handwritten notes from the Decisionmaking Committee's deliberations for Jane Doe's tenure application and one set of notes from Jane Doe's appeal. Are there any additional documents that will be provided to me today?
 - [Note to self: no minutes provided or communications for any of the applications/appeals]
- Mr. Designated Representative, what was the Decisionmaking Committee's recommendation with regards to Jane Doe's 2012 tenure application?
 - Can you identify the basis for the Decisionmaking Committee's recommendation?
 - Exhaust recollection
 - Are there any documents which reflect the basis for the Decisionmaking Committee's recommendation?
 - Exhaust recollection
 - Was the recommendation to the President and Board of Trustees sent in writing? How? When?
 - See Faculty Handbook Sect. ____/ Bates No. P2903

- Voting on Jane Doe's application
 - Who was on the Decisionmaking Committee at the time of the 2012 promotion vote
 - When did the Decisionmaking Committee vote happen
 - Who on the Decisionmaking Committee was present at that meeting
 - Who voted on Jane Doe's application
 - How each individual voted/split of the vote
 - How did the Decisionmaking Committee keep track of the voting?
 - Notes, minutes, documents
 - Was the vote a secret ballot?
 - Why?
 - How is it done? (process-wise)
 - Do people indicate how they are going to vote before the secret ballot is taken?
- Guidance in assessing Jane Doe's application
 - Did the SVP provide any guidance to the Decisionmaking Committee on Jane Doe's application
 - Exhaust recollection
 - Documents reflecting this guidance?
 - Did the President provide any guidance to the Decisionmaking Committee on Jane Doe's tenure application
 - Exhaust recollection

- Documents reflecting this guidance?
- Did the Board of Trustees provide any guidance to the Decisionmaking Committee on Jane Doe's application
 - Exhaust recollection
 - Documents reflecting this guidance?
- Communications
 - Verbal Communications at Decisionmaking Comm. Meeting on Jane Doe's tenure application
 - What was said at the Decisionmaking Deliberation
 - Go through each of the people present
 - Who presented Jane Doe's application
 - Substance of presentation
 - Who spoke, what was said
 - Written Communications for R Decisionmaking Comm Meeting on Jane Doe's app
 - **[Show Def_2632: Someone's handwritten notes on Decisionmaking Comm. Deliberations]**
 - Do you recognize this document?
 - Are these your handwritten notes? Do you recognize the handwriting?
 - If so, have him read what the notes say on the record

- Same for **Def_002633, Def_003353-3354, Def_002634, Def_002635, Def_002343, Def_001105-1137, and Def_000949-000961**
- Internal Communications (written and oral)
 - Between members of the Decisionmaking Committee
 - Or with Ellanor Shellstrop, Chair
 - With former members
 - Rainbow Johnson (resigned from Decisionmaking Comm. in January 2013)
 - Are internal communications between members of the Decisionmaking committee allowed? How would they take place?
 - Did Designated Representative have any communications with members of the Decisionmaking Committee? When? What was the substance of the conversations? Why?
- External Communications
 - With SVP
 - With Department
 - With President
 - With the Board of Trustees
 - With Chair of the Department
 - With Dean Chidi Anagonye
 - **[Show Def_949-962: Anagonye letter for Jane Doe's tenure app – with handwritten notes]**

- Do you recognize this document? What is it?
- Is this your handwriting and mark-ups on this document? Do you recognize this handwriting?
- “The Chair letter goes as far as positing that Jane Doe’s application seeks a positive outcome based on Affirmative Action rather than on the merits of her record.”
 - Did the Decisionmaking Committee discuss this statement from Dean Anagonye? What was discussed?
 - Did the Decisionmaking Committee discuss Steve Harrington’s letter as Chair of the Department?
 - Exhaust recollection of what was discussed
 - Did the Decisionmaking Committee have the impression that Jane Doe’s sought a positive outcome based on Affirmative Action? Did the Decisionmaking Committee discuss Affirmative Action? ABC College’s Diversity Vision?
- “The perceptions of her colleagues that Jane Doe’s seeks special treatment reveals the degree to which many of the Department faculty members have been blind to their own preconceptions, some of which reflect the unearned privilege of and blindness created by hegemonic whiteness, and

some of which reflects bias against the ____ program generally.”

- Did the Decisionmaking Committee discuss this statement? Did the Decisionmaking Committee discuss the Dean’s statement that Department members were blind to their preconceptions? Did the Decisionmaking Committee discuss whether the Department had any preconceptions when it came to Jane Doe?
 - Why/why not
- With Any Members of the Department
- How would external communications between the Decisionmaking Committee and others occur (through an admin assistant? Through Ellanor Shellstrop?)
- Communications that Designated Representative had with anyone at any time regarding Jane Doe’s tenure application
 - Documents reflecting any of these communications?
- Documents consulted by Decisionmaking Committee in reaching recommendations for Jane Doe’s tenure application
 - Have him go through exhaustive list of every document available to the Decisionmaking Comm.
 - For each document, why was it available & which sections
 - What documents were consulted by Designated Representative, and why

- Was the Faculty Handbook, consulted – if so what section(s)
- What was the Decisionmaking Committee's recommendation with regards to Jane Doe's 2013 appeal of the denial of her application?
 - Can you identify the basis for the Decisionmaking Committee's recommendation?
 - Exhaust recollection
 - Are there documents which reflect the basis for the Decisionmaking committee's recommendation?
 - Exhaust recollection (what are the documents, who created them, where are they located, what is the substance of them)
 - Was the recommendation to the President and Board of Trustees sent in writing? How? When?
 - See Faculty Handbook Sect. _____/ Bates No. P2903
 - Identifying how the Decisionmaking Committee voted for Jane Doe's appeal for the initial denial of promotion
 - Were the individuals that you previously identified as being on the Decisionmaking Committee at the time of the 2012 vote for Jane Doe's promotion application the same individuals who voted on Jane Doe's denial of her appeal?
 - If not, who was replaced & present
 - When did the Decisionmaking Committee vote happen

- How each individual voted/overall vote split
- How did the Decisionmaking Committee keep track of the voting (notes, minutes)
- Was the vote a secret ballot?
 - Why?
 - How is it done? (process-wise)
 - Do people indicate how they are going to vote before the secret ballot is taken?
 - **[Bates No Def_003576 – 003591: Handwritten notes on Jane Doe’s appeal letter]**
 - Do you recognize this document? The handwriting?
 - If its Designated Representative’s handwriting, have him read it into the record
 - If not Designated Representative’s handwriting, ask if he recognizes the person’s handwriting
 - Also Def_000741-748, 2362-2365, 2787, 2785, 2783
- Guidance from the SVP, President or Board of Trustees in assessing Jane Doe’s appeal
 - Did the SVP provide any guidance to the Decisionmaking Committee on Jane Doe’s appeal (where in the Faculty Handbook /Journal of Record to look, how to structure the meeting, how to assess the appeal, etc)

- What guidance, when, verbally or in writing, and substance of guidance
- Did the President provide any guidance to the Decisionmaking Committee on Jane Doe's appeal (where in the Faculty Handbook /Journal of Record to look, how to structure the meeting, how to assess the appeal, etc)
 - What guidance, when, verbally or in writing, and substance of guidance
- Did the Board of Trustees provide any guidance to the Decisionmaking Committee on Jane Doe's appeal (where in the Faculty Handbook /Journal of Record to look, how to structure the meeting, how to assess the appeal, etc)
 - What guidance, when, verbally or in writing, and substance of guidance
- Did anyone else at the College provide any guidance to the Decisionmaking Committee on Jane Doe's appeal
 - Exhaust recollection/details
- Communications regarding Jane Doe's appeal
 - Communications at Decisionmaking Comm. Meeting on Jane Doe's tenure appeal
 - What was said at the Decisionmaking Deliberation
 - Go through each of the people present
 - Did someone present Jane Doe's appeal

- Who
 - Substance of presentation
 - Reaction of Decisionmaking members
- Who spoke, what was said
- Internal Communications (written and oral)
 - With each other
 - With former members
 - Rainbow Johnson (resigned from Decisionmaking Comm. in January 2013)
 - Or with Ellanor Shellstrop, Chair
- External Communications
 - With SVP
 - With Department
 - With President
 - With the Board of Trustees
 - With Chair of the Department
 - With Dean Anagonye
 - With Any Members of the Department
- Documents reflecting any of these communications? Or communications with others?
 - If so, exhaust recollection/details
- Communications that Designated Representative had with anyone at any time regarding Jane Doe's appeal

- Documents reflecting any of these communications?
- Documents consulted by Decisionmaking Committee in reaching recommendations for Jane Doe's appeal.
 - Have him go through exhaustive list of every document available to the Decisionmaking Comm.
 - For each document, why was it available & which section(s)
 - **[Def_001520: Decisionmaking Committee Member's Signature Sheet for Docs taken]**
 - Go through documents available to Decisionmaking comm for Jane Doe's appeal, why those documents were available (whether the decision on documents available is based on guidance from the College or the Decisionmaking Committees standard practice)
 - Go through what Designated Representative signed out and also what he reviewed
 - Was the Faculty Handbook, consulted – if so what section(s)
 - Did the Decisionmaking Committee rely on standard practices more than documents?
 - What practices and why?
- What was the Decisionmaking Committee's recommendation for Marty McFly's application for tenure and promotion
 - Can you identify the basis for the Decisionmaking Committee's recommendation?
 - Exhaust recollection

- Are there any documents which reflect the basis for the Decisionmaking Committee's recommendation?
 - Exhaust recollection
 - Was the recommendation to the President and Board of Trustees sent in writing? How? When?
 - See Faculty Handbook Sect. ____/Bates No. P2903
- Identifying how the Decisionmaking Committee voted for McFly's application for tenure and promotion
 - Who was on the Decisionmaking Committee at the time of the 2010 tenure vote
 - When did the Decisionmaking Committee vote happen
 - Who on the Decisionmaking Committee was present at that meeting
 - Who voted on McFly's tenure application
 - How each individual voted
 - How did the Decisionmaking Committee keep track of the voting?
 - Notes, minutes
 - Was the vote a secret ballot?
 - Why?
 - How is it done? (process-wise)
 - Do people indicate how they are going to vote before the secret ballot is taken?

- **[Show Def_004456-4458: handwritten notes from Decisionmaking Deliberations for McFly]**
 - Do you recognize this document?
 - Is this your handwriting? If so have him read it for the record
 - If not, ask him whether he recognizes the handwriting
- Guidance from the SVP, President or Board of Trustees in assessing McFly's tenure application
 - Did the SVP provide any guidance to the Decisionmaking Committee on McFly's application
 - Exhaust recollection
 - Did the President provide any guidance to the Decisionmaking Committee on McFly's application
 - Exhaust recollection
 - Did the Board of Trustees provide any guidance to the Decisionmaking Committee on McFly's application
 - Exhaust recollection
- Communications
 - Communications at Decisionmaking Comm. Meeting on McFly's application
 - What was said at the Decisionmaking comm Deliberation
 - Go through each of the people present
 - Did someone present McFly's application
 - Who?

- Substance of presentation
 - Who spoke, what was said
 - Internal Communications (written and oral)
 - With each other (including the Chair)
 - With former members
 - External Communications
 - With SVP
 - With Department
 - With President
 - With the Board of Trustees
 - With Chair of the Department
 - With Dean Anagonye
 - With Any Members of the Department
 - Communications that Designated Representative had with anyone at any time regarding McFly's application
 - Documents reflecting any of these communications?
- Documents consulted by Decisionmaking Committee in reaching recommendations for McFly's tenure application
 - Have him go through exhaustive list of every document available to the Decisionmaking Comm.
 - For each document, which ones were consulted & why
 - Was the Faculty Handbook, consulted – if so what section
 - Which documents did Designated Representative consult?

- What was the Decisionmaking Committee's recommendation for Meredith Grey's application for tenure and promotion
 - Can you identify the basis for the Decisionmaking Committee's recommendation?
 - Exhaust recollection
 - How does Designated Representative know this is the basis for the Decisionmaking Committee's decision?
 - Exhaust recollection
 - Are there any documents which reflect the basis for the Decisionmaking Committee's recommendation?
 - Exhaust recollection
 - Was the recommendation to the President and Board of Trustees sent in writing? How? When?
 - See Faculty Handbook Sect. _____ / Bates No. P2903
 - What role did the Department's negative recommendation play in the Decisionmaking Committee's deliberation?
 - In deliberating for Grey's tenure application, are comparisons to other applications drawn?
 - Why/why not?
 - In deliberating for Grey's application, did the Decisionmaking Committee take note of any missing documents?
 - Letters from members of the Department Faculty – only 1 included

- **See Exhibit 38 : Def4429-4434: McFly letter to Department faculty. First page and last paragraph.**
- **Journal of Record, Appendix 5 (listing what should be included in a tenure application), page 54,** states that “the applicant is encouraged to request colleagues with firsthand experience of his/her teaching ability to submit written reports based on these observations.”
- After being in the Department since 1995, wasn’t the Decisionmaking Committee surprised to see no letters from Grey’s colleagues who had firsthand experience of his teaching ability? Was that discussed by the Decisionmaking Committee at all? Why/why not?
- Student evaluations, because Grey never administered them
 - On **Bates No. 4228 of Grey 2009 Student Evaluations** it states “Sorry, No Evaluation Data Available,”
 - Journal of Record/Bates No_000039/p.25 requires student evaluations to be administered in all classes, regardless of size
- “Sample” of Syllabi – only 6 provided
 - See Grey tenure app – **Def_003836**
 - Journal of Record/**Bates No_000037**/p.23 requires syllabi for all classes

- Appendix 5 of Journal of Record, Page No. 58 which outlines supporting documentation states that “syllabi, tests, or other course materials sufficient to indicate currentness of courses” should be provided. Did the Decisionmaking committee feel that six syllabi were sufficient to indicate the currentness of courses for Grey, who had taught at ABC for over 15 years?
 - If not taken note, why? How can a candidate be ABC College evaluated without all documents?
 - If they were taken note, how was it considered in the analysis of Grey’s application?
 - Exhaust recollection
- Identifying how the Decisionmaking Committee voted for Grey’s application for
 - Who was on the Decisionmaking Committee at the time of the 2010 vote
 - When did the Decisionmaking Committee vote happen
 - Who on the Decisionmaking Committee was present at that meeting
 - Who voted on Grey’s application
 - How each individual voted
 - How did the Decisionmaking Committee keep track of the voting?
 - Notes, minutes
 - Was the vote a secret ballot?
 - Why?

- How is it done? (process-wise)
 - Do people indicate how they are going to vote before the secret ballot is taken?
- **[Show Def_004453: Handwriting notes from Decisionmaking Deliberations for Grey]**
 - Do you recognize this document?
 - Is this your handwriting? If so have him read it for the record
 - If not, ask him whether he recognizes the handwriting
- Guidance from the SVP, President or Board of Trustees in assessing Grey's application
 - Did the SVP provide any guidance to the Decisionmaking Committee on Grey's application (on contextualizing application, letters, etc)
 - Exhaust recollection
 - Did the President provide any guidance to the Decisionmaking Committee on Grey's application (on contextualizing application, letters, etc)
 - Exhaust recollection
 - Did the Board of Trustees provide any guidance to the Decisionmaking Committee on Grey's application (on contextualizing application, letters, etc)
 - Exhaust recollection
 - Guidance from anyone else on Grey's application (on contextualizing application, letters, etc)
- Communications

- Communications at Decisionmaking Comm. Meeting on Grey's tenure application
 - What was said at the Decisionmaking Deliberation
 - Go through each of the people present
 - Did someone present Grey's application
 - Who?
 - Substance of presentation
 - Who spoke, what was said
- Internal Communications (written and oral)
 - With each other
 - With former members
- External Communications
 - With SVP
 - With Department
 - With President
 - With the Board of Trustees
 - With Chair of the Department
 - With Dean Anagonye
 - With Any Members of the Department
- Communications that Designated Representative had with anyone at any time regarding Grey's application
 - Documents reflecting any of these communications?

- Documents consulted by Decisionmaking Committee in reaching recommendations for Grey's tenure application
 - Have him go through exhaustive list of every document consulted by Decisionmaking Comm.
 - For each document, why was it consulted & which sections
 - Was the Faculty Handbook, consulted – if so what section

Whether the normal requirements for tenure were waived by the President upon the recommendation of the Decisionmaking Committee for Grey or McFly?

Notes to Self on 30(b)(6) Obligations

- ABC COLLEGE has a 2-part obligation: 1) to designate person(s) knowledgeable on the noticed subjects; and (2) prepare that person(s) to give complete, knowledgeable, and binding answers.
- Designee is subject to follow up questioning
- Majority opinion is that no limitation to scope in 30(b)(6) b/c to do so would frustrate the objections of 26(b)(1)
- Filing a protective order, not instructing not to answer is proper
- Questions beyond the scope of the 30(b)(6) notice are the opinions of the individual fact witness

Tab D

DEPOSITION OUTLINE

John Doe v. ABC Property Management, Inc.

Deposition of John Doe-11/1/16

Usual stipulations: 1. Defects in the deposition notice are waived
2. Objections to the qualifications of the court reporter are waived
3. Filing the deposition with the court is waived
4. All objections except as to the form of the questions are reserved until trial

Stipulation: does deponent want to read and sign the transcript? (sign in front of notary)

OATH AND GROUND RULES QUESTIONS

- Good morning. My name is **Joshua Devine** and I represent **ABC Property Management, Inc., whom I will hereinafter refer to as "ABC,"** in the lawsuit brought by you. I'm going to be taking your deposition today and will be asking you some questions about your fall.
- Have you ever been deposed? (**Most likely no**)
- Do you understand that your testimony today is under oath and the oath you've taken here today is the same oath you would've taken in a court of law?
- One of the purposes of a deposition is to make a record of my questions and your answers. In order for the record to be clear, I ask that you not respond with sighs or nonverbal responses. Rather, I ask that you respond with words.
- If at any time I am not clear and you do not understand what I have asked, please let me know and I will do my best to rephrase the question.
- If you don't hear a question, say so and I will repeat it.
- If you answer the question, I will assume that you heard it, understood it and have given me your best recollection.
- And finally, if for any reason you need to take a break during this process, please just let me know. My only request would be that if there's a question pending that you answer before we go on break. Is that acceptable to you?

I. PERSONAL INFORMATION

- State your full name for the record
- Have you been known by any other names?
- We can go off the record for this, but what is your Social security number?
- Date of birth [3/25/68] *46 years old*
- Current address [*111 Pearl Street, Apartment Z, Hartford, CT*]
 - How long have you lived there?
 - Do you rent?
 - Have you lived there continuously? [*Eviction*]
- Prior living arrangements
 - Where did you reside prior to that? (Dates/ why did you leave)?
- Does anyone live with you?
- Are you married?
 - What's your spouse's name?
 - What does he or she do? Name/occupation?
- Do you have any children?
 - What are their names/ages/ occupations?
- Education
 - Did you complete high school?
 - Where?
 - Did you attend college?
 - Did you receive a degree? In what? When did you graduate?
 - Any other formal degrees, job training or certificates?
- What do you like to do in your free time? What are your interests/ hobbies?

- What are your hobbies, what do you enjoy doing? (*Don't mention gym if he doesn't bring it up-if he does- which gym? Where?*)

II. MEDICATIONS

- Are you currently on any medications? (Most Likely Yes)
- Are there any medications that you should have taken today but did not?
- Do you have any medical conditions that would impair your ability to recall past events?
- Any medical conditions that would impair your ability to answer questions in the present?
- Are you on any medications that would impair your ability to otherwise answer the questions asked of you today?

Employment history (*remember, life activities*)

- Current employment
- Current employer
- Address
- Current position & title
 - How long have you held that position and title?
 - Nature of work and daily tasks
 - Discuss hours/work
 - Current annual salary/ hourly wage?
- Do you have a supervisor? (Name, etc)
- Are you a member of a union?

If not working, why not?

- State sources of income
- Receive any other benefits? Food stamps? Section 8 housing? Disability?
- Medicare/Medicaid?

- How long since last worked?
- Looking for work?
- Do you currently have health insurance?
- Have you applied for any state health insurance programs? When? Pending?

If retired, ask what he used to do.

- Employment prior to [?]
- What was your position & title?
- How long did you hold that position and title?
- Nature of work and daily tasks
- Discuss hours/work
- Were you a salaried employee or an hourly wage earner?
- Annual salary/ hourly wage?
- Did you have a supervisor? (Name, etc)
- Was that supervisor the person you would report problems, injuries, etc., to?
- Were you a member of a union?
- Employment prior to that?
 - What was your position & title?
 - How long did you hold that position and title?
 - Nature of work and daily tasks; discuss hours/work
 - Were you a salaried employee or an hourly wage earner? Annual salary/wage?
 - Did you have a supervisor? (Name, etc)
 - Was that supervisor the person you would report problems, injuries, etc., to?
 - Were you a member of a union?

III. ACCIDENT

What I'd like to do now is to ask you some questions related to your lawsuit against my client.

Your lawsuit arises out of an accident that occurred in 2013, correct?

Can you tell me what happened?

Do you recall:

- Date of accident [*August 9, 2013*]?
- Time of accident [*morning*]?
- Day of the week?
- Describe the relevant areas of where the accident happened
- Can you describe the location of the accident?

DESCRIPTION OF THE ACCIDENT

- Description of the accident - Take me through the accident, including your fall, in detail.
- What exactly did you step on? ("play by play")
- What were you wearing? Shoes? (Look@ shoes today - "similar? ")
- What were you carrying?
- What were you doing at the time (e.g. talking on phone, talking to third party, etc.)
 - Were there any other distractions?
 - Were you alone?
 - **Where were you looking?**

Post-Accident

- What did you do after you fell?
- Did you go to the hospital?
- Did you speak with anyone about the accident?
- Who did you speak with?

PROBLEM WITH THE STAIR

When did you first notice the problem with your stair? [In Complaint, he alleges that the condition existed for an unreasonable length of time]

- When did you report the problem with the stair to ABC? [In Complaint, he alleges that the defendant knew or in the exercise of reasonable care and inspection should have known of these conditions and should have taken measures to remedy and correct them

Noticed the problem with the stair - probably not until after he fell

- If you noticed the condition in , why did you wait to report it?
- How would the property manager find out if you were having a problem with your apartment? Would you report it?
- In fact, you have reported problems before? (Sink and faucet)
- Why did you not report the problem with the stair being broken?
- Was this the only entrance into the apartment?
- How often did you use this entrance each day?
- Do you believe that the maintenance personnel working for ABC were responsive to your requests?
- You lived there after the fall, correct?
- Would you have left if you felt that your housing needs were not being met?
- Can you describe the condition of the stair before you fell? [*In Complaint, he alleges that the treads and stringers were splintered and broken and hence weak and insufficient for the use and purpose intended*] [Treads, stringers were splintered and broken]
- Did you take photographs of the stair after the accident? [*Yes*]
- How many? [5]
- When? [*August 9, 2013 and August 11, 2013*]
- Who took them? [*John Doe*]
- Why?

Discuss each photograph in detail

PRIOR ACCIDENT INJURIES

Prior to the above accident, had you ever been hospitalized? When? How many times?

Prior to your accident on August 9, 2013, did you ever seek medical treatment for any physical injuries (including knee and back)?

Did you ever injure your back prior to this accident?

Did you ever injure you knee prior to this accident?

Did you ever suffer any injuries or disorders prior to the fall in 2013? If so, what?

- *Fall on May 11, 2012 down 7 flights of stairs* [GET FULL DETAILS IF HE TALKS ABOUT IT]

Have you ever been involved in any motor vehicle accidents?

- When?
- What happened?
- Was there a police report?
- Was anyone injured?
- Did the other car stop?
- Did repairs have to be made to either car?

Prior to your accident, had you had surgery (back and/or knee)?

- When?
- Where?
- Doctor?
- Hospital?
- Treatment/medicine?
- Result?

Prior to the accident, had you ever been out of work as a result of injuries (back and/or knee)?

If any answers are 'yes,' ask the following:

- Describe in detail the location of your injuries, symptoms, severity and duration
- When was the first time that you sought medical attention?
- Did you go to the hospital?

- Name and address of hospital
- Dates at hospital
- Nature of treatment, diagnosis
- Did you seek medical care from any doctors as a result of this accident?
- Name/address and specialty of all medical professionals [LIST]

IV. INJURIES

Did you receive any injuries as a result of the slip and fall on August 9, 2013? [Yes]

Please describe the injuries you received as a result of the motor vehicle accident?

[sprain of lumbar spine with limitations of strength and motion, muscle spasm and pain, a bulging disc at L3-4 all of which necessitated a series of epidural injections, a contusion on the left foot and left toe with neuritis type pain which necessitated hydrocortisone injection, difficulty with activities of daily living, a permanent disability of the spine and left knee]

- Describe in detail the location of your injuries, symptoms, severity and duration
- When was the first time that you sought medical attention?
- Do you remember anyone telling you had any broken bones or fractures?
- Did you go to the hospital?
- Name and address of hospital
 - Who brought you to the hospital? Name and address?
 - How long were you at the hospital?
 - How did they treat you?
 - Dates at hospital
- Nature of treatment, diagnosis
- Did you seek medical care from any doctors as a result of this accident?
- Name/address and specialty of all medical professionals

#1. Dr. _____

- How long and how often did you treat with ?

- What did you see Dr. for? How did you get his/her name?
- Did you have a conversation with Dr. about your back and knee?
- What did he/she tell you?
- Did he/she perform any tests? What tests were performed, i.e. X-Rays, CAT scans, MRI's, etc.
- Did Dr. prescribe any medication? Therapy? Did the medication/therapy improve your symptoms?
- Did you follow Dr. recommended course of treatment? In what ways or why not?
- Have your symptoms improved?
- When was the last time you saw Dr. ?
 - How many total visits?
 - What did he/she recommend?
 - Why did you stop seeing him/her?
 - How did you get to his/her office?
- Had you ever sought treatment from Dr. prior to your accident?
- Do you have any present plans to see Dr. in the future?
- Did you talk to him/her about the case? Why? What did you say?

Repeat questions for each treating physician

Present symptoms

- What symptoms or pain, if any, do you have presently?
 - **Do you still treat with a doctor for your pain?**
 - **If not, why did you stop treating?**
- Are you currently on any medications for your pain?
- Aside from the doctors that we have discussed today, have you seen any other doctors or medical providers for your injuries related to this accident?

- Has anyone advised you that you need any further medical care and treatment with regard to your injuries?
 - **Who?**
 - **What treatment?**
- Has anyone told you that you are permanently disabled to any extent as a result of the accident? If yes, details. [*6% impairment to lumbar spine*]
- Who gave you a 6% impairment rating?
- Date of permanent disability rating [*August 13, 2015*]

Life Activities [*In Complaint, he alleges that his capacity to enjoy life 's activities has been significantly and permanently diminished*]

- Is there anything that you cannot do now that you could do before the accident?
 - If yes, details
- Why can't you do them anymore?
 - **Follow-up on all "life activities that have been diminished"**
 - **Compare his ability to perform activities prior to the accident to his ability after the accident**

Subsequent Accidents

Mr. Doe, have you been in any accidents since the accident at issue?

- Where?
- When?
- What happened?
- Who else was involved?
- What injuries did you receive?
- Extent of injuries received
- Any permanent disability rating?
- What doctors/hospitals treated you and when?

- Still under their care?
- Time away from employment?
- File any claim?
- Any other subsequent accidents? (Repeat questions)

V. DAMAGES CLAIMED

Mr. Doe, is it also your testimony that you are claiming other damages, such as medical expenses, as a result of this accident?

- List the nature of the damages
- Each and every circumstance, document, fact and/or incident that forms the basis of your claim
- For each type of damage, state the amount you seek (\$\$) and the method of computation for such damages
- The gross amount of such damages and the net amount of damages after taking into account any mitigation of damages you have accomplished.

VI. CONCLUSION

If we could go off the record, I am just going to take a quick break to review my notes Mr. Doe to see whether I have any further questions for you.

I have no further questions. Thank you, Mr. Doe.

Tab E

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

Plaintiff,		CIVIL ACTION NO.
v.		
		OCTOBER 9, 2017
Defendant.		

RE-NOTICE OF DEPOSITION

Please take notice that at 1:00 p.m. on Monday, October 16, 2017 and day to day thereafter until concluded, at the Atlantic Sands Hotel & Conference Center, 101 North Boardwalk, Rehoboth Beach, DE 19971, the plaintiff will take the deposition of [REDACTED] upon oral examination before Discovery Litigation Services, or some other person duly authorized by law to take depositions. This deposition is being taken for the purpose of discovery or for use at trial (or both), or for such purposes as are permitted under the applicable rules and law.

PLAINTIFF

[REDACTED]

By: /s/Claire M. Howard
Claire M. Howard (ct29654)
Madsen, Prestley & Parenteau, LLC
402 Asylum Street
Hartford, CT 06103
(860) 246-2466 – Telephone
(860) 246-1794 – Facsimile
Attorneys for the Plaintiff
choward@mppjustice.com

CERTIFICATION

I hereby certify that a copy of the foregoing Notice of Deposition was sent by electronic mail on this 9th day of October, 2017 to the following counsel of record:



/s/

A handwritten signature in blue ink, appearing to be 'C. Howard', written over a horizontal line.

Claire M. Howard

UNITED STATES DISTRICT COURT

for the

District of Connecticut

Plaintiff

v.

Defendant

Civil Action No.

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To:

A

B

(Name of person to whom this subpoena is directed)

☒ **Testimony:** **YOU ARE COMMANDED** to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: Atlantic Sands Hotel & Conference Center
101 North Boardwalk
Rehoboth Beach, DE 19971

Date and Time:

The deposition will be recorded by this method: Videoconferencing

☒ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material: All communications, including email, text messages and social media postings sent or received that concern, refer or relate to [REDACTED] or [REDACTED] from September 2014 to the present.

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 10/19/2017

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Plaintiff, [REDACTED], who issues or requests this subpoena, are:

Claire M. Howard, Esq., Madsen, Prestley, & Parenteau, LLC, 402 Asylum St., Hartford, CT 06103, e-mail: choward@mppjustice.com, telephone: (860) 246-2466

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 3:16-cv-00680-DJS

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named individual as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.