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California Adopts Seven Hour Deposition Rule Effective January 1, 2013

By Andrew B. Downs, Ronald L. Richman

Effective January 1, 2013, depositions in cases pending in state court in California will be limited to seven hours. On September 17, 2012, Governor Jerry Brown signed Assembly Bill 1875 which adds Section 2025.290 to the Code of Civil Procedure.

This new statute limits depositions conducted under state law to seven hours of testimony, not including examination by the witness's attorney. It is the result of lobbying efforts by the plaintiffs' bar and their allies to restrict lengthy depositions in asbestos and other toxic tort cases, but it applies generally.

There are several exceptions to the seven hour rule:

- The trial court is authorized to permit more time, including in circumstances where the witness or his or her attorney impedes or delays the examination.
- The rule may be waived by stipulation.
- It does not apply to cases designated as complex.
- It does not apply to employment cases.
- It does not apply to corporate designee witnesses, colloquially known as "persons most knowledgeable."
- It does not apply to parties joined after the deposition is taken.

Although the federal courts have had a one day/seven hour limitation on depositions for several years, California's adoption of this standard may prove more troublesome for defendants simply because state court judges and discovery commissioners are more reluctant than the federal judiciary to enforce rules against speaking objections and obstructive behavior. This new standard will be particularly problematic in cases where there are many defendants, each with different factual issues to address.

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