

Rule 205. Persons Before Whom Depositions May Be Taken

(a) Within the United States. Within the United States or within a territory or insular possession subject to the dominion of the United States, depositions shall be taken (1) before an officer authorized to administer oaths by the laws of this State or of the United States or of the place where the examination is held, or (2) before a person appointed by the court. The officer or person is empowered to administer oaths and take testimony. Whenever the term “officer” is used in these rules, it includes a person appointed by the court unless the context indicates otherwise.

(b) In Foreign Countries. In a foreign state or country depositions shall be taken (1) before a secretary of embassy, consul general, consul, vice-consul, or consular agent of the United States, or any officer authorized to administer oaths under the laws of this State, or the United States, or of the place where the examination is held, or (2) before a person appointed by the court. The officer or person is empowered to administer oaths and take testimony.

(c) Issuance of Commissions and Letters Rogatory. A commission, *dedimus potestatem*, or letter rogatory is not required but if desired shall be issued by the clerk without notice. An officer may be designated in a commission either by name or descriptive title and a letter rogatory may be addressed “To the Appropriate Authority in (here name the country).”

(d) Disqualification for Interest. No deposition shall be taken before a person who is a relative of or attorney for any of the parties, a relative of the attorney, or financially interested in the action.

Committee Comments

Paragraphs (a) and (b)

Paragraphs (a) and (b) of this rule are derived from former Rule 19-2(1), (2) and (3) with minor language changes, but no changes of substance.

Paragraph (c)

Paragraph (c) is derived from former Rule 19-2(4). The reference to letters rogatory was added because, though requests for them may be rare in State practice, there may be occasional situations in which they are required. See N.Y. Civ. Prac. L. & R. §3113(a)(3) and Rule 28(b) of the Federal Rules of Civil Procedure.

Paragraph (d)

Paragraph (d) is former Rule 19-2(5) with minor language changes.