

Rule 202. Purposes for Which Depositions May be Taken in a Pending Action

Any party may take the testimony of any party or person by deposition upon oral examination or written questions for the purpose of discovery or for use as evidence in the action. The notice, order, or stipulation to take a deposition shall specify whether the deposition is to be a discovery deposition or an evidence deposition. In the absence of specification a deposition is a discovery deposition only. If both discovery and evidence depositions are desired of the same witness they shall be taken separately, unless the parties stipulate otherwise or the court orders otherwise upon notice and motion. If the evidence deposition of a witness is to be taken within 21 days of trial, a discovery deposition is not permitted unless the parties stipulate otherwise or the court orders otherwise upon notice and motion.

Amended June 1, 1995, effective January 1, 1996.

Committee Comments

This rule is former Rule 19 with minor language changes but no changes of substance. The rule preserves the distinction that has been made in Illinois between a deposition taken for discovery purposes and one taken for evidence. See Rule 212, dealing with the use of discovery depositions and evidence depositions at the trial.

Pursuant to the amended language of this rule, an evidence deposition may be taken within 21 days of trial without a discovery deposition. This change is to ensure that there will no longer be delays in commencing a trial because an attorney wanted a separate discovery deposition prior to taking an evidence deposition shortly before trial without leave of court or stipulation.