Rule 207. Signing and Filing Depositions

(a) Submission to Deponent; Changes; Signing. Unless signature is waived by the deponent, the officer shall instruct the deponent that if the testimony is transcribed the deponent will be afforded an opportunity to review (but not copy or disseminate) the deposition, without charge for the review, and that corrections based on errors in reporting or transcription which the deponent desires to make will be entered upon the deposition with a statement by the deponent that the reporter erred in reporting or transcribing the answer or answers involved. The opportunity to review the deposition shall be provided as determined by the deponent at any of the following: (1) the location where the deponent was present when the deposition was taken; (2) any other convenient location within the county where the deponent resides or is employed or transacts business in person, or in the case of a plaintiff-deponent, in the county in which the action is pending, including the offices of the officer or another court reporter located in that county; or (3) via videoconference or other remote electronic means, provided the deponent has the ability to examine or review the deposition in this manner. The deponent may not otherwise change either the form or substance of his or her answers. The deponent shall provide the officer with an electronic or physical address to which notice is to be sent when the transcript is available for examination and signing. When the deposition is fully transcribed, the officer shall deliver to the deponent, at the address supplied, notice that it is available and may be examined at a stated place at stated times, or pursuant to arrangement, including by remote electronic means. After the deponent has examined the deposition, the officer shall enter upon it any changes the deponent desires to make, with the reasons the deponent gives for making them. If the deponent does not appear at the place specified in the notice within 28 days after the mailing of the notice, or within the same 28 days make other arrangements for examination of the deposition, or after examining the deposition refuses to sign it, or after it has been made available to the deponent by arrangement it remains unsigned for 28 days, the officer's certificate shall state the reason for the omission of the signature, including any reason given by the deponent for a refusal to sign. The deposition may then be used as fully as though signed, unless on a motion to suppress under Rule 211(d) the court holds that the reasons given by the deponent for a refusal to sign require rejection of the deposition in whole or in part.

(b) Certification, Filing, and Notice of Filing.

(1) If the testimony is transcribed, the officer shall certify within the deposition transcript that the deponent was duly sworn by the officer and that the deposition is a true record of the testimony given by the deponent. A deposition so certified requires no further proof of authenticity.

(2) Deposition transcripts shall not be filed with the clerk of the court as a matter of course. The party filing a deposition shall promptly serve notice thereof on the other parties and shall file the transcript and any exhibits in the form and manner specified by local rule.

Amended Dec. 29, 2017, eff. Jan. 1, 2018; amended Sept. 29, 2021, eff. Oct. 1, 2021; amended Jan. 26, 2023, eff. immediately.

Committee Comments
(Revised June 1, 1995)

Paragraph (a)

Paragraph (a), as adopted in 1967, was derived from former Rule 19-6(4), with some changes. Former Rule 19-6(4) contemplated that all depositions would be transcribed, that unless reading was waived by the parties and the deponent all depositions would be read to or by the deponent, and that all depositions would be signed by the deponent unless signature was waived, or the deponent was ill or could not be found, or refused to sign. Paragraph (a) of the rule as adopted in 1967 contemplated that the contents of a deposition will not always warrant the expense of having it transcribed. It provided that if the deposition were transcribed, it had to be made available to the deponent for examination and changes, if any, unless the parties and deponent waived signature. Thus the new rule substituted a single waiver for the two provided in former Rule 19-6(4).

The procedure was further simplified in 1981 when the paragraph was amended to eliminate the requirement that the deponent sign the deposition unless he is ill, cannot be found, or refuses to sign, or unless signature is waived by the parties and by the deponent. Under the paragraph as amended, if the deposition is transcribed, the officer must notify the deponent that it is available for his inspection, and that after inspecting it he may make such changes as he wishes. If the deponent does not appear or make arrangements to inspect the deposition, after four weeks the officer will certify the deposition and it will be useable as if it had been inspected and signed by the deponent.

Supreme Court Rule 207(a) currently permits a deponent to make changes in both the form and substance of the answers which he or she gives under oath at the time of a deposition. The potential for testimonial abuse has become increasingly evident as witnesses submit lengthy errata sheets in which their testimony is drastically altered, including changing affirmative responses to negative and the reverse. *LaSalle National Bank v. 53rd-Ellis Currency Exchange, Inc.*, 249 Ill. App. 3d 415, 433-36 (1st Dist. 1993).

This rule has been amended to permit "corrections" only under circumstances where the deponent believes the court reporter has inaccurately reported or transcribed an answer or answers. Testimony accurately reported and transcribed at a deposition may not be subsequently revised by the deponent. No change is made regarding existing law as to the uses of deposition testimony at trial or hearing for impeachment, as an evidentiary or judicial admission, or for any other permitted purpose. See Rule 212; *Hansen v. Ruby Construction Co*., 155 Ill. App. 3d 475, 480-82 (1st Dist. 1987); *Caponi v. Larry's 66*, 236 Ill. App. 3d 660, 665-67, 671-73 (2d Dist. 1992).

Paragraph (b)

Paragraph (b) of this rule does away with the requirement of former Rule 19-6(5)(a) that all evidence depositions be transcribed and filed. When no party cares to have the deposition transcribed and filed, there is no reason for requiring the party taking the deposition to undergo the expense of transcription and filing. Certification, rather than certification *and filing*, establishes

authenticity under the new provision. Otherwise the language of former Rule 19-6(5)(a) is unchanged. Subparagraph (b)(2) is derived from former Rule 19-6(5)(b). The language is unchanged.