

From: [Kevin Lougachi](#)
To: [RulesCommittee](#)
Subject: Elimination of Rule 206(h)(3)
Date: Friday, June 18, 2021 8:02:04 AM

Greetings. My name is Kevin Lougachi. I am a licensed Illinois attorney. I have been practicing in Illinois for 15 years. I am also licensed in the state of Florida and in numerous federal courts throughout the country.

I have taken and sat in literally hundreds of depositions over that time period. That experience gives me a unique perspective with respect to the proposed elimination of Rule 206(h)(3). Personally, I am opposed to removing Rule 206(h)(3). The rule should remain as written while providing a separate right for the parties to agree to conduct a deposition remotely.

In particular, every attorney should have the right to confront a witness in person to test that person's version of events, credibility, and honesty. I have taken many depositions over Zoom since the pandemic began in March 2020. Remote depositions provide a unique format for taking a deposition, which can make it more convenient and cost effective to attend a deposition. However, remote depositions should be an alternative to Rule 206(h)(3), thereby preserving the right for in person depositions as opposed to the opposite.

What is lost by permanently removing the requirement that all depositions be conducted in person unless the parties agree otherwise cannot be overstated. In my experience, witnesses tend to be far more open to challenge in an in person deposition then over zoom. I have personally found zoom to give witnesses a feeling of distance and insulation from the legal proceeding in which they are testifying. In some cases, that has resulted in witnesses being less than forthright with their testimony. On the other hand, the ability to challenge a witness in person has often resulted in powerful testimony that has compromised a witness' version of events and shown that what is claimed is not always an accurate or truthful version of what occurred. If the legal profession remains a truth seeking process at its core, then the rule should be preserved as written.

The Illinois bar should hold itself to a higher standard and not eliminate Rule 206(h)(3). I do not know of any other jurisdiction which has considered such a proposed rule elimination. Removing the rule will undoubtedly give some parties the means to avoid challenges to the credibility of their supporting witnesses. That should not be allowed simply because we have gone through a pandemic. As society begins to return to normal, and people return to all types of in person meetings and events as occurred prior to the pandemic, so too should attorneys be allowed to return to in person depositions. That right should be upheld as sacrosanct to ensure that the legal process gives even footing to both sides of every legal proceeding.

Thank you for considering my comments.

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