

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

1

HOUSE BILL 610

Short Title: Civil Procedure/Deponent Declaration. (Public)

Sponsors: Representatives Clark, Jackson, and McGrady (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary, if favorable, Rules, Calendar, and Operations of the House

April 8, 2019

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING RULE 30 OF THE NORTH CAROLINA RULES OF CIVIL
3 PROCEDURE RELATING TO THE TAKING OF DEPOSITIONS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 1A-1, Rule 30 of the Rules of Civil Procedure, reads as rewritten:

6 "Rule 30. Depositions upon oral examination.

7 ...
8 (c) Examination and cross-examination; record of examination; oath; declaration;
9 objections. – Examination and cross-examination of witnesses may proceed as permitted at the
10 trial under the provisions of Rule 43(b). The person before whom the deposition is to be taken
11 shall put the deponent on oath and shall personally, or by someone acting under ~~his~~the person's
12 direction and in his~~the person's~~ presence, record the testimony of the deponent. If a deponent
13 lacks the government-issued photographic identification necessary for the deponent to be put on
14 oath by the person before whom the deposition is taken, the deponent's testimony may be taken
15 upon the deponent's signing a declaration stating that the deponent's testimony is given under
16 penalty of perjury. The testimony shall be taken stenographically or recorded by any other means
17 ordered in accordance with subsection (b)(4) of this rule. If requested by one of the parties, the
18 testimony shall be transcribed.

19 ...
20 (f) ~~Certification by person administering the oath;~~ Certification; exhibits; copies. –
21 (1) The person ~~administering~~authorized to administer the oath shall certify that
22 the deposition is a true record of the testimony given by the deponent and
23 either that (i) the deponent was duly sworn by him and that the deposition is a
24 true record of the testimony given by the deponent. the person or (ii) the
25 deponent signed a declaration because the oath was not administered. This
26 certificate shall be in writing and accompany the sound-and-visual or sound
27 recording or transcript of the deposition. ~~He~~The person shall then place the
28 deposition in an envelope or package endorsed with the title of the action and
29 marked "Deposition of (here insert name of witness)" and shall personally
30 deliver it or mail it by first class mail to the party taking the deposition or ~~his~~
31 the party's attorney who shall preserve it as the court's copy.

32 Documents and things produced for inspection during the examination of
33 the deponent shall, upon the request of a party, be marked for identification
34 and annexed to and returned with the deposition, and may be inspected and
35 copied by any party, except that (i) the person producing the materials may



1 substitute copies to be marked for identification, if he affords to all parties fair
2 opportunity to verify the copies by comparison with the originals, and (ii) if
3 the person producing the materials requests their return, the person before
4 whom the deposition is taken shall mark them, give each party an opportunity
5 to inspect and copy them, and return them to the person producing them, and
6 the materials may then be used in the manner as if annexed to and returned
7 with the deposition. Any party may move for an order that the original be
8 annexed to and returned with the deposition to the court, pending final
9 disposition of the case.

10 (2) Upon payment of reasonable charges therefor, the person administering the
11 oath shall furnish a copy of the deposition to any party or to the deponent.

12 (3) Repealed by Session Laws 2005-138, s. 3, effective October 1, 2005.

13 ...

14 (i) Content of declaration; perjury; exhibit. – A declaration signed by a deponent
15 pursuant to this rule shall have the same effect as an affirmation under G.S. 14-209, and a
16 deponent's willful perjury hereunder shall be subject to the same punishment as set forth therein.
17 A declaration signed under this rule shall contain all of the following:

18 (1) A heading setting forth information sufficient to identify the matter for which
19 the deposition was taken (including, but not limited to, the jurisdiction, court,
20 district, or division in which the action is filed), the title of the action, and the
21 name of the first party on each side with an appropriate indication of other
22 parties.

23 (2) The legal name and the address of the deponent.

24 (3) The date of the deposition.

25 (4) The following statement in bolded lettering: "Under penalty of perjury, I
26 declare that my testimony is truthful and I acknowledge that a material
27 misstatement of fact made by me while giving my testimony may be grounds
28 for a conviction of perjury under the laws of this State."

29 (5) A line for the deponent's signature, along with a line for the deponent to
30 indicate the date when the document was signed.

31 (6) Lines for the signatures of two witnesses in whose presence the deponent
32 signed the declaration.

33 The deponent's declaration shall be attached to the deposition transcript as an exhibit and
34 filed with the transcript. A person's preparation of the declaration does not constitute the
35 unauthorized practice of law."

36 **SECTION 2.** This act becomes effective October 1, 2019, and applies to depositions
37 taken on or after that date.