Adequate Preparation

By William Yoder and Melissa Plunkett

Avoiding Pitfalls and Using the Rule 30(b)(6) Deposition to Strengthen Your Client's Themes

Facing a deposition under Federal Rule of Civil Procedure 30(b)(6) presents a daunting task for any organization. The organization being deposed must create a witness prepared with all of the knowledge available to the organization about matters defined in the notice and ready to provide testimony that may be used to impeach the organization's witnesses at trial. Not only does the witness need to know the facts surrounding the noticed topics, but also must be able to explain the organization's subjective beliefs and opinions (to the extent they can be determined), thus requiring much more than simply the testimony of a personally knowledgeable individual. The Rule, however, also offers some flexibility. Because an organization essentially must create a knowledgeable witness, it can designate almost anyone to testify on its behalf, as long as that person is well prepared. Armed with the right witness, the organization can avoid the potential pitfalls and sanctions that often plague Rule 30(b)(6) depositions and use the deposition to argue the facts persuasively.

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Obligations

Duties of Preparation

Rule 30(b)(6) imposes obligations on both parties involved in the deposition of an organization. The party seeking the deposition has the obligation to describe the matters that it intends to cover in the deposition with reasonable particularity. Fed. R. Civ. P. 30(b)(6). The party facing the deposition has the reciprocal obligation to produce one or more witnesses to testify on its behalf about those noticed topics. *Id.*

Although both parties carry a burden, the burden on the organization facing the deposition is a heavy one—often described as onerous. *See, e.g.*, *Prokosch v. Catalina Lighting Inc.*, 193 F.R.D. 633, 638 (D. Minn. 2000); *Great* Am. *Ins. Co. of New York v. Vegas Const. Co., Inc.*, 251 F.R.D. 534, 540 (D. Nev. 2008); *QBE Ins. Corp. v. Jorda Enters., Inc.*, 277 F.R.D. 676, 689 (S.D. Fla. 2012); *Calzaturficio S.C.A.R.P.A. s.p.a. v. Fabiano Shoe Co.*, 201 F.R.D. 33, 37 (D. Mass. 2001) ("Even if the documents are voluminous and the review of those documents would be burdensome, the deponents are still required to review them in order to prepare themselves to be deposed."). Not only must the organization designate one or more witnesses to testify on its behalf, it must prepare the witness or witnesses to "testify about all information known or reasonably available to the organization" for any questions that could arise under the noticed topics. Fed. R. Civ. P. 30(b)(6). Because its obligation extends to all information reasonably available to the organization, the duty of preparation goes beyond what is personally known to individuals within the organization. *Johnson v. Holliday*, No. CV 15-38-JWD-RLB, 2016 WL 5334671, at *9 (M.D. La. Sept. 22, 2016); *Wilson v. Lakner*, 228 F.R.D. 524, 528 (D. Md. 2005). Indeed, an organization is required to conduct an investigation and review information that might include documents produced in discovery, fact-witness testimony, and exhibits to depositions; search through company files; interview current and former employees or others with knowledge; and seek other available sources to create a witness with responsive knowledge. *See QBE Ins. Corp.*, 277 F.R.D. at 690; *Great Am. Ins. Co. of New York v. Vegas Const. Co., Inc.*, 251 F.R.D. 534, 540 (D. Nev. 2008); *Wilson*, 228 F.R.D. at 528. Furthermore, if an organization controls information held by subsidiaries or affiliates, the organization must prepare its witnesses to answer questions about the subsidiaries' or affiliates' knowledge, as well. *In re: Benicar (Olmesartan) Prod. Liab. Litig.*, No. 15-2606 (RBK/JS), 2016 WL 5817262, at *5 (D.N.J. Oct. 4, 2016); *Eid v. Koninklijke Luchtvaart Maatschappij N.V.*, 310 F.R.D. 226, 229 (S.D.N.Y. 2015); *Twentieth Century Fox Film Corp. v. Marvel Enters., Inc.*, No. 01 CIV. 3016(AGS)(HB), 2002 WL 1835439, at *2 (S.D.N.Y. Aug. 8, 2002).

> Not only does the witness need to know the facts surrounding the noticed topics, but also must be able to explain the organization's subjective beliefs and opinions (to the extent they can be determined), thus requiring much more than simply the testimony of a personally knowledgeable individual.

The Rule 30(b)(6) duty of preparation does not demand perfection, but it requires parties undertake a good faith effort to collect all available information on the noticed topics. *Wilson*, 228 F.R.D. at 528–29. Courts regularly hold that, to meet Rule 30(b)(6)'s obligations, the deponent "must make a conscientious good-faith endeavor to designate the persons having knowledge of the matters sought by [the party noticing the deposition] and to prepare those persons in order that they can answer fully, completely, and unevasively, the questions posed… as to the relevant subject matter." *S.E.C. v. Morelli*, 143 F.R.D. 42, 45 (S.D.N.Y. 1992) (quoting *Mitsui & Co. (U.S.A.), Inc. v. Puerto Rico Water Res. Auth.*, 93 F.R.D. 62, 67 (D.P.R. 1981)). In some counts, a witness must also be prepared to answer irrelevant questions unless the party being deposed has filed a protective order. *Brooks v. Caterpillar Glob. Mining Am., LLC*, No. 4:14CV-00022-JHM, 2016 WL 5213936, at *2 (W.D. Ky. Sept. 20, 2016). Other courts use similar language, requiring that the corporation prepare the witnesses "so that they may give complete, knowledgeable and binding answers on behalf of the corporation." *Marker v. Union Fid. Life Ins. Co.*, 125 F.R.D. 121, 126 (M.D.N.C. 1989) (citing *Fed. Deposit Ins. Corp. v. Butcher*, 116 F.R.D. 196 (E.D. Tenn. 1986); *Mitsui & Co. (U.S.A.), Inc.*, 93 F.R.D. 62; *see also Ecclesiastes 9:10-11-12, Inc. v. LMC Holding Co.*, 497 F.3d 1135, 1146 (10th Cir. 2007).

The duty of designating an adequately prepared witness does not cease once the deposition begins. *Marker*, 125 F.R.D. at 126. If, during the deposition, the designated witness demonstrates that he or she is insufficiently prepared to answer questions within the noticed topics, the organization should timely designate another individual to fulfill its obligation under Rule 30(b)(6). *Id.* The organization, however, is not *always* required to designate and educate a supplemental witness if the designated witness cannot answer the opposing party's questions. First, the designated witness does not need to memorize all information available to the organization and demonstrate perfection in preparation: "The mere fact that a designee could not answer every question on a certain topic does not necessarily mean that the corporation failed to comply with its obligation." *QBE Ins. Corp.*, 277 F.R.D. at 691; *see also Costa v. Cnty. of Burlington*, 254 F.R.D. 187, 191 (D.N.J. 2008); *Chick-fil-A v. ExxonMobil Corp.*, No. 08-61422-CIV, 2009 WL 3763032, at *12 (S.D. Fla. Nov. 10, 2009). Second, the fact that a witness cannot answer questions could simply mean that the organization lacks the knowledge on the subject. "[T]he corporation's obligation under Rule 30(b)(6) does not mean that the witness can *never* answer that the corporation lacks knowledge of a certain fact. The absence of knowledge is, by itself, a fact that may be relevant to the issues in a given case." *Fraser Yachts Florida, Inc. v. Milne*, No. 05-21168-CIV-JORDAN, 2007 WL 1113251, at *2 (S.D. Fla. Apr. 13, 2007);

see also United States v. Taylor, 166 F.R.D. 356, 361 *aff'd*, 166 F.R.D. 367 (M.D.N.C. 1996); *Chick-fil-A*, 2009 WL 3763032, at *12. An organization's obligations under Rule 30(b)(6) cease when the organization, after reviewing all information reasonably available to it, lacks sufficient knowledge to answer the deposing party's questions. *Calzaturficio S.C.A.R.P.A. s.p.a.*, 201 F.R.D. at 38; *Dravo Corp. v. Liberty Mut. Ins. Co.*, 164 F.R.D. 70, 76 (D. Neb. 1995).

Still, an organization should go into a Rule 30(b)(6) deposition with an understanding of what knowledge it lacks. The organization may be required to demonstrate that it made a good faith attempt to find responsive information or explain why it lacks information on certain topic. *See Ebonie S. v. Pueblo Sch. Dist. 60*, No. CIVA 09CV00858CMAMEH, 2010 WL 728516, at *3 (D. Colo. Feb. 25, 2010) (noting that although the organization's investigation into the noticed topics did not return any relevant documents or knowledgeable individuals, the organization still had to produce a witness to testify about the topic, including the results of its investigation). As explained in more detail below, if a witness simply testifies "I don't know," or that the organization lacks knowledge, it could limit the organization's claims and defenses at trial.

Who to Designate

Although Rule 30(b)(6) places a heavy burden on the organization being deposed, it offers flexibility in who the organization designates. The organization does not have to produce the witness who is most knowledgeable on the facts surrounding the litigation. *Estate of Rosado-Rosario v. Falken Tire Corp.*, No. CV 14-1505 (FAB), 2016 WL 6407473, at *2 (D.P.R. Oct. 28, 2016); *QBE Ins. Corp.*, 277 F.R.D. at 688 ("The rule does not expressly or implicitly require the corporation or entity to produce the 'person most knowledgeable' for the corporate deposition."). Indeed, the corporation need not produce someone with any personal knowledge of the designated topics. *QBE Ins. Corp.*, 277 F.R.D. at 688; *Ecclesiastes 9:10-11-12, Inc.*, 497 F.3d at 1146–47; *see also PPM Fin., Inc. v. Norandal USA, Inc.*, 392 F.3d 889, 895 (7th Cir. 2004) (allowing witness to testify to matters outside his personal knowledge, as long as the testimony was within the organization's knowledge). Rule 30(b)(6) only requires that the organization "designate one or more officers, directors, or managing agents, or other person who consent to testify on its behalf." Fed. R. Civ. P. 30(b)(6). Because the witness appears vicariously for and represents the collective knowledge of the corporation, witnesses will often have to testify to matters outside anyone's personal knowledge. *QBE Ins. Corp.*, 277 F.R.D. at 688. As a result, as long as the witness is able to answer questions fully, completely, and unevasively, the organization can select practically anyone to serve as its representative. *Taylor*, 166 F.R.D. at 361.

Because—no matter whom an organization designates—it "is expected to create a witness or witnesses with responsive knowledge," starting with a third party who has experience testifying and preparing for depositions might offer the organization the best option in fulfilling its obligation and persuasively telling its story.

As a practical matter, an organization may wish to designate a witness other than those who are most knowledgeable or have personal knowledge of the topics. Witnesses with personal knowledge may have left the organization, forgotten relevant information, died, or may simply wish to avoid testifying for the organization. Indeed, as the court stated in *Taylor*, "a corporation has a life beyond that of mortals. Moreover, it can discharge its 'memory,' *i.e.* employees, and they can voluntarily separate themselves from the corporation. Consequently, it is not uncommon to have a situation… where a corporation indicates that it no longer employs individuals who have memory of a distant event or that such individuals are deceased." *Id.* In those situations, the corporation has no choice but to designate someone other than those with personal knowledge.

But even if witnesses with personal knowledge are available and hold distinct memories of the relevant events, the organization may not want to produce them as corporate representatives. The court in *QBE Insurance Co.* offered an explanation for why a corporation might choose someone other than those witnesses with personal knowledge: "that witness might be comparatively inarticulate, he might have a criminal conviction, she might be out of town for an extended trip, he might not be photogenic (for a videotaped deposition), she might prefer to avoid the entire process or the corporation might want to save the witness for trial." *QBE Ins. Corp.*, 277 F.R.D. at 688.

Depending on the organization and its resources, a current employee might not be the best option for Rule 30(b)(6) witnesses, and organizations might instead consider designating a third party to serve as the company representative: "Designating a third party can… present an opportunity to select a witness with testifying skills and time to prepare, ensuring the corporations' story is well-told." Joseph W. Hovermill & Matthew T. Wagman, *Ignorance of Facts Is No Defense*, 50 No. 11 DRI for Def. 52 (2008). Because—no matter whom an organization designates—it "is expected to create a witness or witnesses with responsive knowledge," starting with a third party who has experience testifying and preparing for depositions might offer the organization the best option in fulfilling its obligation and persuasively telling its story. *Wilson*, 228 F.R.D. at 528.

What Type of Questions Will the Witness Have to Answer?

As explained above, the designated witness is obligated to testify about facts within the organization's collective knowledge. This includes facts learned through the Rule 30(b)(6) investigation, even if the witness learns these facts only through counsel for the or-

ganization, so long as these facts do not encroach on attorney work product or the attorney–client privilege. *See State Farm Mut. Auto. Ins. Co. v. New Horizont, Inc.*, 250 F.R.D. 203, 214 (E.D. Pa. 2008) (noting that the plaintiff could not instruct its witness not to disclose any facts learned in discussion with counsel); *Protective Nat'l Ins. Co. of Omaha v. Commonwealth Ins. Co.*, 137 F.R.D. 267, 279 (D. Neb. 1989) (allowing questions into what facts supported the plaintiff's allegations even though the witness learned those facts through counsel). *But see Am. Nat'l Red Cross v. Travelers Indemnity Co. of R. I.*, 896 F. Supp. 8, 14 (D.D.C.1995) (holding that the defendant would not be required to answer questions about which facts and documents the defendant would use to support its affirmative defenses as those questions improperly encroached on attorney work product). A Rule 30(b)(6) witness may not refuse to provide testimony on facts known to the organization merely because the organization's attorney provided those facts to the witness. *See State Farm Mut. Auto. Ins. Co.*, 250 F.R.D. at 214 (noting that the plaintiff could not instruct its witness not to disclose any facts learned in discussion with counsel); *Protective Nat'l Ins. Co. of Omaha*, 137 F.R.D. at 279 (allowing questions into what facts supported the plaintiff's allegations even though the witness learned those facts through counsel). In *Protective*, for example, the 30(b)(6) witness, claiming attorney–client privilege, refused to answer questions about facts learned from the organization's attorneys as she prepared for the Rule 30(b)(6) deposition. *Protective Nat'l Ins. Co. of Omaha*, 137 F.R.D. at 274. The court issued an order compelling the witness to answer the question, noting "[i]t is clear that [plaintiff] was not seeking communications between client and lawyer, but rather, [plaintiff] was seeking the facts supporting the allegations contained in the answer and counterclaim. This essential distinction renders the claim of attorney–client privilege improper." *Id.* at 279. A court, however, will not necessarily require an attorney to communicate all known facts to the Rule 30(b)(6) witness. *See In re Linerboard Antitrust Litig.*, 237 F.R.D. 373, 383 (E.D. Pa. 2006). *But see In re Vitamins Antitrust Litig.*, 216 F.R.D. 168, 173 (D.D.C. 2003) (requiring that the organization prepare its witness with facts known by counsel). In *In re Linerboard Antitrust Litigation*, the court explained that to require an organization's attorney to communicate all known facts to the Rule 30(b)(6) witness would be tantamount to deposing the in-house counsel, which is only allowed under rare circumstances. 237 F.R.D. at 383. The court suggested that such circumstances might occur where the witness was "woefully unprepared" for the Rule 30(b)(6) deposition and the information sought is crucial to the case. *Id.*

A Rule 30(b)(6) witness's testimony also is required to go beyond facts known to the organization. The witness must be prepared to testify about the organization's *subjective beliefs and opinions*. *Taylor*, 166 F.R.D. at 361. In doing so, the witness will be required to provide the organization's interpretation of documents and events to the extent this can be determined and possibly provide an explanation for how the facts of the case support the organization's contentions. *Id.*; *Paul Revere Life Ins. Co. v. Jafari*, 206 F.R.D. 126, 127 (D. Md. 2002). Of course, an organization does not have to make up a formal position on particular documents or issues if it does not already have one. Whether it is advantageous to have a formal position will depend on the case, and is an issue that should be addressed when preparing the witness.

Consequences of an Unprepared Witness

If a party fails to comply with Rule 30(b)(6) obligations by providing an inadequately prepared witness, it opens itself up to a variety of sanctions. *See Taylor*, 166 F.R.D. 356 (explaining that the organization could face "a panoply of sanctions, from the imposition of costs to entry of default"). "[W]hen a witness is designated by a corporate party to speak on its behalf pursuant to Rule 30(b)(6), producing an unprepared witness is tantamount to a failure to appear that is sanctionable under Rule 37(d)." *See Black Horse Lane Assocs., L.P. v. Dow Chem. Corp.*, 228 F.3d 275, 304 (3d Cir. 2000); *see also QBE Ins. Corp.*, 277 F.R.D. at 690; *Reilly v. Natwest Markets Grp. Inc.*, 181 F.3d 253, 268 (2d Cir. 1999); *Taylor*, 166 F.R.D. at 363; *Great Am. Ins. Co. of New York v. Vegas Const. Co., Inc.*, 251 F.R.D. 534, 542 (D. Nev. 2008). Sanctions imposed at the court's discretion could thus include those listed under Rule 37(b)(2)(A):

> (i) directing that the matters embraced in the order or other designated facts be taken as established for purposes of the action, as the prevailing party claims; (ii) prohibiting the disobedient party from supporting or opposing designated claims or defense, or from introducing designated matter in evidence; (iii) striking pleadings in whole or in part; (iv) staying further proceedings until the order is obeyed; (v) dismissing the action or proceeding in whole or in part; (vi) rendering a default judgment against the disobedient party; or (vii) treating as contempt of court the failure to obey any order except an order to submit to a physical or mental examination.

But for the court to impose sanctions, "'the inadequacies in a deponent's testimony must be egregious and not merely lacking in desired specificity in discrete areas.'" *Bank of N.Y. v. Meridien Biao Bank Tanzania Ltd.*, 171 F.R.D. 135, 151 (S.D.N.Y. 1997) (quoting *Zappia Middle East Constr. Co. v. Abu Dhabi*, No. 94 Civ. 1942, 1995 WL 686715, at *8 (S.D.N.Y. Nov. 17, 1995)); *Wilson*, 228 F.R.D. at 530 ("Again it is a matter of whether there have been good faith efforts to prepare, so that if a witness has rendered substantial 'testimony concerning the subject areas of their designations,' sanctions might well not be in order." (quoting *Zappia Middle East Constr. Co.*, 1995 WL 686715, at *8)). "Once a court decides to sanction a party, it must then calibrate the extent of the sanction 'guided by the concept of proportionality between the offense and sanction' such that any sanction is just." *Smith v. D.C.*, No. CV 15-161 ABJ/DAR, 2016 WL 7115957, at *5 (D.D.C. Dec. 6, 2016) (quoting *DL v. D.C.*, 274 F.R.D. 320, 325 (D.D.C. 2011)).

One common sanction used by courts is to require that the organization re-designate the witness or designate and prepare a supplemental witness and cover the costs of the new deposition. *See, e.g.*, *Wilson*, 228 F.R.D. at 530 ("Should [plaintiff's] counsel elect to reconvene 30(b)(6) depositions, the Court will entertain from her an appropriate motion for attorney's fees and costs.");

Resolution Trust Corp. v. Southern Union Co., 985 F.2d 196, 197–98 (5th 1993); *Calzaturficio S.C.A.R.P.A. S.P.A.*, 201 F.R.D. at 41; *Marker*, 125 F.R.D. at 126–27.

A court may also allow the deposing party to pose specific interrogatories and requests for production to supplement the incomplete Rule 30(b)(6) deposition. *Coty Inc. v. Excell Brands, LLC*, No. 15-CV-7029 (JMF), 2016 WL 7187630, at *3 (S.D.N.Y. Dec. 9, 2016) ("Excell is ordered to reimburse Plaintiffs for their 'reasonable expenses, including attorney's fees,' caused by its failure to produce adequately prepared witnesses, including the attorney's fees incurred in connection with both Rule 30(b)(6) depositions (albeit discounted to reflect the fact that Excell's witnesses were apparently prepared to provide testimony on topics other than those discussed above), preparation of Plaintiff's June 2, 2016 letter motion (Docket No. 67), and preparation of this motion (Docket No. 72)."); *Alexander v. FBI*, 186 F.R.D. 148, 154 (D.D.C. 1999) ("If, after they have received written discovery responses on this issue, a new Rule 30(b)(6) oral deposition is warranted, plaintiffs may again move to compel such a deposition at that time."). Other options include awarding costs and attorneys' fees incurred in filing the motion to compel or imposing monetary sanctions against the organization or the organization's attorneys. *In re Vitamins Antitrust Litig.*, 216 F.R.D. at 175 (approving the magistrate's recommendation that the organization and its attorneys pay the reasonable expenses incurred in presenting the motion to compel); *Black Horse Lane Assoc., L.P. v. Dow Chem. Corp.*, 228 F.3d 275, 300 (3d Cir. 2000) (affirming imposition of monetary sanctions for an unprepared 30(b)(6) witness). But a court could go as far as precluding an organization from providing other witnesses at trial or from offering any testimony on the subjects for which the witness could not answer—a sanction typically reserved for flagrant violations. *See Reilly v. Natwest Mkts. Grp. Inc.*, 181 F.3d 253, 269 (2d Cir. 1999); *QBE Ins. Corp.*, 277 F.R.D. at 681; *Great Am. Ins. Co. of New York v. Vegas Const. Co., Inc.*, 251 F.R.D. 534, 543 (D. Nev. 2008); *Great Am. Ins. Co. of New York*, 251 F.R.D. at 543. Some courts have even imposed a "three strikes" rule for discovery violations, meaning that case can be dismissed after the court gives a plaintiff "no fewer than three chances to make good their discovery obligation." *Lee v. Max Int'l, LLC*, 638 F.3d 1318, 1321 (10th Cir. 2011).

Furthermore, although not necessarily considered a sanction, a court may decide that if the witness was unable to answer all questions—even if the corporation fulfilled its obligations under Rule 30(b)(6) to provide all information reasonably available—the "I/We don't know" answer is binding on the corporation. *QBE Ins. Corp.*, 277 F.R.D. at 690; *Wilson*, 228 F.R.D. at 530. A court may prevent an organization from changing its answer by offering contrary testimony or evidence at trial. *Ierardi v. Lorillard, Inc.*, CIV. A. 90-7049, 1991 WL 158911, at *3 (E.D. Pa. Aug. 13, 1991). This prohibition prevents "trial by ambush" or "sandbagging": an organization is not allowed to make a "half-hearted inquiry before the deposition but a thorough and vigorous one before the trial." *Id.* More courts, however, find that Rule 30(b)(6) deposition answers are not binding in the sense of judicial admissions, but the "I/We don't know" answer may be used for impeachment just like other deposition testimony. *Wilson*, 228 F.R.D. at 530; *A.I. Credit Corp. v. Legion Ins. Co.*, 265 F.3d 630, 637 (7th Cir. 2001) (finding that the corporations answers during the 30(b)(6) deposition do not bind the corporation in the sense of a judicial admission, but may be used, as any other deposition testimony, for impeachment purposes); *Taylor*, 166 F.R.D. at 363 (agreeing that such as strategy could render the 30(b)(6) deposition a nullity, but noting that Rule 30(b)(6) deposition answers are not judicial admissions). An organization will thus want to perform a thorough investigation of all noticed topics before the Rule 30(b)(6) deposition to avoid limiting its ability to present testimony and evidence at trial.

Tips for Practitioners

If you receive a Rule 30(b)(6) notice, you should begin thinking about your preparation immediately. Because the scope of the noticed topics drives the scope of the preparation, the best route to adequate preparation is to ensure that the Rule 30(b)(6) notice is narrowly tailored and reasonably particularizes the topics that will be addressed during the deposition. For more information on reasonable particularity and challenging overly broad topics, please see our earlier article: Reasonable Particularity: The Starting Point for Effective Rule 30(b)(6) Depositions, *For the Defense*, July 2014. Of particular importance, if the notice is overly broad, challenge it immediately with the opposing party and, if necessary, the court. Adequately preparing a witness can become impossible if the notice is not reasonably particularized.

Next, you should identify potential witnesses within, or outside of, the organization to testify on the organization's behalf. Choose the best witness—one who will effectively develop the organization's themes—and not necessarily just the person with the most personal knowledge at the time. Depending on the organization's resources, it may be best to select someone outside of the organization, without personal knowledge, who will be able to learn relevant facts and testify about the organization's knowledge.

Finally, the witness should beware of saying "I/We don't know." A witness who is adequately prepared on the facts of the case and the themes that the organization wishes to highlight at trial should go into the deposition able to field all questions under the noticed topics while framing the organization's knowledge. An inadequately prepared witness, on the other hand, can limit the themes available for use at trial with an "I/We don't know" answer, becoming a detriment to the overall trial strategy.

Conclusion

Simply put, preparation is key. An organization who goes into a Rule 30(b)(6) deposition with full knowledge of what information is available, what information is unavailable, and the themes it wants to assert at trial, can prepare a witness to further the organization's trial strategy from the beginning. An unprepared witness, on the other hand, can not only bring sanctions against the organization or the organization's attorney, but can also limit an organization's options at trial. So although the burden of the Rule 30(b)(6) may seem onerous, it is one that the organization must tackle with full force, using what flexibility is allowed to its advantage, to strengthen its outlook for trial. IDQ