

Cherokee Nation Code Annotated

Title 20: Courts

Appendix I. Supreme Court Rules and Procedures

X. Witnesses

Rule 80. Examination of witnesses generally—Depositions

Cite as: 20 CNCA app. I, r. 80

A. Witnesses shall be examined orally under oath, except that for good cause shown after the issuance of a notice, testimony may be taken by deposition.

B. Applications to take depositions shall be in writing, setting forth the reasons why such depositions should be taken, the name and address of the witness, the matters concerning which it is expected the witness will testify, and the time and place proposed for the taking of the deposition, together with the name and address of the person before whom it is desired that the deposition be taken (for the purposes of this section hereinafter referred to as the officer). Such application shall be made to the office of the Supreme Court prior to the hearing, and to the Presiding Justice during the hearing. Such application shall be served by the Justice on all other parties, not less than seven (7) days (when the deposition is to be taken within the continental United States) and fifteen (15) days (if the deposition is to be taken elsewhere) prior to the time when it is desired that the deposition be taken. The Justice shall have the discretion upon receipt of the application, if good cause has been shown, to make and serve on the parties an order which will specify the name of the witness whose deposition is to be taken, the time and the place, and designation of the officer before whom the witness is to testify, who may or may not be the same officer as the one specified in the application. Such order shall be served on all the other parties by the Justice.

C. Such deposition may be taken before any officer authorized by law to administer oaths.

D. At the time and place specified in said order, the officer designated to take such deposition shall permit the witness to be examined and cross-examined under oath by all the parties appearing, and the testimony shall be reduced to typewriting by the officer or under the officer's direction. All objections to questions or evidence shall be deemed waived unless made at the examination. The officer shall not have the power to rule upon any objections but shall note them upon the deposition. The testimony shall be subscribed by the witness in the presence of the officer, who shall attach a certificate stating that the witness was duly sworn by the officer, that the deposition is a true record of the testimony and exhibits given by the witness, and that said officer is not of counsel or attorney to any of the parties nor interested in the event of the proceeding. If the deposition is not signed by the witness because of illness or death, because the witness cannot be found or refuses to

sign it, such fact shall be included in the certificate of the officer and the deposition may then be used as fully as though signed. The officer shall immediately deliver an original and two (2) copies of said transcript, together with the certificate, in person or by certified mail with return receipt requested, to the office of the Supreme Court.

E. The Justice shall rule upon the admissibility of the deposition or any part thereof.

F. All errors or irregularities in compliance with the provisions of this rule shall be deemed waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence, might have been, ascertained.

G. If the parties so stipulate in writing, depositions may be taken before any person at any time or place, upon any notice and in any manner, and when so taken may be used like other depositions.

Historical Data

SC-AD-13-01, adopted March 27, 2013.