

ADMINISTRATIVE ORDER OF THE
CHIEF ADMINISTRATIVE JUDGE OF THE COURTS

Pursuant to the authority vested in me, and with the advice and consent of the Administrative Board of the Courts, I hereby adopt Rule 11-d of section 202.70(g) of the Uniform Rules for the Supreme and County Courts (Rules of Practice for the Commercial Division) and amend Rules 8(b) and 11(c) of those Rules of Practice, effective April 1, 2015, to read as follows:

Rule 11-d. **Limitations on Depositions.**

(a) Unless otherwise stipulated to by the parties or ordered by the court:

(1) the number of depositions taken by plaintiffs, or by defendants, or by third-party defendants, shall be limited to 10; and

(2) depositions shall be limited to 7 hours per deponent.

(b) Notwithstanding subsection (a)(1) of this Rule, the propriety of and timing for depositions of non-parties shall be subject to any restrictions imposed by applicable law.

(c) For the purposes of subsection (a)(1) of this Rule, the deposition of an entity pursuant to CPLR 3106(d) shall be treated as a single deposition even though more than one person may be designated to testify on the entity's behalf.

(d) For the purposes of this Rule, each deposition of an officer, director, principal or employee of an entity who is also a fact witness, as opposed to an entity representative pursuant to CPLR 3106(d), shall constitute a separate deposition.

(e) For good cause shown, the court may alter the limits on the number of depositions or the duration of an examination.

(f) Nothing in this Rule shall be construed to alter the right of any party to seek any relief that it deems appropriate under the CPLR or other applicable law.

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Rule 8. Consultation prior to Preliminary and Compliance Conferences.

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(b) Prior to the preliminary conference, counsel shall confer with regard to anticipated electronic discovery issues. Such issues shall be addressed with the court at the preliminary conference and shall include but not be limited to (i) identification of potentially relevant types or categories of electronically stored information ("ESI") and the relevant time frame; (ii) disclosure of the applications and manner in which the ESI is maintained; (iii) identification of potentially relevant sources of ESI and whether the ESI is reasonably accessible; (iv) implementation of a preservation plan for potentially relevant ESI; (v) identification of the individual(s) responsible for preservation of ESI; (vi) the scope, extent, order, and form of production; (vii) identification, redaction, labeling, and logging of privileged or confidential ESI; (viii) claw-back or other provisions for privileged or protected ESI; (ix) the scope or method for searching and reviewing ESI; (x) the anticipated cost and burden of data recovery and proposed initial allocation of such costs; and (xi) designation of experts; and (xii) the need to vary the presumptive number or duration of depositions set forth in Rule 11-d.

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Rule 11. Discovery.

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(c) The preliminary conference order may provide for such limitations of interrogatories and other discovery as may be necessary to the circumstances of the case. Additionally, the court should consider the appropriateness of altering prospectively the presumptive limitations on depositions set forth in Rule 11-d.

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Chief Administrative Judge of the Courts

Dated: December 22, 2014

AO/336/14