

TO: THE BAR AND THE BENCH OF VIRGINIA

**FROM: Advisory Committee on Rules of Court
Judicial Council of Virginia**

September 6, 2019

In the spring of 2019, the Advisory Committee on Rules of Court recommended, and the Supreme Court of Virginia approved, an amendment to the standard pretrial order form for civil cases to increase the timeframes set out in the order for designation of non-party deposition testimony and establish a timeframe in which to accomplish counter-designations and hold a hearing on objections for trial. Effective September 1, 2019 the standard pretrial scheduling order, Paragraph XI, has been amended to lengthen the amount of time before trial in which the parties should be exchanging deposition designations and any objections thereto.

The Advisory Committee now seeks comment on whether the Alternative Pretrial Order for Eminent Domain Cases, Form 3-A, should be similarly amended as follows.

FORM 3-A Alternative Pretrial Order for Eminent Domain Cases

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XI. Deposition Transcripts to be Used at Trial

Counsel of record shall confer and attempt to identify and resolve all issues regarding the use of depositions at trial. It is the obligation of the proponent of any deposition of any non-party witness who will not appear at trial to advise opposing counsel of record of counsel's intent to use all or a portion of the deposition at trial at the earliest reasonable opportunity. Other than trial depositions taken after completion of discovery under Paragraph II, designations of portions of non-party depositions, other than for rebuttal or impeachment, shall be exchanged no later than 30 ~~15~~ days before trial, except for good cause shown or by agreement of counsel. It becomes the obligation of the non-designating parties ~~opponent~~ of any such designated deposition to bring any objection or other unresolved issues to the court for hearing before the day of trial, and to counter designate any additional portions of designated depositions at least 5 days before such hearing, file any objection or counter-designation within seven days after the proponent's designation. Further, it becomes the obligation of the non-designating parties to bring any objections or other unresolved issues to the court for hearing no later than five days before the day of trial. ~~bring any objection or other unresolved issues to the court for hearing before the day of trial, and to counter designate any additional portions of designated depositions at least 5 days before such hearing.~~

The Advisory Committee on Rules of Court invites comments on the draft revisions to the Virginia Rules published herewith.

Send comments by to **December 12, 2019** to:

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