

Sec. 31-372-25. Depositions

(a) Discovery.

(1) For reasons of unavailability or for other good cause shown, the testimony of any witness may be taken by deposition. Depositions may be taken orally or upon written interrogatories before any person designated by the presiding hearing examiner and having power to administer oaths.

(2) Any party desiring to take the deposition of a witness may make application in writing to the presiding hearing examiner, setting forth:

- (i) The reasons why such deposition should be taken;
- (ii) The time when, the place where, and the name and post office address of the person before whom the deposition is to be taken;
- (iii) The name and address of each witness; and
- (iv) The subject matter concerning which each witness is expected to testify.

(3) Such notice as the presiding hearing examiner may order shall be given by the party taking the deposition to every other party.

(4) Each witness testifying upon deposition shall be sworn, and the parties not calling him shall have the right to cross-examine him. The questions propounded and the answers thereto, together with all objections made, shall be reduced to writing, read to the witness, subscribed by him, and certified by the officer before whom the deposition is taken. Thereafter, the officer shall seal the deposition, with two copies thereof, in an envelope and mail the same by registered mail to the presiding hearing examiner. Subject to such objections to the questions and answers as were noted at the time of taking the deposition and would be valid were the witness personally present and testifying, such deposition may be read and offered in evidence by the party taking it as against any party who was present, represented at the taking of the deposition, or who had due notice thereof. No part of a deposition shall be admitted in evidence unless there is a showing that the reasons for the taking of the deposition in the first instance exist at the time of hearing.

(b) Whenever appropriate to a just disposition of any issue in a hearing, the presiding hearing examiner may allow discovery by any other appropriate procedure, such as by written interrogatories upon a party, production of documents by a party, or by entry for inspection of the employment or place of employment involved.

(Effective September 11, 1974)