
mental condition must be an issue **in controversy**. Under Rule 35(b), the party causing the examination must furnish the examined party with all earlier examinations to which the party may have access, including test results. The examined party must then make similar disclosure in return.

G. Miscellaneous Discovery Issues

1) DISCOVERY BEFORE ACTION IS FILED

A petitioner may attempt under Rule 27(a) to obtain discovery before an actual case is filed in the court. A person or entity seeking to obtain such discovery may file a **verified** petition in the federal district court in the county of the residence of any expected adverse party.

2) USE OF DEPOSITIONS AT TRIAL

Rule 32 provides that, so far as otherwise admissible under the Federal Rules of Evidence, any part or all of a deposition (if necessary to be fair), may be submitted at a trial:

- a) **To impeach** a deponent as a witness;
- b) For any purpose if the deponent was a **corporate representative** and the evidence is used against the corporation; or
- c) For any purpose if the deponent is **dead or unavailable** because he or she is outside of a court's subpoena power.

3) EXPERT TESTIMONY

When knowledge of a **technical subject matter** might be helpful to a trier of fact, a person having special training or experience in that technical field, one who is called an expert witness, is permitted to state his or her opinion concerning those technical matters even though he or she was not present at an event that relates to a disputed issue. For example, an arson expert could testify about the probable cause of a suspicious fire. The information that an expert relies on to testify, or to prepare a report that the expert relies upon when testifying, is **discoverable**.

4) PROTECTIVE ORDER

A party or person from whom discovery is being sought may file a motion for a protective order under Rule 26(c) upon a showing of **good cause**. The order may serve to limit the scope and nature of discovery methods or to preclude the discovery of certain information. The court may make any order that **justice requires** in order to protect a party or person from annoyance, embarrassment, oppression, undue burden, or expense. A protective order may cut off or limit the scope, manner, and time of discovery, as well as the persons who may be present then. A protective order may serve to seal depositions from public access. A protective order may require that certain discoverable materials be submitted to discovery under seal to the court in order to protect confidential information such as trade secrets.