

C

Effective: July 1, 2005

West's Annotated California Codes [Currentness](#)

Code of Civil Procedure ([Refs & Annos](#))

Part 4. Miscellaneous Provisions ([Refs & Annos](#))

Title 4. Civil Discovery Act ([Refs & Annos](#))

Chapter 9. Oral Deposition Inside California ([Refs & Annos](#))

Article 6. Post-Deposition Procedures ([Refs & Annos](#))

§ 2025.620. Use of deposition at trial or other hearings; procedural requirements; permitted uses; submission of total or partial testimony

At the trial or any other hearing in the action, any part or all of a deposition may be used against any party who was present or represented at the taking of the deposition, or who had due notice of the deposition and did not serve a valid objection under [Section 2025.410](#), so far as admissible under the rules of evidence applied as though the deponent were then present and testifying as a witness, in accordance with the following provisions:

(a) Any party may use a deposition for the purpose of contradicting or impeaching the testimony of the deponent as a witness, or for any other purpose permitted by the Evidence Code.

(b) An adverse party may use for any purpose, a deposition of a party to the action, or of anyone who at the time of taking the deposition was an officer, director, managing agent, employee, agent, or designee under Section 2025.230 of a party. It is not ground for objection to the use of a deposition of a party under this subdivision by an adverse party that the deponent is available to testify, has testified, or will testify at the trial or other hearing.

(c) Any party may use for any purpose the deposition of any person or organization, including that of any party to the action, if the court finds any of the following:

(1) The deponent resides more than 150 miles from the place of the trial or other hearing.

(2) The deponent, without the procurement or wrongdoing of the proponent of the deposition for the purpose of preventing testimony in open court, is any of the following:

(A) Exempted or precluded on the ground of privilege from testifying concerning the matter to which the deponent's testimony is relevant.

(B) Disqualified from testifying.

(C) Dead or unable to attend or testify because of existing physical or mental illness or infirmity.

(D) Absent from the trial or other hearing and the court is unable to compel the deponent's attendance by its process.

(E) Absent from the trial or other hearing and the proponent of the deposition has exercised reasonable diligence but has been unable to procure the deponent's attendance by the court's process.

(3) Exceptional circumstances exist that make it desirable to allow the use of any deposition in the interests of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court.

(d) Any party may use a video recording of the deposition testimony of a treating or consulting physician or of any expert witness even though the deponent is available to testify if the deposition notice under [Section 2025.220](#) reserved the right to use the deposition at trial, and if that party has complied with [subdivision \(m\) of Section 2025.340](#).

(e) Subject to the requirements of this chapter, a party may offer in evidence all or any part of a deposition, and if the party introduces only part of the deposition, any other party may introduce any other parts that are relevant to the parts introduced.

(f) Substitution of parties does not affect the right to use depositions previously taken.

(g) When an action has been brought in any court of the United States or of any state, and another action involving the same subject matter is subsequently brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the initial action may be used in the subsequent action as if originally taken in that subsequent action. A deposition previously taken may also be used as permitted by the Evidence Code.

CREDIT(S)

(Added by [Stats.2004, c. 182 \(A.B.3081\), § 23, operative July 1, 2005.](#))

LAW REVISION COMMISSION COMMENTS

2004 Addition

The introductory clause of Section 2025.620 continues the introductory clause of former Section 2025(u) without change, except to conform the cross-reference.

Subdivision (a) continues former Section 2025(u)(1) without change.

Subdivision (b) continues former Section 2025(u)(2) without change, except to replace paragraph with subdivi-

sion and to conform the cross-reference.

Subdivision (c) continues former Section 2025(u)(3) without substantive change.

Subdivision (d) continues former Section 2025(u)(4) without change, except to conform the cross-references.

Subdivision (e) continues former Section 2025(u)(5) without change, except to replace section with chapter.

Subdivision (f) continues former Section 2025(u)(6) without change.

Subdivision (g) continues former Section 2025(u)(7) without change. [33 Cal.L.Rev.Comm. Reports 875 (2004)].

OFFICIAL FORMS

2007 Main Volume

<Mandatory and optional Forms adopted and approved by the Judicial Council are set out in West's California Judicial Council Forms Pamphlet.>

HISTORICAL AND STATUTORY NOTES

2007 Main Volume

For the source of this section's subject matter, see the Disposition and Derivation Tables at Title 4 of Part 4 of the Code of Civil Procedure preceding § 2016.010 et seq. (If using an electronic publication, see Refs & Annos (References, Annotations, or Tables).)

Legislative intent and operative effect relating to Stats.2004, c. 182 (A.B.3081), see Historical and Statutory Notes under [Code of Civil Procedure § 2016.010](#).

Derivation: Former § 2006, enacted 1872, amended by Stats.1907, c. 392, p. 731, § 1; Stats.1929, c. 474, p. 835, § 1.

Former § 2016, added by Stats.1957, c. 1904, § 3, amended by Stats.1959, c. 1590, § 1; Stats.1961, c. 496, § 2; Stats.1961, c. 2067, 1; Stats.1963, c. 1744, § 1; Stats.1965, c. 299, § 125; Stats.1982, c. 848, § 1; Stats.1984, c. 1127, § 1.

Former § 2018, added by Stats.1957, c. 1904, § 3, amended by Stats.1961, c. 192, § 1.

Former § 2019, added by Stats.1957, c. 1904, § 3, amended by Stats.1959, c. 1590, § 2; Stats.1961, c. 192, § 2; Stats.1963, c. 519, § 1; Stats.1968, c. 918, § 1; Stats.1969, c. 1034, § 2; Stats.1976, c. 79, § 1; Stats.1978, c. 383, § 1; Stats.1978, c. 1384, § 1; Stats.1979, c. 19, § 1; Stats.1980, c. 677, § 1; Stats.1980, c. 970, § 2; Stats.1982, c. 192, § 1; Stats.1985, c. 444, § 2.

Former § 2020, enacted 1872, amended by Stats.1909, c. 628, p. 965, § 1.

Former § 2021, added by Stats.1957, c. 1904, § 3, amended by Stats.1959, c. 1590, § 4; Stats.1961, c. 192, § 3.

Former § 2021, enacted 1872, amended by Code Am.1875-76, c. 220, p. 105, § 1; Code Am.1877-78, c. 167, p. 112, § 1; Stats.1905, c. 134, p. 137, § 1; Stats.1935, c. 58, p. 394, § 1; Stats.1939, c. 195, p. 1441, § 1; Stats.1955, c. 1133, p. 2126, § 1.

Former § 2022, added by Stats.1907, c. 392, p. 732, § 2.

Former § 2023, added by Stats.1907, c. 392, p. 732, § 3.

Former § 2024, added by Stats.1957, c. 1904, p. 3330, § 3, amended by Stats.1959, c. 1590, p. 3927, § 6.

Former § 2024, enacted 1872, amended by Code Am. 1873-74, c. 383, p. 389, 243; Code Am. 1880, c. 111, p. 115, § 3; Stats.1891, c. 52, p. 51, § 1; Stats.1907, c. 392, p. 732, § 4; Stats.1909, c. 627, p. 965, § 1; Stats.1917, c. 190, p. 280, § 1; Stats.1951, c. 1737, p. 4143, § 173.

Former § 2025, added by Stats.1986, c. 1334, § 2, amended by Stats.1987, c. 86, § 8; Stats.1988, c. 160, § 20; Stats.1988, c. 553, § 3; Stats.1989, c. 1360, § 13; Stats.1989, c. 1137, § 1; Stats.1989, c. 1416, § 29.5; Stats.1990, c. 1491 (A.B.3765), § 11.5; Stats.1991, c. 1090 (A.B.1484), § 10; Stats.1993, c. 926 (A.B.2205), § 9; Stats.1994, c. 660 (A.B.3670), § 5; Stats.1995, c. 576 (A.B.1225), § 7; Stats.1997, c. 395 (S.B.544), § 1; Stats.1998, c. 875 (S.B.2145), § 1; Stats.1998, c. 932 (A.B.1094), § 22; Stats.1998, c. 974 (A.B.2150), § 4; Stats.1999, c. 892 (A.B.1672), § 13; Stats.2000, c. 474 (S.B.877), § 1; Stats.2001, c. 812 (A.B.223), § 9.6; Stats.2002, c. 1068 (A.B.2842), § 2.

Former § 2028, enacted 1872.

Former § 2031, enacted 1872, amended by Stats.1929, c. 488, p. 850, § 1.

Former § 2032, enacted 1872, amended by Stats.1929, c. 474, p. 835, § 2.

Former § 2034, added by Stats.1957, c. 1904, § 3, amended by Stats.1959, c. 1590, § 12; Stats.1961, c. 496, § 3; Stats.1965, c. 126, § 1; Stats.1968, c. 188, § 3; Stats.1974, c. 592, § 2; Stats.1974, c. 732, § 4; Stats.1978, c. 265, § 2; Stats.1980, c. 23, § 2; Stats.1981, c. 714, § 75; Stats.1982, c. 138, § 1.

Former § 2038, enacted 1872, amended by Stats.1951, c. 1737, p. 4144, § 175.

Former § 2084.2, added by Stats.1953, c. 1077, p. 2568, § 5.

Former § 2086, enacted 1872, amended by Code Am.1873-74, c. 383, p. 392, § 247; Stats.1953, c. 1077, p. 2567, § 3.

Former § 2088, enacted 1872, amended by Code Am.1873-74, c. 383, p. 393, § 249.

Former § 2089, enacted 1872.

Stats.1851, c. 5, p. 118, §§ 428, 430, 432, 440, 442; Stats.1859, c. 210, p. 219, § 3.

CROSS REFERENCES

“Action” defined for purposes of this Title, see [Code of Civil Procedure § 2016.020](#).

“Court” defined for purposes of this Title, see [Code of Civil Procedure § 2016.020](#).

Depositions, see [Code of Civil Procedure § 2020.010 et seq.](#), [§ 2025.010 et seq.](#), [§ 2026.010](#), [§ 2027.010](#), [§ 2028.010 et seq.](#), [§ 2029.010](#).

Notice, actual and constructive, defined, see [Civil Code § 18](#).

“Witness” defined for purposes of this Code, see [Code of Civil Procedure § 1878](#).

LAW REVIEW AND JOURNAL COMMENTARIES

Public access to confidential discovery: The California perspective. Walter W. Heiser, [35 W. St. U. L. Rev. 55 \(2007\)](#).

LIBRARY REFERENCES

2007 Main Volume

[Pretrial Procedure](#)  [75](#), 201.

Westlaw Topic No. [307A](#).

[C.J.S. Depositions §§ 86, 103 to 105, 108 to 129](#).

[C.J.S. Discovery § 69](#).

RESEARCH REFERENCES

Encyclopedias

[California Civil Practice Procedure § 13:27](#), Oral Depositions.

[California Civil Practice Procedure § 13:36](#), Contents of Deposition Notice.

[California Civil Practice Procedure § 13:67](#), Notice of Oral Deposition of Party Deponent [Code Civ. Proc., S2025.220].

[California Civil Practice Procedure § 13:68](#), Notice of Oral Deposition of Nonparty Deponent [Code Civ. Proc., S2025.220].

[California Civil Practice Procedure § 13:122](#), Notice of Taking Deposition by Written Questions [Code Civ. Proc., S2028.020].

[California Civil Practice Procedure § 13:277](#), Expert Deposition Fees.

[California Civil Practice Procedure § 13:278](#), Matters to Consider in Making or Responding to Demand for Exchange of Expert Witness Information.

Forms

[West's California Judicial Council Forms SUBP-015](#), (Formerly 982(A)(15.3)) (07) Deposition Subpoena for Personal Appearance.

[West's California Judicial Council Forms SUBP-020](#), (Formerly 982(A)(15.4)) (07) Deposition Subpoena for Personal Appearance and Production of Documents and Things.

Treatises and Practice Aids

[Avoiding and Defending Wrongful Discharge Claims § 22:11](#), Videotaped Depositions.

[California Medical Malpractice Law and Practice § 15:1](#), Depositions--In General.

[California Medical Malpractice Law and Practice § 15:2](#), Pre-Deposition Planning.

[California Medical Malpractice Law and Practice § 17:7](#), Motions in Limine.

[California Medical Malpractice Law and Practice § 13:10](#), Expert Data Base--Formal Discovery.

[California Medical Malpractice Law and Practice § 13:11](#), Defendants' Courtroom Admissions.

[California Medical Malpractice Law and Practice § 15:10](#), Depositions of Experts--Planning.

[Rutter, Cal. Practice Guide: A.D.R. Ch. 4-B](#), B. Judicial Arbitration.

[Rutter, Cal. Practice Guide: Civ. Pro. Before Trial Ch. 13-E](#), E. the Arbitration Hearing.

[Rutter, Cal. Practice Guide: Civ. Pro. Before Trial Ch. 8E-4](#), Notice of Deposition.

[Rutter, Cal. Practice Guide: Civ. Pro. Before Trial Ch. 8E-9](#), Preservation of Testimony.

[Rutter, Cal. Practice Guide: Civ. Pro. Before Trial Ch. 8E-10](#), Protective Orders.

[Rutter, Cal. Practice Guide: Civ. Pro. Before Trial Ch. 8E-16](#), Use of Depositions at Trial.

[Rutter, Cal. Practice Guide: Civ. Pro. Before Trial Ch. 8E-17](#), Use of Depositions in Judicial Arbitration Hearings.

[Rutter, Cal. Practice Guide: Civil Trials & Evidence Ch. 1-C](#), C. Marshalling the Evidence.

[Rutter, Cal. Practice Guide: Civil Trials & Evidence Ch. 1-K](#), K. Continuance Motions.

[Rutter, Cal. Practice Guide: Civil Trials & Evidence Ch. 4-B](#), B. Preliminary Matters Discussed in Final Status Conference or In-Chambers Conference.

[Rutter, Cal. Practice Guide: Civil Trials & Evidence Ch. 10-D](#), D. Objectives of Cross-Examination.

[Rutter, Cal. Practice Guide: Civil Trials & Evidence Ch. 13-E](#), E. Presentation of Closing Argument.

[Rutter, Cal. Practice Guide: Civil Trials & Evidence Ch. 8C-E](#), E. Audio or Visual Recordings.

[Rutter, Cal. Practice Guide: Civil Trials & Evidence Ch. 8C-I](#), I. Depositions and Discovery.

[Rutter, Cal. Practice Guide: Civil Trials & Evidence Ch. 8D-C](#), C. General Parameters Re Admissibility of Hearsay Evidence.

[Rutter, Cal. Practice Guide: Civil Trials & Evidence Ch. 8D-D](#), D. Hearsay Exceptions.

Rutter, Cal. Practice Guide: Family Law Ch. 11-C, C. Optional "Formal" Discovery Procedures.

Rutter, Cal. Practice Guide: Family Law Ch. 13-B, B. Contested Family Law Trial.

Rutter, Cal. Practice Guide: Personal Injury Ch. 2-B, B. General Investigation Tactics.

Rutter, Cal. Practice Guide: Personal Injury Ch. 6-B, B. Overview of Selected Discovery Procedures.

Rutter, Cal. Practice Guide: Personal Injury Ch. 7-G, G. Arbitration Hearing.

Rutter, Cal. Practice Guide: Personal Injury Ch. 8-C, C. Two Months Before Trial.

Rutter, Cal. Practice Guide: Personal Injury Ch. 9-H, H. Introduction of Discovered Evidence.

Rutter, Cal. Practice Guide: Prof. Responsibility Ch. 11-F, F. Investigation Stage.

Dunne on Depositions in California § 1:9, Advantages of Interrogatories Over Depositions--Answers May Provide Clean Trial Testimony.

Dunne on Depositions in California § 3:7, Who Must be Served With Notice.

Dunne on Depositions in California § 1:12, Advantages of Depositions Over Interrogatories--Videotaped Depositions Effective for Impeachment Purposes.

Dunne on Depositions in California § 1:57, Advantages of Expert Disclosure Procedures Over Regular Depositions.

Dunne on Depositions in California § 1:61, Strategic and Tactical Considerations.

Dunne on Depositions in California § 12:1, Use of Written Depositions in General.

Dunne on Depositions in California § 13:2, Admissibility in General.

Dunne on Depositions in California § 13:3, Use Against a Party.

Dunne on Depositions in California § 13:4, Use Against Agent.

Dunne on Depositions in California § 13:5, Use to Impeach.

Dunne on Depositions in California § 13:6, Unavailability of Witness.

Dunne on Depositions in California § 13:9, for Completeness.

Dunne on Depositions in California § 14:8, Use of an Organization's Deposition at Trial.

Dunne on Depositions in California § 2:15, Written Statements.

Dunne on Depositions in California § 2:21, Written Depositions.

Dunne on Depositions in California § 3:39, Practical Considerations.

Dunne on Depositions in California § 6:29, Improper Notice of Deposition.

Dunne on Depositions in California § 6:33, Taking a Deposition Before All Parties Have Appeared in Case.

Dunne on Depositions in California § 6:43, Not Taking Deposition of Witness Who May be Unavailable at Trial.

Dunne on Depositions in California § 7:41, Cross-Examining Own Client.

Dunne on Depositions in California § 9:12, Video Deposition of Treater.

Dunne on Depositions in California § 10:17, Using Videotaped Depositions at Trial--Testimony of Party, Absent Witness, or Expert.

Dunne on Depositions in California § 13:10, Exceptional Circumstances.

Dunne on Depositions in California § 13:12, Use of Depositions Given in Another Action.

Dunne on Depositions in California § 13:13, Use of Depositions at Evidentiary Hearings.

Dunne on Depositions in California § 13:17, Use of Depositions as Direct Evidence--Benefit Versus Expense.

Dunne on Depositions in California § 13:18, Use of Depositions as Direct Evidence--When the Anticipated Trial Testimony May be Weaker.

Dunne on **Depositions** in California § 13:20, Use of **Depositions** as Direct Evidence--Introduction of **Deposition** of **Adverse Party** Before **Adverse Party** Has Testified.

Simons California Evidence Manual § 2:74, Former Testimony--Former Testimony Defined.

2 Witkin Cal. Evid. 4th Discovery § 30, General Rule.

2 Witkin Cal. Evid. 4th Discovery § 40, (S 40) Contents of Notice.

2 Witkin Cal. Evid. 4th Discovery § 48, Objections to Procedure to Secure Deponent's Attendance.

2 Witkin Cal. Evid. 4th Discovery § 79, (S 79) Intent to Use Videotape or Audiotape at Trial.

2 Witkin Cal. Evid. 4th Discovery § 215, (S 215) Statutory Authority.

1 Witkin Cal. Evid. 4th Hearsay § 262, Deposition in Civil or Criminal Case.

1 Witkin Cal. Evid. 4th Introduction § 51, Judicial Arbitration.

3 Witkin Cal. Evid. 4th Presentation at Trial § 153, Deposition of Ordinary Witness.

3 Witkin Cal. Evid. 4th Presentation at Trial § 154, Deposition of Physician or Expert.

3 Witkin Cal. Evid. 4th Presentation at Trial § 155, Special Circumstances.

3 Witkin Cal. Evid. 4th Presentation at Trial § 156, Extent of Admissibility.

[3 Witkin Cal. Evid. 4th Presentation at Trial § 157](#), Substitution and Subsequent Proceedings.

[3 Witkin Cal. Evid. 4th Presentation at Trial § 160](#), Introduction of Part of Deposition.

[3 Witkin Cal. Evid. 4th Presentation at Trial § 161](#), Advance Objections.

[Younger on California Motions § 29:5](#), Particular Discovery Devices--Depositions.

NOTES OF DECISIONS

Admissibility of deposition testimony [1](#)


Discretion of court [2](#)

Judicial notice [4](#)

Residence of deponent [3](#)

Review [5](#)


1. Admissibility of deposition testimony


Deposition testimony from non-party former employee should not have been admitted during employment discrimination case, where employee was not employed by employer at the time her deposition was taken, and the record did not reflect any showing of employee's unavailability. [Haluck v. Ricoh Electronics, Inc. \(App. 4 Dist. 2007\) 60 Cal.Rptr.3d 542, 151 Cal.App.4th 994](#), as modified, review denied, certiorari denied [128 S.Ct. 1869, 170 L.Ed.2d 743](#). [Pretrial Procedure](#)  [203](#)

2. Discretion of court


Trial court abused its discretion in ruling that plaintiffs had not established that deponent resided 150 miles from the courthouse on motion to reopen case and reconsider prior ruling, as would permit introduction of deposition testimony in lieu of live testimony, where deponent had testified that he did not have legal residency, that he was in the process of obtaining a divorce, and he was going to Mexico to open a restaurant, where deponent's wife testified during trial that deponent was no longer residing with her in the United States, that deponent was a Mexican citizen without a visa, that she contacted deponent by dialing a Mexican cellular phone number, and that deponent said he was living in Puebla, Mexico, and where plaintiffs' counsel contacted deponent in Puebla, Mexico; Puebla, Mexico was more than 150 miles from courthouse. [Monroy v. City of Los Angeles \(App. 2 Dist. 2008\) 78 Cal.Rptr.3d 738, 164 Cal.App.4th 248](#), modified on denial of rehearing, review denied.

3. Residence of deponent


Hearsay can be used to provide the foundation to establish that a deponent resides more than 150 miles from the courthouse, for purposes of introduction of deposition testimony in lieu of live testimony. [Monroy v. City of Los Angeles \(App. 2 Dist. 2008\) 78 Cal.Rptr.3d 738, 164 Cal.App.4th 248](#), modified on denial of rehearing, review denied. [Pretrial Procedure](#)  [203](#)

Unavailability need not be shown to permit the introduction of deposition testimony in lieu of live testimony if the deponent resides more than 150 miles from the place of the trial or other hearing. [Monroy v. City of Los Angeles \(App. 2 Dist. 2008\) 78 Cal.Rptr.3d 738, 164 Cal.App.4th 248](#), modified on denial of rehearing, review denied. [Pretrial Procedure](#)  [203](#)

4. Judicial notice

The Court of Appeal would take judicial notice that Puebla, Mexico, was more than 150 miles from the courthouse in Los Angeles, California where trial took place, for purposes of introduction of deposition testimony in lieu of live testimony on basis that deponent resided more than 150 miles from the place of the trial. [Monroy v. City of Los Angeles \(App. 2 Dist. 2008\) 78 Cal.Rptr.3d 738, 164 Cal.App.4th 248](#), modified on denial of rehearing , review denied. [Evidence](#)  10(6)

5. Review

Trial court's erroneous exclusion of deposition testimony that police vehicle's overhead lights were off at the time of collision was prejudicial to motorists in their negligence action against city and officer, requiring reversal, where deponent was the only witness who testified that lights were off, city presented one witness who testified that lights were on, motorists' counsel asserted in opening statement that the "big question" was whether the police vehicle's overhead lights were on, and defense counsel noted in closing that motorists had no witness who saw what happened before the accident. [Monroy v. City of Los Angeles \(App. 2 Dist. 2008\) 78 Cal.Rptr.3d 738, 164 Cal.App.4th 248](#), modified on denial of rehearing , review denied. [Automobiles](#)  243(10)

West's Ann. Cal. C.C.P. § 2025.620, CA CIV PRO § 2025.620

Current with legislation through Ch. 765 of the 2008 Reg.Sess., Ch. 1 of the 2007-2008 1st Ex.Sess., Ch. 1 of the 2007-2008 2nd Ex.Sess., Ch. 7 of the 2007-2008 3rd Ex.Sess., and all propositions on 2008 ballots.

(C) 2009 Thomson Reuters/West

END OF DOCUMENT