

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1197**

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**Introduced by Assembly Member Bonilla**

February 27, 2015

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An act to amend Section ~~2025.320~~ 2025.220 of the Code of Civil Procedure, relating to depositions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1197, as amended, Bonilla. ~~Depositions: officers.~~ *Deposition notices.*

*Existing law prescribes the procedure for taking oral depositions inside the state. Existing law requires that, unless the parties agree or the court orders otherwise, the testimony, as well as any stated objections, be taken stenographically. Existing law requires a party desiring to take the oral deposition of a person to give a notice in writing that provides specified information, including the address and date of the deposition.*

*This bill would require the deposition notice governed by this section to include a statement disclosing the existence of a contractual relationship, if any, between the deposition officer or entity providing the services of the deposition officer and the party noticing the deposition or a third party who is financing all or part of the action, as specified. This bill would also require the deposition notice to contain a statement disclosing that the party noticing the deposition directed his or her attorney to use a particular officer or entity to provide services for the deposition, if applicable. This bill would permit any other party to object to the use of an officer or entity if the party noticing the deposition makes such a disclosure.*

~~Existing law requires that a deposition be conducted under the supervision of an officer who is authorized to administer an oath and subjects the deposition officer or entity providing the services of the deposition officer to certain restrictions. Existing law also permits a party or party’s attorney attending a deposition to request a statement regarding all services and products made available to any other party, party’s attorney, or 3rd party financing all or part of the action by the deposition officer or by the entity providing deposition services.~~

~~Upon this request, this bill would also require the disclosure of any contractual relationship between that party and the deposition officer or entity providing the services of the deposition officer. If a contractual relationship is disclosed, this bill would permit any other party to object to the use of that deposition officer or entity.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 2025.220 of the Code of Civil Procedure
- 2     is amended to read:
- 3     2025.220. (a) A party desiring to take the oral deposition of
- 4     any person shall give notice in writing. The deposition notice shall
- 5     state all of the following:
- 6         (1) The address where the deposition will be taken.
- 7         (2) The date of the deposition, selected under Section 2025.270,
- 8         and the time it will commence.
- 9         (3) The name of each deponent, and the address and telephone
- 10        number, if known, of any deponent who is not a party to the action.
- 11        If the name of the deponent is not known, the deposition notice
- 12        shall set forth instead a general description sufficient to identify
- 13        the person or particular class to which the person belongs.
- 14        (4) The specification with reasonable particularity of any
- 15        materials or category of materials, including any electronically
- 16        stored information, to be produced by the deponent.
- 17        (5) Any intention by the party noticing the deposition to record
- 18        the testimony by audio or video technology, in addition to
- 19        recording the testimony by the stenographic method as required
- 20        by Section 2025.330 and any intention to record the testimony by
- 21        stenographic method through the instant visual display of the
- 22        testimony. If the deposition will be conducted using instant visual

1 display, a copy of the deposition notice shall also be given to the  
2 deposition officer. Any offer to provide the instant visual display  
3 of the testimony or to provide rough draft transcripts to any party  
4 which is accepted prior to, or offered at, the deposition shall also  
5 be made by the deposition officer at the deposition to all parties  
6 in attendance. Any party or attorney requesting the provision of  
7 the instant visual display of the testimony, or rough draft  
8 transcripts, shall pay the reasonable cost of those services, which  
9 may be no greater than the costs charged to any other party or  
10 attorney.

11 (6) Any intention to reserve the right to use at trial a video  
12 recording of the deposition testimony of a treating or consulting  
13 physician or of any expert witness under subdivision (d) of Section  
14 2025.620. In this event, the operator of the video camera shall be  
15 a person who is authorized to administer an oath, and shall not be  
16 financially interested in the action or be a relative or employee of  
17 any attorney of any of the parties.

18 (7) The form in which any electronically stored information is  
19 to be produced, if a particular form is desired.

20 (8) (A) *A statement disclosing the existence of a contract, if*  
21 *any, between the deposition officer or entity providing the services*  
22 *of the deposition officer and the noticing party or a third party*  
23 *who is financing all or part of the action requiring that party to*  
24 *use the officer or entity for any service beyond the noticed*  
25 *deposition.*

26 (B) *A statement disclosing that the party noticing the deposition*  
27 *directed his or her attorney to use a particular officer or entity to*  
28 *provide services for the deposition, if applicable.*

29 (C) (i) *If a party discloses a contractual relationship or*  
30 *directive pursuant to this paragraph, any other party may object*  
31 *in writing at least three calendar days before the deposition date*  
32 *to the use of that officer or entity.*

33 (ii) *A party shall personally serve an objection made pursuant*  
34 *to this paragraph in accordance with Section 1011.*

35 (b) Notwithstanding subdivision (a), where under Article 4  
36 (commencing with Section 2020.410) only the production by a  
37 nonparty of business records for copying is desired, a copy of the  
38 deposition subpoena shall serve as the notice of deposition.

39 ~~SECTION 1. Section 2025.320 of the Code of Civil Procedure~~  
40 ~~is amended to read:~~

1     ~~2025.320.— Except as provided in Section 2020.420, the~~  
2     ~~deposition shall be conducted under the supervision of an officer~~  
3     ~~who is authorized to administer an oath and is subject to all of the~~  
4     ~~following requirements:~~

5     ~~(a) The officer shall not be financially interested in the action~~  
6     ~~and shall not be a relative or employee of any attorney of the~~  
7     ~~parties, or of any of the parties.~~

8     ~~(b) Services and products offered or provided by the deposition~~  
9     ~~officer or the entity providing the services of the deposition officer~~  
10    ~~to any party or to any party’s attorney or third party who is~~  
11    ~~financing all or part of the action shall be offered to all parties or~~  
12    ~~their attorneys attending the deposition. No service or product may~~  
13    ~~be offered or provided by the deposition officer or by the entity~~  
14    ~~providing the services of the deposition officer to any party or any~~  
15    ~~party’s attorney or third party who is financing all or part of the~~  
16    ~~action unless the service or product is offered or provided to all~~  
17    ~~parties or their attorneys attending the deposition. All services and~~  
18    ~~products offered or provided shall be made available at the same~~  
19    ~~time to all parties or their attorneys.~~

20    ~~(c) The deposition officer or the entity providing the services~~  
21    ~~of the deposition officer shall not provide to any party or any~~  
22    ~~party’s attorney or third party who is financing all or part of the~~  
23    ~~action any service or product consisting of the deposition officer’s~~  
24    ~~notations or comments regarding the demeanor of any witness,~~  
25    ~~attorney, or party present at the deposition. The deposition officer~~  
26    ~~or entity providing the services of the deposition officer shall not~~  
27    ~~collect any personal identifying information about the witness as~~  
28    ~~a service or product to be provided to any party or third party who~~  
29    ~~is financing all or part of the action.~~

30    ~~(d) (1) Upon the request of any party or any party’s attorney~~  
31    ~~attending a deposition, any party or any party’s attorney attending~~  
32    ~~the deposition shall enter in the record of the deposition both of~~  
33    ~~the following:~~

34    ~~(A) A list of all services and products, if any, made available~~  
35    ~~to that party or party’s attorney or third party who is financing all~~  
36    ~~or part of the action by the deposition officer or by the entity~~  
37    ~~providing the services of the deposition officer.~~

38    ~~(B) A statement disclosing the existence of a contractual~~  
39    ~~relationship between the deposition officer or the entity providing~~  
40    ~~the services of the deposition officer and that party, if any.~~

1     ~~(2) A party in the action who is not represented by an attorney~~  
2     ~~shall be informed by the noticing party or the party's attorney that~~  
3     ~~the unrepresented party may request this information be entered~~  
4     ~~in the record.~~

5     ~~(3) If a party discloses a contractual relationship pursuant to~~  
6     ~~subparagraph (B) of paragraph (1), any other party may object to~~  
7     ~~the use of that deposition officer or entity.~~

8     ~~(e) Any objection to the qualifications of the deposition officer~~  
9     ~~is waived unless made before the deposition begins or as soon~~  
10    ~~thereafter as the ground for that objection becomes known or could~~  
11    ~~be discovered by reasonable diligence.~~

12    ~~(f) Violation of this section by any person may result in a civil~~  
13    ~~penalty of up to five thousand dollars (\$5,000) imposed by a court~~  
14    ~~of competent jurisdiction.~~

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