advance of the deposition so that the witness can become familiar with them. Should the witness nevertheless not read the documents in advance, thereby prolonging the deposition, a court could consider that a reason for extending the time limit. If the examination reveals that documents have been requested but not produced, that may justify further examination once production has occurred. In multi-party cases, the need for each party to examine the witness may warrant additional time, although duplicative questioning should be avoided and parties with similar interests should strive to designate one lawyer to question about areas of common interest. Similarly, should the lawyer for the witness want to examine the witness, that may require additional time. Finally, with regard to expert witnesses, there may more often be a need for additional time—even after the submission of the report required by Rule 26(a)(2)—for full exploration of the theories upon which the witness relies.

It is expected that in most instances the parties and the witness will make reasonable accommodations to avoid the need for resort to the court. The limitation is phrased in terms of a single day on the assumption that ordinarily a single day would be preferable to a deposition extending over multiple days; if alternative arrangements would better suit the parties, they may agree to them. It is also assumed that there will be reasonable breaks during the day. Preoccupation with timing is to be avoided.

The rule directs the court to allow additional time where consistent with Rule 26(b)(2) if needed for a fair examination of the deponent. In addition, if the deponent or another person impedes or delays the examination, the court must authorize extra time. The amendment makes clear that additional time should also be allowed where the examination is impeded by an "other circumstance," which might include a power outage, a health emergency, or other event.

In keeping with the amendment to Rule 26(b)(2), the provision added in 1993 granting authority to adopt a local rule limiting the time permitted for depositions has been removed. The court may enter a case-specific order directing shorter depositions for all depositions in a case or with regard to a specific witness. The court may also order that a deposition be taken for limited periods on several days.

Paragraph (3) includes sanctions provisions formerly included in paragraph (2). It authorizes the court to impose an appropriate sanction on any person responsible for an impediment that frustrated the fair examination of the deponent. This could include the deponent, any party, or any other person involved in the deposition. If the impediment or delay results from an "other circumstance" under paragraph (2), ordinarily no sanction would be appropriate.

Former paragraph (3) has been renumbered (4) but is otherwise unchanged.

Subdivision (f)(1): This subdivision is amended because Rule 5(d) has been amended to direct that discovery materials, including depositions, ordinarily should not be filed. The rule already has provisions directing that the lawyer who arranged for the transcript or recording preserve the deposition. Rule 5(d) provides that, once the deposition is used in the proceeding, the attorney must file it with the court.

"Shall" is replaced by "must" or "may" under the program to conform amended rules to current style conventions when there is no ambiguity.

GAP Report

The Advisory Committee recommends deleting the requirement in the published proposed amendments that the deponent consent to extending a deposition beyond one day, and adding an amendment to Rule 30(f)(1) to conform to the published amendment to Rule 5(d) regarding filing of depositions. It also recommends conforming the Committee Note with regard to the deponent veto, and adding material to the Note to provide direction on computation of the durational limitation on depositions, to provide examples of situations in which the parties might agree—or the court order—that a deposition be extended, and to make clear that no new authority to instruct a witness is conferred by the amendment. One minor wording improvement in the Note is also suggested.

2007 Amendment

The language of Rule 30 has been amended as part of the general restyling of the Civil Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

The right to arrange a deposition transcription should be open to any party, regardless of the means of recording and regardless of who noticed the deposition.

"[O]ther entity" is added to the list of organizations that may be named as deponent. The purpose is to ensure that the deposition process can be used to reach information known or reasonably available to an organization no matter what abstract fictive concept is used to describe the organization. Nothing is gained by wrangling over the place to fit into current rule language such entities as limited liability companies, limited partnerships, business trusts, more exotic common-law creations, or forms developed in other countries.

HISTORICAL NOTES

Effective Date of Amendment Proposed November 20, 1972

Amendment of this rule embraced by the order entered by the Supreme Court of the United States on November 20, 1972, effective on the 180th day beginning after January 2, 1975, see section 3 of Pub.L. 93-595, Jan. 2, 1975, 88 Stat. 1959, set out as a note under section 2071 of Title 28.

Rule 31. Depositions by Written Questions

(a) When a Deposition May Be Taken.

(1) ***Without Leave.*** A party may, by written questions, depose any person, including a party, without leave of court except as provided in Rule 31(a)(2). The deponent's attendance may be compelled by subpoena under Rule 45.

(2) ***With Leave.*** A party must obtain leave of court, and the court must grant leave to the extent consistent with Rule 26(b)(2):

(A) if the parties have not stipulated to the deposition and:

(i) the deposition would result in more than 10 depositions being taken under this rule or Rule 30 by the plaintiffs, or by the defendants, or by the third-party defendants;

(ii) the deponent has already been deposed in the case; or

(iii) the party seeks to take a deposition before the time specified in Rule 26(d); or

(B) if the deponent is confined in prison.

(3) ***Service; Required Notice.*** A party who wants to depose a person by written questions must serve them on every other party, with a notice stating, if known, the deponent's name and address. If the name is unknown, the notice must provide a general description sufficient to identify the person or the particular class or group to which the person belongs. The notice must also state the name or descriptive title and the address of the officer before whom the deposition will be taken.

(4) ***Questions Directed to an Organization.*** A public or private corporation, a partnership, an association, or a governmental agency may be deposed by written questions in accordance with Rule 30(b)(6).

(5) ***Questions from Other Parties.*** Any questions to the deponent from other parties must be served on all parties as follows: cross-questions, within 14 days after being served with the notice and direct questions; redirect questions, within 7 days after being served with cross-questions; and recross-questions, within 7 days after being served with redirect questions. The court may, for good cause, extend or shorten these times.

(b) Delivery to the Officer; Officer's Duties. The party who noticed the deposition must deliver to the officer a copy of all the questions served and of the notice. The officer must promptly proceed in the manner provided in Rule 30(c), (e), and (f) to:

(1) take the deponent's testimony in response to the questions;

(2) prepare and certify the deposition; and

(3) send it to the party, attaching a copy of the questions and of the notice.

(c) Notice of Completion or Filing.

(1) ***Completion.*** The party who noticed the deposition must notify all other parties when it is completed.

(2) ***Filing.*** A party who files the deposition must promptly notify all other parties of the filing.

(Amended March 30, 1970, effective July 1, 1970; March 2, 1987, effective August 1, 1987; April 22, 1993, effective December 1, 1993; April 30, 2007, effective December 1, 2007.)

ADVISORY COMMITTEE NOTES

1937 Adoption

This rule is in accordance with common practice. In most of the states listed in the Note to Rule 26(a), provisions similar to this rule will be found in the statutes which in their respective statutory compilations follow those cited in Note to Rule 26(a).

1970 Amendment

Confusion is created by the use of the same terminology describe both the taking of a deposition upon "written int rogatories" pursuant to this rule and the serving of "writt interrogatories" upon parties pursuant to Rule 33. The d tinction between these two modes of discovery will be mo readily and clearly grasped through substitution of the wo "questions" for "interrogatories" throughout this rule.

Subdivision (a). A new paragraph is inserted at the b ginning of this subdivision to conform to the rearrangement provisions in Rules 26(a), 30(a), and 30(b).

The revised subdivision permits designation of the depone by general description or by class or group. This conforms t the practice for depositions on oral examination.

The new procedure provided in Rule 30(b)(6) for taking th deposition of a corporation or other organization throug persons designated by the organization is incorporated b reference.

The service of all questions, including cross, redirect, an recross, is to be made on all parties. This will inform the parties and enable them to participate fully in the procedure.

The time allowed for service of cross, redirect, and recross questions has been extended. Experience with the existing time limits shows them to be unrealistically short. No special restriction is placed on the time for serving the notice of taking the deposition and the first set of questions. Since no party is required to serve cross questions less than 30 days after the notice and questions are served, the defendant has sufficient time to obtain counsel. The court may for cause shown enlarge or shorten the time.

Subdivision (d). Since new Rule 26(c) provides for protective orders with respect to all discovery, and expressly provides that the court may order that one discovery device be used in place of another, subdivision (d) is eliminated as unnecessary.

1987 Amendment

The amendments are technical. No substantive change is intended.

1993 Amendments

Subdivision (a). The first paragraph of subdivision (a) is divided into two subparagraphs, with provisions comparable to those made in the revision of Rule 30. Changes are made in the former third paragraph, numbered in the revision as paragraph (4), to reduce the total time for developing cross-examination, redirect, and recross questions from 50 days to 28 days.

2007 Amendment

The language of Rule 31 has been amended as part of the general restyling of the Civil Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

The party who noticed a deposition on written questions must notify all other parties when the deposition is completed, so that they may make use of the deposition. A deposition is

intention to raise and determine independently an issue not raised by them. Ordinarily the court should inform the parties of material it has found diverging substantially from the material which they have presented; and in general the court should give the parties an opportunity to analyze and counter new points upon which it proposes to rely. See Schlesinger, *Comparative Law* 142 (2d ed. 1959); Wyzanski, *A Trial Judge's Freedom and Responsibility*, 65 Harv.L.Rev. 1281, 1296 (1952); cf. *Siegelman v. Cunard White Star, Ltd.*, supra, 221 F.2d at 197. To require, however, that the court give formal notice from time to time as it proceeds with its study of the foreign law would add an element of undesirable rigidity to the procedure for determining issues of foreign law.

The new rule refrains from imposing an obligation on the court to take "judicial notice" of foreign law because this would put an extreme burden on the court in many cases; and it avoids use of the concept of "judicial notice" in any form because of the uncertain meaning of that concept as applied to foreign law. See, e.g., Stern, *Foreign Law in the Courts: Judicial Notice and Proof*, 45 Calif.L.Rev. 23, 43 (1957). Rather the rule provides flexible procedures for presenting and utilizing material on issues of foreign law by which a sound result can be achieved with fairness to the parties.

Under the *third sentence*, the court's determination of an issue of foreign law is to be treated as a ruling on a question of "law," not "fact," so that appellate review will not be narrowly confined by the "clearly erroneous" standard of Rule 52(a). *Cf. Uniform Judicial Notice of Foreign Law Act* § 3; Note, 72 Harv.L.Rev. 318 (1958).

The new rule parallels Article IV of the Uniform Interstate and International Procedure Act, approved by the Commissioners on Uniform State Laws in 1962, except that § 4.03 of Article IV states that "[t]he court, not the jury" shall determine foreign law. The new rule does not address itself to this problem, since the Rules refrain from allocating functions as between the court and the jury. See Rule 38(a). It has long been thought, however, that the jury is not the appropriate body to determine issues of foreign law. See, e.g., Story, *Conflict of Laws*, § 638 (1st ed. 1834, 8th ed. 1883); 1 Greenleaf, *Evidence*, § 486 (1st ed. 1842, 16th ed. 1899); 4 Wigmore, *Evidence* § 2558 (1st ed. 1905); 9 id. § 2558 (3d ed. 1940). The majority of the States have committed such issues to determination by the court. See Article 5 of the Uniform Judicial Notice of Foreign Law Act, adopted by twenty-six states, 9A U.L.A. 318 (1957) (Suppl.1961, at 134); N.Y.Civ. Prac.Law & Rules, R. 4511 (effective Sept. 1, 1963); Wigmore, loc. cit. And Federal courts that have considered the problem in recent years have reached the same conclusion without reliance on statute. See *Jansson v. Swedish American Line*, 185 F.2d 212, 216 (1st Cir.1950); *Bank of Nova Scotia v. San Miguel*, 196 F.2d 950, 957, n. 6 (1st Cir.1952); *Liechti v. Roche*, 198 F.2d 174 (5th Cir.1952); *Daniel Lumber Co. v. Empresas Hondurenas, S.A.*, 215 F.2d 465 (5th Cir. 1954).

1972 Amendment

Since the purpose of the provision is to free the judge, in determining foreign law, from any restrictions imposed by evidence rules, a general reference to the Rules of Evidence is appropriate and is made.

1987 Amendment

The amendment is technical. No substantive change is intended.

2007 Amendment

The language of Rule 44.1 has been amended as part of the general restyling of the Civil Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

HISTORICAL NOTES

Effective Date of Amendment Proposed November 20, 1972

Amendment of this rule embraced by the order entered by the Supreme Court of the United States on November 20, 1972, effective on the 180th day beginning after January 2, 1975, see section 3 of Pub.L. 93-595, Jan. 2, 1975, 88 Stat. 1959, set out as a note under section 2071 of Title 28.

Rule 45. Subpoena

(a) In General.

(1) *Form and Contents.*

(A) *Requirements—In General.* Every subpoena must:

(i) state the court from which it issued;

(ii) state the title of the action and its civil-action number;

(iii) command each person to whom it is directed to do the following at a specified time and place: attend and testify; produce designated documents, electronically stored information, or tangible things in that person's possession, custody, or control; or permit the inspection of premises; and

(iv) set out the text of Rule 45(d) and (e).

(B) *Command to Attend a Deposition—Notice of the Recording Method.* A subpoena commanding attendance at a deposition must state the method for recording the testimony.

(C) *Combining or Separating a Command to Produce or to Permit Inspection; Specifying the Form for Electronically Stored Information.* A command to produce documents, electronically stored information, or tangible things or to permit the inspection of premises may be included in a subpoena commanding attendance at a deposition, hearing, or trial, or may be set out in a separate subpoena. A subpoena may specify the form or forms in which electronically stored information is to be produced.

(D) *Command to Produce; Included Obligations.* A command in a subpoena to produce documents, electronically stored information, or tangible things requires the

responding person to permit inspection, copying, testing, or sampling of the materials.

(2) ***Issuing Court.*** A subpoena must issue from the court where the action is pending.

(3) ***Issued by Whom.*** The clerk must issue a subpoena, signed but otherwise in blank, to a party who requests it. That party must complete it before service. An attorney also may issue and sign a subpoena if the attorney is authorized to practice in the issuing court.

(4) ***Notice to Other Parties Before Service.*** If the subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, then before it is served on the person to whom it is directed, a notice and a copy of the subpoena must be served on each party.

(b) **Service.**

(1) ***By Whom and How; Tendering Fees.*** Any person who is at least 18 years old and not a party may serve a subpoena. Serving a subpoena requires delivering a copy to the named person and, if the subpoena requires that person's attendance, tendering the fees for 1 day's attendance and the mileage allowed by law. Fees and mileage need not be tendered when the subpoena issues on behalf of the United States or any of its officers or agencies.

(2) ***Service in the United States.*** A subpoena may be served at any place within the United States.

(3) ***Service in a Foreign Country.*** 28 U.S.C. § 1783 governs issuing and serving a subpoena directed to a United States national or resident who is in a foreign country.

(4) ***Proof of Service.*** Proving service, when necessary, requires filing with the issuing court a statement showing the date and manner of service and the names of the persons served. The statement must be certified by the server.

(c) **Place of Compliance.**

(1) ***For a Trial, Hearing, or Deposition.*** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

(2) ***For Other Discovery.*** A subpoena may command:

(A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises at the premises to be inspected.

(d) **Protecting a Person Subject to a Subpoena; Enforcement.**

(1) ***Avoiding Undue Burden or Expense; Sanctions.*** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) ***Command to Produce Materials or Permit Inspection.***

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) ***Quashing or Modifying a Subpoena.***

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) ***Producing Documents or Electronically Stored Information.*** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) ***Claiming Privilege or Protection.***

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(f) Transferring a Subpoena-Related Motion. When the court where compliance is required did not issue the subpoena, it may transfer a motion under this rule to the issuing court if the person

subject to the subpoena consents or if the court finds exceptional circumstances. Then, if the attorney for a person subject to a subpoena is authorized to practice in the court where the motion was made, the attorney may file papers and appear on the motion as an officer of the issuing court. To enforce its order, the issuing court may transfer the order to the court where the motion was made.

(g) **Contempt.** The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

(Amended December 27, 1946, effective March 19, 1948; December 29, 1948, effective October 20, 1949; March 30, 1970, effective July 1, 1970; April 29, 1980, effective August 1, 1980; April 29, 1985, effective August 1, 1985; March 2, 1987, effective August 1, 1987; April 30, 1991, effective December 1, 1991; April 25, 2005, effective December 1, 2005; April 12, 2006, effective December 1, 2006; April 30, 2007, effective December 1, 2007; April 16, 2013, effective December 1, 2013.)

ADVISORY COMMITTEE NOTES

1937 Adoption

This rule applies to subpoenas ad testificandum and duces tecum issued by the district courts for attendance at a hearing or a trial, or to take depositions. It does not apply to the enforcement of subpoenas issued by administrative officers and commissions pursuant to statutory authority. The enforcement of such subpoenas by the district courts is regulated by appropriate statutes. Many of these statutes do not place any territorial limits on the validity of subpoenas so issued, but provide that they may be served anywhere within the United States. Among such statutes are the following:

U.S.C., Title 7, §§ 222 and 511n (Secretary of Agriculture)

U.S.C., Title 15, § 49 (Federal Trade Commission)

U.S.C., Title 15, §§ 77v(b), 78u(c), 79r(d) (Securities and Exchange Commission)

U.S.C., Title 16, §§ 797(g) and 825f (Federal Power Commission)

U.S.C., Title 19, § 1333(b) (Tariff Commission)

U.S.C., Title 22, §§ 268, 270d and 270e (International Commissions, etc.)

U.S.C., Title 26, §§ 614, 619(b) [see 7456] (Board of Tax Appeals)

U.S.C., Title 26, § 1523(a) [see 7608] (Internal Revenue Officers)

U.S.C., Title 29, § 161 (Labor Relations Board)

U.S.C., Title 33, § 506 (Secretary of Army)

U.S.C., Title 35, §§ 54 to 56 [now 24] (Patent Office proceedings)

U.S.C., Title 38, [former] § 133 (Veterans' Administration)

U.S.C., Title 41, § 6507 (Secretary of Labor)

U.S.C., Title 45, § 157 Third. (h) (Board of Arbitration under Railway Labor Act)

U.S.C., Title 45, § 222(b) (Investigation Commission under Railroad Retirement Act of 1935)

U.S.C., Title 46, § 1124(b) (Maritime Commission)

U.S.C., Title 47, § 409(c) and (d) (Federal Communications Commission)

U.S.C., Title 49, § 12(2) and (3) [now 10321] (Interstate Commerce Commission)

U.S.C., Title 49, § 173a [see 1484] (Secretary of Commerce)

Note to Subdivisions (a) and (b). These simplify the form of subpoena as provided in U.S.C., Title 28, [former] § 655 (Witnesses; subpoena; form; attendance under); and broaden U.S.C, Title 28, [former] § 636 (Production for books and writings) to include all actions, and to extend to any person. With the provision for relief from an oppressive or unreasonable subpoena duces tecum, compare N.Y.C.P.A. (1937) § 411.

Note to Subdivision (c). This provides for the simple and convenient method of service permitted under many state codes; e.g., N.Y.C.P.A. (1937) §§ 220, 404, J.Ct.Act, § 191; 3 Wash.Rev.Stat.Ann. (Remington, 1932) § 1218. Compare former Equity Rule 15 (Process, by Whom Served).

For statutes governing fees and mileage of witnesses see:

U.S.C., Title 28 former sections:

600a[now 1871] (Per diem; mileage)

600c[now 1821, 1823] (Amount per diem and mileage for witnesses; subsistence)

600d[former] (Fees and mileage in certain states)

601[former] (Witnesses' fees; enumeration)

602[now 1824] (Fees and mileage of jurors and witnesses)

603[see Title 5, §§ 5515, 5537] (No officer of court to have witness fees)

Note to Subdivision (d). The method provided in paragraph (1) for the authorization of the issuance of subpoenas has been employed in some districts. See *Henning v. Boyle*, S.D.N.Y.1901, 112 F. 397. The requirement of an order for the issuance of a subpoena duces tecum is in accordance with U.S.C., Title 28, [former] § 647 (Deposition under dedimus potestatem; subpoena duces tecum). The provisions of paragraph (2) are in accordance with common practice. See U.S.C., Title 28, former § 648 (Deposition under dedimus potestatem; witnesses, when required to attend); N.Y.C.P.A. (1937) § 300; 1 N.J.Rev.Stat. (1937) 2:27-174.

Note to Subdivision (e). The first paragraph continues the substance of U.S.C., Title 28, [former] § 654 (Witnesses; subpoenas; may run into another district). Compare U.S.C., Title 11, [former] § 69 (Referees in bankruptcy; contempts before) (production of books and writings) which is not affected by this rule. For examples of statutes which allow the court, upon proper application and cause shown, to authorize the clerk of the court to issue a subpoena for a witness who lives in another district and at a greater distance than 100 miles from the place of the hearing or trial, see:

U.S.C., Title 15:

§ 23 (Suits by United States; subpoenas for witnesses) (under antitrust laws).

U.S.C., Title 38:

§ 445[now 784] (Actions on claims; jurisdiction; parties; procedure; limitation; witnesses; definitions) (Veterans' insurance contracts).

The second paragraph continues the present procedure applicable to certain witnesses who are in foreign countries.