

Rule 30(b)(6) Deposition Question Topics

Electronic Data Systems & Management—Technical Witness

The parameters of a Rule 30(b)(6) deposition may vary greatly from case to case, but the following categories of deposition questions and topics will serve as a good outline when preparing questions for deposition or when preparing a corporate witness for questions by opposing counsel.

Qualifications and Organizational Structure

- **Describe your educational background and work experience.**
 - What is your educational background, including all diplomas, degrees or certificates received?
 - What formal technical training have you had?
 - List your work experiences (including all companies and positions held) for the past 15 years.
 - How long have you been employed with your current company? List all positions held.
 - Describe your current position and all duties associated with it.
 - What steps did you take to prepare for deposition?
- **Describe the company's organizational structure.**
 - To whom do you report? Who reports to you?
 - Describe IT department structure (including other physical locations).
 - What role have you had or will you have in responding to electronic discovery requests?

Systems Profile

- **Describe the types of data processing and data storage devices used by the company in the course of business.**
 - What backroom hardware is in your organization? (Mainframes, mini computers, electronic mail servers, file servers, fax servers, voicemail servers, etc.)?
 - What workstation hardware? What brand (Dell, Gateway, generic IBM clone, etc.); what operating system (Win 95/98/ME/XP, other); and what is the average size of desktop hard drives?
 - Are notebooks used? What brand (Dell, Gateway, generic IBM clone, etc.); what operating system (Win 95/98/ME/XP, other); and what is the average size of notebook hard drives?
 - Are personal digital assistants (PDAs) used? If so, what brand(s) (Palm, Pocket PC devices, etc.)?
 - What backup systems are in use? Specifically, provide the hardware, tape formats (DAT, DLT, QIC), tape capacities, and backup software (brand, version, configuration) used.
 - What optical storage devices are used? What type (CD-R, CD-RW, DVD-RAM), and recording software (brand, version, configuration)?
 - What electronic storage devices are used (non-volatile RAM, smart cards, etc.)?
 - What office machines are used? What copiers, fax machines, voicemail systems (brands, models, serial numbers)? (NOTE: Most of these devices contain hard drives.)

Network Infrastructure and Network Services

- **Describe the company's network architecture and usage policies.**
 - How is the company's network configured (router, hubs, firewalls, etc.)? Who manages the network devices?

- Do desktop/laptop/handheld systems have network cards and/or modems installed? If so, identify make, model, speed settings, and usage policy.
- Does the company's network use any non-Ethernet connectivity? If so, describe.
- How many users are on the network at this location and at other locations?
- How is user data segmented and protected on the network?
- How do users work on the network (e.g., file sharing, file storage, centralized applications, and other applications)?
- Describe/identify the types of network services and software programs used on the company's computer system(s):
 - > Industry-specific applications (e.g., distribution control, reservation system, manufacturing inventory control, etc.).
 - > Proprietary systems.
 - > Office automation software. Word processing, spreadsheet, presentation programs, etc.
 - > Internet browsers.
 - > Database servers and database management programs (statistical, risk analysis, etc.).
 - > Electronic mail systems and client programs.
 - > Calendar/scheduling servers and client programs.
 - > Document management systems.
 - > Finance or accounting systems.
 - > Remote connection applications (e.g., FTP server/client, web-based (GotoMyPC.com), PCAnywhere, LapLink).
 - > Chat programs (e.g., ICQ, IRC, etc.).
 - > Other applications

User Workstations

- **Describe all type(s) of user workstation systems and client programs currently in use.**
 - What operating systems are used? (Windows NT/2000/XP, Linux) If Microsoft-based, what service packs are installed? If Linux, what is the distribution (Red Hat, Debian, Mandrake, etc.); what version of the Kernel is running; and what windowing system is in use (Gnome, KDE)?
 - Provide a list of the software packages installed.
 - List installation date(s).
 - Provide the number of users who have access to each workstation.
 - Identify location of users' electronic mail files. For example, are electronic mail messages stored in My Documents?
 - Do users select the location for their electronic mail messages, or does the system administrator make that decision?
- **Identify the person(s) responsible for the ongoing operation, maintenance, expansion, backup, and upkeep of the user workstations.**
 - How frequently do these activities occur (according to policy and actual practice)?
 - Are outsourced facilities/contractors used? List names and services provided, if applicable.
- **Do any employees use home computers for business purposes? If yes:**
 - Identify relevant employees.
 - How are files transferred to and from home computer (remote access, types of removable media, if used), electronic mail, LapLink, mapped drive to server, etc.)?
- **Are user workstations backed up? Obtain information for each system.**
 - Describe the backup software program(s) used (e.g., ARCserve, Backup Exec, etc.).
 - What content do backups contain?
 - How frequently are backups performed (daily, weekly, monthly)?
 - Is the backup process automated?
 - Describe the type of backup media used (tapes, discs, drives, and/or cartridges).
 - Describe the tape rotation cycle.
 - Have any tapes been pulled from rotation?
 - What is the location of the backup media (off-site storage, out-of-state storage, etc.)? How does the media get to the storage location?

- How are tapes stored (e.g., racks, cabinets, etc.)?
 - What is your tape destruction method (e.g., degauss, shred, etc.)?
 - Are backup tapes labeled? If so, describe labeling protocol.
 - Are backup tapes indexed by the backup software and/or logged?
 - Do you keep or discard outdated backup drives or software?
 - Who has access to backups?
 - Who actually performs backups?
 - Are backups password-protected? Who has the passwords?
- **Have you modified your backup procedures to comply with recent discovery requests?**
 - Describe any modifications.
 - Describe the steps taken to notify employees involved in performing backups.
- **Are files ever deleted from the computer system(s)? If yes:**
 - Does the company have a file purge schedule?
 - Are files routinely deleted from workstations when employees leave or are reassigned?
 - Describe the method(s) used to delete files.
- **Are files "archived" off the system?**
 - What files have been archived?
 - Where are the archival backups maintained?
- **Have you restored data from a workstation backup tape within the past [XX] months? If yes:**
 - What data was restored?
 - Was the restoration operation successful?
 - Describe the resources required to perform the restoration (labor hours, equipment, drive space, etc.).
 - Why was the data restored?
- **Are passwords or encrypted files used on any of the user workstations? If yes:**
 - Describe what is protected (electronic mail, files, transmission of data, etc.).
 - Describe how files are protected.
 - Who could provide access codes if required?
 - Who has super user status?
- **Are passwords and access codes revoked/changed when an employee leaves the company/agency?**
 - How and by whom is this process managed?

Electronic Mail

- **Identify personnel responsible for administering the electronic mail system(s).**
 - Include information about multiple offices or locations, if relevant.
- **Describe all type(s) of electronic mail server systems and client programs currently in use.**
 - What operating systems are used (Windows NT/2000/XP, Linux, Novell, Unix, proprietary)? If Microsoft-based, what service packs are installed? If Linux, what is the distribution (Red Hat, Debian, Mandrake, etc.); what version of the Kernel is running; and what windowing system is in use (Gnome, KDE)?
 - Provide server name(s) and version number(s).
 - List installation date(s).
 - Provide the number of users on each system.
 - Identify location of users' electronic mail files. For example, are electronic mail messages stored in a central location—a server—or locally on users' desktops, or both?
 - Do users select the location for their electronic mail messages, or does the system administrator make that decision?
 - Is there more than one post office on the system? If yes, identify post office locations.
 - Are post offices located on more than one server or drive?

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- Are post offices located on more than one server or drive?
- Is electronic mail transferred via POP, IMAP, SMTP?
- **Can users access their electronic mail remotely (i.e., from outside the office)?**
 - If yes, what programs or applications are used?
 - Does a transaction record exist to document access?
- **Are electronic mail passwords routinely changed?**
 - Describe protocols.
 - Who manages this process?
- **Are "janitorial" programs run to purge electronic mail? (Janitorial programs can be set by system administrators to empty wastebaskets on a set schedule.)**
 - Describe protocols.
 - Who manages this process?
- **Were other electronic mail systems used in the past? If so, provide answers to questions in electronic mail section above.**
- **Are special electronic mail retention settings active (e.g., the Deleted Items Retention setting in Microsoft Exchange)?**
- **List all electronic mail systems in the company that are backed up. Obtain information for each system.**
 - Describe the electronic mail backup software program(s) used (e.g., ARCserve, Backup Exec, etc.).
 - Is the backup a full backup or a brick level backup?
 - How frequently are electronic mail backups performed (daily, weekly, monthly)?
 - Is the electronic mail backup process automated?
 - Describe the type of electronic mail backup media used (tapes, discs, drives, and/or cartridges).
 - Describe the tape rotation cycle.
 - Have any tapes been pulled from rotation?
 - What is the location of the electronic mail backup media (off-site storage, out-of-state storage, etc.)? How does the media get to the storage location?
 - How are electronic mail backup tapes stored (e.g., racks, cabinets, etc.)?
 - What is your tape destruction method (e.g., degauss, shred, etc.)?
 - Are electronic mail backup tapes labeled? If so, describe labeling protocol.
 - Are electronic mail backup tapes indexed by the backup software and/or logged?
 - Do you keep or discard outdated electronic mail backup drives or software?
 - Who has access to electronic mail backups?
 - Who actually performs electronic mail backups?
 - Are electronic mail backups password-protected? Who has the passwords?
- **Have you modified your electronic mail backup procedures to comply with recent discovery requests?**
 - Describe any modifications.
 - Describe the steps taken to notify employees involved in performing backups.
- **Are files ever deleted from the electronic mail system(s)? If yes:**
 - Does the company have a file purge schedule?
 - Are files routinely deleted from servers when employees leave or are reassigned?
 - Describe the method(s) used to delete files.
 - Are electronic mail accounts closed/purged when an employee leaves?
- **Are files "archived" off the system?**
 - What files have been archived?
 - Where are the archival backups maintained?

- **Have you restored data from an electronic mail backup tape within the past [XX] months? If yes:**
 - What data was restored?
 - Was the restoration operation successful?
 - Describe the resources required to perform the restoration (labor hours, equipment, drive space, etc.).
 - Why was the data restored?
- **Are passwords or encrypted files used on any of the electronic mail systems? If yes:**
 - Describe what is protected (electronic mail, attachments, transmission of data, etc.).
 - Describe how files are protected.
 - Who could provide access codes if required?
 - Who has super user status?
 - What access rights do different groups/users have?
- **Are passwords and access codes revoked/changed when an employee leaves the company/agency?**
 - How and by whom is this process managed?

Databases

- **Describe all type(s) of database server systems and client programs currently in use.**
 - What operating systems are used (Windows NT/2000/XP, Linux, Novell, Unix, proprietary)? If Microsoft-based, what service packs are installed? If Linux, what is the distribution (Red Hat, Debian, Mandrake, etc.); what version of the Kernel is running; and what windowing system is in use (Gnome, KDE)?
 - Describe the type of databases used by the company (CRM, accounting, etc.).
 - Identify the system administrator for each.
- **Identify the type(s) (names) of database software used. (Oracle, dBASE, Advanced Revelation, Access, proprietary, etc.).**
 - Describe the fields of information used in the database(s). (Data fields are categories of information such as names, social security numbers, file numbers, dates, etc.)
- **Identify the person(s) responsible for:**
 - Database design.
 - Database maintenance (editing, adding, "packing," etc.).
 - Report design.
 - Database backup.
 - User requests/suggestions.
- **Identify the individual(s) who enter information into the database:**
 - What is the source of information?
 - Are entries verified? If so, by whom?
- **Describe how the database is accessed.**
 - Identify users.
 - Identify access security levels for users.
 - Are queries (reports to the database) stored? If so, where?
 - Describe the output/responses to queries. (Printed reports? Online response?)
 - Are the responses stored? If so, where?
- **Describe any standard reports prepared on a routine basis.**
 - Identify recipients.
 - Are these reports stored? If so, where?
 - Describe protocol and detailed instructions for reviewing the database as it existed [XX] months/years ago.
- **List all database systems in the company that are backed up. Obtain information for each system.**
 - Describe the backup software program(s) used (e.g., ARCserve, Backup Exec, etc.).

- What content do database backups contain?
 - How frequently are database backups performed (daily, weekly, monthly)?
 - Is the database backup process automated?
 - Describe the type(s) of backup media used (tapes, discs, drives, and/or cartridges).
 - Describe the tape rotation cycle.
 - Have any tapes been pulled from rotation?
 - What is the location of the database backup media (off-site storage, out-of-state storage, etc.)? How does the media get to the storage location?
 - How are database backup tapes stored (e.g., racks, cabinets, etc.)?
 - What is your database backup tape destruction method (e.g., degauss, shred, etc.)?
 - Are database backup tapes labeled? If so, describe labeling protocol.
 - Are database backup tapes indexed by the backup software and/or logged?
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- **Have you modified your database backup procedures to comply with recent discovery requests?**
 - Describe any modifications.
 - Describe the steps taken to notify employees involved in performing backups.
- **Is data ever deleted from the database system(s)? If yes:**
 - Does the company have a purge schedule?
 - Describe the method(s) used to delete data.
 - Are accounts closed/purged when an employee leaves?
- **Are databases "archived" off the system?**
 - What databases have been archived?
 - Where are the archival backups maintained?
- **Have you restored data from a backup tape within the past [XX] months? If yes:**
 - What data was restored?
 - Was the restoration operation successful?
 - Describe the resources required to perform the restoration (labor hours, equipment, drive space, etc.).
 - Why was the data restored?
- **Are passwords or encrypted files used on any of the database systems? If yes:**
 - Describe what is protected (data, transmission of data, etc.).
 - Describe how files are protected.
 - Who could provide access codes if required?
 - Who has super user status?
- **Are passwords and access codes revoked/changed when an employee leaves the company/agency?**
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Miscellaneous

- **Are you aware of the production of electronic documents in other litigation or legal proceedings?**
 - What cases?
 - Relevant time periods?
 - What was produced, and in what format?
- **Are you aware of any alternative sources of electronic data or information?**
 - Any locations outside the company where electronic documents are regularly sent (including employees' home

computers as well as other business entities)?

- Persons who would have knowledge of third parties' computer systems, where applicable?
- Details about the company's website (Who develops content? What are revision intervals? Which third parties have access)?

• **Has anyone examined any of the company's computers since learning of this lawsuit? If yes:**

- Identity of all involved parties?
- Details about reasons for examination?
- Protocol utilized?
- Results?

Litigation Specific Questions

• **Have you modified the use of any computers since notice of litigation or to comply with recent discovery requests?**

- Describe any modifications.
- Describe the steps taken to notify employees.

• **What steps have you taken to ensure electronic data was preserved?**

- Performed mirror image backups?
- Removed backup tapes from rotation cycle?
- Isolated key systems from usage (including removing power from these systems)?
- Disconnected unnecessary network connections?
- Stopped hardware/software updates?
- Saved broken drives and media?
- Other?

Paul French, Director of Consulting Services for New Technologies, Inc., contributed to these materials.

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