

## *N.J. Court Rules, R. 4:14-9*

Current with changes received through September 1, 2018

*New Jersey Court Rules > RULES GOVERNING THE COURTS OF THE STATE OF NEW JERSEY > PART IV. RULES GOVERNING CIVIL PRACTICE IN THE SUPERIOR COURT, TAX COURT AND SURROGATE'S COURTS > CHAPTER III. PRETRIAL DISCOVERY; PRETRIAL CONFERENCE PROCEDURE > RULE 4:14. DEPOSITIONS UPON ORAL EXAMINATION*

### **Rule 4:14-9. Audiovisual Recording of Depositions**

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An audiovisual recording of a deposition may be made for discovery purposes or for use at trial in accordance with the applicable provisions of these discovery rules subject to the provisions of [R. 4:12-4](#) and to the following requirements and conditions:

(a)Time for Taking Audiovisually-Recorded Depositions. The provisions of [R. 4:14-1](#) shall apply to audiovisually-recorded depositions except that such a deposition of a treating physician or expert witness which is intended for use in lieu of trial testimony shall not be noticed for taking until 30 days after a written report of that witness has been furnished to all parties. Any party desiring to take a discovery deposition of that witness shall do so within such 30-day period.

(b)Notice. A party intending to make an audiovisual recording of a deposition shall serve the notice required by [R. 4:14-2\(a\)](#) not less than 10 days prior to the date therein fixed for the taking of the deposition. The notice shall further state that the deposition is to be audiovisually-recorded.

(c)Transcript. The audiovisual recording of a deposition shall not be deemed to except it from the general requirement of stenographic recording and typewritten transcript. Prior to the swearing of the witness by the officer, the name, address and firm of the person making the audiovisual recording shall be stated on the record.

(d)Filing, Copies. Immediately following the conclusion of the deposition, the person making the audiovisual recording shall deliver the audiovisual recording to the officer taking or directing the deposition, who shall mark it as an exhibit to the deposition, if feasible. Further, the person making the audiovisual recording shall, if feasible, provide a copy of the audiovisual recording to all parties present. If copies cannot be made at the conclusion of the deposition, the party who noticed the audiovisual recording of the deposition shall promptly furnish a copy of the audiovisual recording to all parties appearing at the deposition.

(e)Use. Audiovisually-recorded depositions may be used at trial in accordance with [R. 4:16-1](#). In addition, an audiovisually-recorded deposition of a treating physician or expert witness, which has been taken in accordance with these rules, may be used at trial in lieu of testimony whether or not such witness is available to testify and provided further that the party who has taken the deposition has produced the witness for further audiovisually-recorded deposition necessitated by discovery completed following the original deposition or for other good cause. Disputes among parties regarding the recall of a treating physician or expert witness shall be resolved by motion, which shall be made as early as practicable before trial. The taking of an audiovisually-recorded deposition of a treating physician or expert witness shall not preclude the party taking the deposition from producing the witness at trial.

(f)Objections. Where an audiovisually-recorded deposition is taken for use at trial in lieu of testimony, all evidential objections shall, to the extent practicable, be made during the course of the deposition. Each party making such objection shall, within 45 days following the completion of the deposition, file a motion for rulings thereon and all such motions shall be consolidated for hearing. The court may, however, on its own motion or the motion of a party, abbreviate the time period if the deposition of a treating physician or expert witness is taken

pursuant to [R. 4:36-3\(c\)](#) or for other good cause. A copy of the audiovisual recording shall be edited in accordance with said rulings and the copy so edited shall be made available for copying to all other parties.

**(g)**Cost of Audiovisually-Recorded Depositions. All out-of-pocket expenses incurred in connection with an audiovisual recording of a deposition, including making required copies and edits, shall be borne, in the first instance, by the party taking the deposition. The cost of court presentation of the audiovisual recording shall be borne, in the first instance, by the party offering that recording.

**(h)**Record on Appeal. Where an audiovisual recording of a deposition is used at trial, the typewritten transcript thereof shall be included in the record on appeal. The audiovisual recording itself shall not constitute part of the record on appeal except on motion for good cause shown.

## History

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Adopted July 21, 1980 to be effective September 8, 1980; paragraph (e) amended June 29, 1990 to be effective September 4, 1990; paragraph (c) amended July 13, 1994 to be effective September 1, 1994; paragraph (d) amended June 28, 1996 to be effective September 1, 1996; introductory text and paragraphs (b), (d), and (f) amended July 28, 2004 to be effective September 1, 2004; caption, introductory text, paragraphs (a) and (g) caption and text, and paragraphs (b), (c), (d), (e), (f), and (h) amended July 19, 2012 to be effective September 4, 2012.

NEW JERSEY COURT RULES ANNOTATED

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