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"Defending Rule 30(b)(6) Depositions In Professional Liability Cases," *An ExecSense eBook*, Digital Thought Leadership, (February 2013).

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Federal Rule of Civil Procedure 30(b)(6) ("Rule 30(b)(6)" or the "Rule") provides a mechanism for a party to take the deposition of public and private corporations, partnerships, associations, or governmental agencies. Under the Rule, a party notices the deposition of an entity and the entity must designate one or more of its officers, directors, managers, or other persons to testify on its behalf.[1] The entity itself, however, remains the deponent.

Unlike persons testifying in their individual capacity, a Rule 30(b)(6) deponent testifies regarding the entity's knowledge, including but not limited to, facts known by current and former employees or other persons or that are "reasonably available" to the entity. The entity's knowledge is not confined to hard facts and can include subjective beliefs.

There are a number of pitfalls that can beset a party responding to a Rule 30(b)(6) deposition notice, for example (a) failing to adequately prepare a designee, (b) failing to object or raising improper objections to a noticed deposition topic, (c) failing to consider privilege and other implications

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that arise from showing documents to designees during preparation, and (d) failing to respond properly to questions that fall outside the scope of the noticed deposition topics.

About the author: Joel Neckers is a partner with the law firm of Wheeler Trigg O'Donnell LLP located in Denver, Colorado. His practice currently focuses primarily on defending professional liability claims brought against hospitals, doctors, nurses, other healthcare providers, and on defending consumer product class actions. Neckers has tried cases to verdict in state and federal courts and handled arbitrations for clients in a variety of matters in various states. *Neckers would like to thank Ms. Ellen Herzog of Wheeler Trigg O'Donnell for her assistance in the preparation of this chapter.*

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