



On August 15, 2018, counsel for Plaintiff contacted the undersigned regarding a dispute that had arisen during the deposition of Defendant ZTE's corporate witness. Pursuant to Federal Rule of Civil Procedure 30(b)(6), Defendant ZTE designated one representative to testify over all 30(b)(6) topics in Plaintiff's notice. Prior to the deposition, Defendant ZTE's corporate designee prepared a notebook comprised of his personal notes to reference during the deposition. Plaintiff objected to the use of such material during the deposition. The Court conduct a telephonic hearing on the record and the parties argued their respective positions.

Plaintiff objected to the use of the notebook and argued that a Rule 30(b)(6) witness referencing such material during a deposition violates Rule 30, which requires examination and cross-examination of a witness in a deposition to be conducted as would be allowed during trial. Defendant ZTE responded and stated that its corporate representative spent numerous hours investigating issues and collecting documents pertaining the deposition's topics and summarized his findings in the notebook. The notebook, ZTE avers, was not configured to coach the corporate representative through the deposition. Rather, the notebook reflects the corporate representative's personal findings and provides for more accurate and concise answers to Plaintiff's questions.

Defendant ZTE further asserts that courts have maintained that such notebooks are proper during the deposition of Rule 30(b)(6) corporate designees. Specifically, ZTE cites *Zeng v. Elec. Data Sys. Corp.*, No. 1:07CV310, 2007 WL 2713905, at \*4 (E.D. Va. Sept. 13, 2007). In that case, the defendant's 30(b)(6) designee continuously referenced a notebook during her deposition, which was prepared by defense counsel and contained a twenty-two-page summary of various documents. The plaintiff insisted that the use of the notebook was improper because: (1) Rule 30 mandates that depositions be conducted as would be permissible at trial; and (2) the corporate representative's reliance on the notebook meant that she was not adequately prepared to testify as

required by Rule 30(b)(6). The District Judge agreed with the Magistrate Judge's findings and held:

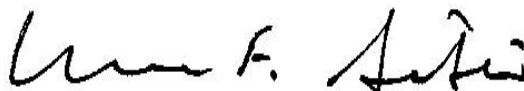
[G]iven the duty of a corporate designee to testify to all information reasonably known to the corporation, including matters beyond the designee's personal knowledge, a well-prepared deposition notebook has the potential to enhance the accuracy and depth of a designee's testimony. As such, use of a notebook is not [sic] indicative of a designee's unpreparedness; nor is it evidence of witness coaching.

*Id.*

This Court found *Zeng* persuasive and agreed with the rationale explicated in the case. Therefore, after considering the arguments, this Court **ORDERED** that Defendant ZTE's 30(b)(6) corporate representative is allowed to use the notebook during his deposition.

**IT IS SO ORDERED.**

**SIGNED this the 17th day of August, 2018.**



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KEITH F. GIBLIN  
UNITED STATES MAGISTRATE JUDGE