

161—9.19(216) Conduct of oral deposition.

9.19(1) *Examination; recording examination; administering the oath; objections.* Examination of witnesses by the commission may proceed as permitted at the hearing. The commission investigator or other officer before whom the deposition is to be taken shall put the witness under oath and shall personally, or by someone acting under the investigator or officer's direction and in the investigator or officer's presence, record the testimony of the witness. The testimony shall be taken stenographically or recorded by any other means ordered in accordance with subrule 9.17(2). All objections made at the time of the examination to the qualifications of the investigator or other officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the investigator or officer upon the deposition. Evidence objected to shall be taken subject to the objections.

9.19(2) *Motion to terminate or limit examination.* At any time during the taking of the deposition, on motion of the party being deposed or other deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the presiding officer for discovery may order the commission to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in rule 161—9.8(216). If the order made terminates the examination, it shall be resumed thereafter only upon the order of the presiding officer for discovery. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

If the motion is granted, the presiding officer for discovery shall, after opportunity for hearing, require the commission to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorneys' fees, unless the presiding officer for discovery finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust.

If the motion is denied, the presiding officer for discovery shall, after opportunity for hearing, require the moving party or the attorney advising the motion or both of them to pay to the commission the reasonable expenses incurred in opposing the motion, including attorneys' fees, unless the presiding officer for discovery finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.

If the motion is granted in part and denied in part, the presiding officer for discovery may apportion in a just manner the reasonable expenses incurred in relation to the motion.