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Cal Code Civ Proc § 2034.430

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(a) Except as provided in subdivision (f), this section applies to an expert witness, other than a party or an employee of a party, who is any of the following:

(1) An expert described in subdivision (b) of [Section 2034.210](#).

(2) A treating physician and surgeon or other treating health care practitioner who is to be asked during the deposition to express opinion testimony, including opinion or factual testimony regarding the past or present diagnosis or prognosis made by the practitioner or the reasons for a particular treatment decision made by the practitioner, but not including testimony requiring only the reading of words and symbols contained in the relevant medical record or, if those words and symbols are not legible to the deponent, the approximation by the deponent of what those words or symbols are.

(3) An architect, professional engineer, or licensed land surveyor who was involved with the original project design or survey for which that person is asked to express an opinion within the person's expertise and relevant to the action or proceeding.

(b) A party desiring to depose an expert witness described in subdivision (a) shall pay the expert's reasonable and customary hourly or daily fee for any time spent at the deposition from the time noticed in the deposition subpoena, or from the time of the arrival of the expert witness should that time be later than the time noticed in the deposition subpoena, until the time the expert witness is dismissed from the deposition, regardless of whether the expert is actually deposed by any party attending the deposition.

(c) If any counsel representing the expert or a nonnoticing party is late to the deposition, the expert's reasonable and customary hourly or daily fee for the time period determined from the time noticed in the deposition subpoena until the counsel's late arrival, shall be paid by that tardy counsel.

(d) Notwithstanding subdivision (c), the hourly or daily fee charged to the tardy counsel shall not exceed the fee charged to the party who retained the expert, except where the expert donated services to a charitable or other nonprofit organization.

(e) A daily fee shall only be charged for a full day of attendance at a deposition or where the expert was required by the deposing party to be available for a full day and the expert necessarily had to forgo all business that the expert would otherwise have conducted that day but for the request that the expert be available all day for the scheduled deposition.

(f) In a worker's compensation case arising under Division 4 (commencing with Section 3201) or Division 4.5 (commencing with [Section 6100 of the Labor Code](#)), a party desiring to depose any expert on another party's expert witness list shall pay the fee under this section.

History

Added [Stats 2004 ch 182 § 23 \(AB 3081\)](#), operative July 1, 2005. Amended [Stats 2008 ch 303 § 2 \(AB 2619\)](#), effective January 1, 2009.

▼ Annotations

Notes

↳ Derivation:

↳ Editor's Notes—

↳ Amendments:

↳ Derivation:

Former CCP § 2034(i)(2), 1st para, 1st–5th snt, added Stats 1986 ch 1336 § 2, amended [Stats 1987 ch 86 § 17](#), [Stats 1988 ch 553 § 7](#), [Stats 1990 ch 771 § 2](#), ch 1392 § 2, Stats 1992 1301 § 1, [Stats 1993 ch 3 § 1](#), [Stats 1993 ch 678 § 1](#), [Stats 1995 ch 797 § 1](#), [Stats 2004 ch 171 § 6](#).

↳ Editor's Notes—

For notes of decisions derived from cases decided under former CCP § 2034, see [CCP § 2034.010](#).

↳ Amendments:

2008 Amendment:

Substituted (1) "Section 2034.210" for "Section 2034.260" in subd (a)(1); and (2) "forgo all business" for "forego all business" in subd (e).

Commentary

Law Revision Commission Comments:

2004—

Subdivisions (a) and (b) of [Section 2034.430](#) continue the first sentence of the first paragraph of former [Section 2034\(i\)\(2\)](#) without substantive change.

Subdivision (c) continues the second sentence of the first paragraph of former [Section 2034\(i\)\(2\)](#) without change.

Subdivision (d) continues the third sentence of the first paragraph of former [Section 2034\(i\)\(2\)](#) without substantive change.

Subdivision (e) continues the fourth sentence of the first paragraph of former [Section 2034\(i\)\(2\)](#) without substantive change.

Subdivision (f) continues the fifth sentence of the first paragraph of former [Section 2034\(i\)\(2\)](#) without substantive change.

Research References & Practice Aids

Treatises:

[Cal. Forms Pleading & Practice \(Matthew Bender\) ch 198 "Discovery: Exchange Of Expert Witness Information"](#).

[Cal. Points & Authorities \(Matthew Bender\) ch 88 "Discovery: Exchange Of Expert Witness Information" § 88.14.](#)

[Cal. Points & Authorities \(Matthew Bender\) ch 88 "Discovery: Exchange Of Expert Witness Information" § 88.21.](#)

[Cal. Points & Authorities \(Matthew Bender\) ch 88 "Discovery: Exchange Of Expert Witness Information" § 88.32.](#)

[Cal. Fam. Law Practice & Procedure \(Matthew Bender\), § 110.14.](#)

Practice Guides

Matthew Bender® Practice Guide: [Cal. Trial and Post Trial Civil Procedure § 24.11\[2\]](#).

Hierarchy Notes:

[Cal Code Civ Proc Pt. 4](#)

[Cal Code Civ Proc Pt. 4, Title 4](#)

[Cal Code Civ Proc Pt. 4, Title 4, Ch. 18](#)

[Cal Code Civ Proc Pt. 4, Title 4, Ch. 18, Art. 3](#)

Deering's California Codes Annotated

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