

RULE 85. OBJECTIONS, ERRORS, AND IRREGULARITIES

- (a) **As to Initiating Deposition:** All errors and irregularities in the procedure for obtaining approval for the taking of a deposition are waived unless made in writing within the time for making objections or promptly where no time is prescribed.
- (b) **As to Disqualification of Officer:** Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.
- (c) **As to Use:** In general, an objection may be made at the trial or hearing to use of a deposition, in whole or in part as evidence, for any reason which would require the exclusion of the testimony as evidence if the witness were then present and testifying. However, objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are waived by failure to make them before or during the taking of the deposition, if the ground of the objection is one which might have been obviated or removed if presented at that time.
- (d) **As to Manner and Form:** Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of the parties, and errors of any kind which might have been obviated, removed, or cured if promptly presented, are waived unless reasonable objection thereto is made at the taking of the deposition.
- (e) **As to Errors by Officer:** Errors or irregularities in the manner in which testimony is transcribed or the deposition is prepared, signed, certified, sealed, endorsed, transmitted, filed, or otherwise dealt with by the presiding officer, are waived unless a motion to correct or suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained. See also Rule 143(d).

(As effective October 3, 2008, [130 T.C. 451–52](#); as amended, effective January 1, 2010, [134 T.C. 348–49](#). For prior history, see [60 T.C. 1113–14](#) (1973).)