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April 2, 2026

Via U.S. Mail

Carolyn A. Dubay, Secretary
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE, Room 7-300
Washington, D.C. 20544

Re: Support for Amending Federal Rule of Criminal Procedure 15 to Expand the Use of Depositions in Criminal Cases for Trial Preparation

Dear Members of the Committee

We are all attorneys at Parker Poe Adams and Bernstein LLP who have varied backgrounds in the federal criminal justice system, including white collar defense attorneys, a former United States Attorney, former federal prosecutors, a former federal public defender as well as former state attorneys general and district attorneys.

We write to join the many others who have written in support of the proposal to amend Federal Rule of Criminal Procedure 15 to allow for broader use of depositions in criminal cases, which will, in turn, better serve the interests of justice.

We have reviewed the many letters and points made by others and echo arguments raised. The many accounts and examples that have been given by others resonate with our own experiences. Criminal defendants are often at a disadvantage against the government, and allowing the use of pretrial depositions will promote fairness by giving the defense a meaningful opportunity to question witnesses on their theory of the case before trial.

As others have explained, the government has powerful tools at their disposal to obtain information and testimony from witnesses in criminal cases. As the committee is undoubtedly aware, the government can send federal agents to speak to witnesses, use the federal grand jury to obtain documents and/or compel witness testimony, and, further, the government can grant immunity to certain witnesses. While the government does have to disclose the information obtained in pretrial discovery, the witness statements memorialized in FBI 302s, or other agency equivalents, likely reflect the government's theory of the case because it was conducting the interview and/or asking the questions.

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It is our belief greater use of depositions in criminal cases will allow the defense bar to better counsel its clients with greater clarity and insight into the factual context of the case. We do not believe this will disadvantage the government. In fact, we think it will allow all parties to accurately digest the strengths and weaknesses of the case which will, necessarily and ideally, effectuate a just resolution.

Some opponents of an amendment may have concerns that the use of depositions would strain government resources and, further, would lengthen the time a criminal case is pending. These concerns should not dissuade the Committee from implementing the amended Rule 15. Federal prosecutors, as set forth in the Justice Manual's Principles of Federal Prosecution, are tasked with ensuring justice is served. Amending Rule 15 to allow criminal defendants to have the ability to take depositions will serve the interests of justice.

For the reasons expressed in this letter, and for the reasons that have been set forth by many others, we respectfully urge the Committee to adopt the proposed amendment to Rule 15.

Sincerely,



Amy F. Bower
Brian S. Cromwell
Dena J. King
Joel D. Schwartz

AFB:omm