IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

September 2026 Term

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SUPREME COURT OF APPEALS
OF WEST VIRGINIA

No. 25-671

STATE OF WEST VIRGINIA EX REL. PHH MORTGAGE CORPORATION,
Petitioner,

v.

THE HONORABLE DAVID M. HAMMER,
JUDGE OF THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA,
AND ANTHONY AND HEATHER DELSIGNORE,
Respondents.

PETITION FOR A WRIT OF PROHIBITION

WRIT DENIED

Submitted: October 13, 2026
Filed: November 9, 2026

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JUSTICE FLANIGAN delivered the Opinion of the Court.

SYLLABUS BY THE COURT

1. "A writ of prohibition is available to correct a clear legal error resulting from a trial court's substantial abuse of its discretion in regard to discovery orders." Syl. Pt. 1, *State Farm Mut. Auto. Ins. Co. v. Stephens*, 188 W. Va. 622, 425 S.E.2d 577 (1992).

2. Pursuant to Rule 30 of the West Virginia Rules of Civil Procedure, a witness located outside of the United States may be deposed upon notice alone if he or she is a managing agent of a corporate party.

3. In determining whether an individual may be deposed as a managing agent of a corporation, courts should consider the following factors: (1) the discretionary authority vested in the person by the corporation; (2) the employee's dependability in following the employer's directions; (3) whether the individual is more likely to identify with the corporation or the adverse party in the litigation; and (4) the degree of supervisory authority in areas pertinent to the litigation.

4. "'The Rules of Civil Procedure generally provide for broad discovery to ferret out evidence which is in some degree relevant to the contested issue. (footnote omitted).' *Policarpio v. Kaufman*, 183 W.Va. 258, 261, 395 S.E.2d 502, 505 (1990)." Syl. Pt. 1, in part, *Evans v. Mutual Min.*, 199 W. Va. 526, 485 S.E.2d 695 (1997).

FLANIGAN, Justice:

Petitioner, PHH Mortgage Corporation ("PHH"), invokes this Court's original jurisdiction, seeking a writ of prohibition to prevent enforcement of a September 11, 2025, order of the Circuit Court of Jefferson County denying its motion for a protective order and granting a motion filed by Anthony and Heather Delsignore, defendants and counterclaim-plaintiffs in the underlying civil action, to compel the depositions of two PHH employees located outside of the United States. PHH argues that the circuit court exceeded its legitimate powers and committed clear legal error in violation of the Hague Convention on Taking Evidence Abroad in Civil or Commercial Matters, 23 U.S.T. 2555, 28 U.S.C.S § 1781, ("the Hague Convention") and Rule 26(c) of the West Virginia Rules of Civil Procedure. Having considered the parties briefs and oral arguments, the submitted appendix record, and pertinent authorities, we find no clear error and, therefore, deny the requested writ.

I. Facts and Procedural Background

On August 8, 2023, David W. Irvin filed a complaint in the Circuit Court of Jefferson County seeking to evict the Delsignores from their residential property located in Charles Town, West Virginia. Mr. Irvin purchased the property at a foreclosure sale after the Delsignores defaulted on their mortgage. The Delsignores answered the complaint on September 8, 2023, and at the same time, filed a counterclaim against Mr. Irvin and a

third-party claim against United Bank;[1] PHH, their mortgage servicing company; and Pill & Pill, PLLC,[2] asserting breach of contract, tortious conduct, and violations of the West Virginia Consumer Credit Protection Act, West Virginia Code §§ 46A-1-101 to 46A-8-102. The Delsignores are seeking damages and to void the foreclosure sale.[3]

According to the Delsignores' "Amended Counterclaim,"[4] they received notice of the foreclosure sale on April 22, 2023, which indicated that the property would be sold on May 9, 2023. They then attempted to cure the default by submitting the required payment as instructed by PHH. Mr. Delsignore maintains that he mailed a cashier's check to PHH to cure the default on May 1, 2023, and it was delivered on May 4, 2023. Mr. Delsignore further claims that when he called PHH on May 11, 2023, to confirm receipt of his payment, a customer service representative told him that the check had not been received. Mr. Delsignore asserts that customer service representatives told him the same thing—that the check was not received—during phone calls he made on May 25, 2023, and June 2, 2023. Mr. Delsignore further contends that a customer service representative told him to stop payment on the check during the June 2, 2023, call and that he would be emailed wiring instructions to resubmit payment. While awaiting those instructions, his

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[1] United Bank financed Mr. Irvin's purchase of the property.

[2] Pill & Pill, PLLC, conducted the foreclosure sale on behalf of PHH.

[3] The Delsignores only seek equitable and declaratory relief from Mr. Irvin and United Bank. They seek all available relief from PHH and Pill & Pill, PLLC.

[4] The Amended Counterclaim was filed on September 19, 2024.

home was sold at the foreclosure sale which had been rescheduled for June 8, 2023, unbeknownst to him.

The record indicates that the focus of discovery has been on what happened to the check mailed by Mr. Delsignore and what representations were made to him by PHH in that regard. It is undisputed that Mr. Delsignore made phone calls to PHH on May 11, 2023, May 25, 2023, and June 2, 2023, inquiring about the status of the check. However, the parties disagree as to whether the evidence shows that the check was rejected and/or returned by PHH due to its alleged untimeliness[5] or whether Mr. Delsignore was told that the check was never received and "may be lost." The record indicates that the phone calls made by Mr. Delsignore were recorded and the audio recordings were produced by PHH during discovery. PHH also made its corporate representative, Benjamin Verdooren, available for deposition, and he was deposed on August 29, 2024.

Following Mr. Verdooren's deposition, the Delsignores filed a "Notice of Videotaped Rule 30(b)(1) Deposition," seeking to depose the following individuals: (1) the two customer service representatives who answered Mr. Designore's June 2, 2023 call; (2) the customer service representative who answered Mr. Designore's May 25, 2023 call; (3) the customer service representative who answered Mr. Designore's May 11, 2023 call;

[5] According to PHH, Mr. Delsignore was told that payment to cure the default had to be made by April 30, 2023.

and (4) the three PHH employees[6] who processed the May 1, 2023 check and conducted an investigation regarding what occurred when it was received by PHH. On September 23, 2024, PHH filed a motion for a protective order requesting that the circuit court relieve it from any obligation to produce the individuals the Delsignores were seeking to depose. PHH argued that the information sought through this discovery request had already been provided or was obtainable from a more convenient source. In that regard, PHH explained that it had already produced a voluminous amount of discovery responses and documents pursuant to discovery requests made by the Delsignores and Mr. Irvin; had made its corporate representative available for a deposition that lasted more than six hours; and that the individuals sought to be deposed are located in either India or the Philippines. PHH further argued that to depose the individuals residing in India, the Delsignores were required to follow the procedures under the Hague Convention. As for the individuals residing in the Philippines, PHH asserted that there was no authority to compel them to comply with the deposition request as the Philippines is not a signatory to the Hague Convention. In response, the Delsignores filed a memorandum in opposition to PHH's motion and a motion to compel the depositions. The circuit court then took the matter under advisement.

[6] PHH maintains that only two employees, not three, were involved in the processing and investigation of the status of Mr. Designore's check.

On September 11, 2025, the circuit court entered its order denying PHH's motion for a protective order and granting the Delsignores' motion to compel. The circuit court found that the information sought through the depositions was relevant to the Delsignores' claims as asserted in their "Amended Counterclaim" and that PHH had not met its burden of demonstrating "that depositions of its employees who are fact witnesses to the underlying events are unduly burdensome or unfairly duplicitous." The circuit court ordered PHH to provide the Designores with the contact information for any of the individuals sought to be deposed who reside in the United States so they could serve subpoenas. As for the individuals to be deposed that reside outside of the United States, the circuit court determined that two of them, Edgar Francisco, who is located in the Philippines, and Gayatri Bachcha, who is located in India, are "managing agents" of PHH because they "made the decision to reject the payment of more than $22,000 made by the Delsignores to reinstate the loan" and "conducted and resolved the investigation into the dispute lodged by Mr. Delsignore regarding his payment after he was told it was not received." The circuit court concluded that as "managing agents," these individuals are subject to deposition pursuant to notice and that a subpoena for their attendance is unnecessary. So, the circuit court ordered the parties' counsel "to meet and confirm the identity of all such witnesses described in this Order within 10 days of entry" and to "schedule the depositions to occur within 30 days of their conference." The order noted that the Delsignores had withdrawn their notice of deposition with regard to any witnesses not covered by the court's order—those individuals located outside of the United States

who were not identified as "managing agents." Following entry of this order, PHH filed its petition for a writ of prohibition with this Court.

II. Standard of Review

The exercise of this Court's original jurisdiction in prohibition is limited to circumstances "of an extraordinary nature." *State ex rel. U.S. Fid. & Guar. Co. v. Canady*, 194 W. Va. 431, 436, 460 S.E.2d 677, 682 (1995) (additional quotations and citation omitted). As this Court has long held: "Prohibition lies only to restrain inferior courts from proceedings in causes over which they have no jurisdiction, or, in which, having jurisdiction, they are exceeding their legitimate powers, and may not be used as a substitute for [a petition for appeal] or certiorari." Syl. Pt. 1*, Crawford v. Taylor,* 138 W. Va. 207, 75 S.E.2d 370 (1953). Consequently, "[a] writ of prohibition is rarely granted as means to resolve discovery disputes*." State ex rel. Arrow Concrete Co. v. Hill*, 194 W. Va. 239, 244, 460 S.E.2d 54, 59 (1995). Only when clear error is apparent will a writ of prohibition be granted with respect to a discovery matter. In that regard, syllabus point one of *State Farm Mut. Auto. Ins. Co. v. Stephens*, 188 W. Va. 622, 425 S.E.2d 577 (1992) holds: "A writ of prohibition is available to correct a clear legal error resulting from a trial court's substantial abuse of its discretion in regard to discovery orders." With this standard in mind, we consider whether to issue the requested writ.

III. Discussion

PHH argues that a writ of prohibition should issue to prevent enforcement of the circuit court's discovery order because (1) fails to require the Delsignores to comply with the procedures set forth in the Hague Convention and (2) the discovery being sought is unreasonably cumulative and is obtainable from other sources that are more convenient and less burdensome. We consider each argument, in turn, below.

As set forth above, the circuit court's order allows the Delsignores to depose the two PHH employees who are located outside the Unites States by simply serving notice as provided in Rule 30(b)(1) of the West Virginia Rules of Civil Procedure. The circuit court found that these individuals are "managing agents" of PHH and as such, a subpoena is not necessary to secure their deposition testimony because they are party witnesses. Before this Court, PHH argues that the circuit court committed clear, contending that the individuals the Delsignores seek to depose that reside outside of the United States are "lower-level employees who are not invested with general powers to exercise judgement and discretion in corporate matters" and that their depositions cannot be compelled "by simply serving notice." PHH maintains that the only way to secure the depositions of these individuals is by first utilizing the procedures for obtaining foreign discovery set forth in the Hague Convention pursuant to the syllabus of *Gebr. Eickhoff Maschinenfabrik Und*

Eisengierberei v. Starcher, 174 W. Va. 618, 328 S.E.2d 492 (1985) ("*Starcher")*,[7] which holds:

> Although the procedures under the Multilateral Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, March 18, 1970, 23 U.S.T. 2555, T.I.A.S. No. 7444 [reprinted in 28 U.S.C.A. § 1781 (Supp.1984)] are not the exclusive means by which evidence located abroad may be obtained by West Virginia litigants, the principle of international comity dictates first resort to those procedures until it appears that such attempt has proven fruitless and that further action is necessary to prevent an impasse.

As a preliminary matter, we note that when the present discovery dispute arose, the complete revision of our Rules of Civil Procedure was underway but had not yet been implemented.[8] However, by the time the circuit court entered its September 11, 2025, order, the amended rules had become effective. Rule 86 of the amended West Virginia Rules of Civil Procedure provides that the amendments apply to "all proceedings in cases thereafter commenced and insofar as just and practicable, all proceedings then pending." W. Va. R. Civ. P. 86 (eff. Jan. 1, 2025). Similarly, this Court has held:

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[7] In *Starcher*, this Court explained that in recognition of the "disparities in methodology with respect to the gathering of evidence the Hague Evidence Convention provides a tripartite division of procedures for securing evidence from signatory states." 174 W. Va. at 622, 328 S.E.2d at 496 (footnotes omitted). *See also In re Auto. Refinishing Paint Antitrust Litig*., 358 F.3d 288, 299 (3d Cir. 2004) ("The [Hague] Convention prescribes certain procedures by which a judicial authority in one contracting nation may request evidence located in another nation.").

[8] By order entered January 31, 2024, this Court adopted a complete revision of the of the West Virginia Rules of Civil Procedure which became effective January 1, 2025.

> When, during the pendency of a proceeding, a new procedural rule is promulgated, or an existing procedural rule is amended, a circuit court, in its discretion, may nevertheless revert to the previous rule where application of the new or amended rule would be impracticable or work injustice in that proceeding. A circuit court should, however, make every effort to apply the new or amended procedural rule to any matter pending at the time the new rule becomes effective.

Syl. Pt. 4, *State ex rel. Parsons v. Zakaib*, 207 W. Va. 385, 532 S.E.2d 654 (2000).

The circuit court's order does not indicate which version of Rule 30 it applied when it ruled upon this discovery issue, but in this instance, that is of no concern. As this Court recently observed:

> Prior to January 1, 2025, Rule 30 provided in pertinent part, "[a]fter commencement of the action, any party may take the testimony of any person, including a party, by deposition upon oral examination." W. Va. R. Civ. P. 30(a) (eff. until Jan. 1, 2025). The amendment to this Rule makes no substantive change to the operative provisions to this appeal: "[a] party may, by oral questions, depose any persons, including a party, without leave of the court . . . ." W. Va. R. Civ. P. 30(a) (eff. Jan. 1, 2025). Because this Rule remains substantially the same . . . it would not be impractical or unjust to apply the Amended Rule here[.]

State ex rel. Sutphin v. Poling, 251 W. Va. 365, 372, 914 S.E.2d 238, 245 (2025). The same is true with respect to the other provisions of Rule 30 that are relevant to this matter—Rule 30(b)(1), providing for notice of a deposition in general, and Rule 30(b)(6) (Rule 30(b)(7) under the pre-2025 version of the Rules), providing that the deposition of a corporation is obtained through the testimony of its officers, directors, managing agents, or other designated persons who consent to testify on its behalf.

Turning to PHH's argument, we begin by noting that this Court has not previously considered whether a managing agent of a corporate party who is located outside of the United States can be compelled to appear for a deposition on notice alone, nor has this Court determined the standards that apply for deeming an individual a "managing agent" of a corporation for litigation purposes. Where there is an absence of West Virginia precedent with respect to the scope and meaning of our Rules of Civil Procedure, we look to federal decisions for guidance. As this Court has explained:

> Because the West Virginia Rules of Civil Procedure are practically identical to the Federal Rules, we give substantial weight to federal cases, especially those of the United States Supreme Court, in determining the meaning and scope of our rules. *See generally Burns v. Cities Serv. Co*., 158 W.Va. 1059, 217 S.E.2d 56 (1975); *Aetna Casualty & Sur. Co. v. Federal Ins. Co. of New York*, 148 W.Va. 160, 133 S.E.2d 770 (1963).

Painter v. Peavy, 192 W. Va. 189, 192 n.6, 451 S.E.2d 755, 758 n.6 (1994); *see also Bowers v. Wurzburg*, 202 W. Va. 43, 49 n.11, 501 S.E.2d 479, 485 n.11 (1998) (same). In this instance, federal law is clear both with regard to the procedure for securing the testimony of a managing agent of a corporate party who is located outside of the United States and the standards for determining whether individuals are "managing agents" of a corporation for the purpose of securing their deposition testimony.

"It is, of course, black letter law that only a party to a lawsuit may be deposed pursuant to notice as opposed to subpoena." *Calderon v. Experian Info. Solutions, Inc.*, 287 F.R.D. 629, 631 (D. Idaho 2012); *see also Spaeth v. Warner Bros. Pictures Inc.,* 1 FRD 729, 730-31 (S.D.N.Y. 1941) ("It is not necessary to serve a subpoena on *a party*. . . . The

attendance of other persons can only be compelled by the use of a subpoena as provided in Rule 45."). Rule 30(b)(1) provides that a party may request the deposition of another party to the litigation by serving notice. If the party to be deposed is a corporation, then the individual who testifies on behalf of the corporation must be "an "officer, director, or managing agent." W. Va. R. Civ. Proc. 30(b)(6); *see also In re Honda America Motor Co., Inc. Dealership Relations Litigation*, 168 F.R.D. 535, 540 (D. Md. 1996) ("The examining party has the power itself, however, to designate deponents who will speak for the corporation, but only if the named individuals are 'directors, officers, or managing agents.'"). As this Court has explained,

> At a Rule 30(b)(6) deposition, the testimony elicited "represents the *knowledge of the corporation, not* of the individual deponents. The designated witness is 'speaking for the corporation,' and this testimony must be distinguished from that of a 'mere corporate employee' whose deposition is not considered that of the corporation and *whose presence must be obtained by subpoena*." [*U.S. v.*] *Taylor*, 166 F.R.D. [356] at 361 [(M.D.N.C.), *aff'd* 166 F.R.D. 367 (1996)] (emphasis added).

State ex rel. United Hosp. Ctr., Inc. v. Bedell, 199 W. Va. 316, 332, 484 S.E.2d 199, 215 (1997). In other words, "[i]f the person is not an 'officer, director, or managing agent' of the corporation, the party seeking the discovery must proceed as though the person is an ordinary non-party witness and obtain a subpoena to secure the attendance of the deponent." *Calderon*, 287 F.R.D. at 631.

With regard to party witnesses located outside of the United States, federal courts have made clear that "these same rules apply." *Id.* Consequently, in this case,

whether the individuals to be deposed are "managing agents" of PHH is critical. As the *Calderon* court explained, "[i]f the witness sought to be deposed is not an officer, director, or managing agent of a corporate opponent, the procedures of the Hague Convention or other applicable treaty must be utilized." *Id.* (additional quotations and citation omitted). As stated by the U.S. District Court for the Southern District of West Virginia: "If the [c]ourt deems [the witnesses] to be 'managing agents,' [the party seeking the deposition] will avoid the difficulties of serving them with process and of using the Hague Convention. They may be deemed to have authority to testify for [the corporate party]." *Felman Prod., Inc. v. Indus. Risk Insurers*, No. 3:09-CV-00481, 2010 WL 5110076, *1 (S.D. W.Va. 2010); *see also U.S. v. Afram Lines (USA), Ltd.*, 159 F.R.D. 408, 413 (S.D.N.Y. 1994) ("[A] corporate employee or agent who does not qualify as an officer, director, or managing agent is not subject to deposition by notice . . . if the witness is overseas, the procedures of the Hague Convention or other applicable treaty must be utilized.").

In accordance with the foregoing authority, we now hold that pursuant to Rule 30 of the West Virginia Rules of Civil Procedure, a witness located outside of the United States may be deposed upon notice alone if he or she is a managing agent of a corporate party. With this established, we now consider the standards under which a corporate employee may be deemed a "managing agent" for the purpose of securing his or her deposition.

Determining whether a corporate employee may be deposed as a "managing agent" of a corporation generally begins with the consideration of multiple factors. The *Felman* court observed that

> courts are in agreement that the following factors should be considered, on a case-by-case basis, in deciding a person's "managing agent" status.
>
> > [W]hether the corporation has invested the person with discretion to exercise his judgment, (2) whether the employee can be depended upon to carry out the employer's directions, and (3) whether the individual can be expected to identify him or herself with the interests of the corporation as opposed to the interests of the adverse party.

2010 WL 5110076 at *1 (additional citation omitted). Another factor that has been considered is the "degree of supervisory authority in areas pertinent to the litigation." *E.I. DuPont de Nemours and Co. v. Kolon Industries*, 268 F.R.D. 45, 49 (E.D. Va. 2010). While federal courts around the country have set forth the factors in slightly different ways,[9] they have consistently utilized the same general framework to "ensur[e] that an

[9] *See, e.g., Sugarhill Records Ltd. v. Motown Record Corp.*, 105 F.R.D. 166, 170 (S.D.N.Y. 1985) ("Several factors have been enunciated which must be examined in determining whether a person is a 'managing agent.' Those are as follows: 1) whether the individual is invested with general powers allowing him to exercise judgment and discretion in corporate matters; 2) whether the individual can be relied upon to give testimony, at his employer's request, in response to the demand of the examining party; 3) whether any person or persons are employed by the corporate employer in positions of higher authority than the individual designated in the area regarding which information is sought by the examination; 4) the general responsibilities of the individual 'respecting the matters involved in the litigation,' *Kolb v. A.H. Bull Steamship Co.,* 31 F.R.D. 252, 254 (E.D.N.Y.1962) (emphasis in original); and 5) whether the individual can be expected to identify with the interests of the corporation.").

organization is deposed through its proper representatives concerning the matters at issue in the litigation." *Id.* at 48.

In *Kolon*, one of the more recent cases on this issue, the court found that the factors as synthesized in *Honda,* which was decided by a district court within the Fourth Circuit, provided a sound analytical framework for considering an individual's status as a "managing agent." *Kolon*, 268 F.R.D. at 48-49. We agree and, therefore, hold that in determining whether an individual may be deposed as a managing agent of a corporation, courts should consider the following factors: "(1) the discretionary authority vested in the person by the corporation; (2) the employee's dependability in following the employer's directions; (3) whether the individual is more likely to identify with the corporation or the adverse party in the litigation; and (4) the degree of supervisory authority in areas pertinent to the litigation." *Id.* Notably, "[w]hichever variation of the test used, virtually all courts and commentators agree that the question of whether a particular person is a 'managing agent' is to be answered pragmatically, on an ad hoc basis, considering the facts of the particular case." *Calderon*, 287 F.R.D. at 632; *see also Founding Church of Scientology of Washington, D.C., Inc. v. Webster*, 802 F.2d 1448, 1452 (D.C. Cir. 1986) ("[B]ecause of the vast variety of factual circumstances to which the [managing agent] concept must be applied, the standard . . . remains a functional one to be determined largely on a case-by-case basis.").

Significantly, when there is a question as to whether the deposition should occur for discovery purposes, as opposed to whether the corporation may be ultimately bound by the employee's statements, "all doubts are resolved in favor of the party seeking the depositions." *Calderon*, 287 F.R.D. at 633. Indeed, "while the burden is on the party seeking the discovery to prove that the potential witness is a managing agent of the corporation, this burden is a modest one . . . at least at the discovery stage." *Id.* at 632-33. As a result, some federal courts "have concluded that employees not specifically designated as 'managers' may indeed qualify as 'managing agents' for purposes of the deposition rules, where their duties and activities are closely linked with the events giving rise to the lawsuit." *Id.* at 633.

For example, in *Sugarhill Records*, an employee who negotiated certain contracts that were the subject of the litigation was allowed to be deposed as a "managing agent" of her corporate employer. 105 F.R.D. at 171. In resolving the status of the employee as a "managing agent" in favor of the party seeking the deposition, the court explained that "she is the sole employee at Motown involved and knowledgeable about the alleged consents at issue here." *Id.* The court noted that the issue of whether the witness's testimony could be used at trial remained to be determined, but concluded that "the doubts should be resolved, at this stage, in Sugarhill's favor so that discovery can at last proceed." *Id.*

Another court ruled that two engineers who investigated the site of an airplane crash were "managing agents" of their corporation for purposes of providing deposition testimony even though they "may not be 'managing agents' in the course of their everyday duties for the defendant corporation." *Tomingas v. Douglas Aircraft Co.*, 45 F.R.D. 94, 96-97 (S.D.N.Y. 1968). The *Tomingas* court explained that "[t]he term 'managing agent' should not be given too literal an interpretation but rather should depend largely on whether the interests of the individual involved are identified with those of his principal and on the nature of his 'functions, responsibilities and authority respecting the subject matter of the litigation.'" *Id.* at 96 (additional citation omitted).

In *Calderon*, the court was tasked with determining whether individuals who had processed numerous requests made by the plaintiff to Experian Information Solutions, Inc. ("Experian"), to have incorrect information removed from his credit report could be deposed as "managing agents" of Experian. 287 F.R.D. at 631. The individuals were located in Chile and were employed by Experian's sister corporation. *Id.* The *Calderon* court ultimately concluded that the depositions could go forward for discovery purposes with the final determination as to whether the deponents could bind Experian on any particular issue to be made at trial. *Id.* at 634. In so ruling, the court explained:

> [T]here is at least a "close question" as to whether the individual dispute agents are "managing agents" of Experian for purposes of this litigation. . . . [I]t is not so much the title or status of an individual within the corporation, but his or her duties and responsibilities respecting the subject matter of the litigation that is important. Even accepting Experian's characterization of these employees as "entry level," the fact

> remains that they were the individuals who were charged with handling Plaintiff's disputes, and they are therefore the only people who might have information about what was actually done, as opposed to simply what Experian's policies and procedures theoretically required.

Id. The same holds true in this case.

Applying our new holdings to the matter before us, we are unable to find that the circuit court committed clear error in ruling that the Delsignores may depose Edgar Francisco and Gayatri Bachcha as "managing agents" of PHH upon notice alone. As previously noted, one of them made the decision to reject the payment made by Mr. Designore to reinstate the loan while the other conducted and resolved the investigation into what happened to that payment. Because the underlying dispute revolves around the handling of the payment and these individuals possess the information about what occurred because they made the decisions in that regard, the circuit court did not clearly err in concluding that they are managing agents of PHH and, therefore, subject to deposition upon notice alone because they are party witnesses. Accordingly, PHH's argument that the procedures under the Hague Convention must be utilized first has no merit.[10]

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[10] While the Hague Convention procedures do not apply here because the depositions of Edgar Francisco and Gayatri Bachcha may be obtained by notice alone, we observe that two years after *Starcher*, the Supreme Court of the United States decided *Societe Nationale Industrielle Aerospatiale v. United States Dist. Court for the S. Dist. of Iowa,* 482 U.S. 522 (1987), in which it "decline[d] to hold as a blanket matter that comity requires resort to Hague Evidence Convention procedures without prior scrutiny in each case of the particular facts, sovereign interests, and likelihood that resort to those procedures will prove effective." *Id.* at 544.

Likewise, PHH's assertion that the circuit court should have issued a protective order pursuant to Rule 26(c) of the West Virginia Rules of Civil Procedure[11] upon a finding that the depositions of these two individuals would be unreasonably duplicative and that the information sought could be obtained from other sources that are more convenient and less burdensome is equally unavailing. As discussed above, the circuit court determined that the two PHH employees to be deposed were the best witnesses to testify as to the events that precipitated this lawsuit because they were the individuals actually involved in the transactions. We agree.

This Court has recognized that "'[t]he Rules of Civil Procedure generally provide for broad discovery to ferret out evidence which is in some degree relevant to the contested issue. (footnote omitted).' *Policarpio v. Kaufman*, 183 W.Va. 258, 261, 395 S.E.2d 502, 505 (1990)." Syl. Pt. 1, in part, *Evans v. Mutual Min.*, 199 W. Va. 526, 485 S.E.2d 695 (1997). So, "we have traditionally given the *Rules* a liberal construction favoring broad discovery, because broad discovery policies are essential to the fair disposition of both civil and criminal lawsuits." *State ex rel. W. Va. State Police v. Taylor*, 201 W. Va. 554, 565 n.16, 499 S.E.2d 283, 294 n.16 (1997) (additional quotations and citation omitted). Taking this policy into account and considering the circumstances

[11] As with Rule 30, the 2025 amendment to Rule 26(c) made no substantive change. Under both the old and new versions of Rule 26(c), a protective order may be issued to protect a party from "annoyance, embarrassment, oppression, or undue burden or expense" with respect to a discovery request.

presented, we find no clear error in the circuit court's denial of a protective order or its grant of the motion to compel.

IV. Conclusion

Accordingly, for the foregoing reasons, we decline to grant the requested writ of prohibition.

Writ denied.