

Walker, Marti

From: Meadows, Robert <RMeadows@KSLAW.com>
Sent: Wednesday, June 08, 2016 3:58 PM
To: Walker, Marti
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Subject: Re: Discovery Subcommittee Report

Correction:

...it makes sense to consider the proposed spoliation rule and changes to Rule 192.3 as part of the larger review of all our discovery rules, rather than taking up these proposals in isolation in advance. ...

> On Jun 8, 2016, at 9:53 AM, Walker, Marti <mawalker@jw.com> wrote:

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> SCAC:

> Please see attached documents and the email below for your review and consideration. Thank you.

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> Marti Walker | Legal Administrative Assistant

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> V: (713) 752-4375 | mawalker@jw.com <<mailto:mawalker@jw.com>>

> [cid:image001.jpg@01D1C162.BD955010]

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> From: Meadows, Robert [<mailto:RMeadows@KSLAW.com>]

> Sent: Wednesday, June 08, 2016 5:31 AM

> To: Walker, Marti

> Subject: Discovery Subcommittee Report

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> Marti, good morning; here is the report of Discovery Subcommittee for the SCAC meeting on Friday.

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> The Discovery Subcommittee has been tasked with considering (1) two proposed changes to Texas Rule 192.3, (2) a proposed new rule on spoliation and (3) undertaking a wholesale review of the Texas discovery rules. These matters were taken up by the Discovery Subcommittee at a recent meeting, and it was decided that inasmuch as we will be considering all the Texas discovery rules to evaluate their current effectiveness and in light of the 2015 amendments to the Federal Rules of Civil Procedure, it makes sense to consider the proposed spoliation rule changes to Rule 192.3 as part of the larger review of all our discovery rules, rather than taking up these proposals in isolation in advance. For consideration of the Texas discovery rules and procedures front to back, the Discovery Subcommittee believes it would be helpful to have direction from the full SCAC as to what members think is working and what needs attention..

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> To facilitate the discussion, attached are two charts (each in word and pdf form) comparing the Texas discovery rules to the relevant Federal Rules of Civil Procedure. We have prepared the charts to (1) indicate where the federal rules were amended, effective December 2015, (2) include the proposed Texas spoliation rule opposite the relevant federal rule (marked as PROPOSED), and (3) include the two proposed changes to Texas Rule 192.3 (marked as PROPOSED). Each chart includes an index and key to guide readers.

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> The difference between the two charts is the "Full-Text Comparison" chart places the full text of the Texas discovery rules opposite the full text of the federal discovery rules, divided by the following topics:

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> Index

- > I. General Rules and Disclosures: Tex. R. Civ. P. 190-194, 205; Fed. R. Civ. P. 26
- > II. Experts: Tex. R. Civ. P. 195; Fed. R. Civ. P. 26(a)(2), (b)(4), (e)
- > III. Pre-Suit Depositions and Depositions Pending Appeal: Tex. R. Civ. P. 202; Fed. R. Civ. P. 27
- > IV. Depositions: Tex. R. Civ. P. 199-201, 203; Fed. R. Civ. P. 28, 30-32
- > V. Stipulations about Discovery Procedure: Tex. R. Civ. P. 191.1, 191.2; Fed. R. Civ. P. 29
- > VI. Interrogatories: Tex. R. Civ. P. 197; Fed. R. Civ. P. 33
- > VII. Production and Inspection: Tex. R. Civ. P. 196; Fed. R. Civ. P. 34
- > VIII. Physical and Mental Examinations: Tex. R. Civ. P. 204; Fed. R. Civ. P. 35
- > IX. Admissions: Tex. R. Civ. P. 198; Fed. R. Civ. P. 36
- > X. Sanctions: Tex. R. Civ. P. 215; Fed. R. Civ. P. 37

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> The "Matched Comparison" chart, while also divided by the same index topics, rearranges the relevant federal rules to better match the federal provisions to the Texas provisions. It also notates differences between the rules. It is helpful to have both charts because the Full-Text Comparison chart preserves the structure of the federal rules in a way the matched comparison chart does not.

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> <2016.6.5.Full-Text Comparison-TRCP and FRCP.docx>

> <2016.6.5.Matched Comparison - TRCP and FRCP.docx>

> <2016.6.5.Full-Text Comparison-TRCP and FRCP.pdf>

> <2016.6.5.Matched Comparison-TRCP and FRCP.pdf>