

SCAC Discovery Subcommittee
Future Issues

- Limiting the number of RFPs: The Discovery Subcommittee discussed whether to limit the number of Requests for Production permitted under Texas Rules of Civil Procedure 190 and 196. The discussion included whether the limit would apply to depositions with document productions.
- Level 3 cases mandatory: The Discovery Subcommittee discussed whether Level 3 (Texas Rule of Civil Procedure 190.4) should be mandatory and automatic at a certain dollar amount in controversy.
- Level 3 cases assigned to a specific court: The Discovery Subcommittee discussed requiring Level 3 cases be assigned to a specific court for management purposes. This change may be made in the Rules of Judicial Administration.
- Modifying discovery procedures for good cause: Currently, Texas Rule of Civil Procedure 191.1 permits discovery procedures and limitations to be modified by agreement of the parties “or by court order for good cause.” Tex. R. Civ. P. 191.1 (emphasis added). The Discovery Subcommittee discussed whether the “good cause” standard should be used in Rule 191.1, particularly given that Texas Rule of Civil Procedure 190.5 requires modification of a discovery control plan “when the interest of justice requires.” Tex. R. Civ. P. 190.5.
- Pleading amendment deadlines: The Discovery Subcommittee discussed whether the pleading amendment deadlines in Texas Rules of Civil Procedure 66 and 63 should be amended. One modest change discussed was to require leave of court to file amended pleadings, responses, or pleas filed within 30 days of the date of trial. Current Texas Rule of Civil Procedure 63 sets the deadline for amendments without leave of court at seven days of the date of trial. Tex. R. Civ. P. 63. Changing the burden required to obtain leave to file an amendment was also discussed. Tex. R. Civ. P. 63.
- Increasing disclosure requirements: The Discovery Subcommittee discussed a more robust Texas Rule of Civil Procedure 194 that would not allow parties to incorporate their pleadings into the responses.
- Rule 215 and spoliation: The Discovery Subcommittee discussed amendments to Texas Rule of Civil Procedure 215 and a proposed spoliation rule, but more discussion is needed.