

Zamen, Shiva

From: Elaine Carlson <ecarlson@stcl.edu>
Sent: Sunday, February 12, 2023 1:53 PM
To: Zamen, Shiva
Cc: Babcock, Chip; Riney, Thomas
Subject: Re: Draft SCAC Agenda Assignments
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Hi Shiva,

Rule 226a pertaining to jury instructions re implicit bias is on the proposed agenda for this Friday. The subcommittee just received this assignment last week so have not met to discuss. You may recall a proposal was made by the State Bar Rules Committee in 2021 regarding this issue. The subcommittee recommended adoption of that proposal at the September 3, 2021 full committee meeting. (see Transcript pages 32582-32778). It was presented by Tom Riney, as Vice-Chair of the subcommittee. The majority of the full committee who commented supported including an implicit bias instruction in Rule 226a but no formal votes were taken. The Court has not acted on this matter.

The State Bar Rules Committee has now suggested amended Rule 226a instructions. Jackie sent an email last week asking the subcommittee to revisit the issue and this new proposal. We have not had time to meet so it seems premature to present to the full committee at this time. I am copying Chip with this email to see if he concurs. That said, the full committee could vote on preliminary matters, without regard to the merits of the language, as to:

Without regard to the language in the amended proposal, should some instruction regarding implicit bias be included in TRCP 226a?

If you support inclusion of some implicit bias instruction in TRCP 226a, should such an instruction be given to the venire panel before voir dire?

Should TRCP 226a expressly address trial court discretion to allow (or deny) written jury questionnaires before the beginning of oral voir dire questioning?

Thanks,
Elaine

From: Zamen, Shiva <szamen@jw.com>
Sent: Friday, February 10, 2023 5:42 PM
To: Harvey.Brown@LanierLawFirm.com <Harvey.Brown@LanierLawFirm.com>; John Kim (jkh@thekimlawfirm.com) <jkh@thekimlawfirm.com>; psbaron (psbaron@baroncounsel.com) <psbaron@baroncounsel.com>; Bill Boyce (bboyce@adjtlaw.com) <bboyce@adjtlaw.com>; lbenton (lbenton@levibenton.com) <lbenton@levibenton.com>; aestevez77@yahoo.com Ana Estevez <aestevez77@yahoo.com>; Elaine Carlson <ecarlson@stcl.edu>; Tom Riney <tom.riney@uwlaw.com>

Cc: Babcock, Chip <cbabcock@jw.com>; Jaclyn Daumeire (jaclyn.daumerie@txcourts.gov) <jaclyn.daumerie@txcourts.gov>; Vernis McGill <vernismcgill@txcourts.gov>

Subject: Draft SCAC Agenda Assignments

Good Evening,

The attached is a draft of our upcoming meeting's agenda and your sub-committee has been assigned. Please review and let me know if there needs to be any changes.

If you could get your reports/paperwork to me by Weds, Feb. 15th to be distributed to the entire committee.

Thanks so much,
Shiva Zamen