

KING & SPALDING

King & Spalding LLP
1100 Louisiana, Suite 4000
Houston, TX 77002-5213
Tel: +1 713 751 3200
Fax: +1 713 751 3290
www.kslaw.com

Robert Meadows
Partner
Direct Dial: +1 713 276 7370
Direct Fax: +1 713 751 3290
rmeadows@kslaw.com

April 24, 2017

Supreme Court Advisory Committee
c/o Mr. Charles L. "Chip" Babcock
Chair, Supreme Court Advisory Committee
Jackson Walker L.L.P.
cbabcock@jw.com

Re: Discovery Subcommittee Proposed Amendments to Part II, Section 9 of the Rules of Civil Procedure

Dear Advisory Committee Members,

On behalf of the Discovery Subcommittee, we again refer you to our recommended changes to Part II, Section 9 of the Rules of Civil Procedure, incorporating discussion from September's SCAC meeting. This is the same material circulated prior to the January SCAC meeting. As discussed at the last meeting, while perhaps not binding, we seem to have agreement in the SCAC on the changes that now appear in the proposal on the following key matters:

- Increase Level One amount in controversy
- Level Three mandatory conference
- Remove "good cause" requirement for modifying discovery procedures
- Eliminate references to fax, and add e-mail requirements
- Mandatory initial disclosures
- Proportionality and relevancy

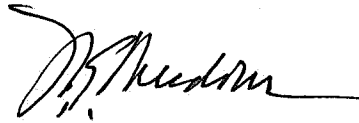
The Discovery Subcommittee's recommended changes on the following key topics have not been discussed by the SCAC:

- Requests for production and inspection
- Interrogatories
- Admissions
- Depositions

- Physical and Mental Examinations

With regard to Spoliation, the Discovery Subcommittee is in agreement that the language of Federal Rule of Civil Procedure 37(e)—modified slightly—should be added to our sanctions rule (Rule 215). Our Subcommittee does not recommend the adoption of the proposed rule by the State Bar of Texas Committee on Court Rules (attached), and other recommendations on a Spoliation rule (that deal with duty, notice, the mechanism for seeking redress from the court and punishment) remain under consideration.

Regards,

A handwritten signature in black ink, appearing to read "R. Meadows", with a long horizontal flourish extending to the right.

Robert Meadows

Enclosures