

Draft Minutes
Civil Commission Discovery Subcommittee
Telephone Conference

Monday, May 22, 2017
4:00 p.m.

Those attending: Atty. David Cooney; Atty. Rosemarie Paine; Atty. Richard Silver and Atty. William Yelenak (chair)

1. Status of Medical Malpractice Standard Discovery – The workgroup has indicated that they are close to completing a proposed sets of standard discovery for medical malpractice cases. A few issues are still being discussed, and the members of the workgroup are going to discuss them with their colleagues and then meet again. Atty. Yelenak had asked if the proposal would be given to the subcommittee, and staff will contact the workgroup about that question.
2. Curbing the use of boilerplate language in objections – At the Civil Commission meeting, this issue was raised and referred to the subcommittee for further discussion. Currently, a rule change to Sec. 13-8 (Objections to Interrogatories) has been proposed, approved by the Rules Committee, and presented for public hearing. It is anticipated that it will be voted on and approved by the judges at the annual meeting in June. The proposal changes Sec. 13-8 to conform to the changes made last year to Sec. 13-10 (Objections to Production Requests). The changes are as follows (new text underlined; deleted text in brackets)
 - (a) The party objecting to any interrogatory shall: (1) set forth each interrogatory [immediately followed by reasons for the objection]; (2) specifically state the reasons for the objection; and (3) state whether any responsive information is being withheld on the basis of the stated objection. Objections shall be: (1) governed by the provisions of Sections 13-2 through 13-5; (2) signed by the attorney or self-represented party making them; and [(2)] (3) filed with the court pursuant to Section 13-7.

The subcommittee agreed that the proposed changes appeared to address the issue of boilerplate language in objections.

3. Time Limits on the Length of Depositions – At the Civil Commission meeting, the question of imposing times limits on the length of depositions was raised and referred to the subcommittee for further review and discussion. A recommendation to limit the time of depositions in cases other than motor vehicle and premises liability cases had been made by the Committee on Discovery and Expedited Litigation. Depositions in the federal courts are already limited to seven hours pursuant to F.R.C.P Sec. 30 (d) (1) which states:
 - (1) *Duration.* Unless otherwise stipulated or ordered by the court, a deposition is limited to 1 day of 7 hours. The court must allow additional time consistent with Rule 26(b)(1) and (2) if needed to fairly examine the deponent or if the deponent, another person, or any other circumstance impedes or delays the examination.

Extensive discussion ensued, including questions as to whether a blanket limitation on deposition length in all types of cases is necessary or realistic; whether in lieu of a specific blanket limitation, it would be preferable to have a presumption that in most cases a specific limit (to be determined) is sufficient, but in other cases, limits would be discussed at a scheduling conference; the problem with multiple objections by opposing parties “eating up” the allotted deposition time; whether it would be possible to identify smaller cases in which such limitation would be appropriate; whether it would be better to modify language to address any abuses that occur instead of imposing a blanket limit; and the suggestion that research be done on other states: how many have deposition limits and how many do not, and how it works in each.

After discussion, Attorney Yelenak agreed to do some research on deposition limits in other states for the next meeting.

The meeting adjourned at 4:35 p.m.