

Draft Minutes

CIVIL COMMISSION
Discovery Subcommittee

Thursday, September 10, 2015
3:00 p.m.

Those attending: Atty. Richard Roberts and Atty. William Yelenak

1. Welcome and Approval of Minutes – Passed until the next meeting.
2. Revised Drafts for review:
 - a. Standard discovery regarding cell phone use and records – The draft referred to “any mobile communication device”, but after discussion, the decision was to go back to just “a cell phone.” The reasons for returning to just “cell phone” included: people look for corroborating records, which are not available for an iPad or other tablet; the focus of discussions was always the use of a cell phone; and it is not possible to cover any possible permutation/combination of mobile communication devices, which are constantly evolving. Finally, asking in the standard interrogatories about the use of a cell phone does not foreclose anyone from asking deposition questions about any other type of mobile communication device. A question was also added to ask whether the respondent was using “any other kind of mobile device” within the same time period.
 - b. Standard discovery regarding loss of consortium – The subcommittee thought it was necessary to add in language to cover civil unions because civil union partners can recover for loss of consortium. Appropriate language (civil union or civil union partner) will be added as appropriate. (Note: This civil union language was subsequently removed as being unnecessary.) The committee also discussed whether interrogatory #16 should read “marriage counseling” alone, or whether the language should include the language “or counseling regarding your relationship.” The purpose behind the additional language would be to make it clear that the question was intended to elicit information not only about therapy sought to try to avoid a divorce, but also information about any therapy addressing problems with the couple’s relationship. The decision was to include “marriage counseling or any counseling regarding your relationship” in the proposal, and allow the Civil Commission to discuss the language and make a decision.
 - c. Uninsured/Underinsure Motorist Interrogatories/Production Requests – Atty. Roberts will work on standard discovery for the defendant’s use in uninsured motorist coverage for the subcommittee to discuss at its next meeting.

The subcommittee agreed that it would present the loss of consortium and cell phone standard interrogatories to the Civil Commission at its meeting on the 21st. At that meeting, the subcommittee will also report that work is underway on the uninsured motorist standard discovery, and the proposed interrogatories and production requests will be presented to the Civil Commission at its meeting in December.

3. Next Meeting – No new date was set. After the Civil Commission meeting, the next meeting date will be established.

The meeting adjourned at 3:20 PM.

DRAFT