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2015 UTCLE TRIAL SKILLS TRAINING CAMP

THE PAPER CHASE: THE INTERPLAY BETWEEN DISCOVERY AND TRIAL

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Based on slides initially prepared
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AGENDA

- Discovery Plan
- Disclosures and Other Written Discovery
- Discovery Supplementation
- Pretrial Filings
 - In limine motions, Challenges to Experts, and Rule 166 motions
 - Will not discuss dispositive or jurisdictional motions such as motion to dismiss, special exceptions, special appearance, plea to jurisdiction, etc.

DISCOVERY PLAN

- Substance
 - Litigation Hold
 - Pre-Discovery Witness Interviews (client and third parties)
 - Special Attention to Electronic Documents
 - Notify insurer, if applicable
 - Prepare sample jury charge/elements of claims and defenses early in case to shape discovery and “order of proof”
 - Consider preparing drafts of demonstrative exhibits
- Procedure
 - Scheduling Order
 - Rules and Local Rules
 - Texas requires pleading of Discovery Control Plan (Level I, II or III) per Rule 190.1
 - Confidentiality Order, where appropriate (TRCP 76a; FRCP 26(c))

THE PAPER CHASE

DISCLOSURES AND OTHER WRITTEN DISCOVERY

INITIAL DISCLOSURES

Federal

- Mandatory – FRCP 26(a)
- Usually 14 days after mandatory FRCP 26(f) case management conference unless court order or stipulated
- For party joined after Rule 26 conference, 30 days after service
- No excuses
- Specific info delineated in rule
- Duty to describe or produce docs
- Signed, In writing & served; not filed.

Texas

- Upon request – TRCP 194
- Can be requested anytime after suit filed but no later than 30 days before end of discovery period
- Due with 30 days of request
- No objections
- Specific information delineated in rule
- Duty to produce docs
- Signed, In writing & served; not filed.

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Title search: The Paper Chase: The Interplay Between Discovery and Trial

Also available as part of the eCourse

[Ethics: 10+ Tips on Effective Deposition Techniques, 3 Rules of Avoiding Disaster Direct Examination, Depositions, Orders and Disclosures at Trial](#)

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