

# EXPERT DISCOVERY AND CROSS-EXAMINATION

Norman J. Gordon  
PO Box 8  
El Paso, Texas, 79940  
[ngordon@ngordonlaw.com](mailto:ngordon@ngordonlaw.com)  
915 203 4883

1

2

## EXPERT DISCOVERY-SCOPE

### **Administrative Procedure Act—**

Tex. Gov't Code §2001.091 Discovery is subject to limitations ...Texas Rules of Civil Procedure

### **Public Utility Commission**

16 TAC §22.141 a) a) Scope. Parties may obtain discovery regarding any matter, not privileged or exempted under the Texas Rules of Civil Evidence, the Texas Rules of Civil Procedure, or other law or rule, that is relevant to the subject matter in the proceeding

2

## .EXPERT DISCOVERY-SCOPE

- Railroad Commission—16 TAC §1.51 (b) (b) The scope of discovery shall be the same as provided by the Texas Rules of Civil Procedure and shall be subject to the constraints provided therein for privileges, objections, protective orders, and duty to supplement as well as the constraints provided in the APA.
- TCEQ 30 TAC §80.151 (a) Discovery shall be conducted according to the Texas Rules of Civil Procedure unless commission rules provide or the judge orders otherwise. The Texas Rules of Civil Procedure shall be interpreted consistently with this chapter, the Texas Water Code, the Texas Health and Safety Code, and the Texas Administrative Procedure Act. **Drafts of prefiled testimony are not discoverable.**

## TRCP 192.3

- General Expert Provisions Rule 192.3 (e)
- (e) Testifying and consulting experts. The identity, mental impressions, and opinions of a consulting expert whose mental impressions and opinions have not been reviewed by a testifying expert are not discoverable. A party may discover the following information regarding a testifying expert or regarding a consulting expert whose mental impressions or opinions have been reviewed by a testifying expert:
  - (1) the expert's name, address, and telephone number;
  - (2) the subject matter on which a testifying expert will testify;
  - (3) the facts known by the expert that relate to or form the basis of the expert's mental impressions and opinions formed or made in connection
    - with the case in which the discovery is sought, regardless of when and how the factual information was acquired;
  - (4) the expert's mental impressions and opinions formed or made in connection with Page 113 the case in which discovery is sought, and any methods used to derive them;
  - (5) any bias of the witness;
  - (6) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of a testifying expert's testimony;
  - (7) the expert's current resume and bibliography

## TCRP DISCLOSURES

---

- Rule 194.2 and 194.3 195.2
- In addition to the disclosures required by Rule 194.2, a party must disclose to the other parties testifying expert information as provided by Rule 195.
- Timing in Civil Cases is governed by Rule 195.2 for Civil Trials

## SOAH RULE-DISCLOSURE

---

- I TAC §155.255
- **(4) Requests for disclosure.**
- (A) The discovery rules of the TRCP requiring initial disclosures without awaiting a discovery request **do not apply to a contested case under SOAH's jurisdiction, except as may be ordered or allowed by the judge.**
- **(5) Expert Disclosures and Reports.** Upon request of the opposing party, or as otherwise ordered or allowed by the judge, a party must timely provide the following disclosures for any testifying expert in advance of a scheduled hearing on the merits:

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Expert Discovery and Cross-Examination

Also available as part of the eCourse

[2022 Advanced Texas Administrative Law eConference](#)

First appeared as part of the conference materials for the  
17<sup>th</sup> Annual Advanced Texas Administrative Law Seminar session  
"Tips and Strategies for Working with Expert Witnesses"