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TPJ

Texas Paralegal Journal



Cybersecurity



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PRESIDENT'S *Message*

Edna W. Garza-Guerra, TBLS-BCP

Dear PD Members/Friends,

Happy New Year!!!! I hope this message finds each of you doing well as we've now entered 2021. Like most of you, I am so happy and relieved that 2020 has come to an end. With so many memories, both good and bad, we will forever remember 2020, as the year we all overcame challenging obstacles while remaining faithful and strong in order to endure very unprecedented times. We did it!!!! And now we move forward with a spirit of hope for our health and safety as well as the well-being of our families, friends, neighbors, co-workers and business contacts. As we await to be injected with the Covid-19 vaccine, let's



you glad that you did, whether it's starting in a new exercise regime, returning to school, making your great desire to serve on the PD Board a reality, getting your TBLS certification, your desire to find a better paying job or other personal things

make 2021, the year that we make some of our goals and dreams come to fruition! In other words, "Dare to dream." Getting started on your goals and dreams will make

you want to tackle, now's the time to do it. If you can't think of anything you want to accomplish this year, that's okay but do start thinking about your future. With hard work, discipline and dedication, you can accomplish anything you set out to do! Here's wishing you all a great 2021, may it be full of love, joy, peace, hope, faith, health, success and prosperity.

Edna W. Garza-Guerra, TBLS-BCP
President



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EDITOR'S *Note*

With 2020 behind us, everyone is looking ahead to see how the paralegal profession is developing. In some respects, the profession already geared toward this with law firms and courts having gone paperless and using pre-Zoom online conference services, such as Skype or GoToMeeting. A different outlook for paralegals, indeed.

WFH ... a new acronym for a new way of life for many of us. Being supervised by attorneys remotely, via e-mails and texts, online conferences and depositions, court hearings via Zoom, online notarizing, upgrading the office's technology, and having cyber insurance are all a part of the new "norm." Now, the reminders before you leave the house, "Wallet, keys, phone, and MASK."

In this issue, we are featuring Attorney Shawn Tuma, one of the top cyber gurus in the legal field. His article, "Guide to Responding to Data Breaches and Reporting Cybersecurity Incidents to Law Enforcement and Governmental Agencies" is the first part of this three-part series and includes a valuable "Cyber Incident Response Checklist."

Are you ready for the new discovery rules? The new discovery rules are included in this edition with a helpful and insightful breakdown chart courtesy of Attorney Thad Spalding of Durham, Pittard, & Spalding, LLP.

It was a trying year for everyone in one way or another. The experiences we had: losses of loved ones and friends, loss of jobs, lack of social contact, shortages, isolation, fear, and so many other missed milestones and impactful emotions. Hang on to what you have. You survived 2020, and whatever piece of you that kept you strong, nurture that in 2021 and count your blessings, no matter how many or few.

—Megan Goor, TBLS-BCP, Editor



TPJ TIPS

If you have not experienced the digital features of the *TPJ*, here is this edition's tip on how to use them:

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Tap or click on any open area of the digital edition to invoke the reader toolbar and its available features. Move to the next or previous page by swiping with your finger on mobile/tablet devices or by using your mouse or keyboard on desktop devices. Double-tap, double-click, or pinch to zoom.

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Guide to Responding to Data Breaches and Reporting Cybersecurity Incidents to Law Enforcement and Governmental Agencies (Part 1 of 3)

By Shawn Tuma



INTRODUCTION.

Cybersecurity is an issue that evokes equal parts of fear and confusion for business leaders. Anyone who has been involved in a real data breach will easily understand why an effective graphical analogy for describing such an event is to imagine being in a building that is on fire. There is panic, there is fear, there is chaos, there is confusion. It is a crisis situation.

The Conundrum of Cybersecurity Law Schizophrenia.

One reason cybersecurity engenders so much fear is because of how uniquely this area of law, policy, and public perception treat organizations that have experienced data breaches. This is one of the few, if not only, situations where the victim of an illegal act is transformed into the wrongdoer. In the more typical scenario, an organization is attacked by an illegal act or, at a minimum an impermissible act, directed against its computer network. The wrongful act against the organization's network causes harm to the organization. At that point in time, however, the organization then begins to be viewed as the wrongdoer when the focus of the blame shifts to the organization for allowing itself to succumb to the attack.

Unauthorized access to computers, often referred to as “hacking,” and data breach are two sides of the same coin and more often than not the organization is blamed for both. What is even more unfortunate is that companies' primary legal vehicle for protecting against these kinds of misuses of their computer networks are the unauthorized access laws, primarily the federal Computer Fraud and Abuse Act^[1] (CFAA) and the Texas' Breach of Computer Security^[2] (BCS) law, and there is a growing movement among those in the “no limit” crowd and “security research” crowd that seeks to substantially limit companies' abilities to use these laws in most cases, especially those in which the misuse is by privileged users (insiders) which accounts for over 70% of all data breaches. This legal schizophrenia puts companies dead center in a conundrum in which there is no upside. Cybersecurity can be scary but it becomes far more dangerous when ignored.

The Importance of Being Prepared: “You Do Not Drown from Falling into the Water.”

While there is little that a company can do to change the cybersecurity law schizophrenia, there are things that companies can do to minimize the harm that results from cybersecurity incidents. Much of this chaos and confusion can be limited by having a written Cybersecurity Incident Response Plan that key players understand and has been practiced. Having such a Plan is essential. You do not wait until your building is on fire to start planning how to get out. Similarly, you should not wait until you are in the middle of a cybersecurity incident to start planning how your company will respond. You



cannot plan for everything, but you can plan for a lot, and doing so removes a lot of the confusion and chaos and gives some order to how to approach and handle the situation. Consider this saying and then apply it to cybersecurity: “You do not drown by falling in the water; you drown by staying there.” Companies do not face catastrophic loss simply because they have a cybersecurity incident; they face catastrophic loss when they have not prepared and are unable to respond to or recover from a cybersecurity incident.

The Most Important Point of this Guide. The laws are not optional. When there is a duty, as explained in this Guide, the duty is mandatory.

There is a grave misunderstanding among many business leaders who believe that when their company has had a data breach, notifying the affected individuals and disclosing to appropriate governmental regulators is optional. It is not. Unfortunately, the author encounters this on a regular basis. This problem is perpetuated by there being far too many lawyers who do not practice in the cybersecurity and privacy area of law but, without knowing, advise such clients that it is really not that serious and is being blown out of proportions. This advice is wrong and should qualify as malpractice.

If you need further convincing, ask yourself whether you believe that companies like Target, Home Depot, Neiman Marcus, Spec’s, Ashley Madison, and Yahoo aired their dirty laundry publicly solely because they believed it was the right thing to do. They had to – cybersecurity is a legal issue – the laws require that companies disclose this information and mandate how they disclose it, when they disclose it, what information they disclose, what they do for those affected, and to whom it must be disclosed.

Limited Scope of Article.

This article is limited in scope and is only intended to address United States state and

federal requirements. It does not address international obligations, industry groups, or contractual obligations that frequently include reporting or notification requirements.

GOVERNMENT NOTIFICATION OF BREACH.

Government Notification of Breach—Technically Speaking.

In its narrow, technical sense, government notification of breach is not a particularly difficult or complicated process to explain. Because this article is focused on breaches limited to the United States, it involves when and how to notify the federal and state governments and regulatory agencies.

Tuma’s Cybersecurity Incident Checklist.

To see where reporting fits into the overall incident response process, review the [Cybersecurity Incident Response Checklist \(Appendix A\)](#). Reporting, disclosure, and notification are reflected in these steps: “Preliminarily determine legal obligations,” “Determine whether to notify law enforcement,” “Confirm notification / remediation obligations,” “Plan and time notification ‘drop’.”

Please note, this is only an abbreviated checklist. It is neither a comprehensive incident response policy nor an incident response plan and should not be substituted as such.

FTC Data Breach Response Guide.

The Federal Trade Commission (FTC) published a guide for responding to data breaches, *Data Breach Response: A Guide for Business*,^[3] that recommends companies take the following steps:

Immediate Steps

- Fix Vulnerabilities
- Assemble a team of experts
- Identify a data forensics team
- Consult with legal counsel
- Secure physical areas
- Stop additional data loss
- Remove improperly posted information

from the web

Interview people who discovered the breach

Do not destroy evidence

Next Steps

- Think about service providers
- Check your network segmentation
- Work with your forensics experts
- Have a communications plan

Send Notification

- Determine your legal requirements
- Notify Law Enforcement
- Did the breach involve electronic health information?
- Health breach resources
- Notify affected businesses
- Notify individuals

Government Notification of Breach—Practically Speaking.

Here we will drill down a little deeper. Before going further, understand the difference between “reporting,” as in reporting a crime, “disclosure,” as in disclosing a breach to government regulators, and “notification,” as in providing notice of a breach to affected individuals. There is no rule that says this is how it is and, frankly, most seasoned professionals will use the words interchangeably and there is nothing wrong with doing so. However, for clarity and to lessen the confusion when explaining these concepts, this is how they will be used in this article. This issue is explained in greater detail in Section III.

Here are the basic steps that should be taken for a data breach response, which includes government reporting, to law enforcement, and government disclosure, to regulatory agencies.

Determine what data was breached.

The first step in planning a data breach response is to determine what data is believed to have been breached.

What type of data is it?

Determine what type of data it is. Look



at the nature of the data to determine whether it was personally identifiable information (PII) which is what is covered by the state data breach notification laws; personal health information (PHI) which is covered by federal HIPAA and HITECH laws, as well as many state laws; customer data from financial institutions which is covered under the Safeguards Rule of the Gramm-Leach-Bliley Act (GLBA); or payment card data (PCI) which is covered by the Payment Card Industry (but is non-governmental industry standard and beyond the scope of this article).

Depending on the nature of the data, you may be required to disclose to one or more federal or state agencies, in addition to notifying the data subjects themselves (*i.e.*, the people whose personal information was exposed).

Which laws apply?

Regulated industries may have unique and detailed notification requirements.

Companies operating in regulated industries should determine which regulatory agencies they are governed by and then research whether that particular agency has a notification requirement. If it does, which is likely, they must determine what the particular requirements are and comply with them. Some are obvious and well-known, most are not, and the intricacies of those requirements are voluminous and well beyond the scope of this article.

One of the more obvious is for the health care industry. For PHI breaches by a covered entity,^[4] notice (disclosure) must be given to the Secretary of the United States Department of Health & Human Services (HHS) by going to the HHS website and filling out and electronically submitting a breach report form.^[5] “If a breach affects 500 or more individuals, covered entities must notify the Secretary without unreasonable delay and in no case later than 60 days following a breach. If, however, a breach affects fewer than 500 individuals, the covered entity may notify the Secretary of such breaches

on an annual basis. Reports of breaches affecting fewer than 500 individuals are due to the Secretary no later than 60 days after the end of the calendar year in which the breaches are discovered.”^[6]

State law applies in most breaches.

For breaches of all types of data you must determine where the data subjects reside to see which states data breach laws apply. Because there is no national uniform data breach notification law (or standard), the various federal or state laws and regulations determine what a company must do after it has had a data breach, including who must be notified. In most cases, it is the law of the state where the company is doing business and the law of the state or states where the individual data subjects reside that govern.

As of the time of this writing, 47 states, the District of Columbia, Puerto Rico, and the Virgin Islands have their own data breach notification laws and while most of those laws are fairly consistent in their requirements, there are quite a few differences in others, especially the states of Massachusetts and California which can be quite a bit different. Moreover, because of the importance of cybersecurity and data breach combined with the perpetual desire by legislators to show they are “doing something,” at any given time there are multiple proposed bills in multiple states that have the potential to change these laws at any given time.^[7] “These breach laws typically have provisions that clarify who must comply, the type of information that is affected, what constitutes a breach, requirements for providing notice, and exemptions.”^[8]

Regardless of how well one may believe they know the “law of data breach” or how many breach responses they have guided clients through, **it would be negligent to not review the current state of the law and the proposed bills in the relevant states before guiding their company or client through a new data breach response.** Fortunately, several large law firms have

prepared charts of state data breach notification laws that are available on the Internet and can be a valuable resource.^[9] Use them with caution, however, because they are not continuously updated so you should always verify that the laws have not changed from the time the charts were last updated until the time of your breach response.

Has there been an actual “breach” that triggers notification under the particular states’ laws?

The word “breach” is often used to describe computer events or incidents (see the sections below for more explanation) but the meaning of “breach” itself is more of a legal definition than anything else. Different states define a “breach” as being different things so it is important that you review the laws of the relevant jurisdictions to determine if there has been a data breach that triggers notification under those laws. Determining what constitutes a “breach” is explained in greater detail in Section III. Pay particular attention to the discussion of whether there is an encryption safe harbor which is no longer an easy answer.

Which laws require notification (disclosure) to the states’ attorneys general?

The following states require private companies to provide some form of disclosure to their state attorney general or other state agency, in various forms and under various circumstances (often depending on the number of residents affected): Alaska, California, Connecticut, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Louisiana, Maine, Maryland, Massachusetts, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Oregon, Puerto Rico, Rhode Island, South Carolina, Vermont, Virginia, and Washington. In most cases, the notifications are sent to the government simultaneously with sending them to the affected individuals.



Which laws require pre-notice of a breach notification?

Some states require private companies to provide advance disclosure to their state attorney general or other state agency well before the notifications are provided to the affected individuals. The following states require such pre-disclosure to a governmental agency before sending out a breach notification to its residents: California, Connecticut, New Hampshire, New Jersey, New York, North Carolina, Puerto Rico, and Washington.

When must a breach notification be provided?

Also, many states require notifying the affected individuals “in the most expedient time possible,” “without unreasonable delay,” or within 45 days (OH, RI, TN, VT, WA, WI), within 30 days (FL), or within 7 days of completing the investigation (MN).

Virtually all state and federal governmental branches and agencies provide that notifications can be delayed if such a delay is requested by law enforcement. In some cases, this is one more reason why it is beneficial to report cyber incidents to law enforcement, which will be addressed in detail in Section IV.

How to disclose.

In most situations government notification of a breach involves disclosing to state attorneys general^[10] or other state agencies. This is usually done by sending a “sample” or “template” of the notification that will be provided to the affected individuals, usually by email, but sometimes via designated reporting portals. Some states require using a particular form, such as New York^[11] and North Carolina.^[12]

The Texas Data Breach Notification Law.

The Texas data breach notification law is titled *Notification Required Following Breach of Security of Computerized Data*^[13] (Appendix B) and provides as follows:

(b) A person who conducts business in this state and owns or licenses computerized data that includes sensitive personal information shall disclose any breach of system security, after discovering or receiving notification of the breach, to any individual whose sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made as quickly as possible, except as provided by Subsection (d) or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

What is a “breach of system security”?

The law defines “breach of system security” as the “unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of sensitive personal information maintained by a person, including data that is encrypted if the person accessing the data has the key required to decrypt the data.”

Regarding insiders, the law specifically states that “[g]ood faith acquisition of sensitive personal information by an employee or agent of the person for the purposes of the person is not a breach of system security unless the person uses or discloses the sensitive personal information in an unauthorized manner.”^[5] In other words, if an insider is authorized to access company SPI for a valid business purpose, and does so, but later uses or discloses that information in an unauthorized manner, it is a data breach under the Texas breach notification statute. See [Yes, Texas’ breach notification law is triggered by insider misuse.](#)

What is “sensitive personal information”?

The Texas breach notification law only applies to a narrower subset of what is often referred to as personally identifiable information, which Texas defines as “sensitive personal information,” and is relatively detailed and specific such that it should be read carefully. A couple of general points will provide an overview of

what is and is not protected:

- Information that is lawfully made available to the public from a federal, state, or local governmental body is not considered sensitive personal information
- Sensitive personal information does include “an individual’s first name or first initial and last name in combination with any one or more of the following items, if the name in the items are not encrypted:” Social Security number, driver’s license number or other government issued identification number, account or card numbers in combination with the required access or security codes
- Also included is information that identifies an individual and is related to their health condition, provision of healthcare, or payment for healthcare

Who does the law apply to?

The law applies to any person (which includes entities) who conducts business in Texas and owns or licenses computerized data that includes sensitive personal information.

Who must be notified?

The law requires notification to “any individual whose sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person.” This is an incredibly broad class of individuals that is certainly not limited to only Texas citizens and, quite possibly, is not even limited to citizens of the United States.

When must the notification be given?

The notification must be given as quickly as possible after it has been determined that an individual’s sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person. However, the notification may be delayed as necessary to determine the scope of the breach and restore the



reasonable integrity of the data system or at the request of law enforcement to avoid compromising an investigation.

How must notification be given?

Generally speaking, under [Section 521.053](#) of the Texas breach notification law the default method for providing notice is in writing, mailed to the individual's last known address. Electronic notice is permitted in two circumstances: (1) If the individual has previously consented to receiving such notifications electronically, in accordance with [15 U.S.C. Section 7001](#); or (2) In situations where the cost of providing notice would exceed \$250,000, the number of affected persons exceeds 500,000, or the person does not have sufficient contact information. In the latter circumstance, notice may also be given by conspicuous posting of the notice on the person's website or notice published in or broadcast on major statewide media.

What is the penalty for failure notify?

Section 521.151 of the law provides for a penalty for failing to comply with this notification requirement is a civil penalty of up to \$100.00 per individual per day for the delayed time but is not to exceed \$250,000 for a single breach. There is a lot of confusion in the world of "data breach" and it is only growing. Now that you have a basic understanding of the reporting process, it is time to dig a bit deeper into the nuances that go into determining what, if anything, needs to be reported and, if it does, when and to whom. The best place to begin is by learning some key foundational principles.

CITATIONS

- [1] Computer Fraud and Abuse Act of 1986, Pub. L. No. 99-474, 100 Stat. 1213 (codified at 18 U.S.C. 6 1030 (2008)).
- [2] Tex. Penal Code 6 33.02. Texas' Breach of Computer Security is a criminal law that has a civil cause of action if the conduct constituting the violation was committed knowingly or intentionally, which is Chapter 143 of the Texas Civil Practice and Remedies Code, titled the Harmful Access by Computer Act (HACA). See Tex. Civ. Prac. & Rem.

Code 6 143.001.

[3] Federal Trade Commission, *Data Breach Response: A Guide for Business*, https://www.ftc.gov/system/files/documents/plain-language/pdf-0154_data-breach-response-guide-for-business.pdf.

[4] This is different than that for a business associate which is required to notify the covered entity.

[5] HHS Health Information Privacy, *Submitting Notice of a Breach to the Secretary*, <https://www.hhs.gov/hipaa/for-professionals/breach-notification/breach-reporting/index.html>

[6] *Id.*

[7] See National Conference of State Legislatures, *Cybersecurity Legislation 2016* (last visited Nov. 2, 2016) <http://www.ncsl.org/research/telecommunications-and-information-technology/cybersecurity-legislation-2016.aspx>

[8] *Id.*

[9] A few of the author's favorites are: Baker Hostetler, *Data Breach Charts* (last visited Jan. 26, 2018) https://www.bakerlaw.com/files/Uploads/Documents/Data%20Breach%20documents/Data_Breach_Charts.pdf; Mintz Levin, *State Data Security Breach Notification Laws* (last visited Jan. 26, 2018) https://www.mintz.com/newsletter/2007/PrivSec-DataBreachLaws-02-07/state_data_breach_matrix.pdf; and Perkins Coie, *Security Breach Notification Chart* (last visited Jan. 26, 2018) <https://www.perkinscoie.com/en/news-insights/security-breach-notification-chart.html>.

[10] The state attorneys general usually have the primary role in enforcing these laws. In the author's experience, there are often predictable questions they will ask so you should be prepared for these. See Business Cybersecurity Law, *3 Important Questions the State Attorneys General Will Ask Your Company Following A Data Breach*, <https://shawnetuma.com/2014/05/28/3-important-questions-the-state-attorneys-general-will-ask-your-company-following-a-data-breach/>

[11] New York State Security Breach Reporting Form, <https://its.ny.gov/sites/default/files/documents/Business-Data-Breach-Form.pdf>

[12] North Carolina Department of Justice, *Report a Security Breach*, <http://www.ncdoj.gov/getdoc/81eda50e-8feb-4764-adca-b5c47f211612/Report-a-Security-Breach.aspx>

[13] Texas Bus. & Comm. Code 6 521.053. [APPENDIX A: CYBERSECURITY INCIDENT CHECKLIST.](#)

[APPENDIX B: TEXAS BREACH NOTIFICATION LAW.](#)

Shawn Tuma is an attorney internationally recognized in cybersecurity, computer fraud and data privacy law, areas in which he has practiced for over two decades. Shawn helps businesses protect their information and



protect themselves from their information.

He is Co-Chair of [Spencer Fane's Data Privacy & Cybersecurity Practice Group](#) where he regularly serves as cybersecurity and privacy counsel advising a wide variety of businesses ranging from small and mid-sized companies to Fortune 100 enterprises, across the United States and globally in dealing with cybersecurity, data privacy, data breach and incident response, regulatory compliance, computer fraud related legal issues, and cyber-related litigation. He is frequently sought out and hired by other lawyers and law firms to advise them when these issues arise in cases for their own clients. Click here for the full bio: <https://www.spencerfane.com/attorney/shawn-tuma/> Shawn is an accomplished author with several published works on various legal-technology topics. He is a frequent speaker on business cyber risk issues such as cybersecurity, computer fraud, data privacy, and social media law. You can reach Shawn at stuma@spencerfane.com.



Impacts of the Coronavirus COVID-19 on Legal Professionals

by Dr. Abbas Poorhashemi

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The COVID-19 pandemic has fundamentally changed the legal, economic and social order. In today's highly uncertain situation and rapidly changing environment, legal professionals like other businesses and industries are facing new challenges in their practice. The lawyers will experience a transformation of their practice and management of their law firms. Balancing between lawyers' professional conduct responsibilities and clients' relationships during the global pandemic might not always be easy to be made. For these reasons, in response to the COVID-19 crisis, legal professionals should take some initiatives and implement some strategies in running their business in the context of the ongoing situations.

The measures which are taken to fight COVID-19 also have a significant impact on legal professions. The professional and civil responsibility of lawyers can be engaged if they do not comply with the code of conduct, explicitly in an emergency.

The impacts of the COVID-19 on the legal businesses and industries are numerous, including closures of law firms, the slowdown in services, absence of clients, cancellation of appointments and agree-

ments by clients, decrease in the available workforce due to illness or isolation and difficulty to holding specific meetings and services.

Facts: Disruption of legal business and industry

According to Clio's report, legal professionals have been significantly affected by social restrictions and that many firms are seeing reduced client demand. Based on this source, *the majority of legal professionals surveyed report experiencing significant disruption to their business since the start of the coronavirus outbreak*. It is likely since consumers say they are more likely to delay seeking legal help if they were to experience a problem. Also, 77% of legal professionals surveyed say they have experienced many changes to the day-to-day operations of their law practice. Besides, 67% of legal professionals surveyed are much more worried about the success of their law business, and 57% are worried about making a living over the next few months. In comparison, 46% of clients are anxious about making a living over the next few months. According to this report, *56% of legal professionals surveyed have seen a significant decrease in the number of people reaching out to their law practice for legal services, and 53% report being significantly less busy at work. 49% of consumers say that if they were to experience a legal issue in the next two months, they would very likely put it off until circumstances surrounding the coronavirus pandemic go back to normal*.

Increasing potential claims in the context of the coronavirus

One of the impacts of the ongoing situation is emerging new claims arising from disputes related to the spread of the virus. In this perspective, the new claims may apply in some practice areas and sectors of law. It could be an opportunity for lawyers to launch a new business based on the claims arising from this environment.

The current situation reflects the increasing demand for justice that lawyers should have the policy to assist their clients in resolving the claims arising from coronavirus. Among other disputes, the law firms will be in high demand to assist businesses in solving their new disputes which have caused by COVID-19, such as breach of fiduciary duties, breach of shareholders or partnership's agreement, breach of contracts and dispute related to the relationship between creditors and debtors. Business owners are expecting lawyers to assist them in protecting their business legally.

More lawsuits and disputes arising out of employment relationships

The employer-employee relationship, unemployment and re-enter the workforce are new issues arising from after lockdown. Such clients who have been laid off or fired require immediate assistance to obtain their rights and profits. Legal professionals should update their skills and competencies that are essential for assisting their clients.

Increasing claims of domestic violence

Another impact of COVID-19 is increasing domestic violence. Limited access to the legal profession, the closure of the courts, the limitation of services for victims and shelters are the main issues in gender-based violence against women and domestic violence in the context of the COVID-19 pandemic. This situation requires increasing advocacy and access to justice and legal professional. The vulnerable populations such as immigrants, spe-



cifically undocumented immigrants, need in priority to have access to justice and legal professionals during this crisis.

Rising needs for communication and information

Lawyers keep their clients reasonably informed about significant development related to the representation in this situation. The lawyers must explain the ongoing situation, deadlines and any decision or circumstances which affect their clients' rights and liabilities. In most jurisdictions, lawyers require to reasonably consult with the client about the means to be used to accomplish the client's objectives, especially in an emergency. In some situations, depending on both the importance of the action under consideration and the feasibility of consulting with the client, this duty will require a consultation before taking action.

Digitalization of legal practice and working remotely

Social distancing is becoming part of our social culture. The COVID-19 has created an environment of virtual workforce and distance practicing. The courts and law firms' closures or limited access lead to the recognition of new technology in legal professionals.

The modification of the conditions for carrying out legal activities due to the coronavirus requires developing or acquiring new skills and digital technol-

ogy to increase productivity. This situation leads to accepting the new technology in the legal professional practices. Lawyers should be prepared to participate in judicial hearings via teleconferencing or videoconferencing and other digital technologies and tools for conducting such operations.

Creating lower-legal fees service options for potential clients

One of the solutions to keep moving the lawyers-clients relationship in the ongoing situation is to create lower-cost options for potential clients. The current economic crisis leads to the limitation of expenses from the potential client that has fallen short for spending money on legal services.

Professional liability insurance clause and the related insurance policy

Several professional liability insurances include clauses to cover revenue and remuneration of lawyers in the event of a business interruption. However, it is essential to consult the insurance policy purchased to determine if it could result in coverage. Based on this kind of insurance policy, the legal business interruption insurance could be a response with coverage for the income losses of lawyers and law firms.

In conclusion, the outbreak of the coronavirus COVID-19 is challenging many businesses and industries. It is cru-

cial that lawyers continually try to anticipate, manage and adopt new measures to the appropriateness of their strategy. The legal profession needs to develop a new perspective based on the ongoing situation. The legal professional's response to this crisis requires taking appropriate measures for reducing harmful effects on their businesses. It obliges lawyers to take measures to protect their business operations and to provide flexible, appropriate and affordable legal services to their clients.



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A Retirement Income Roadmap for Women

By Craig Hackler, Financial Advisor

More women are working and taking charge of their own retirement planning than ever before. What does retirement mean to you? Do you dream of traveling? Pursuing a hobby? Volunteering your time, or starting a new career or business? Simply enjoying more time with your grandchildren? Whatever your goal, you'll need a retirement income plan that's designed to support the retirement lifestyle that you envision, and minimize the risk that you'll outlive your savings.

WHEN WILL YOU RETIRE?

Establishing a target age is important, because when you retire will significantly affect how much you need to save. For example, if you retire early at age 55 as opposed to waiting until age 67, you'll shorten the time you have to accumulate funds by 12 years, and you'll increase the number of years that you'll be living off of your retirement savings. Also consider:

- The longer you delay retirement, the longer you can build up tax deferred funds in your IRAs and employer-sponsored plans such as 401(k)s, or accrue benefits in a traditional pension plan if you're lucky enough to be covered by one.
- Medicare generally doesn't start until you're 65. Does your employer provide post-retirement medical benefits? Are you eligible for the coverage if you retire early? Do you have health insurance coverage through your spouse's employer? If not, you may have to look into COBRA or a private individual policy - which could be expensive.
- You can begin receiving your Social

Security retirement benefit as early as age 62. However, your benefit may be 25% to 30% less than if you waited until full retirement age. Conversely, if you delay retirement past full retirement age, you may be able to increase your Social Security retirement benefit.

- If you work part-time during retirement, you'll be earning money and relying less on your retirement savings, leaving more of your savings to potentially grow for the future (and you may also have access to affordable health care).
- If you're married, and you and your spouse are both employed and nearing retirement age, think about staggering your retirements. If one spouse is earning significantly more than the other, then it usually makes sense for that spouse to continue to work in order to maximize current income and ease the financial transition into retirement.

HOW LONG WILL RETIREMENT LAST?

We all hope to live to an old age, but a longer life means that you'll have even more years of retirement to fund. The problem is particularly acute for women, who generally live longer than men. To guard against the risk of outliving your savings, you'll need to estimate your life expectancy. You can use government statistics, life insurance tables, or life expectancy calculators to get a reasonable estimate of how long you'll live. Experts base these estimates on your age, gender, race, health, lifestyle, occupation, and family history. But remember, these are just estimates. There's no way to predict how long you'll actually live, but with

life expectancies on the rise, it's probably best to assume you'll live longer than you expect.

PROJECT YOUR RETIREMENT EXPENSES

Once you know when your retirement will likely start, how long it may last, and the type of retirement lifestyle you want, it's time to estimate the amount of money you'll need to make it all happen. One of the biggest retirement planning mistakes you can make is to underestimate the amount you'll need to save by the time you retire. It's often repeated that you'll need 70% to 80% of your pre-retirement income after you retire. However, the problem with this approach is that it doesn't account for your specific situation.

Focus on your actual expenses today and think about whether they'll stay the same, increase, decrease, or even disappear by the time you retire. While some expenses may disappear, like a mortgage or costs for commuting to and from work, other expenses, such as health care and insurance, may increase as you age. If travel or hobby activities are going to be part of your retirement, be sure to factor in these costs as well. And don't forget to take into account the potential impact of inflation and taxes.

IDENTIFY YOUR SOURCES OF INCOME

Once you have an idea of your retirement income needs, your next step is to assess how prepared you (or you and your spouse) are to meet those needs. In other words, what sources of retirement income will be available to you? Your employer may offer a traditional pension that will pay you monthly benefits. In addition, you can likely count on Social Security to provide a portion of your retirement income. Other sources of retirement income may include a 401(k) or other retirement plan, IRAs, annuities, and other investments. The amount of income you receive from those sources will depend on the amount you invest, the rate of investment return, and other factors.

Finally, if you plan to work during

retirement, your earnings will be another source of income.

When you compare your projected expenses to your anticipated sources of retirement income, you may find that you won't have enough income to meet your needs and goals. Closing this difference, or "gap," is an important part of your retirement income plan. In general, if you face a shortfall, you'll have five options: save more now, delay retirement or work during retirement, try to increase the earnings on your retirement assets, find new sources of retirement income, or plan to spend less during retirement.

TRANSITIONING INTO RETIREMENT

Even after that special day comes, you'll still have work to do. You'll need to carefully manage your assets so that your retirement savings will last as long as you need them to. Review your portfolio regularly. Traditional wisdom holds that retirees should value the safety of their principal above all else. For this reason, some people shift their investment portfolio to fixed income investments, such as bonds and money market accounts, as they enter retirement. The problem with this approach is that you'll effectively lose purchasing power if the return on your investments doesn't keep up with inflation. While it generally makes sense for your portfolio to become progressively more conservative as you grow older, it may be wise to consider maintaining at least a portion in growth investments.

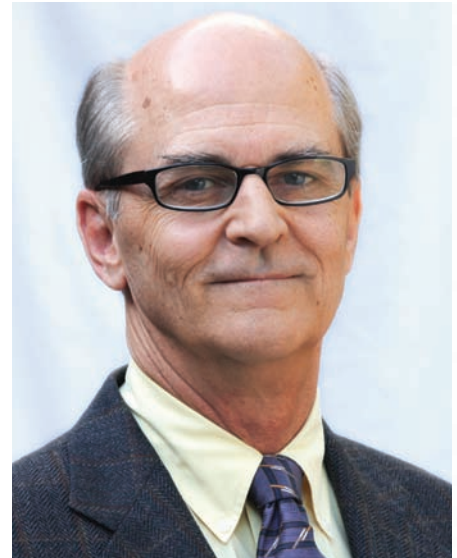
- Spend wisely. You want to be careful not to spend too much too soon. This can be a great temptation, particularly early in retirement. A good guideline is to make sure your annual withdrawal rate isn't greater than 4% to 6% of your portfolio. (The appropriate percentage for you will depend on a number of factors, including the length of your payout period and your portfolio's asset allocation.) Remember that if you whittle away your principal too quickly, you may not be able to earn enough on the remaining principal to carry you

through the later years.

- Understand your retirement plan distribution options. Most pension plans pay benefits in the form of an annuity. If you're married, you generally must choose between a higher retirement benefit that ends when your spouse dies, or a smaller benefit that continues in whole or in part to the surviving spouse. A financial professional can help you with this difficult, but important, decision.
- Consider which assets to use first. For many retirees, the answer is simple in theory: withdraw money from taxable accounts first, then tax-deferred accounts, and lastly, tax-free accounts. By using your tax-favored accounts last and avoiding taxes as long as possible, you'll keep more of your retirement dollars working for you.
- However, this approach isn't right for everyone. And don't forget to plan for required distributions. You must generally begin taking minimum distributions from employer retirement plans and traditional IRAs when you reach age 72, whether you need them or not. Plan to spend these dollars first in retirement.
- Consider purchasing an immediate annuity. Annuities are able to offer something unique - a guaranteed income stream for the rest of your life or for the combined lives of you and your spouse (although that guarantee is subject to the claims-paying ability and financial strength of the issuer). The obvious advantage in the context of retirement income planning is that you can use an annuity to lock in a predictable annual income stream, not subject to investment risk, that you can't outlive.*

Unfortunately, there's no one-size-fits-all when it comes to retirement income planning. A financial professional can review your circumstances, help you sort through your options, and help develop a plan that's right for you.

Craig Hackler, Financial Advisor, holds the Series 7 and Series 63 Securities Licenses,



as well as the Group I license (life, health, annuities). Through Raymond James Financial Services, he offers complete financial planning and investment products tailored to the individual needs of his clients. He will gladly answer your questions. Call him 512.391.0919 or 800.650.9517 or e-mail Craig.Hackler@RaymondJames.com Raymond James Financial Services, Inc., 3345 Bee Caves Rd., Suite 208, Austin, TX 78746. This Information, developed by an Independent third party, Broadridge Investor Communications Solutions, Inc., has been obtained from sources considered to be reliable, but Raymond James Financial Services, Inc. does not guarantee that the foregoing material is accurate or complete. This information is not a complete summary or statement of all available data necessary for making an investment decision and does not constitute a recommendation. The material is general in nature. Past performance may not be indication of future results. Raymond James Financial Services Inc. does not provide advice on tax, legal or mortgage issues. These matters should be discussed with the appropriate professional. Securities offered through Raymond James Financial Services, Inc., member FINRA/SIPC, on Independent broker/dealer, and are not insured. Investment advisory services are offered through Raymond James Financial Services Advisors, Inc. Raymond James is not affiliated with Texas Paralegal Journal.

New Texas Discovery Rules—Are You Ready?

Final Approval of Amendments to the Texas Rules of Civil Procedure 47, 99, 169, 190, 192, 193, 194, 195, 196, 197, and 198

The Texas Supreme Court issued Misc. Docket No. 29-9153 which includes the final changes to the Rules of Civil Procedure on December 23, 2020. These changes include raising the limit for expedited actions to \$250,000 and changes to the rules on discovery and disclosures. The new rules apply to all actions filed on or after January 1, 2021.

Attorney Thad Spalding, of Durham, Pittard, & Spalding, LLP, developed this helpful summary that breakdowns the rules.

The full version of the new rules follows

the chart, but can be found at: <https://www.txcourts.gov/media/1450176/209153.pdf>

Thad D. Spalding is a partner in Durham, Pittard & Spalding, LLP, www.dpslaw-group.com, a firm with offices in Dallas, Houston, and Santa Fe. Thad has been Board Certified in Civil Appellate Law by the Texas Board of Legal Specialization since 1999 and, in addition to handling appeals before state and federal appellate courts, is frequently called on to assist attorneys with substantive legal issues and trial strategy throughout litigation.



2020 Discovery Rule Amendments—Applies to cases filed on or after 1/1/21¹

| Rule | Old law | New law |
|------------------------------|--|---|
| 47—Claims for Relief | Set \$100k as lower limit for stating claim of monetary relief | Moves lower limit from \$100k to \$250k (important because cases pled at or below \$250k now trigger expedited action process under TRCP 169) |
| 99—Issuance/Form of Citation | No info regarding initial disclosures | Requires that citation include language notifying defendant that defendant “may be required to make initial disclosures.” |
| 169—Expedited Actions | Set \$100k as limit to trigger expedited action. Expressly excludes claims under Family Code, Property Code, Tax Code, or Ch. 74 of CPRC | Changes limit to \$250k Removes this exclusionary provision for family, property, tax, and med mal cases (but see comment to rule that references Estate Code provision as examples of statutes that expressly exempt themselves from Rule 169) |
| 190—Discovery Limitations | Level 1 Discovery control plan applies to expedited actions and divorces involving \$50k or less Discovery period begins when suit is filed and continues until 180 days after the date the 1st discovery request is served on a party Time for depositions – 6 hours RFDs – allowed for an additional RFD to include “all documents, electronic info, and tangible items that the disclosing party has in its possession, custody or control and may use to support its claims or defenses.” | Level 1 Changes Level 1 to apply to cases involving \$250k or less Discovery period begins when the 1st initial disclosures are due and continues for 180 days. Time for depos – 20 hours RFDs – deletes provision for additional RFD category (moved to Rule 194.2) |


¹ Link to December 23, 2020 Order with redlined rule changes: <https://www.txcourts.gov/media/1450176/209153.pdf>.

| Rule | Old law | New law |
|---------------------------------|--|---|
| | Level 2 Discovery period – begins when suit is filed and ends earlier of 30 days before trial or 9 months after the earlier of date of 1st depo or due date of 1st response to written discovery | Level 2 Discovery period – begins when the first initial disclosure is due and ends earlier of 30 days before trial or 9 months after first initial disclosures are due |
| 192—Permissible Discovery, etc. | 192.1 – Forms of Discovery (a) <i>requests for disclosure</i> 192.2 – Sequence of Discovery May be combined in same document and may be taken in any order or sequence. | 192.1 – Forms of Discovery (a) <i>required disclosures</i> 192.2 – <i>Timing and Sequence of Discovery</i> Adds timing provision—unless otherwise agreed or ordered, <i>cannot serve written discovery on another party until after the other party's initial disclosures are due</i> |
| 193—Written Discovery | | Adds references to “required” disclosures throughout. Otherwise, no real substantive change. |
| 194—Disclosures | <i>Requests for Disclosures</i> 194.1 – Request 194.2 - Content | <i>Required Disclosures</i> ² 194.1 – Duty to Disclose; Production. (a) Duty to disclose—must disclose to other parties info or material described in 194.2, 194.3, 194.4 (b) Production – If party does not produce copies of all responsive documents...response must state reasonable time and method for the production of these items. 194.2 – Initial Disclosures (a) Time – must make initial disclosures w/i 30 days after filing of the first answer or general appearance, unless different time set by agreement or court order. Party first served or otherwise joined after the filing of the first answer or general appearance must make initial disclosures within 30 days after being served or joined. (b) Content – same as prior Rule 194.2, except: • (6) copy—or description by category and location—of all documents...that the responding party has in its possession, custody, or control, and may use to support its claims or defenses, unless the use would be solely for impeachment • Removes required information for expert witnesses (<i>moved to 195.5</i>) |

² Per comment, “Rule 194 is amended based on FRCP 26(a) to require disclosure of basic discovery automatically, without awaiting a discovery request.”


| Rule | Old law | New law |
|------|------------------|---|
| | | (c) Content in Certain Suits Under Family Code (d) Proceedings exempt from initial disclosure – see list |
| | 194.3-Response | 194.3-Testifying Expert Disclosures In addition to disclosures required by 194.2, a party must disclose to other parties testifying expert info as provided by 195. |
| | 194.4-Production | 194.4 – Pretrial Disclosures (a) General—in addition to 194.2 and 194.3, must provide to other parties <i>and promptly file</i> following info about evidence it may present at trial (other than impeachment): 1. Witnesses —name and, if not previously provided, address and phone # of each witness—separately identifying those the party expects to present and those it may call if need arises. 2. Exhibits —identification of each document or other exhibits, including summaries of other evidence—separately identifying those it expects to offer and those it may offer (b) Time – Unless ordered otherwise, 30 days before trial. (c) Proceedings exempt from pretrial disclosures—certain family code cases. |

| | | |
|-----------------------------|---|--|
| 195—Testifying Experts | <p>195.2 – Schedule Unless otherwise ordered, must designate by later of 30 days after RFD is made or: (a) Parties seeking aff relief—90 days before end of discovery period; (b) All others—60 days before end of discovery period</p> <p>195.5 – Court Ordered Reports Court may order opinions of an expert reduced to tangible form</p> | <p>195.2—Schedule Removes the “30 days after RFD” deadline</p> <p>195.5 – Expert Disclosures and Reports (a) Disclosures – same general content as 194.2(f), <i>except adds 3 new disclosures based on FRCP 26(a)(2)(B)</i>: (C) – expert qualifications, including all publications authored in last 10 years; (D) – except for attorneys re: attorney’s fees, a list of all cases in which, during previous 4 years, expert has testified at trial or depo; (E) – statement of compensation to be paid for expert’s “study and testimony” in the case.</p> <p>(b) Expert reports – court can order opinions reduced to tangible form (same as old 195.5)</p> <p>(c) Expert communications protected – communications between expert and attorney are protected from discovery, regardless of form, except to extent that: 1. relates to compensation of expert; 2. identify facts or data that attorney provided and expert considered; or 3. identify assumptions that attorney provided and expert relied on in forming opinion.</p> <p>(d) Draft expert reports and disclosures protected – protected from discovery regardless of form in which draft is recorded.</p> |
| 196—Requests for Production | <p>196.2—Response to RFP & Inspection (a) Time for Response – Defendant served with request before answer is due need not respond until 50 days after service of the request.</p> <p>196.7—Request of Motion for Entry Upon Property (c)(1) – 50-day deadline to respond if request served prior to answer deadline</p> | <p>196.2—Response to RFP & Inspection (a) removes the 50-day deadline, since you cannot serve RFP’s with your petition anymore</p> <p>196.7—Request of Motion for Entry Upon Property (c)(1) – removes 50-day deadline</p> |
| 197—Interrogatories | <p>197.2—Response to Interrogatories (a) Time for Response - Defendant served with request before answer is due need not respond until 50 days after service of the request.</p> | <p>197.2—Response to Interrogatories (a) removes 50-day deadline</p> |



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Post-Judgment Turnover Receiverships

You have a judgment, now what? A discussion of the remedy available to judgment creditors of post-judgment turnover receiverships under Chapter 31 of the Texas Civil Practice and Remedies Code.

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 20-9153

FINAL APPROVAL OF AMENDMENTS TO TEXAS RULES OF CIVIL PROCEDURE

47, 99, 169, 190, 192, 193, 194, 195, 196, 197, AND 198

ORDERED that:

1. On August 21, 2020, in Misc. Dkt. No. 20-9101, the Court preliminarily approved amendments to Rules 47, 169, 190, 192, 193, 194, and 195 of the Texas Rules of Civil Procedure to comply with Act of May 27, 2019, 86th Leg., R.S., ch. 696 (SB 2342), and invited public comment. Following public comment, the Court made revisions to those rules and also revised Texas Rules of Civil Procedure 99, 196, 197, and 198. This Order incorporates the revisions and contains the final version of the rules, effective January 1, 2021.
2. The amendments apply to cases filed on or after January 1, 2021, except for those filed in justice court. The rules amended by this Order continue to govern procedures and limitations in cases filed before January 1, 2021.
3. The Clerk is directed to:
 - a. file a copy of this Order with the Secretary of State;
 - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this Order to each elected member of the Legislature; and
 - d. submit a copy of the Order for publication in the *Texas Register*.

Dated: December 23, 2020

RULE 47. CLAIMS FOR RELIEF

An original pleading which sets forth a claim for relief, whether an original petition, counterclaim, cross-claim, or third party claim, shall contain:

- (a) a short statement of the cause of action sufficient to give fair notice of the claim involved;
- (b) a statement that the damages sought are within the jurisdictional limits of the court;

(c) except in suits governed by the Family Code, a statement that the party seeks:

- (1) only monetary relief of ~~\$100,000~~ \$250,000 or less, ~~including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees excluding interest, statutory or punitive damages and penalties, and attorney fees and costs;~~ ~~or~~
- (2) monetary relief of ~~\$100,000~~ \$250,000 or less and non-monetary relief; ~~or monetary relief over \$100,000 but not more than \$250,000; or~~
- (~~4~~3) monetary relief over \$250,000 but not more than \$1,000,000; ~~or~~
- (~~5~~4) monetary relief over \$1,000,000; ~~and or~~ (5) only non-monetary relief; and
- (d) a demand for judgment for all the other relief to which the party deems himself entitled.

Relief in the alternative or of several different types may be demanded; provided, further, that upon special exception the court shall require the pleader to amend so as to specify the maximum amount claimed. A party that fails to comply with (c) may not conduct discovery until the party's pleading is amended to comply.

Comment to 2021 change: Rule 47 is amended to implement section 22.004(h-1) of the Texas Government Code. A suit in which the original petition contains the statement in paragraph (c)(1) is governed by the expedited actions process in Rule 169.

RULE 99. ISSUANCE AND FORM OF CITATION

- b. **Form.** The citation shall (1) be styled

"The State of Texas," (2) be signed by the clerk under seal of court, (3) contain name and location of the court, (4) show date of filing of the petition, (5) show date of issuance of citation, (6) show file number, (7) show names of parties, (8) be directed to the defendant, (9) show the name and address of attorney for plaintiff, otherwise the address of plaintiff, (10) contain the time within which these rules require the defendant to file a written answer with the clerk who issued citation, (11) contain address of the clerk, ~~and~~ (12) ~~shall~~ notify the defendant that in case of failure of defendant to file and answer, judgment by default may be rendered for the relief demanded in the petition, and (13) notify the defendant that the defendant may be required to make initial disclosures. The citation shall direct the defendant to file a written answer to the plaintiff's petition on or before 10:00 a.m. on the Monday next after the expiration of twenty days after the date of service thereof. The requirement of subsections 10, ~~and~~ 12, and 13 of this section shall be in the form set forth in section c of this rule.

- c. **Notice.** The citation shall include the following notice to the defendant: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org."

RULE 169. EXPEDITED ACTIONS

(a) Application.

- (1) The expedited actions process in this rule applies to a suit in which all claimants, other than counter-claimants, affirmatively plead that they seek only monetary relief aggregating ~~\$100,000~~ \$250,000 or less, ~~including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees excluding interest, statutory or punitive damages and penalties, and attorney fees and costs.~~
- (2) ~~The expedited actions process does not apply to a suit in which a party has filed a claim governed by the Family Code, the Property Code, the Tax Code, or Chapter 74 of the Civil Practice & Remedies Code.~~

(b) *Recovery.* In no event may a party who prosecutes a suit under this rule recover a judgment in excess of ~~\$100,000~~ \$250,000, excluding ~~post-judgment interest, statutory or punitive damages and penalties, and attorney fees and costs.~~

(c) Removal from Process.

- (1) A court must remove a suit from the expedited actions process:
 - (A) on motion and a showing of good cause by any party; or
 - (B) if any claimant, other than a counter-claimant, files a pleading or an amended or supplemental pleading that seeks any relief other than the monetary relief allowed by (a) ~~(+)~~.
- (2) A pleading, amended pleading, or supplemental pleading that removes a suit from the expedited actions process may not be filed without leave of court unless it is filed before the earlier of 30 days after the discovery period is closed or 30 days before the date set for trial. Leave to amend may be granted only if good cause for filing the pleading outweighs any prejudice to an opposing party.
- (3) If a suit is removed from the expedited actions process, the court

must reopen discovery under Rule 190.2(c).

(d) Expedited Actions Process.

- (1) Discovery. Discovery is governed by Rule 190.2.
- (2) Trial Setting; Continuances. On any party's request, the court must set the case for a trial date that is within 90 days after the discovery period in Rule 190.2(b)(1) ends. The court may continue the case twice, not to exceed a total of 60 days.
- (3) Time Limits for Trial. Each side is allowed no more than eight hours to complete jury selection, opening statements, presentation of evidence, examination and cross-examination of witnesses, and closing arguments. On motion and a showing of good cause by any party, the court may extend the time limit to no more than twelve hours per side.
 - (A) The term "side" has the same definition set out in Rule 233.
 - (B) Time spent on objections, bench conferences, bills of exception, and challenges for cause to a juror under Rule 228 are not included in the time limit.
- (4) Alternative Dispute Resolution.
 - (A) Unless the parties have agreed not to engage in alternative dispute resolution, the court may refer the case to an alternative dispute resolution procedure once, and the procedure must:
 - (i) not exceed a half-day in duration, excluding scheduling time;
 - (ii) not exceed a total cost of twice the amount of applicable civil filing fees; and
 - (iii) be completed no later than 60 days before the initial trial setting.
 - (B) The court must consider objections to the referral unless prohibited by statute.
 - (C) The parties may agree to engage in alternative dispute resolution other than that provided for in (A).

- (5) Expert Testimony. Unless requested by the party sponsoring the expert, a party may only challenge the admissibility of expert testimony as an objection to summary judgment evidence under Rule 166a or during the trial on the merits. This paragraph does not apply to a motion to strike for late designation.

Comment to 2021 change:
Rule 169 is amended to implement section 22.004(h-1) of the Texas Government Code— which calls for rules to promote the prompt, efficient, and cost-effective resolution of civil actions filed in county courts at law in which the amount in controversy does not exceed \$250,000—and changes to section 22.004(h) of the Texas Government Code. To ensure uniformity, and pursuant to section 22.004(b) of the Texas Government Code, Rule 169's application is not limited to suits filed in county courts at law; any suit that falls within the definition of subsection (a) is subject to the provisions of the rule. However, certain suits are exempt from Rule 169's application by statute. See, e.g., TEX. ESTATES CODE 66 53.107, 1053.105. The discovery limitations for expedited actions are set out in Rule 190.2, which is also amended to implement section 22.004(h-1) of the Texas Government Code.

RULE 190. DISCOVERY LIMITATIONS

190.1 Discovery Control Plan Required.

Every case must be governed by a discovery control plan as provided in this Rule. A plaintiff must allege in the first numbered paragraph of the original petition whether discovery is intended to be conducted under Level 1, 2, or 3 of this Rule.

190.2 DISCOVERY CONTROL PLAN - EXPEDITED ACTIONS AND DIVORCES INVOLVING \$50,000 ~~\$250,000~~ OR LESS (LEVEL 1)

- (a) *Application.* This subdivision applies to:
- (1) any suit that is governed by the expedited actions process in Rule 169; and
 - (2) unless the parties agree that rule 190.3 should apply or the court orders a discovery control plan

under Rule 190.4, any suit for divorce not involving children in which a party pleads that the value of the marital estate is more than zero but not more than ~~\$50,000~~\$250,000.

(b) **Limitations.** Discovery is subject to the limitations provided elsewhere in these rules and to the following additional limitations:

(1) **Discovery period.** All discovery must be conducted during the discovery period, which begins when ~~the suit is filed~~the first initial disclosures are due and continues ~~until for~~ 180 days ~~after the date the first request for discovery of any kind is served on a party.~~

(2) **Total time for oral depositions.** Each party may have no more than ~~six~~20 hours in total to examine and cross-examine all witnesses in oral depositions. ~~The parties may agree to expand this limit up to ten hours in total, but not more except by court order.~~ The court may modify the deposition hours so that no party is given unfair advantage.

(3) **Interrogatories.** Any party may serve on any other party no more than 15 written interrogatories, excluding interrogatories asking a party only to identify or authenticate specific documents. Each discrete subpart of an interrogatory is considered a separate interrogatory.

(4) **Requests for Production.** Any party may serve on any other party no more than 15 written requests for production. Each discrete subpart of a request for production is considered a separate request for production.

(5) **Requests for Admissions.** Any party may serve on any other party no more than 15 written requests for admissions. Each discrete subpart of a request for admission is considered a separate request for admission.

(6) **Requests for Disclosure.** ~~In addition to the content subject to disclosure under Rule 194.2, a party may request disclosure of all documents, electronic information, and tangible items that the disclosing party has~~

~~in its possession, custody or control and may use to support its claims or defenses. A request for disclosure made pursuant to this paragraph is not considered a request for production.~~

(c) **Reopening Discovery.** If a suit is removed from the expedited actions process in Rule 169 or, in a divorce, the filing of a pleading renders this subdivision no longer applicable, the discovery period reopens, and discovery must be completed within the limitations provided in Rules 190.3 or 190.4, whichever is applicable. Any person previously deposed may be redeposed. On motion of any party, the court should continue the trial date if necessary to permit completion of discovery.

190.3 DISCOVERY CONTROL PLAN - BY RULE (LEVEL 2)

(a) **Application.** Unless a suit is governed by a discovery control plan under Rules 190.2 or 190.4, discovery must be conducted in accordance with this subdivision.

(b) **Limitations.** Discovery is subject to the limitations provided elsewhere in these rules and to the following additional limitations:

(1) **Discovery period.** All discovery must be conducted during the discovery period, which begins when ~~suit is filed~~the first initial disclosures are due and continues until:

(A) 30 days before the date set for trial, in cases under the Family Code; or

(B) in other cases, the earlier of

(i) 30 days before the date set for trial, or

(ii) nine months after ~~the earlier of the date of the first oral deposition or the due date of the first response to written discovery~~the first initial disclosures are due.

(2) **Total time for oral depositions.** Each side may have no more than 50 hours in oral depositions to examine and cross-examine parties on the opposing side, experts designated by those parties, and persons who are subject to those

parties' control. "Side" refers to all the litigants with generally common interests in the litigation. If one side designates more than two experts, the opposing side may have an additional six hours of total deposition time for each additional expert designated. The court may modify the deposition hours and must do so when a side or party would be given unfair advantage.

(3) **Interrogatories.** Any party may serve on any other party no more than 25 written interrogatories, excluding interrogatories asking a party only to identify or authenticate specific documents. Each discrete subpart of an interrogatory is considered a separate interrogatory.

Comment to 2021 change: Rule 190.2 is amended to implement section 22.004(h-1) of the Texas Government Code. Under amended Rule 190.2, Level 1 discovery limitations now apply to a broader subset of civil actions: expedited actions under Rule 169, which is also amended to implement section 22.004(h-1) of the Texas Government Code, and divorces not involving children in which the value of the marital estate is not more than \$250,000. Level 1 limitations are revised to impose a twenty-hour limit on oral deposition. Disclosure requests under Rule 190.2(b)(6) and Rule 194 are now replaced by required disclosures under Rule 194, as amended. The discovery periods under Rules 190.2(b)(1) and 190.3(b)(1) are revised to reference the required disclosures.

RULE 192. PERMISSIBLE DISCOVERY: FORMS AND SCOPE; WORK PRODUCT; PROTECTIVE ORDERS; DEFINITIONS

192.1 Forms of Discovery.

(a) Permissible forms of discovery are: ~~requests for~~required disclosures;
(b) requests for production and inspection of documents and tangible things;
(c) requests and motions for entry upon and examination of real property;

- (d) interrogatories to a party;
- (e) requests for admission;
- (f) oral or written depositions; and
- (g) motions for mental or physical examinations.

192.2 **TIMING AND SEQUENCE OF DISCOVERY.**

(a) Timing. Unless otherwise agreed to by the parties or ordered by the court, a party cannot serve discovery on another party until after the other party's initial disclosures are due.

(b) Sequence. The permissible forms of discovery may be combined in the same document and may be taken in any order or sequence.

192.7 Definitions.

As used in these rules

- (a) *Written discovery* means ~~requests for~~ required disclosures, requests for production and inspection of documents and tangible things, requests for entry onto property, interrogatories, and requests for admission.
- (b) *Possession, custody, or control* of an item means that the person either has physical possession of the item or has a right to possession of the item that is equal or superior to the person who has physical possession of the item.
- (c) A *testifying expert* is an expert who may be called to testify as an expert witness at trial.
- (d) A *consulting expert* is an expert who has been consulted, retained, or specially employed by a party in anticipation of litigation or in preparation for trial, but who is not a testifying expert.

RULE 193. WRITTEN DISCOVERY: RESPONSE; OBJECTION; ASSERTION OF PRIVILEGE; SUPPLEMENTATION AND AMENDMENT; FAILURE TO TIMELY RESPOND; PRESUMPTION OF AUTHENTICITY

193.1 Responding to Written Discovery;

Duty to Make Complete Response.

A party must respond to written discovery in writing within the time provided by court order or these rules. When responding to written discovery, a party must make a complete response, based on all information reasonably available to the responding party or its attorney at the time the response is made. The responding party's answers, objections, and other responses must be preceded by the request or required disclosure to which they apply.

193.3 Asserting a Privilege

A party may preserve a privilege from written discovery in accordance with this subdivision.

- (a) **Withholding privileged material or information.** A party who claims that material or information responsive to written discovery is privileged may withhold the privileged material or information from the response. The party must state—in the response (or an amended or supplemental response) or in a separate document—that:
 - (i) information or material responsive to the request or required disclosure has been withheld,
 - (ii) the request or required disclosure to which the information or material relates, and
 - (iii) the privilege or privileges asserted.

- (b) **Description of withheld material or information.** After receiving a response indicating that material or information has been withheld from production, ~~the~~ a party seeking discovery may serve a written request that the withholding party identify the information and material withheld. Within 15 days of service of that request, the withholding party must serve a response that:
 - (1) describes the information or materials withheld that, without revealing the privileged information itself or otherwise waiving the privilege, enables other parties to assess the applicability of the privilege, and
 - (2) asserts a specific privilege for each item or group of items withheld.
- (c) **Exemption.** Without complying with

paragraphs (a) and (b), a party may withhold a privileged communication to or from a lawyer or (1) lawyer's representative or a privileged document of a lawyer or lawyer's representative

- (1) created or made from the point at which a party consults a lawyer with a view to obtaining professional legal services from the lawyer in the prosecution or defense of a specific claim in the litigation in which discovery is requested or required, and
- (2) concerning the litigation in which the discovery is requested or required.

- (d) **Privilege not waived by production.** A party who produces material or information without intending to waive a claim of privilege does not waive that claim under these rules or the Rules of Evidence if—within ten days or a shorter time ordered by the court, after the producing party actually discovers that such production was made—the producing party amends the response, identifying the material or information produced and stating the privilege asserted. If the producing party thus amends the response to assert a privilege, ~~the requesting~~ any party who has obtained the specific material or information must promptly return the specified material or information and any copies pending any ruling by the court denying the privilege.

193.4 HEARING AND RULING ON OBJECTIONS AND ASSERTIONS OF PRIVILEGE.

- (a) **Hearing.** Any party may at any reasonable time request a hearing on an objection or claim of privilege asserted under this rule. The party making the objection or asserting the privilege must present any evidence necessary to support the objection or privilege. The evidence may be testimony presented at the hearing or affidavits served at least seven days before the hearing or at such other reasonable time as the court permits. If the court determines that an *in camera* review of some or all of the requested discovery or required disclosure is necessary, that material or information must be segregated and produced to the court in a sealed wrap-

per within a reasonable time following the hearing.

- (b) **Ruling.** To the extent the court sustains the objection or claim of privilege, the responding party has no further duty to respond to that request or required disclosure. To the extent the court overrules the objection or claim of privilege, the responding party must produce the requested or required material or information within 30 days after the court's ruling or at such time as the court orders. A party need not request a ruling on that party's own objection or assertion of privilege to preserve the objection or privilege.

- (c) **Use of material or information withheld under claim of privilege.** A party may not use—at any hearing or trial—material or information withheld from discovery under a claim of privilege, including a claim sustained by the court, without timely amending or supplementing the party's response to that discovery.

193.6 Failing to Timely Respond - Effect on Trial

- (a) **Exclusion of evidence and exceptions.** A party who fails to make, amend, or supplement a discovery response, including a required disclosure, in a timely manner may not introduce in evidence the material or information that was not timely disclosed, or offer the testimony of a witness (other than a named party) who was not timely identified, unless the court finds that:
- (1) there was good cause for the failure to timely make, amend, or supplement the discovery response; or
 - (2) the failure to timely make, amend, or supplement the discovery response will not unfairly surprise or unfairly prejudice the other parties.
- (b) **Burden of establishing exception.** The burden of establishing good cause or the lack of unfair surprise or unfair prejudice is on the party seeking to introduce the evidence or call the witness. A finding of good cause or of the lack of unfair surprise or unfair prejudice must be supported by the record.
- (c) **Continuance.** Even if the party seeking

to introduce the evidence or call the witness fails to carry the burden under paragraph (b), the court may grant a continuance or temporarily postpone the trial to allow a response to be made, amended, or supplemented, and to allow opposing parties to conduct discovery regarding any new information presented by that response.

RULE 194.1 REQUESTS FOR REQUIRED DISCLOSURES

194.1 Request Duty to Disclose: Production.

A party may obtain disclosure from another party of the information or material listed in Rule 194.2 by serving the other party- no later than 30 days before the end of any applicable discovery period -the following request: "Pursuant to Rule 194, you are requested to disclose, within 30 days of service of this request, the information or material described in Rule [state rule, e.g., 194.2, or 194.2(a), (c), and (f), or 194.2(d)-(g)]."

- (a) **Duty to Disclose.** Except as exempted by Rule 194.2(d) or as otherwise agreed by the parties or ordered by the court, a party must, without awaiting a discovery request, provide to the other parties the information or material described in Rule 194.2, 194.3, and 194.4.
- (b) **Production.** If a party does not produce copies of all responsive documents, electronically stored information, and tangible things with the response, the response must state a reasonable time and method for the production of these items. The responding party must produce the items at the time and in the method stated, unless otherwise agreed by the parties or ordered by the court, and must provide the requesting party a reasonable opportunity to inspect them.

194.2 Content Initial Disclosures.

- (a) **Time for Initial Disclosures.** A party must make the initial disclosures within 30 days after the filing of the first answer or general appearance unless a different time is set by the parties' agreement or court order. A party that is first served or otherwise joined after the filing of the first answer or gen-

eral appearance must make the initial disclosures within 30 days after being served or joined, unless a different time is set by the parties' agreement or court order.

- (b) **Content.** Without awaiting a discovery request, Aa party may request disclosure of any or all of the following must provide to the other parties:

- (a1) the correct names of the parties to the lawsuit;
 - (b2) the name, address, and telephone number of any potential parties;
 - (e3) the legal theories and, in general, the factual bases of the responding party's claims or defenses (the responding party need not marshal all evidence that may be offered at trial);
 - (d4) the amount and any method of calculating economic damages;
 - (e5) the name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case;
- (6) a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the responding party has in its possession, custody, or control, and may use to support its claims or defenses, unless the use would be solely for impeachment;
- (f) for any testifying expert:
- (1) the expert's name, address, and telephone number;
 - (2) the subject matter on which the expert will testify;
 - (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
 - (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:
 - (A) 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 the expert's testimony; and

- (B) the expert's current resume and bibliography;
- (g~~7~~) any indemnity and insuring agreements described in Rule 192.3(f);
- (h~~8~~) any settlement agreements described in Rule 192.3(g);
- (i~~9~~) any witness statements described in Rule 192.3(h);
- (j~~10~~) in a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills that are reasonably related to the injuries or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills;
- (k~~11~~) in a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills obtained by the responding party by virtue of an authorization furnished by the requesting party; and
- (l~~12~~) the name, address, and telephone number of any person who may be designated as a responsible third party.

(c) Content in Certain Suits Under the Family Code.

- (1) In a suit for divorce, annulment, or to declare a marriage void, a party must, without awaiting a discovery request, provide to the other party the following, for the past two years or since the date of marriage, whichever is less:
 - (A) all deed and lien information on

any real property owned and all lease information on any real property leased;

- (B) all statements for any pension plan, retirement plan, profit-sharing plan, employee benefit plan, and individual retirement plan;
 - (C) all statements or policies for each current life, casualty, liability, and health insurance policy; and
 - (D) all statements pertaining to any account at a financial institution, including banks, savings and loans institutions, credit unions, and brokerage firms.
- (2) In a suit in which child or spousal support is at issue, a party must, without awaiting a discovery request, provide to the other party:
- (A) information regarding all policies, statements, and the summary description of benefits for any medical and health insurance coverage that is or would be available for the child or the spouse;
 - (B) the party's income tax returns for the previous two years or, if no return has been filed, the party's Form W-2, Form 1099, and Schedule K-1 for such years; and
 - (C) the party's two most recent payroll check stubs.
- (d) **Proceedings Exempt from Initial Disclosure.** The following proceedings are exempt from initial disclosure, but a court may order the parties to make particular disclosures and set the time for disclosure:
- (1) an action for review on an administrative record;
 - (2) a forfeiture action arising from a state statute;
 - (3) a petition for habeas corpus;
 - (4) an action under the Family Code filed by or against the Title IV-D agency in a Title IV-D case;
 - (5) a child protection action under Subtitle E, Title 5 of the Family Code;
 - (6) a protective order action under Title 4 of the Texas Family Code;
 - (7) other actions involving domestic violence; and
 - (8) an action on appeal from a justice court.

194.3 Response.

The responding party must serve a written response on the requesting party within 30 days after service of the request, except that:

- (a) a defendant served with a request before the defendant's answer is due need not respond until 50 days after service of the request; and
- (b) a response to a request under Rule 194.2(f) is governed by Rule 195.

194.3 Testifying Expert Disclosures.

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.

A Production.

Copies of documents and other tangible items ordinarily must be served with the response. But if the responsive documents are voluminous, the response must state a reasonable time and place for the production of documents. The responding party must produce the documents at the time and place stated, unless otherwise agreed by the parties or ordered by the court, and must provide the requesting party a reasonable opportunity to inspect them.

194.4 Pretrial Disclosures.

- (a) **In General.** In addition to the disclosures required by Rule 194.2 and 194.3, a party must provide to the other parties and promptly file the following information about the evidence that it may present at trial other than solely for impeachment:
 - (1) the name and, if not previously provided, the address, and telephone number of each witness—separately identifying those the party expects to present and those it may call if the need arises;
 - (2) an identification of each document or other exhibits, including summaries of other evidence—separately identifying those items the party expects to offer and those it may offer if the need arises.
- (b) **Time for Pretrial Disclosures.** Unless the court orders otherwise, these dis-

closures must be made at least 30 days before trial.

(c) Proceedings Exempt from Pretrial Disclosure. An action arising under the Family Code filed by or against the Title IV-D agency in a Title IV-D case is exempt from pretrial disclosure, but a court may order the parties to make particular disclosures and set the time for disclosure.

194.5 NO OBJECTION OR ASSERTION OF WORK PRODUCT.

No objection or assertion of work product is permitted to a request disclosure under this rule.

194.6 CERTAIN RESPONSES NOT ADMISSIBLE.

A response to requests disclosure under Rule 194.2 (b)(3) and (d4) that has been changed by an amended or supplemental response is not admissible and may not be used for impeachment.

Comment to 2021 change: Rule 194 is amended to implement section 22.004(h-1) of the Texas Government Code. Rule 194 is amended based on Federal Rule of Civil Procedure 26(a) to require disclosure of basic discovery automatically, without awaiting a discovery request. A party is not excused from making its disclosures because it has not fully investigated the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures. As with other written discovery responses, required disclosures must be signed under Rule 191.3, complete under Rule 193.1, served under Rule 191.5, and timely amended or supplemented under Rule 193.5.

RULE 195. DISCOVERY REGARDING TESTIFYING EXPERT WITNESSES

195.1 Permissible Discovery Tools.

A party may request another party to designate and disclose obtain information concerning testifying expert witnesses only through a request for disclosure under Rule 194 this rule and through depositions and reports as permitted by this rule.

195.2 SCHEDULE FOR DESIGNATING EXPERTS.

Unless otherwise ordered by the court, a party must designate experts—that is, furnish information requested under described in Rule 194.2(f) 195.5(a)—by the later of the following two dates: 30 days after the request is served, or

- (a) with regard to all experts testifying for a party seeking affirmative relief, 90 days before the end of the discovery period;
- (b) with regard to all other experts, 60 days before the end of the discovery period.

195.4 Oral Deposition.

In addition to the information disclosed under Rule 194.5(a), a party may obtain discovery concerning the subject matter on which the expert is expected to testify, the expert's mental impressions and opinions, the facts known to the expert (regardless of when the factual information was acquired) that relate to or form the basis of the testifying expert's mental impressions and opinions, and other discoverable matters, including documents not produced in disclosure, only by oral deposition of the expert and by a report prepared by the expert under this rule.

195.5 — COURT — ORDERED EXPERT DISCLOSURES AND REPORTS.

- (a) Disclosures. Without awaiting a discovery request, a party must provide the following for any testifying expert:
 - (1) the expert's name, address, and telephone number;
 - (2) the subject matter on which the expert will testify;
 - (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
 - (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:
 - (A) 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 the expert's testimony;

(B) the expert's current resume and bibliography;

(C) the expert's qualifications, including a list of all publications authored in the previous 10 years;

(D) except when the expert is the responding party's attorney and is testifying to attorney fees, a list of all other cases in which, during the previous four years, the expert testified as an expert at trial or by deposition; and

(E) a statement of the compensation to be paid for the expert's study and testimony in the case.

(b) Expert Reports. If the discoverable factual observations, tests, supporting data, calculations, photographs, or opinions of an expert have not been recorded and reduced to tangible form, the court may order these matters reduced to tangible form and produced in addition to the deposition.

(c) Expert Communications Protected. Communications between the party's attorney and any testifying expert witness in the case are protected from discovery, regardless of the form of the communications, except to the extent that the communications:

- (1) relate to compensation for the expert's study or testimony;
- (2) identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or
- (3) identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed.
- (d) Draft Expert Reports and Disclosures Protected. A draft expert report or draft disclosure required under this rule is protected from discovery, regardless of the form in which the draft is recorded.

Comment to 2021 change: Rule 195 is amended to reflect changes to Rule 194. Amended Rule 195.5(a) lists the disclo-

asures for any testifying expert, which are now required without awaiting a discovery request, that were formerly listed in Rule 194(f). Amended Rule 195.5(a) also includes three new disclosures based on Federal Rule of Civil Procedure 26(a)(2)(B). New Rules 195.5(b) and (c) are based on Federal Rules of Civil Procedure 26(b)(4)(B) and (C) and are added to clarify protections available.

RULE 196. REQUESTS FOR PRODUCTION AND INSPECTION TO PARTIES; REQUESTS AND MOTIONS FOR ENTRY UPON PROPERTY

196.2 RESPONSE TO REQUEST FOR PRODUCTION AND INSPECTION.

- (a) **Time for response.** The responding party must serve a written response on the requesting party within 30 days after service of the request; ~~except that a defendant served with a request before the defendant's answer is due need not respond until 50 days after service of the request.~~

196.7 Request of Motion for Entry Upon Property.

(c) Response to request for entry.

- (2) **Time to respond.** The responding party must serve a written response on the requesting party within 30 days after service of the request; ~~except that a defendant served with a request before the defendant's answer is due need not respond until 50 days after service of the request.~~

RULE 197. INTERROGATORIES TO PARTIES

197.2 Response to Interrogatories.

- (a) **Time for response.** The responding party must serve a written response on the requesting party within 30 days after service of the interrogato-

ries; ~~except that a defendant served with interrogatories before the defendant's answer is due need not respond until 50 days after service of the interrogatories.~~

RULE 198. REQUESTS FOR ADMISSIONS

198.2 Response to Requests for Admissions.

- (a) **Time for response.** The responding party must serve a written response on the requesting party within 30 days after service of the request; ~~except that a defendant served with a request before the defendant's answer is due need not respond until 50 days after service of the request.~~

PARALEGAL ETHICS HANDBOOK

The *Paralegal Ethics Handbook* is a resource for all paralegals, attorneys, and members of the legal community that addresses ethical considerations for 17 practice areas, as well as considerations for in-house, corporate, freelance, administrative, governmental, and regulatory law paralegals. The PEH:

- Examines topics such as defining ethics, ethical obligations, and remaining ethical;
- Addresses ethical considerations for e-filing, e-discovery, and technology;
- Provides resources for state information and paralegal association ethics cannons, plus related information; and
- Contains rules and regulations for all 50 states and Washington, D.C.

The PEH explains how to determine whether an action may be an ethical violation.

Authored by Paralegal Division members, with input from the legal community. Published by Thomson Reuters.

<https://tinyurl.com/txpdPEH>



www.txpd.org



The Ethics of Conflicts of Interest

The increase in the size and number of law firms, as well as lateral hires, has made screening for conflicts of potential employees even more important. More and more paralegals are keeping lists of the matters on which they have worked, as well as the parties involved, in order to avoid conflicts. Freelance paralegals must always maintain this information since they accept work from different firms or legal departments at the same time. Paralegals who work for one firm or legal department at a time most often deal with conflicts issues when they change employers. Paralegals must be particularly mindful when moving to an opposing law firm during ongoing litigation or prior to the closing of a corporate transaction.

Particularly in the current economy, many paralegals work for other employers part-time, or for themselves. Unless you are already working as a freelance paralegal, you should be especially cautious about taking on additional paralegal work from other than your current employer. Paralegals should notify their primary employers of their plans and assure him or her that you will not be doing any work for others that could create a conflict of interest. It would reflect negatively on you if your primary employer should not find out about your freelance work from another attorney or worse, from a motion to disqualify. You would not be able to accept assignments from firms that are adverse to matters handled by your primary employer, even if you would be working on a matter that you don't work on for your primary employer. Any work you do for another attorney, even if all you do is file a document, could be enough to trigger a conflict of interest. The court may

assume that if you have access to files, even if they are filed documents that will be publicly available, you may have access to confidential information regarding a matter. Accepting such an assignment could result in both firms being disqualified.

If you decide to take on an additional job that isn't related to the legal field, you will need to carefully consider whether there could be a conflict of interest. For example, if you take a part time job with Lowe's Home Improvement and your primary employer represents The Home Depot, or any of its related companies, that could be considered a potential conflict of interest. If there is even a remote chance of a potential conflict, you should discuss the matter with your primary employer before accepting additional employment.

Paralegals should also consider whether primary or secondary jobs held by members of the paralegal's family, as well as stock owned by the paralegal or her family members, could be a conflict of interest.

If a paralegal believes there may be a potential conflict, he should notify the supervising attorney immediately so the attorney may determine whether a conflict exists. It is important to note that paralegals are never the arbiters of whether a conflict exists. That decision should be made by the supervising attorney. Paralegals should bring any potential conflict, no matter how remote, to the attention of the supervising attorney as soon as possible. If a firm does not address a conflict as soon as possible, it may prevent the firm from overcoming the conflict, resulting in the firm being disqualified.

If a firm hires a paralegal who has a conflict of interest, the entire firm should be notified that an ethical wall is to be

erected around the paralegal and that no one may do the following:

1. Discuss the case in the presence of the paralegal.
2. Allow the paralegal access to any documents, including keeping all files locked away from any cabinets to which the paralegal would normally have access, and using passwords or other electronic security protections for documents stored on the firm's network.
3. Engage in any discussions with the paralegal about her work on the case or work her previous firm may have done.
4. Disclose the conflict of interest to the relevant client as well as opposing counsel.

These precautions are necessary to avoid the firm's possible disqualification in the case. An ethical wall is no guarantee that opposing counsel will not file a motion to disqualify the firm. When defending the motion, firms may be required to produce billing records or other documents, as well as provide documentation of any ethical wall that was erected around the person in question. If a firm files a motion to disqualify opposing counsel in a matter, the onus is on the opposing counsel (the attorney against whom the motion is filed) to prove they do not have a conflict of interest.



Ellen Lockwood, ACP, RP, is the Chair of the Professional Ethics Committee of the Paralegal Division and a past

*president of the Division. She is a frequent speaker on paralegal ethics and intellectual property and the lead author of the Division's **Paralegal Ethics Handbook published by Thomson Reuters**. She may be contacted at ethics@txpd.org.*

COORDINATOR'S *Corner*

Member Benefits

by Rhonda Brashears, CP, TBLS-BCP, PD Coordinator

The Paralegal Division has many benefits. In these trying times the Paralegal Division knows it can be hard to justify a paralegal association membership, but I think there is no better time! We have been active at the Paralegal Division doing our best to make sure you as a PD member still find value in your membership. I would like to elaborate on just a few of the benefits we provide.

The Paralegal Division Job Bank is ONLY available to our members. This can be found on our website www.txpd.org under the My Account Section. This is a wonderful place to look if you are looking for that next career move or if you are considering relocation.

Another is the PD E-Group. Where else can you have the bended ear of hundreds of paralegals at the tips of your fingers. If this is not a benefit that you currently using, you should really consider it. Whether you need a form, a recommendation for a court reporter in a small town or some non-legal advise on how to deal with a day to day work issue, the PD E-Group is the place. You sign up for the PD E-Group under the My Account Section of the website.

One more little-known benefit of being a member of the Paralegal Division is the numerous ways that we have for you stay abreast of your ethics. Not only is our Professional Ethics Chair Ellen Lockwood,

ACP, RP is a constant contributor to our *Texas Paralegal Journal*, The Paralegal Pulse (the Paralegal Division



monthly newsletter) and at Paralegal Division functions all over the state, she is also available to assist you privately with any ethical concerns you may encounter by contacting her at Ethics@txpd.org. You should also check out the FAQ's Section of the Paralegal Division website for a whole section on everyday ethical questions.

If ever you would like to discuss why Paralegal Division membership really is important to you as a Texas Paralegal do not hesitate to reach out to the President, President-Elect, your District Director, the Paralegal Division Membership Chair or of course, to me. All contact information is on the PD Website under the Contacts tab.

Thank you for being a member and tell a fellow colleague about us!



THE NATIONAL ACADEMY OF DISTINGUISHED NEUTRALS

ATTENTION LITIGATION STAFF



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37th Texas Forum for Paralegals and Attorneys: Strengthening the Attorney-Client Relationship

Watch from your computer or mobile device!

LIVE WEBCAST

March 25, 2021

8:55 a.m. – 3:45 p.m.

► [REGISTER](#) for the live webcast!

WEBCAST REPLAY

April 21, 2021

8:55 a.m. – 3:45 p.m.

► [REGISTER](#) for the webcast replay!

Ways to Save on This Course!

Special Discounts for Paralegals and Paralegal Students!

Course Amenities

- Interact with participating speakers and fellow registrants using the Live Chat feature during the webcast!
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Tentative Topics

- Dos and Don'ts: Dilemmas for Paralegals and Lawyers
- *Bellamy v. Wal-Mart*: Lessons to Be Learned When eDiscovery Goes Badly
- Who Do You Turn To with an Ethical Dilemma?
- The User Experience in Client Relationships
- Grading Legal and Paralegal Education
- Serving All Clients
- Bias-Reducing & Diversity Promoting Decisionmaking for Legal Professionals
- Turning D&I Talk Into Action

MCLE CREDIT

Approximately 6 Hours (2.5 Ethics) Expected



Tentative Program

Hours and topics are subject to change.

Check back in December for more complete information.



EXCEPTIONAL PRO BONO SERVICE AWARD

The Paralegal Division (PD) of the State Bar of Texas is proud to sponsor an Exceptional Pro Bono Service Award. Its purpose is to promote the awareness of pro bono activities such as those defined by the State Bar of Texas, and to encourage PD members to volunteer their time and specialty skills to pro bono projects within their community by recognizing a PD member who demonstrates exceptional dedication to pro bono service. Paralegals are invited to foster the development of pro bono projects, to provide assistance to established pro bono programs, and work closely with attorneys to provide unmet legal services to people with low incomes. This annual award will go to an individual PD member, who performed the pro bono service(s) in the State of Texas, and has volunteered his or her time and special skills in providing uncompensated services in pro bono assistance to their community. The recipient of the award will be announced at the Paralegal Division Annual Meeting Luncheon, his/her expenses to attend the Annual Meeting Luncheon will be incurred by the Division, and a profile of the individual will be published in the Fall issue of the *Texas Paralegal Journal*.

Definition of Paralegal Pro Bono Service (Adopted June 2013)

Providing legal assistance, without remuneration or compensation to the paralegal, that requires specific legal skills, knowledge or training, under the supervision of a licensed attorney or qualified organizations, whether individually, or through non-profit charitable, religious, civic, community, or governmental organizations, and serving as an advocate for those with limited means or that are unable to speak for themselves.

1. Providing legal support services for persons of limited means, either through qualified legal services/legal aid programs.
2. Providing legal support services at community legal clinics; and
3. Providing assistance for, working directly with attorneys on cases, or providing direct client advocacy, under legal services/advocacy programs that are sponsored by a bar association, court, governmental agency or non-profit agency.

Please complete the attached nomination form, and return it **NO LATER THAN APRIL 30, 2021** to the following:

Rachael Watson
Paralegal Services of North Texas, LLC
2035 Johnson Bend Rd
Weatherford, Texas 76088
P: (817) 371-9762 | F: (817) 381-7109
ProBonoChair@txpd.org



**EXCEPTIONAL PRO BONO SERVICE AWARD
NOMINATION FORM**

Individual's Name: _____
PD Member Number: _____
Firm: _____ Job Title: _____
Address: _____
Phone: _____ Fax: _____ Yrs. in Practice: _____
Work Experience: _____

Give a statement (on a separate sheet using "Nominee" rather than the individual's name) using the above definition and following guidelines as to how the above-named individual qualifies as rendering Exceptional Pro Bono Service by a Paralegal Division Member:

1. Renders service without expectation of compensation.
2. Renders service that simplifies the legal process for (or increases the availability) and quality of legal services to those in need of such services but who are without the means to afford such service.
3. Renders to charitable or public interest organizations with respect to matters or projects designed predominantly to address the needs of poor or elderly person(s).
4. Renders legislative, administrative, political or systems advocacy services on behalf of those in need of such services but who do not have the means to afford such service.
5. Assist an attorney in his/her representation of indigents in criminal and civil matters.

Return (no later than April 30, 2021) to:

Rachael Watson

Meet the Directors of the Paralegal Division!

The Paralegal Division consists of twelve districts with each one represented by a Director:

The governing body of this Division shall consist of a Board of Directors, hereinafter referred to as the "Board," composed of elected representatives from each District of this Division, such persons hereinafter referred to as the "Directors."

Bylaws, art. III, 1.a.

The duties of a Director:

... It is the duty of a Director to supply leadership to the Division; to represent his District at all Board meetings; to attend all Board meetings and the Annual Meeting; to be an active representative of the Division within his District; to advise the Board of local needs and programs being conducted within his District; to carry out assigned committee responsibilities and to promote Division programs within his District; to report the actions of each Board meeting to members of his District; to be available at all times to further the objectives and meet the responsibilities of the Division; and to perform such duties as the President or Board may from time to time direct.

Bylaws, art. III, 6.g.

Here is a more personal look at your Directors. Unsure about your district? Go to the [Bylaws](#), p. 4, and look up your district by county.



District 1—Kim Goldberg, TBLS-BCP

1. Why did you join the Paralegal Division? *I became extremely intrigued with the legal profession and I wanted to know more about this Perry Mason / Della Street partnership that played out on prime time TV every week. So, I dug in deep. I began working with my Mom's Civil Process company for about a year learning all of the ins and outs of courthouse system. I knew I was ready to kill it! I was offered and I accepted a position with a young attorney as a beginner legal secretary. I knew I had finally made it. For several years, I worked my fingers to the bone for \$600 / month. Wow! Not only was it hard to pay the rent, I thought to myself, Perry Mason never treated Della Street like this. Where was the respect, those awesome clothes, nice car, dinners out? Where was it all?*

After much soul searching, I realized if I wanted more I had to give more. It was then that I realized that I wanted to take this legal thing to the next level, so I enrolled in a Certified Paralegal Education program. I did not have an undergraduate degree so I was already behind everyone else. I completed the program in a year and a half

with the elite group. I joined the Paralegal Division in 1986 just before I graduated from Paralegal school. At that time, it was referred to as the "Legal Assistants Division." I volunteered on several of committees with the Division and knew then I was proud to be part of the profession.

2. Why did you run as a director?

I wanted to give back as a thank you for all the blessings I have been given in my professional career so I volunteer and do whatever I can to help wherever it is needed.

3. What are your greatest strengths as a paralegal?

Each day I rely on myself, as do others, to show up every day prepared, focused and ready for whatever our day presents, and to always expect the unexpected. We must respond and not react – we must exercise good judgment. We rely on each other tremendously in order to be successful. We all have an important job to do and each task is critical to the outcome. We are a team. I don't know any other way to work. Our clients rely on us and trust us and we never want to take advantage of or abuse that trust. We are not always successful in our endeavors however, as long as we can look at our client and honestly say that we did everything we could, that is most important.

4. Any important tip for paralegals?

For me, this profession is not just a job that pays my bills. It is my career, my passion and my name. I believe in the justice system, yes, it is flawed but it is all we have. If you decide to step into this profession, be prepared and organized at all times. Every day I try to always do the right thing, sometimes it can be to my detriment, but it is what it is. Honesty and integrity in every little thing that you do is critical to who you are. I am not perfect, but I will always own it and do my very best. Never turn down an opportunity to take on a difficult task. I look at this as a positive opportunity to learn

something new. *Carpe Diem!!*

5. Personal look—tell us about a passion you have, favorite hobby, other talent, or a personal message.

I enjoy spending time with my friends and family. They are so very important to me. My parents are in their 80's but are all doing well. My Mama is my best friend and my hero. Life has brought her so many struggles, health and otherwise, but she deals with it and gets right back up!. I have two beautiful grandchildren that live in Dallas. Being a "GeGe" is such a gift that I will always cherish. I also have three fur babies, all rescues. I am a huge animal lover and I do what I can whenever I can to make their lives better. I also love gardening and growing fresh flowers. In my opinion, if there is dirt it needs flowers.



District 2—Eugene Alcalá

1. Why did you join the Paralegal Division?
I became a member of the Paralegal Division in 1993. Working as a legal assistant/paralegal, I understood that the division had lots to offer in this growing profession, with continuing legal education (CLE) and other networking opportunities with other paralegals.

2. Why did you run as a director?

Over the years, I maintained my membership with my local association (DAPA) and finally made the decision to become more involved and was elected to various board

positions. With this leadership background, I felt that I still had more to offer and I made the decision to run for the director position with the Paralegal Division.

3. What are your greatest strengths as a paralegal?

Being organized, communication and the ability to multitask.

4. Any important tip for paralegals?

Get involved and be active within your local paralegal association—"You have a voice!"

5. Personal look—tell us about a passion you have, favorite hobby, other talent, or a personal message.

I have been a runner for years—having run the Walt Disney World Marathon, Marine Corps Marathon in Washington, DC, and the Dallas Marathon. I have run innumerable half marathons as well. This spring, I began bicycling in earnest again and completed the Trek Century Challenge, attaining the Silver Medal level (500 miles in the month of July).



District 3—Wayne Baker, RP

1. Why did you join the Paralegal Division?

Since I became a paralegal, I have been extremely focused on not just growing my career, but the paralegal profession as a whole. I joined the PD because it is a very successful paralegal organization that is dedicated to providing the resources to its members to allow them to grow in their careers and to promoting the continue growth of the profession.

2. Why did you run as a director?

I have always had a lead from the front mentality. I don't just want to grow my career, but I want to bring everyone else

along with me. When a vacancy opened up for the District 3 Director position, I felt compelled to step into the position to ensure that District 3 has a leadership team in place to represent our members.

3. What are your greatest strengths as a paralegal?

My greatest strength as a paralegal is my ability to adapt to change. While I could talk about my legal expertise, ability to draft complex legal pleadings, my organization skills, etc., I think the ability to adjust on the fly in this profession is critical. Nearly every day I get curve balls thrown at me that cause me to make adjustments to my schedule or routine. And while I occasionally one off, I've learned over the years to knock most of them out of the park by adjusting my swing.

4. Any important tip for paralegals?

Take pride in your work. It is easy for paralegals at times to feel underappreciated and feel like they are just doing work they will never get credit for. But paralegals are instrumental to the successful operation of a firm, and any good attorney will tell you that is an understatement. The more you take pride in your work, the more your work will be appreciated.

5. Personal look—tell us about a passion you have, favorite hobby, other talent, or a personal message.

I spend most of my spare time working in my garage doing woodworking and wood art. Over the last several years I've been occasionally making and selling wood art. However, recently I started my own side business doing custom woodworking and wood art, which is really starting to take off. So now, when I'm not at the firm, spending time with my wife and kids, or watching my favorite sports teams disappoint me, I'm woodworking.



District 4—Alice Lineberry, PLS, CP

1. Why did you join the Paralegal Division?

The attorney I was working for at the time heard about the Paralegal Division and encouraged me to join.

2. Why did you run as a director?

I have always felt like you get more from your membership if you are involved. I had been involved in the local paralegal association for years and had always wanted to become more involved in the Paralegal Division. When the opportunity arose, I decide to run. I love meeting and learning from other paralegals, and this is a great way to do it.

3. What are your greatest strengths as a paralegal?

I am very detailed oriented and work well under pressure. I love doing trial work.

4. Any important tip for paralegals?

I think paralegals should realize that no matter how long you have been in the profession that there is always room to learn and improve your skills. I tell other paralegals that I always learn something new every time I go to trial and work with other paralegals.

5. Personal look—tell us about a passion you have, favorite hobby, other talent, or a personal message.

I love to cook, travel, and spend time with family. My favorite vacations are beach vacations.



District 5—Pearl Garza

1. Why did you join the Paralegal Division?

We all look forward to connecting with a diverse group, networking and learning about career advancement opportunities. I joined PD for all those reasons and more. I wanted more options to earn CLE and more opportunities to volunteer. A personal favorite thing of mine about joining is the monthly journal (TPJ) – it always has such helpful information about our paralegal profession and industry.

2. Why did you run as a director?

I ran for director to get to know the paralegals in my community and to motivate them to participate in the PD programs by volunteering and leading. It is important to me for members of District 5 to get the most of their PD membership.

3. What are your greatest strengths as a paralegal?

I've been told by my colleagues and bosses that I work well under pressure and have good judgment.

4. Any important tip for paralegals?

Always maintain a professional attitude and never respond with a “knee jerk reaction.”

5. Personal look—tell us about a passion you have, favorite hobby, other talent, or a personal message.

If I could eat a five-course meal of just desserts, I'd be in heaven. I have a bucket list of places I want to visit just because of their desserts.

My favorite hobby is making wood signs – especially inspirational pieces. I enjoy getting together with friends to craft and paint.



District 7—Erica Anderson, ACP

1. Why did you join the Paralegal Division?

The firm I worked for automatically signed me up when I was hired as a paralegal clerk in 2003, and also registered me for memberships to NALA and the local association, Texas Panhandle Paralegal Association. The professors at the local ABA-approved program at Amarillo College informed the students about the associations, and I had some general knowledge of each group, but it was not until I started volunteering that I learned more.

2. Why did you run as a director?

Throwing my name in the hat for director seemed like a natural progression after being Membership Chair. Living in one of the outlying, rural districts has its limits as far as networking with other paralegals, and my main goal was to meet paralegal professionals from around the state in order to have the connections when my work required me to seek information from other areas of the state.

3. What are your greatest strengths as a paralegal?

Oof. This is a difficult question to ask oneself as one typically focuses on faults. I would have to say that my strengths as a paralegal are:

- a) Willingness and desire to learn—whether it be educational in nature or personal preferences of the attorney or even how to cover the switchboard if necessary;*
- b) Flexibility—by this I mean that I am flexible with my knowledge the application of such to each specific situation. If I am assisting an attorney who works completely in an area that I know nothing about, I can be a better asset if I can use my skillset to ask questions or find the answers. When I do not know how to do something, my response is usually, “I can try and I can learn.”*
- c) This one is a toss-up between technology skills and my laidback personality – there are times when either is an asset and times when one or both are detriments. While my outward reaction might not show that I feel the pressure of the situation, I am usually feeling it internally and put my fingers to task with technology. And, as some of us have experienced, being savvy with technology does not guarantee technological success.*

4. Any important tip for paralegals?

I have two that help me focus better and reset my mind: mental health and give back to your community. In our profession, we are often under more pressure than we realize and carry a greater burden than anyone else knows. Unfortunately, there is no one else in your mind to help you realize that you need a break. Also, giving back to the community, whether it is volunteering at a food bank, reading to kids, or picking up litter, helps give each of us perspective, as well as benefiting the community. It is mentally refreshing and there are numerous organizations that can use a half hour of our time each month.

A tip I have related to the office—always give thanks. When the attorney has given you a task, thank him or her. When the

office manager gives you feedback, show some appreciation, even if what you were told was tough to swallow. Many times our co-workers do not hear a simple, “thanks,” often enough.

5. Personal look—tell us about a passion you have, favorite hobby, other talent, or a personal message.

Goodness. I don’t think I have any talents. I like to be creative, whether it is through graphics or knitting, painting, or working on projects at home. However some of these home projects are not ones that I would say I am passionate about, such as hanging sheetrock or sanding banisters. One hobby I would love to learn is to make my own stained glass.



District 10—Shannon Shaw

1. Why did you join the Paralegal Division?

I wanted to join an organization of professional paralegals. I read and heard about the professional comradery between the paralegals within the division and decided to join.

2. Why did you run as a director?

I decided to run as a director, because I was encouraged by previous directors within my district and told my innovative ideas and personality would benefit the members of District 10 and the Paralegal Division.

3. What are your greatest strengths as a paralegal?

I understand my strengths as a paralegal include strong problem solving skills, a clear understanding of legal procedures and good investigative skills.

4. Any important tip for paralegals?

One of the most important mantras told to me when I first began in the paralegal profession, was to understand that organization is truly key to surviving as a good paralegal. I diligently attempt to practice this way everyday as a paralegal.

5. Personal look—tell us about a passion you have, favorite hobby, other talent, or a personal.

I truly enjoy playing tennis, riding my mountain bike and outdoor activities.



District 11—Jan McDaniel, CP

1. Why did you join the Paralegal Division?

I joined the Paralegal Division to meet other paralegals, network, and obtain quality CLE. Being a member of the PD helped me enhance my career and receiving encouragement from District Directors and other paralegals is invaluable.

2. Why did you run as a director?

Having received encouragement from past Directors, I wanted to provide the same support to District members. I want to be here to answer questions or help resolve concerns anyone might have.

3. What are your greatest strengths as a paralegal?

Organization is probably my greatest strength, which is key for being a good paralegal. I am also good at multi-tasking, which is necessary as I work with multiple attorneys.

4. Any important tip for paralegals?

Communicate with your attorney(s). The phrase "that's not my job" is NOT in our vocabulary. Be willing to do just about anything—long hours standing at the scanner or copier, putting together hearing binders, you name it. This is not a glamorous job, but it is fulfilling. Try to leave your work at your workplace, i.e. if you are working on a tough case, don't "bring it home" and stew over it all evening. That will cause burnout very quickly.

5. Personal look—tell us about a passion you have, favorite hobby, other talent, or a personal message.

That's easy. Music has always been my first love. I began playing piano at age 5, saxophone at age 10, and I directed my first hand bell choir at 17. I have arranged numerous pieces for saxophone and for handbells and own several copyrights. I was Director of Music at my church for 28 years before retiring in 2015. Hobbies include traveling the world with my husband, spoiling grandchildren (and 1 great-grand), and of course loving on our two Boston Terriers (Barkley and Callie Bear) and black cat (Sammy). It is extremely important to have something to do outside of work.

District 12—Lisa Pittman

1. Why did you join the Paralegal Division?
I joined the PD for continuing my education, improving my leadership skills and networking with fellow paralegals.

2. Why did you run as a director?

I was first appointed as a Director and then ran for Director to continue representing my District.

3. What are your greatest strengths as a paralegal?
Multitasking!!



4. Any important tip for paralegals?

Time management and attention to detail is key.

5. Personal look—tell us about a passion you have, favorite hobby, other talent, or a personal.

My passion is my family. One of my hobbies include breeding, raising and showing our Arabian horses. I enjoy showing and sharing the horses that we have raised from foals to promote our breeding program. I enjoy watching them excel in different disciplines, not only with us, but also with their new owners.



District 14—Shannon Happney, CP, TBLS-BCP

1. Why did you join the Paralegal Division?
I joined the PD in 1997 when I passed my national certification and at the suggestion of my attorney at the time. He had done volunteer work and served on several committees for the state bar and thought it would be a great way for me to get connect-

ed to other paralegals in the state and possible volunteer as well. Little did he know it was one of his best suggestions.

2. Why did you run as a director?

I initially ran as a director after the encouragement I received from another paralegal who was/is heavily involved in the division. I had been working with the local group and she felt it was a good fit for me to share my voice and try to help others on a larger level.

3. What are your greatest strengths as a paralegal?

My greatest strengths????? I have been told for years by clients, other paralegals and attorney's that my greatest strength is my organizational skills. Some days I believe them and some days I feel all I do is juggle the hot fire balls in the air & hope they all land where they are supposed to.

I feel that I am also good at communicating with Clients. As a family law paralegal for the last 29+ years I have been able to help them through what most consider a rough time in their lives and guide them through the divorce process. We have all done it.... it is that skill of just listening and offering up a friendly smile or giving them the time of day to just vent or cry when they needed it most. It always amazes me when I see a previous client 2 or 4 or even 8 years down the road and they come up to me and thank me for just listening to them and then they tell me how things have improved for them and it makes me smile to know that I was able to help someone.

4. Any important tip for paralegals?

Patience. Patience is Key!!! Patience for your attorney's when they stress out. Patience with your clients when they are upset and frustrated and being vocal with you about the situation. Patience with other co-workers when they are having a bad day that is spilling over into the office. Patience with your family who doesn't understand why you are working late or on the phone again with your boss or a client or another attorney. & when patience your runs out, having a good friend or another paralegal that you can vent to so you get it all out of your system before you go back and start the day

again with more Patience.

5. Personal look—tell us about a passion you have, favorite hobby, other talent, or a personal message.

My new hobby that I am learning is to play golf.... it ties in well with that whole patience thing above. It is something my husband and I can do together and has been lots of fun (most days). I am thankful for him and his friends that let me tag along and “play at golf” because I am not very good, but hey, A bad day on the golf course is sometimes better than a day sitting in the office.



District 15 – Martha Ramirez, TBLS-BCP

1. Why did you join the Paralegal Division?

I love being a part of a great leadership program.

2. Why did you run as a director?

I wanted to represent District 15 and provide them with all the support that I can.

3. What are your greatest strengths as a paralegal?

I am extremely organized and efficient. I take the initiative to do things without being told what to do next. I have the capability of figuring something out if I don't know how to do it.

4. Any important tip for paralegals?

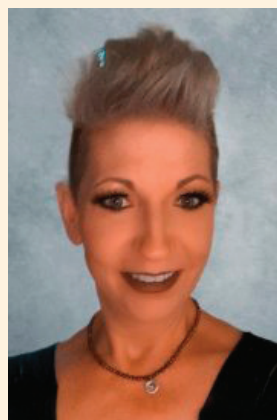
Always strive to do your best. Always double check your work and if you don't know something, ask questions to your supervising attorney. It's the best way to learn and grow.

5. Personal look—tell us about a passion you have, favorite hobby, other talent, or a personal message.

I love running and spending time with my family.

District 16—Ashley Kyzer, TBLS-BCP

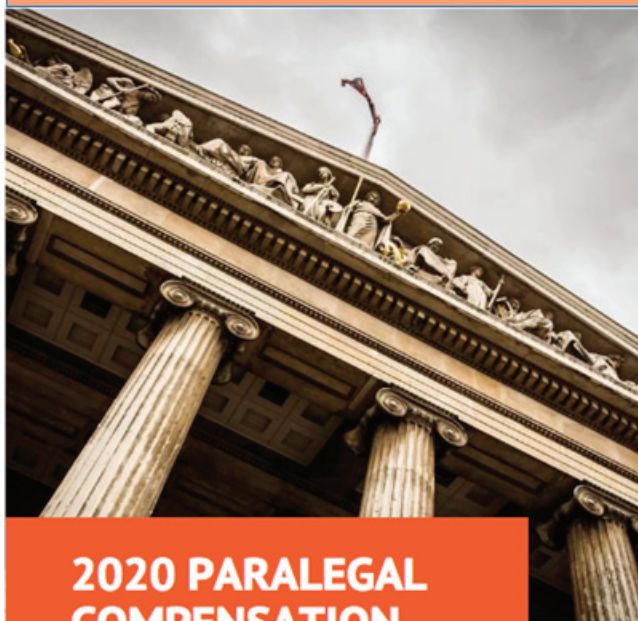
Ashley has been a paralegal for almost 34 years. She has worked in many different areas of litigation and contract law, including securities, insurance defense, oil and gas, real estate, general litigation, contracts, probate and estate planning and family. She has been a member of the Paralegal Division of the State Bar of



Texas and the National Association of Legal Assistants for many years and is also a current member of the State Bar of Texas Family Law Section as well as a member of

the Texas Bar College. She was a member of the Dallas Area Paralegals Association for many years until her move to Far West Texas where she has recently applied for membership with the El Paso Paralegal Association.

Thank You for Your Participation!



2020 PARALEGAL COMPENSATION SURVEY

STATE BAR OF TEXAS:
DEPARTMENT OF RESEARCH AND ANALYSIS
*Survey results available to members of the
Paralegal Division of the State Bar of Texas.





NOTICE OF NOMINATIONS/ELECTION OF PRESIDENT-ELECT

Pursuant to Standing Rule XIV of the Paralegal Division of the State Bar of Texas, notice is hereby given of an election for the office of 2021-2022 President-Elect. This election will be held by electronic mail during the month of January 2021 by the Board of Directors.

Qualifications for serving as President-Elect of the Paralegal Division are contained in Standing Rules XIV as follows:

XIV. OFFICERS

B. ELIGIBILITY

1. Any current or past Director who is currently an active member of the Division and who has completed at a minimum a full term (two (2) consecutive years) as Director is eligible to be elected as President or President-Elect.

Any qualified individual who is interested in running for office of President-Elect should forward a one-page resume, together with a letter of intent to run, to the nominations committee chair at the following address or electronic mail address TO BE RECEIVED NO LATER THAN JANUARY 15, 2021 and a confirmation e-mail will be sent by January 20, 2021.

Shannon Happney, CP, TBLS-BCP, President-Elect Nominations Committee Chair

Post Office Box 688

Longview, Texas 75606

Email: shappney2020@gmail.com

PH: (903) 746-7814

Note: In the event the Board of Directors of the Paralegal Division elects an individual who is currently serving as a Director, a vacancy will be declared in the district in which that individual serves. An election will be held to replace the outgoing Director (President-Elect) at the time the elections for the Board of Directors are regularly scheduled.

RECOGNIZE YOUR COLLEAGUES IN THE SPRING AND SUMMER TPJ!!

Every year in the Spring issue of the TPJ, we recognize the achievements and accolades of our fellow paralegals. Unfortunately, Texas is a big state and it's not easy to keep up with all of our PD members. That's where you can help...If you know of a fellow paralegal who deserves recognition, let us know! Fill out a short form about the person and what award or why they deserve to be recognized and send it along with a photo (if you can get one) to tpj@txpd.org. Submissions due March 5th.

DON'T FORGET...If your law firm or legal organization has 100% membership in the Paralegal Division, it can be in the "100 PD Club." To fill out an application and be featured in the Summer TPJ, please email tpj@txpd.org for more details. Submissions due by April 5th.

If you know of a fellow paralegal who has passed away that you would like to have remembered in the "In Memoriam" Section of the Summer TPJ, please email tpj@txpd.org for more information. Submissions due by April 5th.



PARALEGAL DIVISION

Notice of 2021—District Director Election

The Paralegal Division's DIRECTOR ELECTION for District Directors in even-numbered districts (Districts 1, 3, 5, 7, 11 and 15) will take place March 25 through April 12, 2021.

- Beginning on January 25, 2021 each Elections Subcommittee Chair will prepare and forward, upon request, the following materials to potential candidates for director in their respective district at any time during the nominating period:
 - a. A copy of the List of Registered Voters in candidates' respective district;
 - b. A sample nominating petition; and
 - c. A copy of Rule VI of the Standing Rules entitled "Guidelines for Campaigns for Candidates as Director."
- Each potential candidate must satisfy the following requirements:
 - a. Eligibility Requirements. The candidate must satisfy the eligibility requirements of Article III, Section 3 and Article IX, Section 1 A and Section 4 of the Bylaws and Rule V B, Section 5c of the Standing Rules.
 - b. Declaration of Intent. The candidate must make a declaration of intent to run as a candidate for the office of director through an original nominating petition declaring such intent that is filed with the Elections Subcommittee Chair in the candidate's district pursuant to Rule V B, Section 5 of the Standing Rules.
 - c. Nominating Petition. The original nominating petition must be signed by the appropriate number of registered voters and must be submitted to the Elections Subcommittee Chair in such district, on or before February 19, 2021.

If you are interested in running for District Director, or need further information regarding the election process, contact the Elections Committee Sub-Chair in your District, or the Elections Chair, Melanie Langford, ACP at Elections@txpd.org.

2020–2021 District Election Committee Sub-Chairs:

District 1 – Michelle Rowland michelle.h.rowland@exxonmobil.com

District 3 – Susan Davis – sedgpd@gmail.com

District 5 – Melanie Langford – elections@txpd.com

District 7– Charlotte Martin - bcharlirose@aol.com

District 11 – Susi Boss – president-elect@txpd.org

District 15 – Agueda Aguinaga – aguicpena@hotmail.com

NOTICE OF VOTING— March 25 through April 12, 2021

All Active members of the Paralegal Division in good standing as of March 25, 2021 are eligible to vote. All voting must be completed on or before 11:59 p.m., April 12, 2021.

All voting will be on-line and no ballots will be mailed to members.

Please take a few minutes to logon to the PD's website (beginning March 25) and cast your vote for your district's director. The process is fast, easy, anonymous, and secure.

- Between March 25 and April 12, 2020 go to www.txpd.org
- In the Members-Only section, click on "Vote"
- Follow the instructions to logon and vote



ASSOCIATE MEMBERSHIP



Join forces with an elite group of lawyers and paralegals who lead our profession.

Through associate member status, the College honors paralegals that make a commitment to maintain and enhance their professional skills through attending an extraordinary amount of continuing legal education hours.

REQUIREMENTS

A paralegal may become, or may maintain his or her status as an associate member of the College by

- (1) completing twelve hours of accredited CLE in the previous OR current calendar year which must include two hours of ethics,
- (2) paying the required fee,
- (3) submitting an application form on which a licensed Texas attorney verifies the applicant's good character and qualifications as a paralegal, and
- (4) submitting a report identifying the sponsor of the CLE programs attended, the specific topics included, the names and firms of speakers on the programs.

Two of the twelve hours including one hour of ethics may be earned through self-study.

BENEFITS

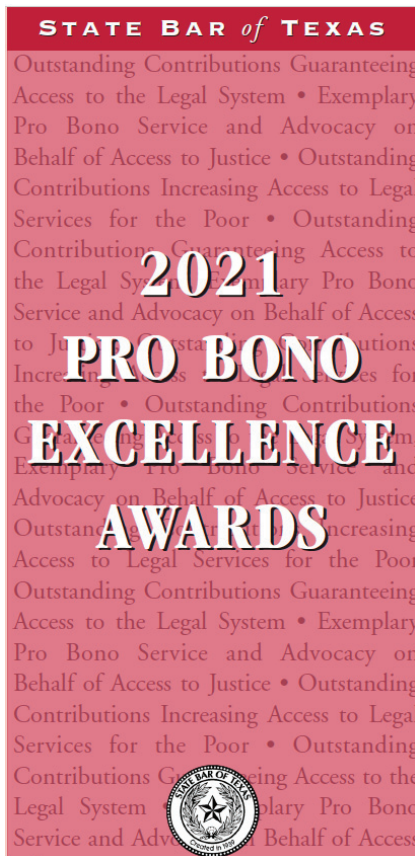
- A certificate of membership suitable for framing and a leather portfolio with the College logo
- The distinction of attaining a higher level of professional membership
- Unlimited access to TexasBarCLE's Online Library, a searchable database of over 27,000 CLE articles, forms, and case law updates
- Discounts for many live and video replay courses through TexasBarCLE, the State Bar's award-winning CLE department
- Use of the College logo on business cards, websites, letterhead, email signatures, etc.

To join, visit texasbarcollege.com.

TEXAS BAR COLLEGE

PROFESSIONALISM THROUGH EDUCATION

NOMINATIONS SOUGHT FOR STATE BAR PRO BONO AWARDS



The Legal Services to the Poor in Civil Matters and Legal Services to the Poor in Criminal Matters Committees of the State Bar seek nominations of deserving individuals, groups, and entities that perform exceptional work in the field of legal services to the poor.

Nominations are due by 5 p.m. on Friday, February 26, 2021. Recipients of the Pro Bono Excellence Awards and the Indigent Defense Awards will be notified in May.

Award nomination forms are available at www.texasbar.com/probono-awards. For more information about these awards, contact the Legal Access Division at probono@texasbar.com or 800-204-2222, ext. 1855.

BECOME A MEMBER!



- ★ Access to a deep library of Continuing Legal Education of live and on-demand seminars with member pricing.
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- ★ Discounts on educational programs through NFPA partners.
- ★ Connections with national pro bono opportunities.
- ★ [™] Engagement in national leadership roles.
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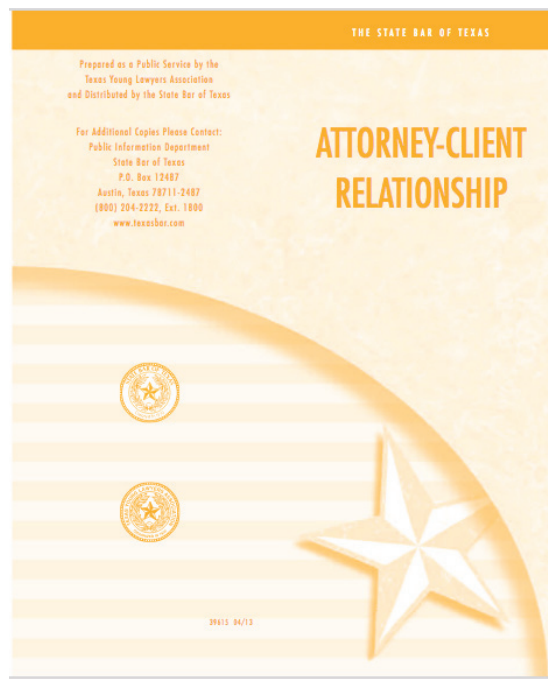
The State Bar of Texas was the first bar association in the United States to create a separate division for paralegals. The Division was created on October 23, 1981, and charged with “enhancing legal assistants’ participation in the administration of justice, professional responsibility, and public service in cooperation with the State Bar.” The term “legal assistants” later was changed to "paralegals." The Division looks forward to fulfilling its mandate enthusiastically, energetically and professionally.

The Paralegal Division of the State Bar of Texas offers members merchandise to promote the paralegal profession and their membership of the Paralegal Division

<http://www.cafepress.com/paralegaldivision>

The Texas Young Lawyers Association has several publications available to the public and are also a good resource for paralegals.

Here is this edition’s featured pamphlet.



You can find this and many other helpful topics on the TYLA web page –
www.tyla.org