

TRCP 2021 Update/Changes - Summary

New Rules Apply to Cases Filed after January 1, 2021

1. Rule 47 – Claims for Relief

- a. Expedited Actions – Must plead “monetary relief of \$250,000 or less, excluding interest, statutory or punitive damages and penalties, and attorney’s fees and costs;”
- b. Changed lowest threshold to \$250,000 or less and non-monetary relief (was previously \$100,000 or less)

2. Rule 169 – Expedited Actions

- a. Changes threshold to “\$250,000 or less excluding interest, statutory or punitive damages and penalties, and attorney’s fees and costs;”
- b. Can’t recover in excess of “\$250,000 or less excluding interest, statutory or punitive damages and penalties, and attorney’s fees and costs;”

3. Rule 190 – Discovery Limitations

- a. Discovery Control Plans – Now keyed off due date of initial disclosures, rather than when suit is filed.
 - i. Level 1 – Discovery now begins when initial disclosures are due and continues for 180 days after the date the disclosures are due.

- ii. Level 2 - Discovery now begins when initial disclosures are due and continues until earlier of 30 days before trial, or nine months after disclosures are due.

4. Rule 192 – Permissible Discovery

- a. Main takeaway here is integration of “required disclosures” and no other discovery can be conducted until AFTER the “required disclosures” are due.

5. Rule 193 – Written Discovery / Assertion of Privilege

- a. Permits a party to withhold privileged material responsive to a “required disclosure”.
- b. Extends claw-back of privileged material without waiver to “any” party who obtained the privileged material, rather than just the “requesting party”

6. Rule 194 – Required Disclosures

- a. No longer requires a formal discovery request – All parties must serve initial disclosures within 30 days after the filing of the first answer. (Plaintiff and Defendant).
- b. Modifies disclosure of “method of calculating economic damages” to “computation of each category of damages claimed by the responding party” AND production of documents and materials supporting each computation.

- c. Adds requirement to produce ALL documents, etc. that support its claims or defenses, unless solely for impeachment.
- d. Pre-trial Disclosures – 30 days before trial ALL parties must provide (1) witness list with contact information – separated by who is expected to be called and who may be called “if the need arises” and (2) exhibit list – separated by those it expects to offer and those it may offer if the need arises.

7. Rule 195 – Discovery Regarding Testifying Expert Witnesses

- a. No longer requires a formal discovery request – All parties must serve designations
- b. Deadline to designate for affirmative relief is 90 days before end of discovery period.
- c. Deadline to designate for all other experts is 60 days before end of discovery period.
- d. Adds the following to the designation –
 - i. Experts qualifications, including a list of all publications authored in the previous 10 years;
 - ii. List of all other cases in which, during the previous four years, the expert testified as an expert at trial or by deposition; and
 - iii. Statement of the compensation to be paid.