



CIVIL JUSTICE ASSOCIATION  
OF  
CALIFORNIA

November 25, 2013

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- U.S. Chamber Institute for Legal Reform

Committee on Rules of Practice and Procedure  
Administrative Office of the United States Courts  
One Columbus Circle, NE  
Washington, D.C. 20544

RE: Public Comment to the Advisory Committee on Civil Rules Regarding Proposed Changes to the Federal Rules of Civil Procedure (FRCP)

The Civil Justice Association of California (CJAC) welcomes the opportunity to comment on proposed changes to the FRCP. Our membership is a cross section of business and government organizations, many of whom are frequent litigants in both Federal and state judicial systems and all of whom are dedicated to improving the fairness, economy and efficiency of our civil justice system.

CJAC applauds and shares the goals of the proposed amendments: increase proportionality in discovery, improve cooperation among lawyers, and promote early, active and appropriate judicial case management. We know from our members' litigation experience that discovery and its attendant costs too often confuse the means with the end, the going with the getting. Toward these goals, we particularly support proposed changes to FRCP 26(b)(1), especially:

- The limitation of discovery to the parties' well-pleaded claims and defenses, and not to "any matter relevant to the subject matter involved in the action;" and
- Deletion of the sentence "[r]elevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence."

We also support the proposed changes to Rule 37 (e), which, *inter alia*, tie sanctions for failure to preserve discoverable evidence to conduct that is "willful" and "in bad faith" and causes "substantial prejudice." The changes should help reduce unnecessary and expensive preservation of information.

We agree with the comments and suggestions proposed in the August 30, 2013 letter submitted by Lawyers for Civil Justice, and with the November 7, 2013 comments by the Institute for Legal Reform.

Thank you for your hard work on this project and consideration of our views.

Sincerely,

Kim Stone  
President