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Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle NE
Suite 7-240
Washington, D.C. 20544

***Re: Proposed Revisions to the Federal Rules of Civil Procedure Regarding
Discovery Procedures***

Dear Committee:

I am writing to support the proposal of the Advisory Committee on Civil Rules (“Advisory Committee”) to update certain provisions of the Federal Rules of Civil Procedure relating to discovery. This proposal includes important draft provisions relating to the scope of discovery (Rule 26) and sanctions for failing to preserve discoverable information (Rule 37), as well as other changes.

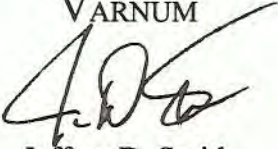
Having practiced as a trial lawyer for over three decades, representing both plaintiffs and defendants, I strongly support the Advisory Committee’s proposal as an opportunity to re-balance a process which oftentimes leads judges and juries away from the core questions of responsibility and even-handed justice. With growing frequency, the cost of discovery far outweighs the value of the issues in controversy (and is used as an economic threat), with discovery often being pursued for the primary purpose of obtaining sanctions for non-compliance. These misuses of the discovery process may lead to unfair and unpredictable results which often vary based on the venue of a particular case, with limited (and sometimes misinterpreted) guidance provided to the Courts by the current rules.

The proposed revisions will promote a more uniform national standard on important discovery issues. The proposed changes would refocus discovery on the issues actually at stake in a given controversy, and would help curtail the substantial costs associated with the threat of “side litigation” over discovery issues on matters which are often of little “real world” importance to the litigants. Among other benefits, the proposed revisions would provide additional guidance to the Courts and parties in considering and resolving discovery issues, thus establishing a framework for more reasoned and predictable “case focused” outcomes to those disputes.

I thus support these proposed changes, and ask that they be acted upon favorably.

Thank you.

Very truly yours,

VARNUM

Jeffrey D. Smith