

Can We All Place Nice in the Sandbox in Discovery?

By Jason P. Stoffel, Esq.

Discovery. Just the thought of it can make my skin crawl since it generally is a very labor-intensive exercise, but it is necessary for the resolution of all claims in a case.

Keeping up with the theme of this publication, too often attorneys do not take the discovery process seriously or fail to conduct themselves in a professional manner consistent with trying to settle a case before trial. I question why some opposing parties/counsel are so difficult in discovery. After reading the articles in this edition of the *Communiqué*, my hope is that we all learn a thing or two.

If I want a bank statement that only the other side has access to, can it be provided after a quick phone call or a brief fax or email? At least in the area that I practice in, the family law arena, these rules are primarily covered by NRC 16.2 and NRC 16.205. The idea is to get information, and not play "hide the ball" on relevant information.

Also, what is the point of setting depositions without checking to see if the time selected even works in my calendar? A little common courtesy goes a long way in my book. This is one of my pet peeves for sure.

The mental health of a litigant is relevant in most cases, especially in custody litigation. Too often there is inconsistency with the different departments as to what is required for a Health Insurance Portability and Accountability Act release (a/k/a "HIPAA release"), how the information is disseminated, who has access to it,

In other words, don't burn bridges with people.

etc. Can I get the information that I am entitled to or do I really have to file a motion to compel? It is shocking what efforts to over-complicate matters people will go to.

Not to toot my own horn, but I call it as I see it. I think I am quite reasonable and accommodating in litigation. After 15 years of practicing law, I am a phone call away if there is a discovery dispute. It is always good to take the high road as I will be practicing law for many years ahead and will be having the same opposing counsel in future cases. In other words, don't burn bridges with people. Learn from past mistakes since, as the saying goes, experience is the best teacher.

Lastly, as the new year is well underway, ask yourself what you can do better with respect to how you practice law. Is the goal to get cases done and have a happy client, or do unnecessary discovery just to increase litigation costs and provide a banker's box of irrelevant discovery when bringing attention to just some pertinent pages of information would do. Money does not grow on trees in the back of our client's house so make each billable hour count and in discovery, let's do what we can to keep attorney's fees down. **G**



Jason P. Stoffel, Esq. is one of the founding members of Roberts Stoffel Family Law Group that was formed in 2010. Mr. Stoffel has 15 years of experience with a practice focused exclusively on family law matters. Mr. Stoffel is President of the CCBA through December of 2019.

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