

Wiley Rein Litigation Practitioners Comment on Proposed Discovery Rule Changes

February 14, 2014

Attorneys from Wiley Rein's Litigation Practice wrote a letter to the Committee on Rules of Practice and Procedure to show their support for proposed amendments to the Federal Rules of Civil Procedure regarding discovery. The letter was authored by partners Andrew G. McBride, Megan L. Brown, Joshua S. Turner, and Attison L. Barnes III and associate J. Andrew Law. Mr. McBride serves as chair of the Communications Litigation Practice. Mr. Turner is co-chair of the Communications Enforcement & Compliance Practice.

Wiley Rein's attorneys commended the efforts of the Committee to amend the current rules of civil discovery, stating, "We have seen that unnecessarily burdensome discovery—indeed the mere threat of protracted discovery—has pernicious effects. It wastes resources on irrelevant preservation, collection and analysis; it generates ancillary litigation over discovery obligations and professional conduct; it distorts incentives by encouraging premature or unjustified settlement; and it invites further vexatious litigation."

Among other things, the proposed changes would narrow the scope of discovery to "any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case...." Under the current guidelines, information "relevant to the subject matter involved in the action" is open to discovery. Another issue addressed in the proposed changes is the preservation obligation tied to electronic discovery, which often can be costly and time consuming. Wiley Rein litigators support clarifying the preservation obligation and narrowing the availability of sanctions.

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Practice Areas

Communications Enforcement & Compliance
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The public comment period for the proposed amendments ends February 18, 2014.