



News Release

For Immediate Release

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DRI Opposes Texas Supreme Court Rule on Expedited Jury Trials

Largest Defense Bar Organization in the Country Says Rule Disadvantages Defendants and Departs Significantly From Texas Law

CHICAGO – (January 31, 2013) DRI – The Voice of the Defense Bar, which represents 22,000 members of the defense bar nationally and more than 1,300 in Texas, joined the Texas Association of Defense Counsel, Inc. (TADC) in opposing the Texas Supreme Court’s proposed Rule 169. That rule responds to the requirement in Tex.Gov.Code §22.004(h) (originally HB 274) that the Court adopt rules to promote the “prompt, efficient, and cost-effective resolution of civil actions.” DRI objects specifically to the Courts proposals for expedited jury trials.

DRI finds the rule flawed in that it gives a distinctive advantages to plaintiffs at the expense of defendants. Specifically, the rule:

- Gives the party bringing the action the sole discretion to determine whether or not to submit a matter for compulsory expedited trial. Such a favored approach lacks fundamental fairness.
- The Texas law limits expedited trials to cases in which “the amount in controversy...does not exceed \$100,000.” However the court’s proposal excludes the amount of counterclaims from this limit. Thus, a party asserting a counterclaim, for instance, of \$1,000,000 would nevertheless be forced into an expedited trial with limited time and discovery to present a full case.
- The rule provides for no appellate review of a decision to grant or deny expedited status to a case.

In a letter to the Texas Supreme Court, DRI President Mary Massaron Ross said that “an expedited trial is a noble undertaking but only if that process places both parties on an equal footing and provides for the exercise of fundamental principles established for jury trials. The process must be equitable and free from advantages to one of the parties.” Calling the Court’s proposal “well-intended but flawed,” Massaron Ross stated the proposed system invites abuse and unintended consequences.

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“To develop a procedure which compels a defendant into a trial process where little discovery is permitted and only five hours per side is given to the defendants to complete voir dire, opening, direct examination, cross examination and closing based solely upon the amount in controversy is unfair, unjust and amounts to a denial of a fair opportunity for a defense” said Dan K. Worthington, President of TADC which supported passage of HB 274 but opposes Rule 169. Nearly all other jurisdictions that have implemented an expedited actions system have made such systems voluntary rather than compulsory.

“DRI supports expedited jury trials as a way of holding the line on costs and making the administration of justice more timely and efficient,” said Massaron Ross. “What we cannot support is efficiency at the expense of justice and fairness. We urge the Texas Supreme Court to reconsider its position.”

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About DRI – The Voice of the Defense Bar

For more than fifty years, DRI has been the voice of the defense bar, advocating for 22,000 defense attorneys, commercial trial attorneys, and corporate counsel and defending the integrity of the civil judiciary. A thought leader, DRI provides world-class legal education, deep expertise for policy-makers, legal resources, and networking opportunities to facilitate career and law firm growth. For more information, log on to www.dri.org