



# STEPHENS ANDERSON & CUMMINGS

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## *Let's Win This!*

A Monthly Newsletter - What You Need to Know  
About Personal Injury Law

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July 2019 - Issue 17



It's mid-July and the Texas heat is here.

There's an old saying, "Summer in Texas isn't for the faint of heart."

And this year, the rain that we've had just bumps the humidity numbers up and up. The other day, the thermometer sat below 100 but the heat index or "perceived temperature," which is a much more descriptive term, was 112.

In pretty much anybody's book, that's hot.

Speaking of books, summer is a great time to catch up on some of that reading you've meant to do - whether lounging by the pool or inside, taking advantage of the air conditioning.

Some other summer activities require a bit more care and attention.

It's an occupational hazard but, as a personal injury lawyer, I often think about dangers lurking around the corner. Summer brings lots of those corners.

The thing is, most summer hazards are easily avoided. It just takes common sense and vigilance. We all know that closed-up cars become pressure cookers in the Texas sunshine. Swimming pools and lakes are refreshing places for splashing fun, as long as safety rules are followed.

Here at Stephens Anderson & Cummings, we hope that you have a great - and safe - summer. But, if someone's negligence - the failure to exercise common sense and vigilance - causes injury, we're here to help.

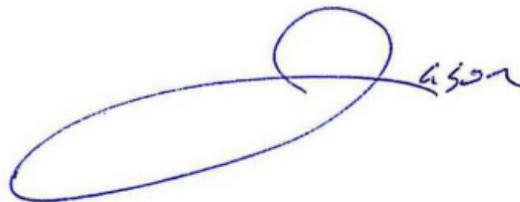
Part of our job is to make sure you understand what to expect while going through the process of seeking justice. That's why we're doing this series on discovery.

This month we dive in - talking about how discovery starts and what you can expect in pretty much any lawsuit.

So, thanks for adding us to your summer reading list.

And, during these hazy, lazy days of summer, if you want to chat about the world of personal injury law, please give us a call. Or shoot us an email. Or visit through the website.

Even though it's summer, we're still here to help.



p.s. - Forward this email to your friends and loved ones and tell them that they can get their own copies in the future by subscribing here:

**Sign up to get Let's Win This! every month**



## Time and Expense

### Evolution

Believe it or not, the rules governing discovery have evolved – and continue to evolve – mainly in an attempt by the courts to make litigation *less expensive*.

Lawyers, who don't always share this goal (see the last discovery issue [HERE](#)), nonetheless have to work within the rules. At SAC, we understand what the rules are and how to use them. We leave no stone unturned in an effort to obtain justice for our clients, but we also strive to do so efficiently, making every discovery activity count.

We talked in April about the *reasons* lawyers go through the discovery process in lawsuits. Today, we start discussing the *ways* they go about gathering information and how the rules guide and restrict those efforts.

### Federal Courts

In the Federal courts, the rules have for many years required parties to routinely – that is, without waiting for a request – turn over to the opposing party basic information about their case.

The identity (name and contact information) of people who have knowledge of information relevant to the suit (along with the subject matter of that knowledge), relevant documents, damages computations (see the *Let's Win This!* general damages issues [HERE](#) & [HERE](#)), insurance policies, and information about expert witnesses all have to be turned over to the other side *automatically* – no ifs, ands, or buts – within specified time periods.

### Texas

Texas jumped on that train, sort of, about twenty years ago with "Requests for Disclosure." Since the late '90s, the Texas Rules of Civil Procedure have mandated that, *if the other party requests you to do so*, you must provide a laundry list of information within 30 days of the request.

The other side will *always* request that you do so.

So, if you're in a lawsuit, whether as a plaintiff or as a defendant, expect that you are going to have to provide (pretty much without any chance to object – more about that in a minute) these things:

- The correct names of the parties to the suit
- Contact information of any potential parties
- The legal theories and general factual bases of your claims or defenses
- The amount and method of calculating any *economic* damages (see Issue 3, [HERE](#), for types of damages)
- Contact information for people with knowledge of relevant facts, along with a brief statement of what they know
- Expert witness information (LOTS more about experts later)
- Applicable insurance policies
- Settlement agreements with others involved in the incident
- Witness Statements
- Medical records and bills, or an authorization permitting the other side to get them from your treating doctors and hospitals, and
- The identity of anyone who may be a "responsible third party" (more about this in a future issue talking about who the parties are and why it matters)

One of the favorite objections lawyers like to make to discovery requests is that the material is "work product," that is, the material wouldn't exist but for the efforts of the lawyer, so requiring it to be turned over to the other side wouldn't be fair. The rules say "[n]o objection or assertion of work product is permitted ...."

So, unless some other objections exists somewhere in the law (and they are rare for the items in this list) all of this information has to be provided without a fuss.

Sounds like a lot, doesn't it?

And it is. But typically, it's just a start to the information that will be required in order to fully prosecute your suit.

While it's kind of a pain to have to assemble all of this information, remember that the other side has to do this, too. Receiving responses to requests for disclosure from the other side is very helpful to your lawyer in planning your case and forming a detailed strategy.

The problem is, many lawyers don't take the time or make the effort to customize their discovery strategy. When they don't, it results in delay and increased expense.



## Some Lawyers Make It Complicated

A recent seminar designed for and marketed to lawyers put the problem this way in the brochure advertising the course:

"Yet, all too often discovery is treated as a mechanical process devoid of strategic and tactical planning. A prompt and deliberate approach to

discovery that supports what is necessary to prevail guides and narrows discovery up front, which will, in turn, lead to better results and value at a lower expense."

As you can see, even the profession realizes there is a problem. (And, yes, it's sad that many lawyers really do talk that way.)

One reason the problem continues to exist despite the rules designed to reduce delay and expense is, quite frankly, lazy lawyers. Another is that many defense firms try to wear down their opponents – and make them spend money – by burying them with discovery request and depositions.

At Stephens Anderson & Cummings, we tailor discovery to your case. And we have the resources to deal with defense firms who just throw everything including the kitchen sink our way, hoping that we'll get frustrated and tired and give up.

We won't.

So, what tools are available in planning the discovery process (and, what can you look forward to receiving from the other side)?

After Requests for Disclosure, the main ones are Interrogatories, Requests for Production, Requests for Admission, and Depositions. Each one has its own special rules and considerations, which we'll begin discussing the next time *Let's Win This!* turns to Discovery.

Until then, remember, any time you have questions about anything dealing with the world of personal injury law, we're as close as a phone call, an email, or a website chat. We'd love to hear from you!

In the meantime, here's another chance to sign up so you never miss an issue!



# American Board of Trial Advocates™

## Stephens Anderson & Cummings Partners Members of ABOTA

Many people are surprised to learn that the right to trial by jury in civil cases, not just criminal cases, is guaranteed by the Constitution. But the founding fathers knew that civil cases affect not just the rights of the individual but also society, as a whole, through the operation of precedent and the common law.

So the Seventh Amendment - passed in 1789 - says that the right to a jury in civil cases in which the amount in controversy exceeds \$20 "shall be preserved." (Twenty dollars in 1789 would equal about \$571 today - still a pretty low threshold and an indication of just how important the founding fathers thought this right was.)

The American Board of Trial Advocates - ABOTA - is an invitation-only association of experienced civil trial lawyers and judges dedicated to preserving and promoting the right to civil trial by jury guaranteed by the Seventh Amendment to the United States Constitution.

All of the partners at Stephens Anderson & Cummings are proud to be members of ABOTA.

And SAC wholeheartedly supports the purposes of the Association.

What are they?

From the [ABOTA website](#):

(1) To elevate the standards of integrity, honor and courtesy in the legal profession;

(2) To aid in further education and training of trial lawyers; to work for the preservation of our jury system; to improve methods of procedure of our present trial court system; to serve as an informational center; to discuss and study matters of interest to trial lawyers; to advance the skill of its members as trial attorneys; to honor the members of the Association who have the requisite qualifications; to provide a forum for the expression of interests common to trial lawyers and to act as an agency through which trial lawyers in general, and members of the Association in particular, shall have a voice with which to speak concerning matters of common and general interest;

(3) To establish relations and cooperate with other legal organizations and associations for the purposes of promoting the efficient administration of justice and constant improvement of the law;

(4) To cultivate a spirit of loyalty, fellowship, and professionalism among our members; to advance the interests of the members of the Association professionally and to enable trial lawyers as a group to have an active association of standing in the community and nation through which they may learn and be heard.

Those are goals that serve the interests of justice and benefit our clients, our state, and our country.

ABOTA - another way we help give back and support *your* right to seek justice.

**Let's Win This!**

[Explore the Stephens Anderson & Cummings Website](#)

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## WHY Stephens Anderson & Cummings?

*Aggressive. Experienced. Trusted.*

Righting wrongs for seriously injured people isn't just a job for us - it's our calling.

Fighting for seriously injured folks is what we do. And it's all we do.

If you want to make a will or form a corporation or conduct a business transaction, we can give you the names of some other lawyers to call.

But if you or a loved one have been seriously injured - or suffered a wrongful death in the family - we're your team. We're AV rated (that's the highest) and we have the drive, experience, and tenacity to stand toe-to-toe with anyone on behalf of our clients.

We're not "TV advertisers." We're real trial lawyers with a long track record of success.

We're not a "mill." We don't take every case that comes along. We understand that your circumstances are as individual as you are.

At Stephens Anderson & Cummings, every single client is unique; every single client is important. We pay personal attention to every single one.

*Don't get lost in the shuffle.*

Let Us Fight For You

[Compare Our Credentials](#)

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## *Fellow Lawyers: We Value Your Referrals*

At Stephens Anderson & Cummings, we appreciate that different lawyers have different areas of expertise. If your clients find themselves in a situation that falls within ours, we would be honored to work with you, helping them obtain justice - fighting for the best possible result.

We work hard, spare no expense, and pay referral fees promptly.

We know that your clients are important to you. We know that you represent them zealously in your area of practice. If we can't help them, we'll send them back to you.

Righting wrongs for those injured or killed due to the negligence or wrongful conduct of others is what we do. Trust us with your client's case and

*Let's Win This!*

[Click here to learn more about referrals!](#)

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## Get Help Now

817.920.9000

Toll Free - 877.920.9009

Principal Office - Fort Worth - 4200 W Vickery Blvd. - Fort Worth, TX 76107

Weatherford Office\* - 123 Dallas Avenue - Weatherford, TX 76086

Dallas Office\* - 3131 McKinney Avenue - Suite 600 Dallas, TX 75204

Oklahoma City Office\* - 3030 Northwest Expressway , Suite 200, #130  
Oklahoma City, OK 73112

\*By appointment only

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