

**DISCOVERY  
UPDATES  
2019**

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**UPDATE**

***Gary B. Crossland d/b/a Gold Cross  
Properties v. Nationwide Mutual Insurance  
Co.***

2018 WL 4905354  
(Tex. App.-El Paso 2108)

Damage to a similarly situated building during the same storm  
adequately similar to warrant discovery.

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**UPDATE  
PLEADINGS DEFINE  
SCOPE OF DISCOVERY**



***In re Methodist Primary Care  
Group,***

2017 WL 3480292  
(Tex. App. Houston [14<sup>th</sup> Dist.] 2017)

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**UPDATE**

***In re Sun Coast Resources, Inc.***

562 S.W.3d 138

(Tex. App. - Houston [14th Dist.] 2018)

Other similar incidents. Tailoring considerations, the nature of the occurrence, geographical limits and time limitations.

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**UPDATE**

**PRODUCTS LIABILITY**

***In re Toyota Motor Sales, U.S.A., Inc. and Toyota Motor Corporation***

2018 WL 2979855

(Tex. App. Dallas 2018)

Tailoring required re other similar models, other similar incidents, ediscovery searches.

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**UPDATE**

***In re Sun Coast Resources, Inc.***

562 S.W.3d 138

(Tex. App. - Houston [14th Dist.] 2018)

Personnel files are discoverable, but a tailoring analysis must be applied, particularly to employees who have no nexus with the claims alleged in the lawsuit.

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**UPDATE**

***In re Hossein S. Namdarkhan and Brad Namdar***

2017 WL 1075640  
(Tex. App. – Dallas 2017)

Burden not met; abuse of discretion to order production of tax returns.

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**UPDATE**

***In re Jeffrey R. Vaughan***

2019 WL 962381  
(Tex. App. - Corpus Christi-Edinburg 2019)

Limitations on discovery of tax returns applies in post judgment discovery regarding net worth

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**UPDATE**

***In re Methodist Primary Care Group and TMH Physician Organization***

2018 WL 3061321  
(Tex. App. – Houston [14<sup>th</sup> Dist.] 2018)

Party may only be compelled to produce edata that is in its possession.

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**UPDATE**

***In re Jose C. Padilla and CCIK d/b/a Hill Country Site Supply, LLC***

2018 WL 4087733  
(Tex. App. - Austin, 2018)

Discovery of an opponent's cell phone records disallowed where no pleadings that cell phone usage play a role in causation.

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**GOOD DISCUSSION**

***Gondola v. USMD PPM, LLC***

223 F.Supp.3d 575  
(N.D. Tex. – Dallas Div. 2016)

Discovery of social media. Federal Court.

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**UPDATE**

**Fed. R. Civ. P. 34**

Objections

**An objection must state whether any responsive material are being withheld on the basis of that objection.** An objection to part of a request must specify the part and permit inspection of the rest.

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**MASTER OF THE UNIVERSE**  
THE EXPERT WITNESS IN MEDICAL  
MALPRACTICE CASES  
PAUL N. GOLD  
ADVANCED MEDICAL TORTS SEMINAR  
2019



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**UPDATE**

***In re City Of Dickinson***

2019 WL 638555  
(Tex. 2018)

Attorney/client privilege **not waived** by designating an in-house employee as a testifying expert.

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**UPDATE**

***In re WHC, LLC d/b/a Woodson Hughes & Crain, Inc., a/k/a WHC Energy Services***

2018 WL 6583027  
(Tex. App. – El Paso 2018)

The documents themselves may establish attorney/client privilege. Party does not need to establish the revelation of documents will be "harmful" if party demonstrates applicability of privilege.

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**UPDATE**

***In re Natural Gas Consulting & Measurement, LLC and J.P. Davis***

2018 WL 7458616  
(Tex. App. – Amarillo 2018)

Abuse of discretion to sanction party for refusing to provide self-incriminating testimony.

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**UPDATE**

***In re Christopher Russo***

550 S.W.3d 782  
(Tex. App. – Houston [14<sup>th</sup> Dist.] 2018)

Fifth Amendment does not apply to fictional entities such as corporations. A corporation cannot invoke the fifth amendment privilege.

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**UPDATE**

***In re Brookfield Infrastructure Group, LLC***

2018 WL 1725467  
(Tex. App. - Corpus Christi-Edinburg 2018)

Assertion of objections and privileges by **non-parties**. Same for non-parties as for parties.

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**UPDATE**

***In re Kongsberg Inc. and Bombardier  
Recreational Products, Inc.***

563 S.W.3d 915  
(Tex. App. - Beaumont 2018)

Abuse of discretion to grant discovery of valid trade secrets  
without demonstration of necessity.

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**UPDATE**

***In re Garza***

544 S.W.3D 836  
(Tex. 2018)

Abuse to sanction plaintiff for Non-Party physician seeking and  
obtaining protective order regarding medical records subpoenaed by  
defendant.

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**UPDATE**

**DISCLOSURE OF RESPONSIBLE THIRD  
PARTY**

***In re Melissa Dawson***

550 S.W.3d 625  
(Tex. 2018)

Designation of RTP disallowed when defendant did not timely  
disclose potential responsible third party.

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**UPDATE**

***In Re Jose Bandin***

556 S.W.3d 891  
Tex. App. - Houston (14th Dist.) 2018)

Reasonableness of notice determined by circumstances. Judge ordering two hour deposition before SLAPP deadline not an abuse of discretion.

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**THE LOOK BEFORE  
THE LEAP**

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**UPDATE**

***In re Phoenix Services, LLC et al***

2018 WL 5622049  
(Tex. App. – San Antonio 2018)

Less intrusive means argument rejected. Neuro-psych (Corwin Boake) demonstrated why less intrusive means not adequate.

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**UPDATE**

***In re Atlantic Sounding Co., Inc. and Weeks Marine, Inc.***

2018 WL 4116837  
Tex. App. – Houston [14<sup>th</sup> Dist.] 2018)

Abuse of discretion for trial court not to review documents in camera withheld on the basis of attorney work product and attorney client privilege and tendered to the Court for inspection.

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**UPDATE**

***In re WHC, LLC d/b/a Woodson Hughes & Crain, Inc., a/k/a WHC Energy Services***

2018 WL 6583027  
(Tex. App. – El Paso 2018)

The documents themselves may establish attorney/client privilege. Party does not need to establish the revelation of documents will be "harmful" if party demonstrates applicability of privilege.

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**UPDATE**

***In re Katrena Becker***

554 S.W.3d 780  
(Tex. App. - Amarillo, 2018)

Abuse of discretion for trial court to abate civil action for parallel criminal action.

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**UPDATE**

***In the Matter of the Marriage of Peggy J. Mize and Lester D. Mize***

2018 WL 3636495  
(Tex. App. – Texarkana 2018)

Abuse of discretion for Trial Court to impose death penalty sanctions for assertion of 5<sup>th</sup> Amendment.

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