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Via Facsimile - (202) 502-1755
& U.S. Mail

Peter G. McCabe, Secretary of the Committee
on Rules of Practice and Procedure
Administrative Office of the U.S. Courts
One Columbus Circle, N.E.
Washington, DC 20544

Dear Secretary McCabe:

I am writing regarding the proposed changes to the Federal Rules of Civil Procedure concerning discovery which you are reviewing.

I believe that the present system of discovery has worked very well for injured clients to obtain information about defective products. I have been fighting against corporate defendants for the last thirty (30) years on behalf of seriously injured clients, especially children who have become paraplegics, quadraplegics or who have died as a result of defective products.

One of the few ways that we have been able to prove our case is by the existing rules of discovery and by having a firm judge enforce those rules requiring the defendants to turn over information which they usually resist providing to us.

I fought for years on behalf of injured children to get the automobile manufacturers to place shoulder harnesses in the rear of their vehicles. General Motors, in particular, and the other U.S. automobile manufacturers resisted and resisted and it was only after successful lawsuits that they finally decided to put the rear seat shoulder harnesses in their vehicles as standard equipment.

I have also been able to help other clients similarly situated with other cases because I developed an expertise in this area and was able to use the information which I obtained from other cases to prove that General Motors and other automobile manufacturers knew that rear seat shoulder harnesses were beneficial and life saving devices. As a matter of fact, we were able to prove that General Motors had the rear seat shoulder harnesses in their vehicles in Europe but did not put them in in the United States until we pushed and pushed for it and lawsuits persuaded them to do so.

If the proposed new rule were adopted which would allow defendants to retrieve already produced material that the defendants later claim is "privileged" there would be little evidence that would be able to be accumulated to help make these necessary safety changes.

I remember a specific example of a request by me to take the sworn deposition of a former General Motors employee in a products liability case. General Motors stated under oath in answers to interrogatories that a former engineer employee was dead. After I did a considerable amount of searching, I found him and he testified that he was alive and well and had never missed a General Motors retirement check. After I filed a Motion for Sanctions against General Motors their attorneys stated in pleadings and to the court that they told me he was dead because of a computer "glitch".

Adopting the type of proposed new federal rules on discovery would allow these defendants to continue this type of practice by claiming that the information requested was "not reasonably accessible" because it is archived or stored in an older media bank.

My experience with these corporate defendants has consistently been the same over the past thirty years. They continue to stonewall in discovery, they continue to deny the existence of documents in discovery, and then when they are finally forced by a strong judge to comply with discovery, they suddenly come up with information which they earlier claimed either did not exist or was not available.

I sincerely hope that you do not agree to any of the proposed changes to the present Federal Rules. I enjoy being in federal court against these corporate defendants rather than state court because I believe the federal court rules help me get the necessary information that I need to prove product hazards and defects. The system works well.

I would look forward to and be honored to appear before your committee if you would like to hear some personal examples of what I have just written to you.

Very truly yours,

COURTNEY LAW FIRM

Henry T. Courtney

HTC/ds