

**TRIAL AD I
FALL 2017
Spruell**

Class exercises for September 18 and September 25, 2017

Please review for class discussion over the next two weeks. Primarily review Rules 26-36. We will discuss in class and will address each one through class exercises.

Initial class discussion: Discovery objections; Protective Orders; In Camera inspections.

Defendant in the Eclipse glasses case scenarios has hired an expert to examine the glasses to determine if their use would lead to the potential harm as alleged. Expert has determined Defendant Sally Joe caused her vision problems because she did not use the glasses correctly for herself and her children.

----- is this expert testimony admissible? Why or why not? What criteria would you use to make that determination?

----- How would you approach discovery regarding this opinion? How would you prepare for this expert's deposition? What issues would you need to cover and why?

----- is this a proper subject for which expert testimony may be offered? Why or why not?

-.

How would you obtain through discovery or otherwise the following: (Specifically, be ready to What would you prepare and file to obtain? Be sure to cite the rules/rules you are operating under, if applicable.)

- 1). the floor mat used by Walmart on the day a plaintiff in a slip and fall alleged she slipped on accumulated rain water. How would you use in a deposition? Or at trial?
- 2). A tape of a man wearing sandals that fell in the same entrance but no water was present. Is it discoverable? Why would that survive a Rule 401/403 objection if you wanted to offer it into evidence?
- 3). A copy of all incident reports for falls in the Walmart store in question for the three years prior to plaintiff's accident. Are all discoverable? Are all admissible into evidence?
- 4). A report done by the Walmart AL regional safety consultant for the Walmart store where the Plaintiff fell. Done six months prior to her fall. Includes safety training recommendations. Are these discoverable? Admissible into evidence? How would you use them?
- 5). A complaint letter from a customer dated three weeks before the Plaintiff fell, complaining that the floors were slippery in the entrance way. (We found out about it from a friend of plaintiff's she goes to church with.) Discoverable? Why and how? Admissible? If they made any changes after it was received, are the discussions that lead to those changes discoverable? Admissible?
- 6). Statements taken of all the Walmart employees from the assistant manager right after plaintiff fell and sent to the in-house risk manager who is a licensed attorney for Walmart. She placed them in her file and sent them with the initial complaint filed in court to their defense attorney, along with her notes on follow up telephone interviews with the same employees. (We learned about it from one of the employee depositions. These documents had not been produced yet in the general request for all statements taken from employees.) Discoverable? How? Why? Admissible into evidence? How? Why?
- 7). The Walmart in question is going to modify the front entrance by doing construction remodeling. You want to preserve one of the floor tiles. How would you do that? Is it admissible in evidence? How? Why?