



**ILLINOIS STATE
BAR ASSOCIATION™**

Charles J. Northrup
General Counsel

June 5, 2019

Committee Secretary
Supreme Court Rules Committee
222 N. LaSalle Street, 13th Floor
Chicago, IL. 60601
abowne@illinoiscourts.gov

Re: Proposal 16-08 (P.R. 0239)
 Proposal 17-03 (P.R. 0242)
 Proposal 18-01 (P.R. 0252)
 Proposal 18-04 (P.R. 0255)
 Proposal 18-12 (P.R. 0263)
 Proposal 19-02 (P.R. 0266)

Dear Committee Secretary:

On behalf of its more than 29,000 lawyer members, the Illinois State Bar Association (“ISBA”) is pleased to provide its comments on the above referenced Proposals that are the subject of the Rule Committee’s June 19, 2019 public hearing.

1. Proposal 16-08 (Appeals)

The ISBA **supports** Proposal 16-08. Upon review by a number of ISBA substantive law and practice groups, none expressed objection or concerns, and viewed this an improvement in appellate practice.

2. Proposal 17-03 (Use of video recorded depositions in certain circumstances)

The ISBA **supports** Proposal 17-03. This proposal was viewed by ISBA substantive law and practice groups as merely clarifying the typical, but perhaps not universal, court practice of allowing parties to use portions of video depositions for impeachment or other statements, as

well as to improve consistency between the Civil Practice Rules and the Illinois Rules of Evidence.

3. Proposal 18-01 (Uniform Protective Order re Health Information)

The ISBA **does not support** Proposal 18-01.

While the ISBA believes a specific civil practice rule and uniform protective order regarding health information are very important and worthwhile, the proposed rule and order appear overbroad and do not provide sufficient protection of individuals' health information. The ISBA understands that the issue has a lengthy history, particularly in Cook County, where a uniform protective order very similar to the proposed uniform order has been developed and is in use. The ISBA also understands that in May, 2019, two courts in Lake County specifically rejected language contained in the proposed uniform order as being pre-empted by HIPAA. The ISBA is concerned that the proposed language: is too broad in terms of scope and duration of information use, is not well defined with respect to coverage, violates the federal HIPAA, and ultimately fails to ensure the fundamental right of privacy as spelled out in the Illinois Constitution.

Given the importance of the issue, several ISBA substantive law and practice groups have devoted significant resources to this issue. At least one, the Privacy and Information Security Law Section Council has prepared its own draft uniform protective order and it may be ready for submission in the near future.

In light of the importance of this issue, its complexity, and the divergent views on it, the ISBA respectfully suggests that the Rules Committee postpone consideration of Proposal 18-01, and establish a small committee or working group of stakeholders who can craft a potentially more widely accepted uniform order that addresses the significant concerns raised by the current proposal while meeting its intended purposes.

4. Proposal 18-04 (Briefs *Amicus Curiae*)

The ISBA **supports** Proposal 18-04. Upon review by a number of ISBA substantive law and practice groups, none expressed objection or concerns, and viewed this as an improvement in appellate practice.

5. Proposal 18-12 (Brief Word Counts)

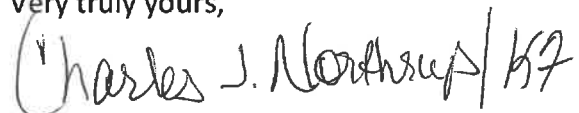
The ISBA **supports** proposal 18-12. Upon review by a number of ISBA substantive law and practice groups, none expressed objection or concerns, and viewed the proposal as clarifying current appellate practice.

6. Proposal 19-02 (Brief Appendices)

The ISBA **supports** proposal 19-02. Upon review by a number of ISBA substantive law and practice groups, none expressed objection or concerns, and viewed this proposal primarily as a means to assist the court in analyzing and understanding issues on appeal.

The ISBA appreciates the opportunity to provide its comments on the above proposals. If you require any additional information or have questions about the comments, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink that reads "Charles J. Northrup" followed by a vertical line and the number "157".

Charles J. Northrup

General Counsel