



Update from AAJ Linda A. Lipsen

CEO, AMERICAN ASSOCIATION FOR JUSTICE

Journal of Consumer Attorneys Associations for Southern California
ADVOCATE

January 2022

Winter convention in Palm Springs to feature 30 speakers with programming focused on your practice

ALSO: PLEASE SIGN A PLEDGE TO SUPPORT RACIAL DIVERSITY AND INCLUSION IN YOUR FIRM

WASHINGTON UPDATE

Thank you so much for your crucial support in 2021. We sincerely value our partnerships with the state and regional associations and look forward to strengthening those relationships in 2022. With continued attacks on your clients' rights both at the federal and the state level, membership in both CAOC and AAJ is crucial.

AAJ continued to resist our opponents' attacks this year as we fought to end forced arbitration, eliminate qualified immunity, raise the federal trucking insurance minimum, and protect clients' rights on many other issues. Despite the pandemic's persistence, AAJ remains dedicated to fighting for your practices.

And looking ahead to 2022, please make your plans for gathering in Palm Springs February 13 – 15 for AAJ's 2022 Winter Convention. We have over 20 hours of programming, 30 speakers, and Section, Litigation Group, and committee meetings to help you connect with your trial-lawyer community. AAJ members can register now at <https://www.justicewinterconvention.org>. I hope to see you all there.

Launch of AAJ Member Firm Pledge to Act

AAJ believes that greater racial diversity and inclusion is a moral necessity, and so we must foster new voices to strengthen our members' firms and our trial lawyer community. So, we are very pleased to have recently launched the AAJ Member Firm Pledge to Act to support members in their recruitment, retention, and promotion of minority trial lawyers in their firms. The pledge is an initiative of the AAJ Diversity & Inclusion Committee.

Please sign the AAJ Member Firm Pledge to Act today at www.justice.org/community/pledge-to-act. This webpage is dedicated to resources, information, and follow-up to help all firms succeed in this effort. After you sign the pledge, you will receive a survey to complete.

I'm very excited at the response we've already received from member firms, and I hope you will consider making the pledge.

Federal rules update

Formal comment period: Emergency rules and expert witnesses

There are two rules in formal comment period (<https://www.uscourts.gov/rules-policies/proposed-amendments-published-public-comment>) until February 16: 1) Emergency Rules (creating new FRCP 87), which would allow for more flexible service of process and extend appeal deadlines if the Judicial Conference declares a Rules Emergency. 2) FRE 702 (Expert Witnesses), that would make it harder for expert witnesses to testify by adding a preponderance standard into the text of the rule and emphasize that trial judges, and not the jury, must decide whether a testifying expert's opinion has met the standard.

There are also public hearing dates for those interested in testifying virtually:

- January 6, 2022, and February 4, 2022, for Emergency Rules
- January 21, 2022, for FRE 702

While proposed FRCP 87 may not negatively impact plaintiff-side practice, the proposed amendments to FRE 702 would make it harder for expert witnesses to testify and is heavily supported by the defense bar.

For more information on the issues involved in both proposed rules, please contact Sue Steinman at susan.steinman@justice.org.

AAJ meeting with discovery subcommittee to discuss privilege logs

The Advisory Committee on Civil Rules concluded an informal comment period on privilege logs on August 1, 2021. Comments from AAJ members oppose a rule on categorical logging, but the Discovery Subcommittee continues to discuss various privilege log proposals. AAJ has formed a cross-practice working group to address draft rule amendments and discuss plaintiff-side concerns, such as over designation of documents on privilege logs, with the Discovery Subcommittee.

Additional rules issues returning and other comments to be filed

The MDL Subcommittee continues to consider various proposals that relate to multidistrict litigation and will be attending conferences with the misnamed

Lawyers for Civil Justice and AAJ to discuss draft amendments.

AAJ state affairs

AAJ State Affairs had a very busy year in 2021, assisting 47 state trial lawyer associations (TLAs) and the District of Columbia with more than 250 requests covering approximately 90 issue areas. Responding to the COVID-19 pandemic was a top priority for states this year. Despite unprecedented challenges, many states passed proactive laws such as restoring rights for survivors of childhood sexual abuse by extending or eliminating statutes of limitations for these claims, advancing legislation that would address police misconduct and qualified immunity, and adapting to remote depositions and other court proceedings so that justice will not be delayed.

AAJ State Affairs is preparing for the upcoming 2022 state legislative sessions. We anticipate that there will be an aggressive push by corporations, insurance companies, and tort reform proponents to place onerous restrictions on the ability of local and municipal governments from contracting with outside counsel, hinder the use of public nuisance statutes, place limitations on attorney advertising, and add unnecessary regulations on the use of litigation financing in a way that would make it challenging for plaintiff lawyers to best represent their clients. Whatever issues states are confronting, AAJ State Affairs will be here to assist the TLAs. Our partnership is critical to protecting access to justice for all our members' clients.

Fighting for you and your clients

Thank you for your continued support as we look ahead to the new year. AAJ remains committed to fighting for access to justice for your clients. We will keep you informed about important developments and welcome your input. You can reach me at advocacy@justice.org.

