

In The News

Michael Hess Examines the Rise of Rule 202 Petitions in Texas Litigation

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Michael Hess's article examines the increasing popularity of Rule 202 petitions for pre-suit discovery in Texas. He highlights that these petitions, once rarely used, have become more common, especially in larger Texas counties.

Hess explains that Rule 202 allows a person to request permission to take a deposition before a lawsuit is filed, either to preserve testimony or investigate a potential claim. He notes that while this concept may seem counterintuitive, it has gained traction despite the Texas Supreme Court's stance that such depositions are not intended for routine use.

The author emphasizes the importance of carefully approaching Rule 202 petitions, advising respondents to review for procedural mistakes, consider negotiations with petitioners, and make all available objections. Hess warns that disregarding or underestimating these petitions can lead to significant financial and time-consuming consequences.

Hess concludes by noting the limited and inconsistent options for appellate relief in Rule 202 cases, suggesting that a Petition for Writ of Mandamus is the most common remedy at the appellate level.

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