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March 14, 2001

The Honorable Thomas R. Phillips  
Chief Justice, Supreme Court  
Supreme Court Building  
P. O. Box 12248  
Capitol Station  
Austin, Texas 78711

RE: Proposed Rule Changes: Rule 215.1(b)(3)

Dear Justice Phillips:

Enclosed is a proposed rule change to Rule 215.1(b)(3) which has been approved for submission to the Supreme Court by the Court Rules Committee.

By copy of this letter, I am forwarding copies of this proposed rule change to Charles Babcock, Chairman of the Supreme Court Advisory Committee, Justice Hecht and to Chris Griesel.

Sincerely,

ATLAS & HALL, L.L.P.

By:



O. C. Hamilton, Jr.

OCH/sa  
enclosures

cc: The Honorable Nathan Hecht (w/enclos.)  
Justice, Supreme Court of Texas  
Supreme Court Building  
P. O. Box 12248  
Capitol Station  
Austin, Texas 78711

Charles Babcock (w/enclos.)  
901 Main Street Suite 6000  
Dallas, Texas 75202-3748

Chris Griesel (w/enclos.)  
Supreme Court Building  
P. O. Box 12248  
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Austin, Texas 78711

**STATE BAR OF TEXAS**  
**COMMITTEE ON COURT RULES**  
**REQUEST FOR NEW RULE OR CHANGE OF EXISTING RULE**  
**TEXAS RULES OF CIVIL PROCEDURE**

**I. Exact wording existing Rule 215.1(b)(3):**

**RULE 215. ABUSE OF DISCOVERY; SANCTIONS**

**215.1 Motion for Sanctions or Order Compelling Discovery. ....**

(a) *Appropriate Court.* ....

(b) *Motion.*

(1) ...

(2) ...

(3) If a party fails:

(A) to serve answers or objections to interrogatories submitted under Rule 197, after proper service of the interrogatories; or

(B) to answer an interrogatory submitted under Rule 197; or

(C) to serve a written response to a request for inspection submitted under Rule 196, after proper service of the request; or

(D) to respond that discovery will be permitted as requested or fails to permit discovery as requested in response to a request for inspection submitted under Rule 196;

the discovering party may move for an order compelling a designation, an appearance, an answer or answers, or inspection or production in accordance with the request, or apply to the court in which the action is pending for the imposition of any sanction authorized by Rule 215.2(b) without the necessity of first having obtained a court order compelling such discovery.

When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before he applies for an order.

If the court denies the motion in whole or in part, it may make such protective order as it would have been empowered to make on a motion pursuant to Rule 192.6.

## II. Proposed Rule 215.1(b)(3):

### RULE 215. ABUSE OF DISCOVERY; SANCTIONS

#### 215.1 Motion for Sanctions or Order Compelling Discovery. ....

(a) *Appropriate Court.* ....

(b) *Motion.*

(1) ...

(2) ...

(3) If a party fails:

(A) to serve answers or objections to interrogatories submitted under Rule 197, after proper service of the interrogatories; or

(B) to answer an interrogatory submitted under Rule 197; or

(C) to serve a written response to a request for inspection submitted under Rule 196, after proper service of the request; or

(D) to respond that discovery will be permitted as requested or fails to permit discovery as requested in response to a request for inspection submitted under Rule 196; or

(E) to respond to requests for disclosure submitted under Rule 194;

the discovering party may move for an order compelling a designation, an appearance, an answer or answers, or inspection or production in accordance with the request, or apply to the court in which the action is pending for the imposition of any sanction authorized by Rule 215.2(b) without the necessity of first having obtained a court order compelling such discovery.

When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before he applies for an order.

If the court denies the motion in whole or in part, it may make such protective order as it would have been empowered to make on a motion pursuant to Rule 192.6.

## III. Brief statement of reasons for requested change and advantages to be served by the proposed new rule:

Rule 215.1(b)(3) does not specifically provide that a party can file a motion to compel an opposing party to respond to requests for disclosure.