

2013 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB19)

Received: 5/6/2013 Received By: phurley
 Wanted: As time permits Same as LRB:
 For: Dana Wachs (608) 266-7461 By/Representing: Bob
 May Contact: Drafter: phurley
 Subject: Courts - miscellaneous/other Addl. Drafters:
 Extra Copies:

Submit via email: YES
 Requester's email: Rep.Wachs@legis.wisconsin.gov
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Presumption of relevance and limited privilege

Instructions:

See attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|---------------------|---------------------|---------------------|----------------|---------------------|---------------------|-----------------|
| /1 | phurley 5/6/2013 | scalvin 5/6/2013 | jmurphy 5/6/2013 | _____ | mbarman 5/6/2013 | mbarman 5/6/2013 | |

FE Sent For:

<END>

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|--------------|----------------|----------------------|--------------|----------------|------------------|-----------------|-----------------|
| /1 | phurley | /1 sac 05/06/2013 | Jm 5/6 | <u>self</u> | | | |

FE Sent For:

<END>

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0370

Presumption of Relevance and Limited Privilege

The amendment deals with a presumption of relevance, not an automatic finding of relevance. The amendment also limits the waiver of privilege to attorney-client only and makes non-discoverable a person's SSN or other personal ID number.

Beginning on page 3, line 15

(3) DISCOVERY; USE OF MATERIALS. (a) Trust claims materials and trust governance documents are presumed relevant and authentic unless a court deems otherwise. Any party may present the trust claims materials to prove ~~admissible in evidence to prove, without limitation,~~ alternative causation for a plaintiff's injuries or to allocate liability for the plaintiff's injury. ~~No claims of privilege apply to trust claims materials or trust governance documents.~~

(b) A defendant ~~in a personal injury claim~~ may seek discovery against a ~~personal injury~~ trust identified under sub. (2). The plaintiff may not claim attorney-client privilege or confidentiality to bar discovery of any information relevant to the plaintiff's personal injury claim under the control of a ~~personal injury~~ trust and the plaintiff shall provide consents or other expression of permission that may be required by the ~~personal injury~~ trust to release information and materials sought by the defendant.

(c) A person's social security number or other personal ID number may be redacted from trust claim materials.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBa0370/1

PJH.):...

Sac

ASSEMBLY AMENDMENT ,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 19

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 **1.** Page 3, line 16: after “documents are” insert “presumed”.
- 3 **2.** Page 3, line 16: delete “and admissible in evidence to”.
- 4 **3.** Page 3, line 17: delete “prove, without limitation,” and substitute “unless
- 5 a court deems otherwise. Any party may present the trust claims materials to prove”.
- 6 **4.** Page 3, line 18: delete “No claims of privilege apply to trust claims”.
- 7 **5.** Page 3, line 19: delete that line.
- 8 **6.** Page 3, line 21: after “claim” insert “attorney–client”.

Top 2 Treat

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7. Page 3, line 25: after that line insert: ⁹“(c) A person’s social security number or other personal identification number may be redacted from trust claims materials.”.

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa0370/1dn

PJH::A:...

SAC

- date -

Representative Wachs,

Please note that I did not amend, in this amendment, the discovery statute to remove references to a "personal injury claim" or a "personal injury trust." That is because those are defined terms in the substitute amendment that are not affected by this amendment. Please let me know if this does not reflect your intent.

Peggy Hurley
Legislative Attorney
Phone: (608) 266-8906
E-mail: peggy.hurley@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa0370/1dn
PJH:sac:jm

May 6, 2013

Representative Wachs,

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Peggy Hurley
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