

MEMO

Date: February 25, 2021

To: State Bar of Texas Sections

From: Jonathon Stone, Chair - Administrative Rules of Evidence Committee

RE: Would deletion of the ancient documents exception pose issues for your practice?

Section Chair,

The Administrative Rules of Evidence Committee (AREC) requests your section's expertise on the use of the ancient documents hearsay exception in Texas Rule of Evidence 803(16) in your area(s) of practice. As you may know, to address the vast number of documents now created and stored electronically, the federal equivalent has been amended to cover only "A statement in a document that was prepared before January 1, 1998, and whose authenticity is established." The AREC is considering the future of the exception in Texas.

Personal comment and thoughts from your area of practice would be appreciated on the following question:

Would deletion of the ancient documents exception pose issues for your practice? If so, is your practice better served if the rule is (1) modified to track the new federal rule or (2) modified per the federal rule as to electronic documents but maintaining a hearsay exception going forward for paper documents created after January 1, 1998?

Formal action by your section is not necessary. Please send comments to Johnathan Stone, Chairman of the State Bar of Texas Administrative Rules of Evidence Committee via email at [Johnathan.Stone@tmb.state.tx.us](mailto:Johnathan.Stone@tmb.state.tx.us) by **March 1, 2021**. Thank you.

**JOHNATHAN STONE**

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