

7-7-2016

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Rhode Island Lawyers Weekly

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Recommended Citation

Qualters, Sheri and Roger Williams University School of Law, "Newsroom: Kuckes on Discovery Ruling 7-7-2016" (2016). *Life of the Law School (1993-)*. 555.

https://docs.rwu.edu/law_archives_life/555

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Newsroom

July 7, 2016

Kuckes on Discovery Ruling

Professor Niki Kuckes explains how the RI Supreme Court's decision on the Superior Court's Rules of Civil Procedure regarding discovery reflects a growing trend.

From Rhode Island Lawyers Weekly: [“Access to opposing expert's background materials denied: R.I. Supreme Court rules in Sakonnet bridge case”](#) by Sheri Qualters



June 23, 2016: The Superior Court's Rules of Civil Procedure did not allow a litigant access to computer models and draft reports used by an opposing party's expert witness, the Rhode Island Supreme Court has found.

The case involved design problems concerning the Sakonnet River Bridge replacement project. The plaintiff, a bridge foundation subcontractor, claimed materials considered by a defense expert were fully discoverable, with the exception of core attorney work product. Citing federal precedent, plaintiff Cashman Equipment Corp. argued that allowing such discovery would enhance judicial economy and support effective cross-examination.

The Supreme Court disagreed.

Writing on behalf of the court, Justice William P. Robinson III said the trial judge was correct to rely on “the clear and unambiguous language of Rule 26(b)(4)(A).” [...]

The ruling is not only a correct interpretation of the language of the rule, it is part of a broader trend of reining in discovery, which has become extremely expensive and involved, said **Professor Niki Kuckes, who teaches civil procedure at Roger Williams University School of Law.**

“On the federal side, expert discovery has been cut back dramatically. This reflects that same point of view,” Kuckes said.