Wirmani in Bloomberg Law: Texas Financial Rules Are a Costly Lesson for Unprepared Lawyers

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Haynes Boone Counsel **Elizabeth Wirmani** authored an article for *Bloomberg Law* examining how Section 59.006(b) of the Texas Finance Code affects the discovery of financial records in Texas litigation. Wirmani explains how the rule's requirements around costs, attorney's fees and bonds can shape discovery strategy for both requesting parties and financial institutions, emphasizing the importance of planning, documentation and proportionality.

Read an excerpt below.

Want a customer's bank records in a Texas lawsuit? Be prepared to pay for the privilege.

Tucked into the Texas Finance Code, Section 59.006(b) looks like a procedural footnote for banks and credit unions, but it quietly sets the tempo for every financial record discovery fight in the state: The requester must pay the institution's reasonable, itemized costs, including attorney's fees, or post a bond before any production happens. Because it implicates costs and strategy, litigators on both sides of the aisle, as well as in-house counsel at financial institutions, need to understand Section 59.006.

A customer's consent leads to staged production once payment or a bond is in place, while silence or refusal triggers a court order and in camera review. On the consent path, disputes usually narrow to questions of price, scope, or formatting, while the silent-or-refused path hands the court gatekeeper status to determine which portions of the records, if any, are relevant and discoverable.

"Record" is defined broadly, covering not just bank statements but "know your customer" documentation, electronically stored information (ESI) such as emails and internal notes, login histories, chat logs, and call-center recordings. This matters because it defines the playing field before cost even enters the picture: the more categories of information swept into "record," the more time, expertise, and attorney involvement the law expects before the first document leaves the vault.

Because Texas courts haven't yet defined "reasonable" costs within the context of Section 59.006(b), parties must build that standard through documentation, proportionality arguments, and fee-shifting principles. Until precedent takes shape, contemporaneous notes, itemized billing, and clear assumptions carry more weight than after-the-fact estimates — showing why attorney review was needed, why redaction took time, or how staging discovery reduced cost — transforming a number into a narrative.

Read the full *Bloomberg Law* article **here**.