

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

IN RE: Amendment of Local Civil  
Rules

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**ORDER**

The Court being vested with authority pursuant to 28 U.S.C. § 2071 & Rule 83 of the Federal Rules of Civil Procedure to make and amend local rules; proposed amendments to Local Civil Rules having been submitted to the Lawyers Advisory Committee and the public for comment; no comments having been received, and the proposed amendments having been approved by the Board of Judges;

It is on this 30th day of September, 2016, ORDERED that the Local Civil

Rules are amended to read:

**Civ. Rule 26.1 DISCOVERY**

**(a) Discovery -- Generally**

All parties shall conduct discovery expeditiously and diligently. In addition, all discovery conducted shall be proportional to the needs of the case, considering the factors set forth in Federal Rule of Civil Procedure 26(b)(1).

**(b) Meeting of Parties, Discovery Plans, and Initial Disclosures**

(1) The requirements currently codified in Fed. R. Civ. P. 26(a) and (f) pertaining to required disclosures, meetings of parties, and submission of discovery plans, shall apply to all civil cases, except those described in L.Civ.R. 72.1(a)(3)(C) in which scheduling conferences are not normally held, unless the judicial officer otherwise directs. The judicial officer may modify or suspend these requirements in a case for good cause.

(2) The initial meeting of parties as required in Fed. R. Civ. P. 26(f) shall be convened at least 21 days before the initial scheduling conference, and the proposed discovery plan under Fed. R. Civ. P. 26(f)(3) shall be generated at that meeting and delivered to the Magistrate Judge within 14 days after the meeting of parties. The parties shall submit their Fed. R. Civ. P. 26(f) discovery plan containing the parties' views and proposals regarding the following:

- (a) Any changes in timing, form, or requirements of mandatory disclosures under Fed. R. Civ. P. 26(a);
- (b) The date on which mandatory disclosures were or will be made;
- (c) The anticipated scope of discovery, considering the proportionality factors set forth in Federal Rule of Civil Procedure 26(b)(1);
- (d) Whether any party will likely request or produce computer-based or other digital information, and if so, the parties' discussions of the issues listed under the Duty to Meet and Confer in L. Civ. R. 26.1(d)(3) below;
- (e) The date by which discovery should be completed;
- (f) Any needed changes in limitations imposed by the Federal Rules of Civil Procedure, local rule, or standing order;
- (g) Any orders, such as data preservation orders, protective orders, or orders reflecting agreements under Federal Rule of Evidence 502, which should be entered;
- (h) Proposed deadline for joining other parties and amending the pleadings;
- (i) Proposed dates for filing motions and for trial;
- (j) Whether the case is one which might be resolved in whole or in part by voluntary arbitration (pursuant to L. Civ. R. 201.1 or otherwise), mediation (pursuant to L. Civ. R. 301.1 or otherwise), appointment of a special master or other special procedure.

The parties shall make their initial disclosures under Fed. R. Civ. P. 26(a)(1) within 14 days after the initial meeting of the parties, unless otherwise stipulated or directed by the Court. Such discovery plans and disclosures shall not be filed with the Clerk.

**(c) Discovery Materials**

- (1) Initial and expert disclosure materials under Fed.R.Civ.P.26(a)(1) and 26(a)(2), transcripts of depositions, interrogatories and answers thereto, requests for production of documents or to permit entry onto land and responses thereto, and requests for admissions and answers thereto shall not be filed until used in a proceeding or upon order of the Court. However, all such papers must be served on other counsel or parties entitled thereto under Fed.R.Civ.P.5 and 26(a)(4).
- (2) Pretrial disclosure materials under Fed.R.Civ.P.26(a)(3) shall be incorporated by reference into the order entered after any final pretrial conference under Fed.R.Civ.P.16(d).
- (3) In those instances when such discovery materials are properly filed, the Clerk shall place them in the open case file unless otherwise ordered.

(4) The party obtaining any material through discovery is responsible for its preservation and delivery to the Court if needed or ordered. It shall be the duty of the party taking a deposition to make certain that the officer before whom it was taken has delivered it to that party for preservation and to the Court as required by Fed. R. Civ. P. 30(f)(1) if needed or so ordered.

(d) Discovery of Digital Information Including Computer Based Information

(1) Duty to Investigate and Disclose. Prior to a Fed. R. Civ. P. 26(f) conference, counsel shall review with the client the client's information management systems including computer based and other digital systems, in order to understand how information is stored and how it can be retrieved. To determine what must be disclosed pursuant to Fed. R. Civ. P. 26(a) (1), counsel shall further review with the client the client's information files, including currently maintained computer files as well as historical, archival, back up, and legacy computer files, whether in current or historic media or formats, such as digital evidence which may be used to support claims or defenses. Counsel shall also identify a person or persons with knowledge about the client's information management systems, including computer based and other digital systems, with the ability to facilitate, through counsel, reasonably anticipated discovery.

(2) Duty to Notify. A party seeking discovery of computer based or other digital information shall notify the opposing party as soon as possible, but no later than the Fed. R. Civ. P. 26(f) conference, and identify as clearly as possible the categories of information which may be sought. A party may supplement its request for computer based and other digital information as soon as possible upon receipt of new information relating to digital evidence.

(3) Duty to Meet and Confer. During the Fed. R. Civ. P. 26(f) conference, the parties shall confer and attempt to agree on computer based and other digital discovery matters, including the following:

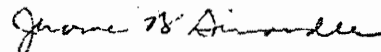
(a) Preservation and production of digital information; procedures to deal with inadvertent production of privileged information; whether restoration of deleted digital information may be necessary; whether back up or historic legacy data is within the scope of discovery; and the media, format, and procedures for producing digital information;

(b) Who will bear the costs of preservation, production, and restoration (if necessary) of any digital discovery.

Amended: March 14, 2001, October 6, 2003, February 24, 2005, March 1, 2010

It is FURTHER ORDERED these amendments are effective this date.

FOR THE COURT:



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JEROME B. SIMANDLE  
Chief Judge