

(3) why it is claimed that the statute is unconstitutional. If memoranda have been served discussing the constitutional question, two copies of each memorandum shall be forwarded with the notification.

#### **Civ. RULE 24.2 STATUTORY COURT**

Where, pursuant to law, an action must be heard by a District Court composed of three judges, two from this Court and one from the Third Circuit, the procedure to be followed by counsel in filing pleadings and submitting briefs will be as follows:

(a) All pleadings are to be filed with the Clerk in quadruplicate, the original becoming part of the Clerk's file, the three copies to be distributed by the Clerk to the members of the Statutory Court.

(b) Six copies of briefs are to be submitted. Unless otherwise directed by the Court, they are to be delivered to the Clerk for distribution to the members of the Statutory Court.

#### **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, unless otherwise directed by the Magistrate Judge.

(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; September 30, 2016; December 5, 2022.

#### **Civ. RULE 27.1 DEPOSITIONS FOR USE IN A FOREIGN COUNTRY**

(a) A person desiring to take the deposition of a witness who resides or may be found within the District for use in a judicial proceeding pending in a foreign country may apply *ex parte* to the Court for an appropriate order. If the deposition is to be taken upon written interrogatories, a copy of the interrogatories shall be annexed to the application. If the court of the foreign country has appointed a person to take the deposition, the order shall designate that person commissioner unless there be good cause for withholding such designation. If no such appointment has been made and designation of a commissioner is requested, the order shall designate a person authorized to administer oaths by the laws of the United States or of the State of New Jersey.

(b) The entry of such an order is sufficient authorization for the issuance by the Clerk of subpoenas for the persons named or described therein. Wherever applicable, the Federal Rules of Civil Procedure, including provisions for punishment of contempt for disobeying a subpoena, shall govern the taking of such depositions.

#### **Civ. RULE 28.1 LETTERS ROGATORY**

A party seeking execution of Letters Rogatory shall comply with the provisions of the Hague Convention, 28 U.S.C. § 1781 *et seq.*

#### **Civ. RULE 33.1 INTERROGATORIES**

(a) Interrogatories shall be so arranged that after each separate question or request, there shall appear a blank space reasonably calculated to enable the answering party to have the answer to the interrogatory typed in. Each question shall be answered separately in the space allowed. If the space allowed shall not be sufficient for the answer, the answering party may insert additional pages or retyped pages repeating each question in full, followed by the answer in such manner that the final document shall have each interrogatory immediately succeeded by the separate answer thereto. Upon request, interrogatories shall be provided in electronic word processing format for ease of answering if technologically feasible. The answering party shall repeat each question in full immediately prior to each corresponding answer.

(b) If the person who verifies the answers to interrogatories does not have personal knowledge of the information contained in the answers, that person shall, for each answer not verified by personal knowledge, identify the person or persons from whom the information was obtained or, if the source of the information is documentary, provide a full description including the location thereof.

(c) Where a claim of privilege is asserted in responding or objecting to any discovery requested in interrogatories and information is not provided on the basis of such assertion, the party asserting the privilege shall in the response or objection identify the nature of the privilege (including work product) which is being claimed and if the privilege is being asserted in connection with a claim or defense governed by state law, set forth the state privilege rule being invoked. When any privilege is claimed, the party asserting it shall indicate, as to the information requested, whether (a) any documents exist, or (b) any oral communications took place.