

Changes Due to Amended Civil Rules Effective December 1, 2015

The below is not intended to replace a careful review of the amended civil rules, but meant to alert parties to significant changes, effective December 1, 2015. These changes affect pending as well as newly filed cases. The overarching goal of the amendments is to shorten and focus federal civil litigation, hoping to limit costs.

- [Rule 4\(m\)](#), Time Limit for Service, has been shortened from 120 to 90 days. This means Plaintiff should serve defendant within 90 days after filing complaint or risk dismissal, unless good cause is shown and time for serving is extended. This shortened time also means that the time of the notice required by [Fed. R. Civ. P. 15\(c\)\(1\)\(C\)](#) for relation back is also shortened.
- [Rule 16\(b\)\(2\)](#), requires a court to schedule the Case Management Conference (“CMC”) as soon as practicable and unless good cause exists, no later than 90 days after service or 60 days after appearance of defense counsel. This means the CMC will occur earlier than the 120 days used as a benchmark in the past. It also means the Rule 26(f) parties’ planning report will be due earlier, but the conference is still to be held 21 days before the CMC, unless a different time frame is given in the court’s order.
- [Rule 16\(b\)\(3\)\(B\)\(iv\)](#), regards the handling of disclosed privileged material, now including attorney-client and work product. *See also* [Fed. R. Evid. 502](#). The parties should expect this to be addressed at the CMC and in the subsequently-issued written order.
- [Rule 16\(b\)\(3\)\(B\)\(v\)](#) now suggests that a conference with the court be requested prior to moving for an order regarding discovery. This is in line with long-existing [Local Rule 37.1](#), which will continue to be vigorously enforced.
- [Rule 26\(b\)\(1\)](#) limits the scope of discovery to that which is *both relevant and proportional to the needs of the case*, considering certain delineated factors. Non-admissible information is still discoverable if it meets all other criteria.
- [Rule 26\(c\)\(1\)\(B\)](#) allows the court to “allocate” or shift costs for discovery of information subject to a Protective Order. This is not currently addressed in [Appendix L to the Local Rules](#).
- [Rule 26\(d\)\(2\)\(A\)](#) allows parties to “deliver” requests for [Rule 34](#) productions at least 21 days after the service of the summons and complaint on a party. The request is not considered served until the first [Rule 26\(f\)](#) planning conference, which is prior to the CMC. This amendment partially eliminates the moratorium on discovery until the CMC. In fact, because the [Rule 26\(f\)](#) or first official conference of the parties will be held at least 21 days before the CMC (which is scheduled not later than 90 days after service of the complaint,) in most cases, [Rule 34](#) discovery will have been served before the CMC and, in some cases, discovery will have been produced. This should allow for more greatly informed discussions at the CMC regardless of whether production has been made.

- [Rule 34](#) must be read entirely in its amended form, but it is important to know that [Rule 34\(b\)\(2\)\(B\)](#) now requires that objections be stated with specificity and the responding party must state whether it is producing or withholding that to which it objects. The responding party must also reveal if it is permitting inspection or producing copies. *See also* [Rule 37\(a\)](#).

- [Rule 37\(e\)](#) has been significantly changed. It now more clearly delineates when a court may impose sanctions, including default judgment and dismissal, for failure to take reasonable steps to preserve electronically-stored information.