

SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL RULES (CR)

CR 26 – GENERAL PROVISIONS GOVERNING DISCOVERY

1 (a) [Unchanged]

2 **(b) Initial Disclosures.**

3 (1) *Content of Initial Disclosures.* Where initial disclosures are required by case
4 schedule or court order, a party shall provide to the other parties, without awaiting a discovery
5 request:

6 (A) the name, address, and telephone number of each individual that possesses any
7 relevant information that supports the disclosing party’s claims or defenses;

8 (B) a copy of each document and other relevant evidence supporting the disclosing
9 party’s claims or defenses, but if a document or other relevant evidence cannot easily be copied,
10 the disclosing party shall make the item reasonably available for inspection by the other parties;

11 (C) a copy of each document the disclosing party refers to in its pleadings;

12 (D) a description and computation of each category of damages claimed by the
13 disclosing party, but only a description, not a computation, is required for general and
14 noneconomic damages;
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16 (E) the declarations page of any insurance agreement under which an insurance
17 business may be liable to satisfy all or part of a judgment that may be entered in the action or to
18 indemnify or reimburse for payments made to satisfy the judgment; and
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20 (F) in any action where insurance coverage is or may be contested, a copy of the
21 agreement and all letters from the insurer regarding coverage.
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23 (2) *Parties Later Joined or Served.* A party joined or served after the other parties have
24 made their initial disclosures shall comply with this rule within sixty days of being joined or
25 served, unless the court orders otherwise.
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1 (3) *Basis for Initial Disclosures; Unacceptable Excuses.* A party shall make its initial
2 disclosures based on information known or reasonably available to that party. A party is not
3 excused from making its disclosures because it has failed to fully investigate the case, it
4 challenges the sufficiency of another party’s disclosures, or another party has failed to make
5 required disclosures.

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7 (4) *Sanctions for Failure to Disclose.* The parties shall reasonably cooperate. A party
8 that fails to cooperate or fails to timely make the disclosures required by this rule may be
9 sanctioned as provided in these rules. The sanction may include an order to pay the reasonable
10 expenses, including attorney fees, caused by the violation.

11 (c) [Unchanged]

12 (d) [Unchanged]

13 (e) [Unchanged]

14 (f) **Supplementation.** A party who has provided initial disclosures or responded to a
15 request for discovery where the disclosure or response was complete when made is under no
16 duty to supplement the disclosure or response to include information thereafter acquired, except
17 as follows:

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19 (1) A party is under a duty seasonably to supplement the disclosure or response with
20 respect to any question directly addressed to:

21 (A) the identity and location of persons having knowledge of discoverable matters;
22 and

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1 (B) the identity of each person expected to be called as an expert witness at trial, the
2 subject matter on which the expert witness is expected to testify, and the substance of the expert
3 witness’s testimony.

4 (2) A party is under a duty seasonably to amend a prior disclosure or response if the
5 party obtains information upon the basis of which:

6 (A) the party knows that the disclosure or response was incorrect when made; or

7 (B) the party knows that the disclosure or response though correct when made is no
8 longer true and the circumstances are such that a failure to amend the response is in substance a
9 knowing concealment.

10 (3) A duty to supplement disclosures or responses may be imposed by order of the
11 court, agreement of the parties, or at any time prior to trial through new requests for
12 supplementation of prior responses.

13 (4) Failure to seasonably supplement in accordance with this rule will subject the party
14 to such terms and conditions as the trial court may deem appropriate.

15 (g) [Unchanged]

16 (h) **Signing of Discovery Requests, Responses, and Objections.**

17 Every initial disclosure, request for discovery, or response or objection thereto made by a party
18 represented by an attorney shall be signed by at least one attorney of record in the attorney's
19 individual name, whose address shall be stated. A party who is not represented by an attorney
20 shall sign the initial disclosure, request, response, or objection and state the party's address. The
21 signature of the attorney or party constitutes a certification that the attorney or party has read the
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1 initial disclosure, request, response, or objection, and that to the best of their knowledge,
2 information, and belief formed after a reasonable inquiry it is:

3 (1) consistent with these rules and warranted by existing law or a good faith argument
4 for the extension, modification, or reversal of existing law;

5 (2) not interposed for any improper purpose, such as to harass or to cause unnecessary
6 delay or needless increase in the cost of litigation; and

7 (3) not unreasonable or unduly burdensome or expensive, given the needs of the case,
8 the discovery already had in the case, the amount in controversy, and the importance of the
9 issues at stake in the litigation. If a request, response, or objection is not signed, it shall be
10 stricken unless it is signed promptly after the omission is called to the attention of the party
11 making the request, response, or objection and a party shall not be obligated to take any action
12 with respect to it until it is signed.

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14 If a certification is made in violation of the rule, the court, upon motion or upon its own
15 initiative, shall impose upon the person who made the certification, the party on whose behalf the
16 initial disclosure, request, response, or objection is made, or both, an appropriate sanction, which
17 may include an order to pay the amount of the reasonable expenses incurred because of the
18 violation, including reasonable attorney fees.
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