

Chart of Amendments to Federal Rules of Civil Procedure (Eff. 12/1/2015)



Rule	Subject Matter	Amendment
1	Scope and Purpose – Cooperation	Encourages cooperation by adding the underlined text: “[T]hese rules should be construed, administered, <u>and employed by the court and the parties</u> to secure the just, speedy, and inexpensive determination of every action and proceeding.”
4(m)	Summons – Shortened time for service	Shortens the time for plaintiff to serve defendant with the summons and complaint from 120 days to 90 days after filing.
16(b)(1)(B)	Case Management – Encourages in person scheduling conferences	To encourage case management conferences where direct exchanges occur, the words allowing a scheduling conference to be held “by telephone, mail, or other means” are deleted from Rule 16(b)(1)(B). The Committee Note explains that such a conference can be held by any means of direct simultaneous communication, including telephone. Rule 16(b)(1)(A) continues to allow the court to base a scheduling order on the parties’ Rule 26(f) report without holding a conference, but the change in the text and the Committee Note encourage judges to engage in direct exchanges with the parties.
16(b)(2)	Case Management – Time to Issue Scheduling Order	Reduces the time within which the judge must issue the scheduling order from 120 days after any defendant has been served (or 90 days after any defendant has appeared) to 90 days (or 60).
16(b)(3)	Case Management – Contents of Scheduling Order	Permits judges to require a conference with the Court before service of discovery motions. Explicitly permits judges to include agreements reached under Fed. R. Evid. 502 in scheduling orders. Also explicitly states that scheduling order may provide for <u>preservation</u> of electronically stored information.
26(b)(1)	Discovery Scope and Limits – “Proportional to the needs of the case”	Incorporates the limitations of previous Rule 26(b)(2)(C)(iii) into the scope of discovery in 26(b)(1), and removes previous language: <i>(1) Scope in General. Unless otherwise limited by court order, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense <u>and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable. —including the existence, description, nature, custody, condition, and location of any documents or other tangible things and the identity and location of persons who know of any discoverable matter. For good cause, the court may order discovery of any matter relevant to the subject matter involved in the action. Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence. All discovery is subject to the limitations imposed by Rule 26(b)(2)(C).</u></i>

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26(b)(2)(C)(iii)	Limitations on Frequency and Extent of Discovery	Since prior language was moved to 26(b)(1) [see above], 26(b)(2)(C)(iii) now states that the court “must limit” “proposed discovery” if “outside the scope permitted by Rule 26(b)(1).”
26(c)(1)(B)	Protective Orders: Allocation of Expenses	Explicitly permits a protective order to specify the “allocation of expenses” of the discovery.
26(d)(2) [and 34(b)(2)(A)]	Timing and Sequence of Discovery: Early Rule 34 Requests	Permits service of Rule 34 Requests 21 days after service of the summons and complaint; the Request is considered served at the first Rule 26(f) conference.
26(d)(3)	Stipulations on Sequence of Discovery	Explicitly permits parties to stipulate to a specified sequence of discovery.
26(f)(3)(C)	Conference of the Parties: Discovery Plan to include preservation	Discovery plans must state parties’ views and proposals on “ <u>preservation</u> ” of electronically stored information.
26(f)(3)(D)	Conference of the Parties: Discovery Plan may include FRE 502 agreements	Discovery plans must state parties’ views and proposals on whether to ask the court to include an agreement in the scheduling order “under Federal Rule of Evidence 502.”
30, 31, 33, 36	Proposed Presumptive Limits <i>Not Adopted</i>	The final amendments to the FRCP were largely unchanged from those published for public comment. The one significant change as a result of the comment period was the withdrawal of amendments that would have reduced the presumptive length and numbers of depositions under Rules 30 and 31 (from 10 to 5 depositions, and 7 to 6 hours), the presumptive numerical limit of interrogatories under Rule 33 (from 25 to 15), and would have established a presumptive numerical limit of requests to admit under Rule 36 (to 25). <i>THESE PROPOSED PRESUMPTIVE LIMITS WERE NOT ADOPTED.</i>
34(b)(2)(A) [and Rule 26(d)(2)]	Producing Documents Time for Responding	If the request was delivered under Rule 26(d)(2) [early requests] the party must respond within 30 days after the parties’ first Rule 26(f) conference.
34(b)(2)(B)	Producing Documents Responding to Each Item	Response must “state with specificity” the grounds for objecting. “The responding party may state that it will produce copies of documents or of electronically stored information instead of permitting inspection. The production must then be completed no later than the time for inspection specified in the request or another reasonable time specified in the response.”
34(b)(2)(C)	Producing Documents Objections	“An objection must state whether any responsive materials are being withheld on the basis of that objection.”
37(a)(3)(B)(iv)	Motion for an Order Compelling Disclosure or Discovery	Permits a motion to compel for a “failure to produce documents” in addition to a failure to respond.

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37(e)	Failure to Preserve Electronically Stored Information	<p>"If electronically stored information that should have been preserved in the anticipation or conduct of litigation is lost because a party failed to take reasonable steps to preserve it, and it cannot be restored or replaced through additional discovery, the court.:</p> <p>(1) upon finding prejudice to another party from loss of the information, may order measures no greater than necessary to cure the prejudice; or</p> <p>(2) only upon finding that the party acted with the intent to deprive another party of the information's use in the litigation may:</p> <p>(A) presume that the lost information was unfavorable to the party;</p> <p>(B) instruct the jury that it may or must presume the information was unfavorable to the party; or</p> <p>(C) dismiss the action or enter a default judgment."</p>
37(c) and (e)	Sanctions – "Routine, good faith operation" removed	<p>Removes the "routine, good faith operation of an electronic information system" exception in exchange for a "uniform set of guidelines for federal courts."</p> <p>(See proposed Rule 37 Committee Note, pp. 317-318, "Request for Comment, Preliminary Draft of Proposed Amendments to the Federal Rules of Bankruptcy and Civil Procedure" released for public comment.)</p>
55(c)	Default Judgment	Specifies that a court may only set aside a <u>final</u> default judgment.
84	Forms	<p>[Abrogated] (Committee Note: "...recognizing that there are many excellent alternative sources for forms, including the website of the Administrative Office of the United States Courts, the websites of many district courts, and local law libraries that contain many commercially published forms, Rule 84 and the Appendix of Forms are no longer necessary and have been abrogated.")</p> <p>"Abrogation of Rule 84 and the other official forms requires that former Forms 5 and 6 be directly incorporated into Rule 4" (waiver of service) – Rule 4 was amended accordingly.</p>



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